

Presented by: Manager
Presented: 05/24/2021
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-22

An Ordinance Reestablishing the City and Borough of Juneau COVID-19 Mitigation Strategies and Providing for a Penalty.

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

WHEREAS, the Juneau International Airport and the Juneau ferry terminal are the primary point-of-entries for persons traveling into Juneau; and

WHEREAS, on February 14, 2021, the State of Alaska identified that non-residents traveling into the State no longer had to pay the \$250 for a COVID-19 test upon arrival and fully vaccinated people did not have to follow strict social distancing requirements while awaiting test results; and

WHEREAS, while more community members are getting vaccinated for COVID, the community has not reached herd immunity, children are not eligible for vaccines, a variants of concern (B.1.1.7, P1) have recently been detected in Juneau; and

WHEREAS, Alaska continues to experience COVID-19 outbreaks and multiple regions in Alaska are at moderate or high alert levels; and

WHEREAS, as of May 19, 2021, there have been more than 1,486 confirmed cases in the City and Borough of Juneau, of which a substantial percentage are travel related or attributable to community spread; and

WHEREAS, the current COVID-19 Mitigation Strategies were reestablished with Emergency Ordinance 2021-11 (April 26, 2021); and

WHEREAS, the Centers for Disease Control and Prevention (CDC) recently revised its guidance for fully vaccinated people; and

WHEREAS, any business or facility is free to require masks at their business or facility; and

WHEREAS, the updated COVID-19 Mitigation Strategies will help provide better structure and certainty as the community balances the needs to mitigate harm from COVID-19 and keep the economy open.

1
2 THEREFORE BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU,
3 ALASKA:

4 **Section 1. Classification.** This ordinance is a noncode ordinance.

5 **Section 2. COVID-19 Mitigation Strategies.**

6 (a) **Adoption.** The City and Borough of Juneau COVID-19 Mitigation Strategies identified in
7 Exhibit A are adopted.

8 (b) **Determination of Incident Risk Level.** The Manager is authorized to determine which
9 Incident Risk Level best fits the City and Borough of Juneau based on a comprehensive range of
10 public health factors related to COVID-19.

11 (c) **Public Notice.** The Manager shall conspicuously identify the Incident Risk Level on the
12 City and Borough of Juneau's webpage and widely distribute public notice when the level
13 changes.

14 (d) **Exemptions.**

15 (1) **Exemption Request.** An entity or person may request an exemption from the COVID-
16 19 Mitigation Strategies by submitting a site specific COVID-19 Mitigation Plan to the
17 CBJ Emergency Operations Center by emailing covidquestions@juneau.org. The
18 Emergency Operations Center may issue an exemption if the COVID-19 Mitigation
19 Plan has sufficient measures and policies to mitigate the spread of COVID-19 in light
20 of the Incident Risk Level.

21 (2) **Public Records.** All exemption requests, communication, and responses are
22 presumptively public records. If an entity or person requests that the City and Borough
23 of Juneau withhold any information contained in your COVID-19 Mitigation Plan from
24 public release because the information is protected under AS 40.25.120(a), you must
25 submit the following information with the request:

- 26 (A) Identify each set of discrete information that the entity or person asserts is
27 confidential;
- 28 (B) Identify each specific legal authority that the entity or person asserts applies to
29 each such set of information; and
- 30 (C) For each such set of information, explain why the entity or person asserts the
31 information is confidential based on each legal authority the entity or person
32 asserts applies to that information.

1 Should the City and Borough of Juneau receive a request for records under the Public
2 Records Act applicable to any item marked confidential, the City and Borough of Juneau
3 should notify the person or entity asserting confidentiality as soon as practicable prior
4 to making any disclosure. The person or entity asserting confidentiality acknowledges
5 it has five (5) calendar days after receipt of notice to notify the City and Borough of
6 Juneau of its objection to any disclosure, and to file any action with any competent court
to protect its interests. Should the person or entity asserting confidentiality fail to notify
the City and Borough of Juneau of its objection or fail to file suit within five (5) calendar
days, the CBJ may disclose the records.

7 (e) **Violation.** A person who violates a mitigation strategy in Exhibit A shall be subject to a
8 civil fine not to exceed \$25.00 per violation, which shall be considered incorporated into CBJC
9 03.30.070(a); payment of the civil fine shall be accepted in satisfaction of the violation; and the
10 violation shall be subject to CBJC 03.30.070(b)-(c) and CBJC 03.30.075-03.30.085. In addition to
a civil fine, the City and Borough of Juneau may use all available civil enforcement options (i.e.
injunction, revocation of certificate of occupancy, civil lawsuit, etc.) to assure compliance with
this ordinance.

11 (f) **Amendments.** The Manager shall keep Exhibit A consistent with Centers for Disease
12 Control and Prevention (CDC) guidance and present the revisions to Exhibit A at regular or
special Assembly meetings for ratification.

13 (g) **Mask or Face Covering Mandate.**

14 (1) **Requirement.** All individuals must wear a mask or a face covering over their nose and
15 mouth (i) as provided for in Exhibit A; (ii) when using public transportation, like
16 Capital Transit; and (iii) when entering an area that is posted requiring use of a mask
or face covering. This ordinance is subject to the conditions and exceptions stated
17 below.

18 (2) **Face Shield.** A face shield is generally not permitted in lieu of a mask or face covering
19 because face shields are less effective in stopping the spread of COVID-19. However, a
20 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:

21 (A) Any individual who cannot tolerate a mask due to a physical or mental
22 disability;

23 (B) Individuals who are communicating with someone who is deaf or hard of
24 hearing; or

25 (C) 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).

- 1 (3) **Employment.** Employers are responsible to make sure employees who are present in
2 the workplace have access to and wear masks or face coverings as required by this
3 ordinance.
- 4 (4) **Exceptions.** This ordinance does not apply to the following categories of people or
5 activities:
- 6 (A) Any child under the age of 2 years. These very young children should not wear
7 a face covering because of the risk of suffocation. Additionally, masks are
8 recommended, but not required for children ages 2-5. Daycare settings that
9 serve preschool children are encouraged but not required to enforce mask usage
10 for children age 2 and older.
 - 11 (B) Individuals who are incarcerated, in police custody, or inside a courtroom; these
12 individuals should follow guidance particular to their location or institution.
 - 13 (C) Musicians, presenters, ministers, and others communicating to an audience or
14 being recorded, for the duration of their presentation/practice/performance
15 where mask usage impairs communication, and so long as safe physical
16 distancing is maintained.
 - 17 (D) Individuals removing their mask or face covering to eat, drink, or briefly
18 scratch an itch.
 - 19 (E) Employees within their own fully enclosed office or workspace, and employees
20 within an unenclosed workspace if they are totally alone.
 - 21 (F) Individuals doing high intensity exercise outdoors.
- 22 (5) **Denial of Service.** A person violating this ordinance is prohibited from entering,
23 occupying, or remaining in the setting in which a mask or face covering is required.
24 Provided, however, that this ordinance shall be applied in a manner consistent with the
25 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.
- (6) **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.

1 **(7) Additional City and Borough of Juneau Facility Provision.**

2 (A) **Notice.** The City Manager is required to identify and conspicuously post
3 notices for those City and Borough of Juneau public facilities or areas of public
4 facilities in which people are required to wear a mask or face covering. The
5 Manager should post face covering notices in public facilities and areas of
6 public facilities in which maintaining six feet separation between people is
7 difficult or where there are insufficient physical barriers to keep people six feet
8 apart.

9 (B) **Provision of Face Covering.** For people who cannot afford or locate a face
10 covering, the Manager shall make a face covering available on every Capital
11 Transit bus and at any facility owned by the City and Borough of Juneau that
12 requires a mask or face covering.

13 **(8) Definitions.**

14 (A) “Mask” means a medical grade mask (i.e. N95).

15 (B) “Face covering” means a cloth, polypropylene, paper, or other face covering that
16 covers the nose and the mouth and that rests snugly above the nose, below the
17 mouth, and on the sides of the face. The following are not face coverings
18 because they allow droplets to be released: a covering with a valve designed to
19 facilitate easy exhalation; mesh masks; lace masks; other coverings with
20 openings, holes, or visible gaps in the design or material.

21 (C) “Face shield” means a clear plastic shield that covers the forehead, extends
22 below the chin, and wraps around the sides of the face.

23 **Section 3. Repeal of Emergency Ordinance 2021-11.** Emergency Ordinance 2021-11
24 is repealed.

25 **Section 4. Effective Date.** This ordinance shall be effective 30 days after adoption.
This ordinance expires at 12:01 a.m. on July 31, 2021, unless terminated earlier by the
Assembly by motion.

Adopted this ____ day of _____, 2021.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk

Ord. 2021-22 Exhibit A

Community Risk Level	Masks / Social Distancing	Large Gatherings	Restaurants, Bars	Personal Services, Gyms	Travel
Minimal: 1c - >70% of total population fully vaccinated	If not fully vaccinated, masks/face coverings must be worn indoors in public areas and outdoors at crowded outdoor events (e.g. live performance, parade, sports event)	No size limitations; however, masks must be worn indoors by individuals who are not fully vaccinated.	R: If not fully vaccinated, patrons must wear masks when not actively eating or drinking. B: No restrictions.	If not fully vaccinated, masks/face coverings must be worn indoors in public areas.	Follow State Health Advisories.
Minimal: 1b - 50 - 69.9% of total population fully vaccinated -	If not fully vaccinated, masks/face coverings must be worn indoors in public areas and outdoors at crowded outdoor events (e.g. live performance, parade, sports event)	Indoor gatherings should be limited to the number of participants that will allow 6 ft of social distancing to be maintained if individuals who are not fully vaccinated are present. Masks must be worn indoors by individuals who are not fully vaccinated.	If not fully vaccinated, patrons must wear masks when not actively eating or drinking. Recommend capacity restrictions that allow 6 ft of social distancing between parties.	If not fully vaccinated, masks/face coverings must be worn indoors in public areas. Recommend capacity restrictions that allow 6 ft of social distancing between individuals.	Follow State Health Advisories.
Moderate	If not fully vaccinated, masks/face coverings must be worn indoors in public areas and outdoors at crowded outdoor events (e.g. live performance, parade, sports event)	Indoor gatherings should be limited to 50* people with safety measures (masks required). Outdoor gatherings are recommended. There are no limits or required safety measures if all individuals at the gathering are fully vaccinated.	If not fully vaccinated, patrons must wear masks when not actively eating or drinking. Bars not to exceed 50% indoor capacity. Strongly recommend restaurants reduce capacity to ensure physical distancing between parties, recommend reservations required. Recommend delivery/ curbside pick up if allowed by law.	Personal Services by appointment only, no waiting areas. Gyms, small group activities outdoors, limit capacity to 50%.	Follow State Health Advisories.
High	Masks/Face coverings must be worn indoors and outdoors in public areas where 6ft of social distancing cannot be maintained. Keep social bubble contained to family members.	Indoor gatherings should be limited to 20* people with safety measures (masks required). Outdoor gatherings with 6ft distancing recommended.	Bars and Restaurants reduce capacity to ensure at least 6 feet of physical distancing between parties and not to exceed 50% with reservations / contact list required. Delivery/curbside pickup if allowed by law. Bars and restaurants closed at 11:00 pm.	Personal Services by appointment only, one customer per service provider, no waiting areas. Gyms, no group activities, limit capacity to 25%	Follow State Health Advisories
Very High	Masks/Face coverings required outside the home. Residents are required to stay at home except as needed for groceries, medical care, and essential workforce needs.	Outdoor gatherings limited to no more than 10 people with proper social distancing. Indoor communal events not allowed.	Restaurants and bars limited to delivery and curbside pickup if allowed by law.	Personal Services and Gyms closed.	Follow State Health Advisories