

**CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2021-32**

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA REQUIRING USE OF A FACE
COVERING IN CERTAIN INDOOR SETTINGS AND PROVIDING A PENALTY**

BE IT ENACTED by the Assembly of the City and Borough of Sitka as follows:

1. CLASSIFICATION. This ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code (SGC) of the City and Borough of Sitka.

2. SEVERABILITY. If any provision of this ordinance and application thereof to any person and circumstances is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. PURPOSE. The purpose of this ordinance is recited as follows:

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"); and

WHEREAS, a new strain of the coronavirus that has not been previously identified in humans and is easily transmittable person to person has appeared and is known as the "Delta variant"; and

WHEREAS, the Delta variant is now the dominant strain in Alaska, and the Delta variant is substantially more contagious than earlier strains; and

WHEREAS, a substantial portion of the new cases of COVID-19 are of vaccinated people and it has been proven that while vaccinated people do not get as sick, they can infect others; and

WHEREAS, Sitka is experiencing a substantial increase in COVID-19 cases, as evidenced by the change in our COVID-19 alert status from moderate to high on July 5 and since that time Sitka has remained in the high alert status with steady positive tests and hospitalizations, and even a resident death; and

WHEREAS, the Centers for Disease Control and Prevention and the State of Alaska recommend that when infection rates are high everyone wear a face covering, including vaccinated people, when in a public setting where other social distancing measures are difficult to maintain; and

WHEREAS, Emergency Ordinance No. 2021-24, which has the same purpose and provisions of this ordinance, was enacted by the Assembly on July 29, 2021, was extended by the Assembly on August 24, 2021, and expires on September 28, 2021, or when the risk level as defined by the Sitka Emergency Center is moderate, during times before September 28, 2021, whichever occurs first; and

WHEREAS, the Assembly desires that the provision of the Emergency Ordinance No. 2021-24 continue by regular ordinance when the risk level as defined by the Sitka Emergency

Operations Center is high and expires when the risk level drops below high (if the risk level returns to high, before this ordinance permanently expires, this ordinance will reactivate), with this ordinance permanently expiring on March 22, 2022.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that:

Section 1. Face Covering Mandate.

(A) Requirement. All individuals must wear a face covering over their nose and mouth when they are indoors in public settings or communal spaces outside the home. 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, carry-out, and delivery food operations. There is a limited exception for customers while they are actively 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) Child care facilities.

(6) Communal areas of offices where people from multiple households are present, such as elevators and indoor communal spaces in other buildings.

(C) Employment. Employers are responsible to make sure employees who are present in the workplace wear face coverings when in direct contact with customers, members of the public, or other employees. Face coverings are not required when the only direct contact is between members of the same household or when employees are not near others (within six feet).

(D) 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.

(2) Any individual for whom wearing a face covering would be contrary to his or her health or safety because of a medical condition or mental health condition, and any individual unable to tolerate a face covering due to a physical or mental disability.

(3) Individuals who are speech impaired, deaf, or hard of hearing, or individuals communicating with someone who is deaf or hard of hearing, where facial or mouth movements are an integral part of communication.

(4) Any individual who has trouble breathing or is otherwise unable to remove the face covering without assistance.

(5) Individuals who are incarcerated, in police custody, or inside a courtroom. These individuals should follow guidance particular to their location or institution.

(6) Individuals performing an activity that cannot be conducted or safely conducted while wearing a face covering (for example, a driver experiencing foggy glasses, a dental patient receiving care, swimming, an equipment operator where there is a risk of dangerous entanglement).

(7) Musicians, presenters, ministers, and others communicating to an audience or being recorded, for the duration of their presentation/practice/performance where face covering usage impairs communication, and so long as safe physical distancing is maintained.

(E) Proof of Medical Reason or Disability. If a person declines to wear a 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. Businesses may wish to consider accommodating such individuals through curbside or delivery service or by allowing the individual inside without a face covering if doing so will not place others at risk.

(F) Enforcement Policy. The City and Borough of Sitka reserves the right to use all available enforcement options to assure compliance with this ordinance. However, employers will not be subject to fines based on non-compliance by customers so long as there is a clearly posted sign informing customers that they are required to wear face coverings. Brief removal of a face covering, such as is necessary to eat, drink, or scratch an itch does not constitute a violation of this ordinance (although hand washing/sanitizing is recommended after such activities). Additionally, violation of this ordinance does not create grounds for residents to harass individuals who do not comply with it.

(G) Violation. A person who violates the face covering requirement of this section shall be subject to a civil fine of \$50.00, which shall be considered incorporated into SGC, Chapter 1.12 "General Penalty." Payment of the civil fine shall be accepted in satisfaction of the violation; and the violation shall be subject to SGC, Chapter 1.12.

5. EFFECTIVE DATE. This ordinance shall become effective on the day it is adopted and expires when the risk level as defined by the Sitka Emergency Operations Center drops below high. If the risk level returns to high, before this ordinance permanently expires, this ordinance will reactivate. This ordinance shall permanently expire on March 22, 2022.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 28th day of September, 2021.

Steven Eisenbeisz, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

1st reading 9/14/2021

2nd and final reading 9/28/2021

Sponsors: Christianson / Duncan