



**PUBLIC HEALTH ORDER 2020-10
LIMITING INDOOR EVENT CAPACITY TO 25 PERSONS, LIMITING INDOOR
DINING TO ONE HOUSEHOLD, PROHIBITING SPECTATORS AT SPORTING
EVENTS, AND STRONGLY RECOMMENDING THAT ALL BUSINESSES IN
BOULDER COUNTY HAVE THEIR EMPLOYEES START OR CONTINUE
WORKING FROM HOME TO THE EXTENT POSSIBLE**

Pursuant to Colorado Revised Statutes (“C.R.S.”) §§ 25-1-506, 508, 509, and 516, Boulder County Public Health (“BCPH”) hereby issues this Public Health Order setting forth guidance and requirements for all persons within Boulder County so as to control and slow the spread of the SARS-CoV-2 virus (“coronavirus”) and to mitigate the effects of the disease resulting therefrom (the coronavirus and the disease resulting therefrom shall be referred to herein as “COVID-19”). The ultimate goal of this Order shall be to control and slow the spread of COVID-19 in order to maintain consistent health care capacity in Boulder County to adequately treat patients suffering from the disease.

I. FINDINGS

Whereas, Boulder County Public Health (“BCPH”) has public health jurisdiction over Boulder County, Colorado (“Boulder County”), including all cities and towns therein. In furtherance of its jurisdiction, BCPH has the power and duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting the public health within Boulder County, as well as the power and duty to close schools and public places; to prohibit gatherings of people when necessary to protect public health; to establish, maintain, and enforce isolation and quarantine; and in pursuance, thereof, to exercise physical control over property and over persons within Boulder County as BCPH may find necessary for the protection of public health; and

Whereas, COVID-19 is an illness transmitted primarily through person-to-person contact. Persons infected with COVID-19 may become symptomatic anywhere from two (2) to fourteen (14) days after exposure. Symptoms may include, but are not limited to, fever, cough, shortness of breath, or difficulty breathing. Individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with this disease; and

Whereas, on March 10, 2020, the Governor of Colorado (“Governor”), Jared Polis, declared a State of Emergency related to the presence of COVID-19 in the state of Colorado; and

Whereas, on March 14, 2020, the Chair of the Board of County Commissioners for Boulder County (“BOCC”) declared a local disaster emergency, which, on March 19, 2020, was extended by the BOCC; and

As of November 9, 2020, there have been 138,427 confirmed or probable positive cases of COVID-19 statewide in Colorado and 7,207 confirmed or probable positive cases in Boulder

County, as well as 10,263 individuals hospitalized with COVID-19 in Colorado, and 2,427 deaths related to COVID-19 cases statewide; and

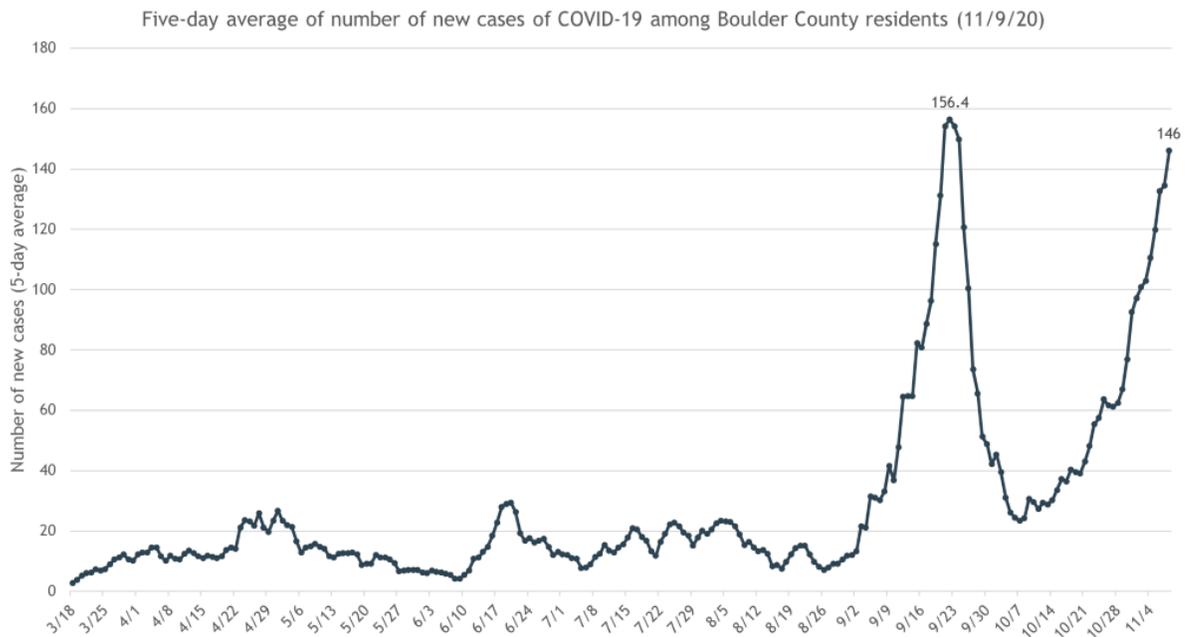
Whereas, since the last week of October 2020, there has been a substantial increase in the number of COVID-19 cases, positivity, and deaths nationally, statewide, and in Boulder County; and

Whereas, as of November 9, 2020, the positivity rate for COVID-19 in the state of Colorado is 12.3% and the five-day average positivity in Boulder County is currently 8.0% and rising. This rate is above the 5% positivity rate recommended by the World Health Organization (“WHO”) for non-critical businesses to open; and

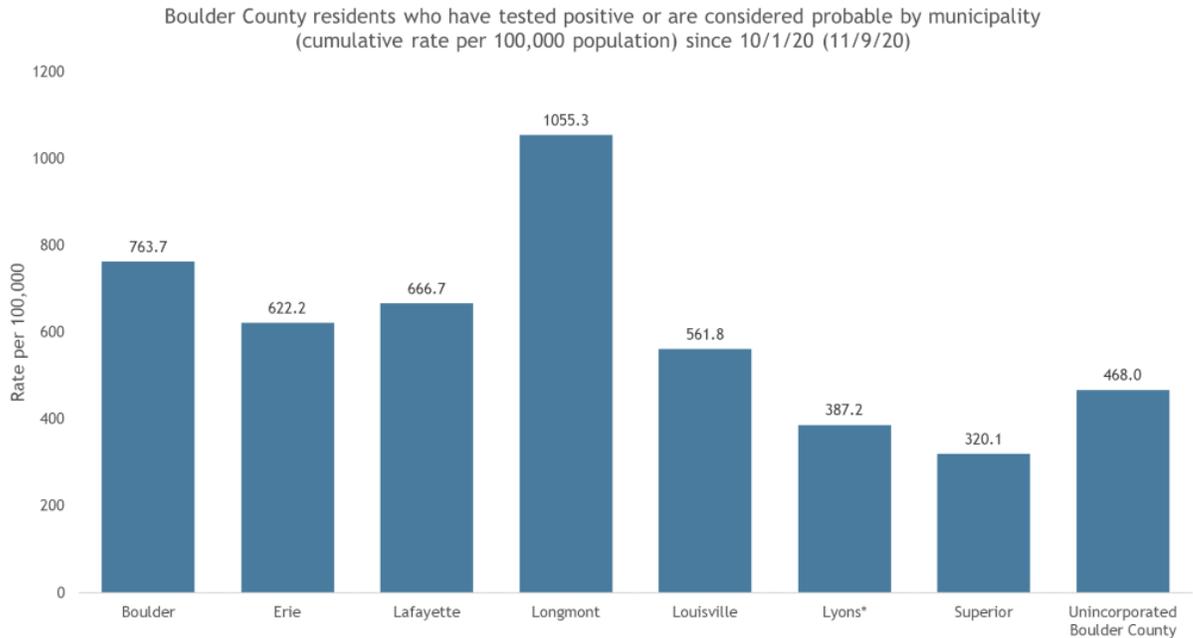
Whereas, the two-week cumulative incidence rates in Boulder County is 473.9 per 100,000, an increase by more than 150 cases per 100,000 from the prior week and above the 350 cases per 100,000 benchmark set by the state of Colorado for stay-at-home orders; and

Whereas, due to the high number of COVID-19 cases in Boulder County, BCPH has been unable to contact every individual who has tested positive and, therefore, is unable to perform contact tracing for all cases, putting the community at further risk for the spread of COVID-19; and

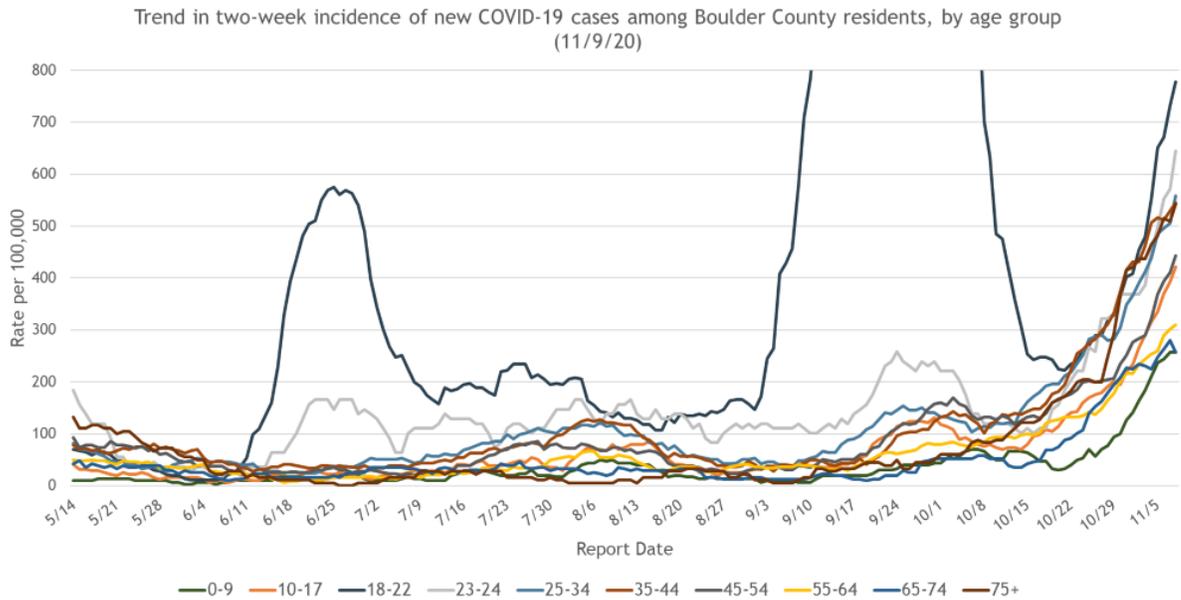
Whereas, as of November 9, 2020, the five-day average number of new COVID-19 cases among Boulder County residents is 146 cases per day, as shown in the graph below, and the effective reproductive number in the state of Colorado is 1.66 indicating that COVID-19 cases are still growing rapidly in the community; and



Whereas, the spread of COVID-19 in Boulder County appears to be dispersed among Boulder County municipalities as shown in the graphs below; and

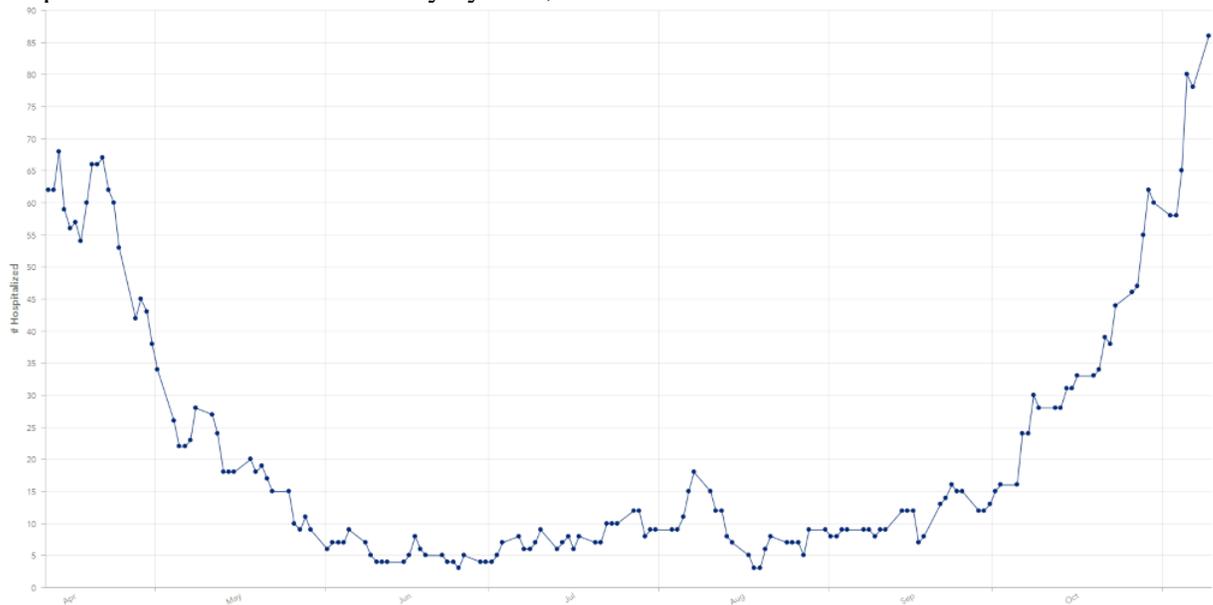


Whereas, the spread of COVID-19 in Boulder County appears to be dispersed among all age groups, as shown in the graphs below, and that each age group has experienced more than a 90% increase in cases over the prior two weeks, indicating that cases in Boulder County among all age groups are close to or more than doubling every two weeks; and



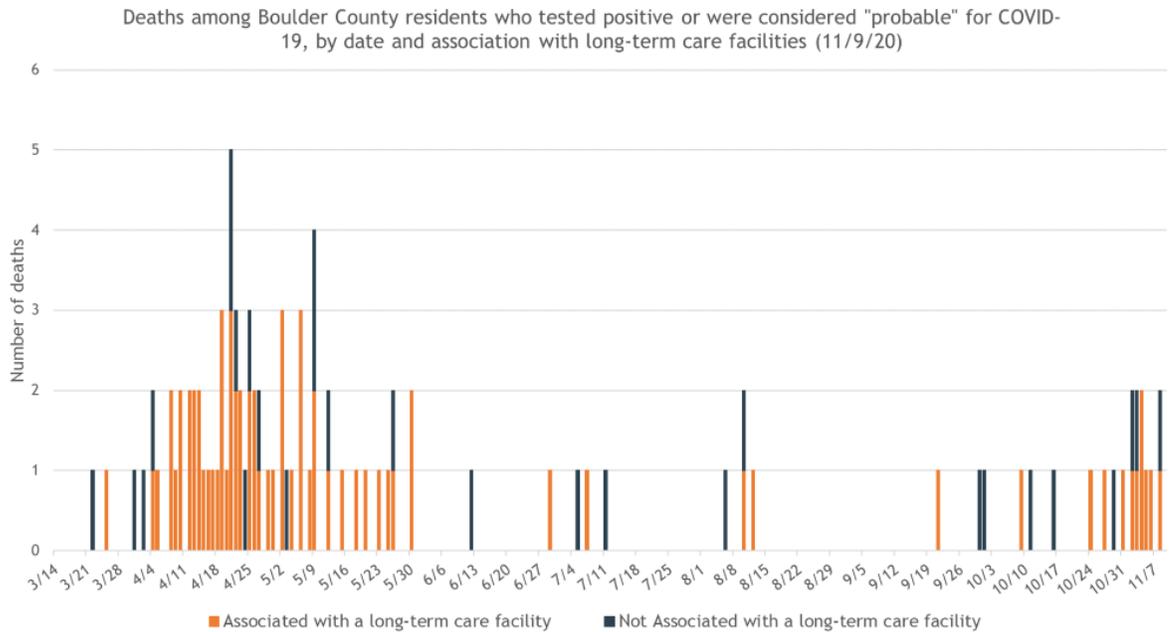
Whereas, there have been at least 10,263 people in Colorado who have been hospitalized due to COVID-19 since March 2020, and the state of Colorado has modeled the effect of this increase spread on Colorado hospital systems and determined that hospital capacity in Colorado will be exceeded by late December unless additional preventative measures are taken to bend the curve and reduce the spread of COVID-19.¹ As of November 9, 2020, data indicates that hospital capacity in the state of Colorado will be exceeded sooner than the model predicted; and

Whereas, hospitalizations in Boulder County have increased drastically in the past two weeks and continue to increase at an exponential rate. As of November 10, 2020, there are 89 people hospitalized for COVID-19 in Boulder County, exceeding the peak of hospitalizations that occurred in March and April 2020, as shown by the graph below, which indicates hospitalizations in Boulder County by date; and



Whereas, there have been 2,427 deaths among COVID-19 cases in Colorado since March 2020, and the rate of deaths have increased in the past two weeks; and

Whereas, there have been 99 deaths due to COVID-19 in Boulder County since March 2020, including 10 deaths between November 1 and November 9, 2020, a rapid acceleration of the number of deaths as show in the graph below; and



Whereas, the United States Centers for Disease Control and Prevention (“CDC”) has published a mortality and morbidity review indicating that spread is far more common in indoor settings such as restaurants and other places where close contact without face coverings is common or likely²; and

Whereas, the CDC has indicated that while close contact is the most common form of transmission, airborne transmission is more likely to occur within enclosed spaces³; and

Whereas, recent state modeling estimates that more than 1 out of every 100 people in Colorado is currently infectious with COVID-19; and

Whereas, with respect to spectators at sporting events, the CDC has determined that the higher the transmission of COVID-19 in the community, the higher the risk of transmission of COVID-19 at sporting events; and

Whereas, the CDC has found that the greater the number of sporting events that someone attends, the greater the risk that COVID-19 will spread; and

Whereas, the CDC encourages sports programs to limit attendance by non-essential visitors, including families, volunteers, and spectators; and

Whereas, C.R.S. § 25-1-506(3)(b) authorizes BCPH to take action and issue public health notices and orders to control the spread of communicable diseases, such as COVID-19. This authority includes the establishment, maintenance, and enforcement of isolation and quarantine, as BCPH finds necessary to protect public health and to prevent further spread of diseases. This authority also includes the ability to investigate and abate nuisances, when necessary, in order to eliminate sources of epidemic or communicable diseases and conditions affecting the public health, and to investigate and control the causes of epidemic or communicable diseases and conditions affecting public health; and

Whereas, in the event of a public health emergency, C.R.S. § 25-1-509(1)(c) directs BCPH to issue orders and adopt rules consistent with the laws and rules of the State of Colorado as the public health director may deem necessary for the proper exercise of powers and duties vested in or imposed upon the Boulder County Board of Health.

II. NECESSITY OF THIS ORDER

This Order is issued based on evidence of increasing occurrence and transmission of COVID-19 within Boulder County. The dangers of COVID-19 are exacerbated because some individuals who contract the SARS CoV-2 virus may be pre-symptomatic, asymptomatic or have mild symptoms and may not be aware that they are carrying the coronavirus.

This Order is further based on scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population within Boulder County places said population at risk for serious health complications, including death, from COVID-19.

COVID-19 positive case data for Boulder County shows that at this stage of the pandemic emergency, it is essential to slow the virus. By reducing the rate of potential transmission of COVID-19, this Order helps to preserve critical and limited healthcare capacity in Boulder County.

This Order is necessary to slow the rate of potential transmission of COVID-19, and the Executive Director of BCPH, in collaboration with the Boulder County Board of Health, will re-evaluate this Order as further data becomes available.

III. INTENT

This Order is intended to reduce the number of close contacts among persons in Boulder County, particularly in indoor spaces and other settings where people gather for prolonged periods of time.

All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order shall constitute an imminent threat to the public health, safety, and welfare of the population residing, working, or traveling in Boulder County.

IV. ORDER

Hereby finding it is essential that the spread of the novel coronavirus SARS-CoV-2, responsible for the COVID-19 disease, be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health, and because the risk of the rapid spread of COVID-19 necessitates immediate action to protect all members of the community, especially community members who are most vulnerable to COVID-19 and also healthcare providers and first responders, and pursuant to the statutory authority granted the Executive Director of BCPH, the following is ordered:

1. **Indoor Dining Limited to One Household Per Table:** In-person dining at inside spaces in Boulder County restaurants and for indoor events in Boulder County is limited to one household per table.
 - a. Restaurants are still required to follow all other State of Colorado COVID-19 Dial Level Orange requirements, including but not limited to:
 - i. Operating capacity is limited to 25% of posted occupancy indoors not to exceed 50 people, excluding staff, whichever is less, per room.
 - ii. Outdoor in-person dining is limited to ten people per table with no more than two households per table with minimum spacing of six feet between tables.
 - b. Restaurants and event organizers in Boulder County should utilize Colorado Department of Public Health and Environment's ("CDPHE") [Temporary Outdoor Structures Guidance](#) for restaurants and events to determine if temporary outdoor structures are considered indoors or outdoors for purposes of this Order.

2. **Indoor Events Limited to 25 People:** Indoor events operating in Boulder County pursuant to Appendix I and defined in Section III.I of CDPHE Order 20-36 may operate at 25% of the posted occupancy limit not to exceed 25 people excluding staff, whichever is less, within their usable space calculated using CDPHE’s Social [Distancing Space Calculator](#). If the event is a seated event, the usable space may be calculated using 6 feet distancing between non-household members up to a maximum of 25 people.
 - a. **Separate Rooms:** An indoor event in Boulder County may not utilize more than one room or designated activity or area to increase the capacity for attendees at the event beyond the 25-person limit. While separate events may occur in separate rooms or designated activities or areas of the same facility, such rooms or designated activities or areas must have separate exits and entrances and separate restrooms so that there shall be no intermingling between groups. Event organizers are required to evaluate and plan parking, restroom access, start times, and end times to ensure that no incidental mingling occurs between attendees of separate events in different rooms or designated activities or areas of the same facility.
 - b. Indoor events in Boulder County must follow all other applicable guidelines contained in CDPHE Order 20-36, including Appendix I.
 - c. Nothing in this paragraph 2 shall be construed to change the capacity limits under CDPHE Order 20-36 for any business or government operating under Section III or Appendix A, B, C, D, E, F, G, H, J, K, or L.
 - d. Any gathering in Boulder County not operating under Section III.B-S or Appendix A-L in CDPHE Order 20-36 is a public or private gathering. All public and private gatherings are limited to two households with a maximum of ten people. *See* Public Health Order 20-36 COVID-19 Dial Paragraph II.E.2.a.
3. **No Spectators at Sporting Events:** Spectators are not permitted at adult and high school level sporting events in Boulder County, including those sanctioned by the Colorado High School Activities Association (“CHSAA”). Spectators are not permitted at any professional sports events in Boulder County as that term is used in CDPHE Order 20-36, including sporting events at postsecondary institutions.
4. **Work from Home:** Boulder County Public Health strongly encourages all employers in Boulder County, of both critical and non-critical workplaces, to identify all individuals who can work from home either part-time or full-time and immediately encourage such individuals to work from home to the greatest extent possible.
5. **Relationship to Other Orders** (including isolation or quarantine orders or instructions): In the event of a conflict between this Order and any other Public Health Order or Executive Order, the most protective, applicable order shall control.
 - a. Nothing in this Order shall be construed to relieve an individual of the requirements of an isolation or quarantine instruction or Order issued by Boulder County Public Health.

- b. Nothing in this Order should be construed to preempt any local Public Health Orders.
- c. Nothing in this Order shall be construed to prevent a municipality from adopting more protective standards than those contained in this Order.

This Order is necessary to control the transmission of COVID-19 to others. Immediate issuance of this Order is necessary for the preservation of public health, safety, or welfare in Boulder County. Individuals have a right to request judicial review of this Order by filing an action with Boulder County District Court pursuant to C.R.S. § 25-1-515. However, any such individual must continue to obey the terms of this Order while their request for judicial review is pending.

BCPH is available to answer questions regarding this Order and provide available resources for support. The BCPH Call Center can be reached at 720-776-0822.

FAILURE TO COMPLY WITH THIS ORDER IS SUBJECT TO PENALTIES CONTAINED IN C.R.S. §§ 25-1-114 and 25-1-516, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000.00) AND IMPRISONMENT IN THE COUNTY JAIL FOR UP TO EIGHTEEN (18) MONTHS.

This Order is in effect at 9:00 a.m. MST on Saturday, November 14, 2020, and shall expire at noon (12:00 p.m.) MST on Monday, December 14, 2020, unless extended or modified by BCPH.

DONE AND SIGNED, as the official Order of the Executive Director of Boulder County Public Health on this 12th day of November, 2020, at the authorization and direction of the Boulder County Board of Health.



Jeffrey J. Zayach, MS
Executive Director
Boulder County Public Health

November 12, 2020

Date

¹ <https://coloradosph.cuanschutz.edu/resources/covid-19/modeling-results>

² <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6936a5-H.pdf>

³ <https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html>