

**ORDINANCE NO. 5
SERIES OF 2021**

**AN EMERGENCY ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO,
REQUIRING THAT PERSONS UTILIZE FACE COVERINGS WITHIN THE
TOWN OF CARBONDALE IN CERTAIN SITUATIONS TO PROMOTE
HEALTH AND SUPPRESS THE SPREAD OF COVID-19**

WHEREAS, pursuant to C.R.S. Section 31-15-401, the Town of Carbondale’s police powers include the power to “do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease”; and

WHEREAS, although as vaccines have become available in the Carbondale area, COVID-19 rates in this area have begun to decline, Colorado Governor Jared Polis, the Colorado Department of Public Health and Environment (“CDPHE”), and Garfield County Public Health have all continued to indicate that there continues to be risk of transmission of COVID-19 within the Town of Carbondale; and

WHEREAS, in particular, on April 15, 2021, CDPHE issued Public Health Order (“PHO”) 20-38, which superseded PHO 20-36 regarding the COVID-19 Dial and PHO 20-29 involving voluntary and elective surgeries; pursuant to new PHO 20-38, although the Dial and applicable guidance will remain a viable measure of virus activity and of ongoing safeguards, statewide restrictions will no longer accompany the Dial designations and, instead, PHO 20-38 implements reduced statewide restrictions for individuals, businesses, activities, and hospital reporting requirements in the ongoing prevention of the spread of COVID-19 in Colorado; and,

WHEREAS, pursuant to PHO 20-38, sub-sections 1.A.1 (a)-(h), face coverings are no longer required by the State outdoors or in most Public Indoor Spaces unless and until a one-week incidence rate in excess of 35 per 100,000 is reached, in which case face coverings will be required within Public Indoor Spaces where 10 or more unvaccinated individuals or individuals of unknown vaccination status are present; and,

WHEREAS, on April 19, 2021, the Garfield County Board of County Commissioners, acting as the Board of Health, adopted Resolution 21-13 in order to provide additional local guidance on COVID-19 restrictions following the relaxation of certain of the prior statewide restrictions; and

WHEREAS, on May 2, 2021, Governor Polis issued Executive Order 2021 095 for purposes of amending prior Executive Orders regarding face coverings to clarify that individuals will be permitted to remove their medical or non-medical face coverings in Public Indoor Spaces if 80% of the individuals in the Public Indoor Space have shown proof of vaccination; and

WHEREAS, pursuant to Section 3-7 of the Carbondale Home Rule Charter, the Board of Trustees is authorized to adopt and enforce such emergency ordinances as may be required to protect the public health, safety, and welfare; and

WHEREAS, Section 3-7 of the Carbondale Home Rule Charter further authorizes the Board to immediately implement an emergency ordinance by a vote of a quorum plus one so long as (1) the ordinance states that it is an emergency ordinance and (2) it describes the nature of the emergency;

WHEREAS, the Board of Trustees now wishes to adopt revised local regulations concerning face coverings in order to better align the Town's requirements with County and State requirements.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO, as follows:

1. Section One: Face Coverings Required.

- (a) "Face Covering" shall mean a uniform piece of material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands.
- (b) At all times when the one week disease incidence rate for COVID-19 in Garfield County, Colorado is in excess of 35 per 100,000 persons, Face Coverings are required to be worn by all persons when entering and while inside places of business at locations within the Town of Carbondale where ten or more unvaccinated individuals or individuals of unknown vaccinated status are present and public contact is likely, including but not limited to within all common areas and lobbies, at all front desks, within other public seating or waiting areas, and within all portions of retail grocery, and restaurant businesses that are accessible by customers.

2. Section Two: Exceptions.

Nothing herein shall require the wearing of face coverings by the following persons:

- (a) Persons under the age of eleven years old;
- (b) Persons who cannot medically tolerate a face covering;

- (c) Persons working in an office who do not have any face-to-face interactions with the public;
- (d) Owners or employees of professional office spaces that are not open to the public.
- (e) Persons who need to temporarily remove face coverings when required to perform a reasonably necessary activity in public (*e.g.* removing a mask to eat or drink at restaurants or other places of public accommodation, to receive dental services, etc.).
- (f) Persons attending gatherings where 80% or more of the individuals present have shown proof of full vaccination.

3. Section Three: Penalties.

- (a) Violations of this Ordinance shall be subject to the penalty provisions of Section 1-4-20 of the Carbondale Municipal Code.
- (b) At the discretion of the Officer, a penalty assessment may issue in the amount of Fifty Dollars (\$50.00) for a first offense; One Hundred Dollars (\$100.00) for a second offense; and a summons to Municipal Court for any subsequent offense(s).

4. Section Four. Termination.

This Ordinance shall remain in effect until either:

- (a) Governor Polis and CDPHE retract and repeal all statewide COVID-19 requirements concerning Face Coverings;
- (b) Repeal or amendment of this Ordinance by the Board of Trustees of the Town of Carbondale; or
- (c) If this Ordinance is superseded by a valid public health order by the State of Colorado or Garfield County that is more restrictive.

5. Section 6: Repeal of Prior Mask Ordinance.

The provisions of Ordinance No. 5, Series of 2020, are hereby repealed and replaced in their entirety.

6. **Section Five: Effective Date.**

Because the Board of Trustees finds that it is necessary to adopt this ordinance as an emergency ordinance to protect the general health, safety and welfare of the citizens of the Town by aligning local mask requirements with current statewide requirements, this ordinance shall become effective immediately upon passage.

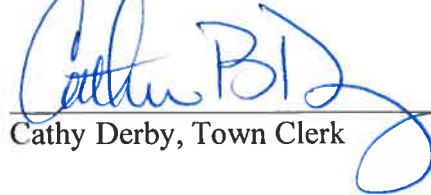
INTRODUCED, READ AND PASSED by a vote of 7 to 0 this 11th day of May, 2021.

THE TOWN OF CARBONDALE



Dan Richardson, Mayor

ATTEST:



Cathy Derby, Town Clerk



D 2021 095

EXECUTIVE ORDER

**Amending and Extending Executive Orders D 2020 039, D 2020 067, D 2020 092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, and D 2021 079
Ordering Individuals in Colorado to Wear Non-Medical Face Coverings**

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order amending and extending Executive Orders D 2020 039, D 2020 067, D 2020 092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, and D 2021 079, ordering individuals in Colorado to wear a medical or non-medical face covering due to the presence of coronavirus-2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended and extended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, D 2020 176, D 2020 205, D 2020 234, D 2020 258, D 2020 264, D 2020 268, D 2020 284, D 2020 290, D 2020 296, D 2021 009, D 2021 022, D 2021 028, D 2021 045, D 2021 061, D 2021 068, and D 2021 087. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

A statewide vaccination effort is now underway, and the general population of the State of Colorado became eligible to receive the COVID-19 vaccine as of April 2, 2021. As more and more Coloradans are vaccinated, we are further protecting ourselves, our families and friends, and our communities from COVID-19. As we take steps to return Coloradans to work and return

to life as normal, we must continue to take measures to facilitate reopening the economy while protecting public health by incorporating best practices to protect individuals from infection.

Executive Order D 2021 079 amended, restated, and extended the prior Executive Orders relating to face coverings. All of the directives set out in Executive Order D 2021 079 remain in effect. This Executive Order extends the prior Executive Orders relating to face coverings to protect Coloradans by requiring individuals in Colorado to wear face coverings over their nose and mouth in certain locations and situations, and includes an additional amendment that permits individuals to remove their medical or non-medical cloth face coverings in Public Indoor Spaces if 80% of the individuals in the Public Indoor Space have shown proof of vaccination.

II. Amendment

Section II of Executive Order D 2020 039, as amended and extended by Executive Orders D 2020 067, D 2020 092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, D 2021 079, is amended to include the following:

- Q. Notwithstanding any provision of this Executive Order, individuals are permitted to remove their medical or non-medical cloth face coverings in Public Indoor Spaces if 80% of the individuals in the Public Indoor Space have shown proof of vaccination.

All of the directives in Executive Order D 2021 079 remain in effect.

III. Duration

Executive Order D 2020 039, as amended and extended by Executive Orders D 2020 067, D 2020 092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, D 2021 079, and this Executive Order, shall expire thirty (30) days from May 2, 2021, unless extended further by Executive Order. In all other respects, Executive Order D 2020 039, as amended and extended by Executive Orders D 2020 067, D 2020 092, D 2020 110, D 2020 138, D 2020 164, D 2020 190, D 2020 219, D 2020 237, D 2020 245, D 2020 276, D 2020 281, D 2021 007, D 2021 035, D 2021 056, and D 2021 079, shall remain in full force and effect as originally promulgated.



GIVEN under my hand and
the Executive Seal of the
State of Colorado, this second
day of May, 2021.

A handwritten signature in blue ink that reads 'Jared Polis'. The signature is written in a cursive, flowing style.

Jared Polis
Governor