

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17
Re: FACE COVERING MANDATE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Sections 17-134 to 17-143 of the Portland City Code are hereby amended to read as follows:*

Chapter 17 OFFENSES, MISCELLANEOUS PROVISIONS*

Art. I. In General, §§ 17-1--17-14

...

Sec. 17-134–17-138. Reserved.

ARTICLE XII. PUBLIC FACE COVERING MANDATE

Sec. 17-139. Definitions.

For the purpose of this Section, the following terms shall have the following meaning:

Face covering means any cloth or tightly woven fabric that can be worn on an individual's face over their nose and mouth and substantially complies with the United States Center for Disease Control's recommended guidance for masks such as surgical masks, N95 respirators, double-layer cloth gators, or any similar mask that fits snugly around the nose and chin, has multiple layers and/or inner filter pockets, and does not let light through when held up to a light source.

Person means any individual regardless of their status within a Public Building including but not limited to an

employee, an owner, a customer, a licensee, an invitee, a visitor, or any other individual.

Public Building means any building or portion of a building within the City of Portland that is regularly accessible to the general public. For purposes of this ordinance, a Public Building shall not include a private residence or residential unit, a public pre-school or K through 12 school (which remains under the authority of the Board of Public Education), a church or other house of worship, office space where the occupant(s) can be physically separated from the general public, or the portions of a theater, gym, or athletic arena where all of the individuals performing, exercising, or playing have been vaccinated and where there is either space, a physical barrier, or ventilation system separates them from the general public or audience.

Sec. 17-139. Face Covering Mandate.

(a) Starting January 4, 2022, any Person shall wear Face Coverings over their nose and mouth any time they are in a Public Building, within the City of Portland, unless otherwise excepted in Section 17-140.

(b) Persons must also wear Face Coverings over their nose and mouth any time they are using or operating public transportation conveyances, including buses, trains, taxis, ride shares, vehicles for hire, or any other ride services within the City of Portland.

(c) Persons inside a Public Building or portion thereof may temporarily remove their Face Coverings to participate in the primary purpose of the business, such as eating or drinking, only to the extent that such removal occurs at an isolated location, such as a table or booth, and that any Person who removes such Face Coverings must restore their Face Coverings as soon as their activity is completed or to the extent that they traverse or move about the premises away from their isolated location.

d) Nothing in this ordinance shall be interpreted to relieve a Person or business of any state or federal face covering obligations, and this ordinance shall be subordinate to any federal or state laws concerning vaccines or Face Coverings.

Sec. 17-140. Exceptions.

(a) Any Person under the age of 2, anyone with a medical condition that is complicated or irritated by a facial covering, or anyone with difficulty breathing, or anyone who is unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance is not required to wear a Face Covering.

(b) Any Person who is alone in a Public Building is not required to wear a Face Covering as long as they remain alone.

(c) Any Person entering a business, or a portion of a business, located within a Public Building, including but not limited to retail, food and beverage, gym, theater, or similar high-traffic business, which actively screens and limits who may enter its premises to only Persons with established proof of vaccination for the COVID-19 Virus, will not be obligated to wear a Face Covering within the business, but only to the extent that the Person is actually screened and provides proof of vaccination.

Sec. 17-141. Posting Requirement.

Each Public Building and each separate business or separate premise within a Public Building must post signage at the entrance and at other appropriate locations stating that Persons entering are required to wear ace coverings by order of the Portland City Council. Other locations can be alternative entrances (back doors, etc.) or at transaction locations such as registers. Signage requirements outlined in this Section (17-141) will have an effective date of January 10, 2022.

Sec. 17-142. Effective Period.

(a) Following its promulgation, the City Council shall review this ordinance every 30 days to reconsider and shall vote to either rescind or extend this ordinance for the ensuing 30 days.

(b) Enforcement of this ordinance may be suspended by an Executive Order promulgated by the City Manager prior to its expiration upon the determination by the City's Director of Health and Human Services that the seven day average of new cases for Cumberland County has dropped to the CDC's "moderate" transmission level for a period of ten consecutive days. Subsequently, prior to the expiration of the ordinance, enforcement may be reinstated by an Executive Order promulgated by the City Manager upon a determination by the City's Director

of Health and Human Services that the seven-day average for Cumberland County has returned to "substantial" or "high" levels of transmission for ten consecutive days. Public notice of these Executive Orders shall be circulated publicly and on the City's website.

Sec. 17-143. Enforcement

(a) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of the Portland City Code of Ordinances. A Person found violating this ordinance will also be directed to comply with the Face Covering mandate or will be obligated to leave the building or area where the offense occurred.

(b) The City's Local Health Officer or his or her designee is authorized to institute or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

BE IT FURTHER ORDAINED, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately in order to best protect and the health and welfare of the people in the City of Portland, Maine.