

Presented by: The Manager
Presented: 12/14/2020
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2020-61

An Emergency Ordinance Extending Use of a Masks or Face Coverings in Certain Indoor Settings, on Capital Transit, and in Close Proximity to Others, and Providing a Penalty.

WHEREAS, CBJ Charter 5.4(a) provides the Assembly may adopt an emergency ordinance to meet a public emergency by an affirmative vote of at least six assembly members; and

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and is caused by the SARS-Cov-2 virus (“virus”), a new strain of the coronavirus that has not been previously identified in humans and is easily transmittable person to person; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) declared the virus a pandemic; and

WHEREAS, on March 11, 2020, the State of Alaska declared a public health emergency in response to the anticipated outbreak of the virus in Alaska; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a national emergency in response to the virus pandemic; and

WHEREAS, on March 16, 2020, the Assembly declared a local emergency in response to COVID-19; and

WHEREAS, on March 22, 2020, the City and Borough of Juneau (“CBJ”) received its first positive case of COVID-19; and

WHEREAS, as of December 10, 2020, there have been 973 confirmed cases of COVID-19 in the City and Borough of Juneau, including cases classified as caused by community spread; and

WHEREAS, Alaska continues to experience a substantial increase in COVID-19 cases; and

WHEREAS, the Centers for Disease Control and Prevention and the State of Alaska recommend everyone to wear a cloth face covering when in a public setting where other social distancing measures are difficult to maintain, which can minimize asymptomatic individuals with COVID-19 from unknowingly spreading the disease; and

WHEREAS, Emergency Ordinances 2020-41 and 2020-49 imposed the face covering requirement through December 20, 2020.

THEREFORE BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Mask or Face Covering Mandate.

- (A) **Requirement.** All individuals must wear a mask or a face covering over their nose and mouth when they are (1) indoors in public settings or communal spaces outside the home; or (2) outdoors when at a gathering; or (3) outdoors when six-feet of physical distancing from non-household members (or small chosen closed group) cannot be maintained. This ordinance is subject to the conditions and exceptions stated below.
- (B) **Context.** The settings included in this ordinance include, but are not limited to, the public and communal spaces within the following:
- (1) Grocery stores, pharmacies, and all other retail stores.
 - (2) Restaurants, cafes, bars, and breweries – including food preparation, carryout, and delivery food operations. There is a limited exception for customers while they are eating or drinking in one of these settings.
 - (3) Buses, taxis, and other forms of public transportation when passengers are present.
 - (4) Personal care facilities.
 - (5) Communal areas of offices where people from multiple households are present.
 - (6) Elevators and indoor communal spaces in other buildings.
- (C) **Face Shield.** A face shield is generally not permitted in lieu of a mask or face covering because face shields are less effective in stopping the spread of COVID-19. However, a face shield may be permitted in lieu of a mask or face covering for the following individuals, who must wear a face shield whenever a mask or face covering would be required unless it is impossible to do so:
- (1) Any individual who cannot tolerate a mask due to a physical or mental disability;
 - (2) Individuals who are communicating with someone who is deaf or hard of hearing;
or
 - (3) Individuals performing an activity that cannot be conducted or safely conducted while wearing a mask (for example a driver experiencing foggy glasses, a dental patient receiving care, or an equipment operator where there is a risk of dangerous entanglement).
- (D) **Employment.** Employers are responsible to make sure employees who are present in the workplace have access to and wear masks or face coverings when in direct contact with others.

- (E) **Exceptions.** This ordinance does not apply to the following categories of people or activities:
- (1) Any child under the age of 2 years. These very young children should not wear a face covering because of the risk of suffocation. Additionally, masks are recommended, but not required for children ages 2-5. Daycare settings that serve preschool children are encouraged but not required to enforce mask usage for children age 2 and older.
 - (2) Individuals who are incarcerated, in police custody, or inside a courtroom; these individuals should follow guidance particular to their location or institution.
 - (3) Musicians, presenters, ministers, and others communicating to an audience or being recorded, for the duration of their presentation/practice/performance where mask usage impairs communication, and so long as safe physical distancing is maintained.
 - (4) Individuals removing their mask or face covering to eat, drink, or briefly scratch an itch.
 - (5) Employees within their own fully enclosed office or workspace, and employees within an unenclosed workspace if they are totally alone.
 - (6) Individuals doing high intensity exercise outdoors.
- (F) **Denial of Service.** A person violating this ordinance is prohibited from entering, occupying, or remaining in the setting in which a mask or face covering is required. Provided, however, that this ordinance shall be applied in a manner consistent with the Americans with Disabilities Act (ADA) and any other applicable provision of law. Businesses and the City Manager, for City and Borough of Juneau facilities, may choose to allow individuals who request an accommodation under the ADA to wear a face shield, or may consider accommodating these individuals through alternative means of providing goods or services, such as curbside, delivery, or telephonic service.
- (G) **Proof of Medical Reason or Disability.** If a person declines to wear a mask or face covering because of a medical condition or disability as described above, this ordinance does not require them to produce medical documentation verifying the stated condition or disability.
- (H) **Additional City and Borough of Juneau Facility Provision.**
- (1) **Notice.** The City Manager is required to identify and conspicuously post notices for those City and Borough of Juneau public facilities or areas of public facilities in which people are required to wear a mask or face covering. The Manager should post face covering notices in public facilities and areas of public facilities in which maintaining six feet separation between people is difficult or where there are insufficient physical barriers to keep people six feet apart.
 - (2) **Provision of Face Covering.** For people who cannot afford or locate a face covering, the Manager shall make a face covering available on every Capital Transit bus and at any facility owned by the City and Borough of Juneau that requires a mask or face covering.

- (I) **Enforcement Policy.** The City and Borough of Juneau reserves the right to use all available enforcement options to assure compliance with this ordinance. Additionally, violation of this ordinance does not create grounds for people to harass individuals who do not comply with it.
- (J) **Violation.** A person who violates the face covering requirement of Section 2 shall be subject to a civil fine not to exceed \$25.00, which shall be considered incorporated into CBJC 03.30.070(a); payment of the civil fine shall be accepted in satisfaction of the violation; and the violation shall be subject to CBJC 03.30.070(b)-(c) and 03.30-075-03.30.085.
- (K) **Definitions.**
- (1) "Mask" means a medical grade mask (i.e. N95).
 - (2) "Face covering" means a cloth, polypropylene, paper, or other face covering that covers the nose and the mouth and that rests snugly above the nose, below the mouth, and on the sides of the face. The following are not face coverings because they allow droplets to be released: a covering with a valve designed to facilitate easy exhalation; mesh masks; lace masks; other coverings with openings, holes, or visible gaps in the design or material.
 - (3) "Face shield" means a clear plastic shield that covers the forehead, extends below the chin, and wraps around the sides of the face.

Section 3. Effective Date. This ordinance shall be effective immediately and expire 180 days after its adoption unless terminated earlier by the Assembly by motion.

Adopted this 14th day of December, 2020.



Beth A. Weldon, Mayor

Attest:



Elizabeth J. McEwen, Municipal Clerk