

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER DECLARING AN EMERGENCY

WHEREAS, in the Spring of 2021 the COVID-19 Pandemic had seemed to be coming to an end with the advent of vaccines and good vaccination rates, but instead, infection rates, new variants, hospitalizations and deaths from the COVID-19 virus have been increasing in recent months; and

WHEREAS, a majority of the new infections in the United States and the State of Maine involve the Delta variant, a highly contagious SARS-CoV-2 virus strain, which was first identified in India in December 2020; and

WHEREAS, the Delta variant has increased transmission and the severity of COVID-19 infections based on hospitalization and case fatality rates, decreased the virus's susceptibility to therapeutic agents, and evaded natural or vaccine-induced immunity; and

WHEREAS, the CDC has recommended that individuals who are not fully vaccinated continue to wear masks in indoor public settings in all locations; and

WHEREAS, as a result of the Delta variant and the increase in COVID-19 infections, the United States Centers for Disease Control and Prevention ("CDC") announced on July 27, 2021 that fully vaccinated individuals should also wear masks in indoor public settings in parts of the country that are experiencing a substantial or high transmission of COVID-19; and

WHEREAS, the risk of COVID-19 virus transmission from vaccinated individuals to both vaccinated and unvaccinated individuals (for example children under 12) remains unknown; and

WHEREAS, Cumberland County is rated as high community transmission; and

WHEREAS, the number of daily Maine positive tests for COVID-19 recently exceeded 500; and

WHEREAS, Cumberland County has a 3.3% positivity rate for COVID-19 tests, and during that week had a 13% increase in the number of cases of COVID-19, despite the county-wide 84% vaccination rate of persons 12 and older; and

WHEREAS, more than 2,000 breakthrough cases of COVID-19 have been recorded for persons who are vaccinated, and more than 100 persons with these cases have been hospitalized; and

WHEREAS, the number of patients in critical care and the numbers of patients on ventilators who are suffering from the effects of COVID-19 are reaching new peaks since the start of the pandemic; and

WHEREAS, Maine outbreaks of COVID-19 may have started at weddings and other gatherings and at summer camps, and are now occurring in schools; and

WHEREAS, as a result of the recent increase in COVID-19 cases, the City Manager has determined that City Hall and all other City buildings will remain closed to the public and be accessible by appointment only and that masks will continue to be worn by members of the public and City staff in those buildings; and

WHEREAS, all City Council and City Council committees, and all other City board and committee meetings are currently being conducted via remote technology/methods.

NOW, THEREFORE, BE IT ORDERED AND DECLARED by the Portland City Council, pursuant to 2-406 of the City of Portland's Code of Ordinances, hereby amends Order 17-20/21 to specify that an emergency continues to exist within the City of Portland; and

BE IT FURTHER ORDERED, that as a result of the declared emergency and the existence of an "emergency or urgent issue" as described above, pursuant to 1 M.R.S. section 403-B and the City Council's recently adopted Remote Participation Policy, being physically present for City Council and Council Committee meetings in City Hall is not practicable at this time, and therefore continues to require that the City Council and all Council Committees meet remotely, and recommends that all other City boards and committees also continue to meet and conduct their meetings by remote technology/methods only until the emergency is terminated; and

BE IT FURTHER ORDERED, all individuals aged two (2) years and above shall wear a mask that covers their nose and mouth, whenever they are in an indoor public space including businesses, clubs, places of assembly, or other places that are open to members of the public, including but not limited to, retail establishments, restaurants, bars, performance and dance venues, social clubs, personal service establishments (i.e. barbershops and hair and nail salons), fitness/health clubs, indoor recreation spaces, event spaces, and municipal buildings subject to the following conditions:

1. Customers at indoor food service establishments including, but not limited to, restaurants and bars, as well as dance or performance venues, may only remove their masks when they are actively eating or drinking. Customers at food service establishments must otherwise be masked, even while seated at a table. Customers standing or ordering at a bar must be masked.
2. This Order shall not apply to houses or places of worship.
3. Notwithstanding any provision in this Order, pursuant to guidance issued by the CDC, masks are not required for children under two (2) years of age, anyone who has trouble breathing, anyone who is unconscious, incapacitated or otherwise unable to remove the mask without assistance, or anyone who due to disability is unable to wear a mask.
4. The mask requirement shall not apply to performers, while performing at a performance or other venue, provided that they are at least six (6) feet away from all other individuals outside of the performance group. Patrons, however, must remain masked at indoor performance venues and on indoor dance floors unless actively eating or drinking.
5. Fitness Centers/Health Club workers, customers, and visitors are required to wear face coverings during all fitness activities, including strenuous fitness activities.
6. At Personal Services establishments, customers receiving skin or beard care may temporarily remove their mask or face covering, but must immediately put the face covering back on for the remainder of the visit.

All entry doors of the above-described indoor public spaces must be posted advising customers that masks must be worn and maintained inside the establishment.

BE IT FURTHER ORDERED, the neighborhood meetings required in Chapter 14 of the City Code may be conducted by an applicant remotely through telephonic, video, electronic or other similar means of remote participation under the following conditions:

- A. Notice of the neighborhood meeting has been widely given to the parties required by the City's code to receive notice by electronic, telephonic, or other means and includes the method by which the public and interested parties may attend;
- B. The applicant and all individuals speaking on behalf of the applicant in the remote meeting are able to hear and speak during the meeting and members of the public attending the remote meeting are able to hear the applicant and its representatives; and
- C. Members of the public attending the remote meeting are able to participate through telephonic, video, electronic or other similar means of remote participation.

BE IT FURTHER ORDERED, that a violation of this order by a person, firm or corporation shall constitute, among other things, a violation of the Portland City Code including, but not limited to, Chapter 2, section 2-412 and shall be subject to the penalties provided in section 2-413 and Chapter 1, section 1-15; and

BE IT FURTHER ORDERED, the requirements of this Order may be enforced by the City Manager, the interim City Manager and/or his/her designees; and

BE IT FURTHER ORDERED, the City Council shall review the substance and requirements of this Order when the Cumberland County transmission rate falls into the low or moderate level for at least twenty one (21) consecutive days or at its November 15, 2021 meeting, whichever is earlier; and

BE IT FURTHER ORDERED, that should any provision of this Order be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this Order as a whole, it being the legislative intent that the provisions of this article shall be severable and remain valid notwithstanding such a declaration; and

BE IT FURTHER ORDERED, that this it is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately.