

Resolution Relating to

COVID-19 PUBLIC FACE COVERING
MANDATE TO ENCOURAGE SAFE
PRACTICES AND VACCINATION

RESOLUTION_____

Sponsor(s): Mayor
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-one.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the Vermont General Assembly has passed and the Governor has signed Act 1 of the
2 2021 Special Session, which authorizes municipalities in Vermont to adopt face covering mandate ordinances;
3 and

4 WHEREAS, the Vermont Department of Health recommends that all Vermonters, regardless of
5 vaccination status, take protective measures to prevent the spread and exposure to the COVID-19 virus and its
6 variants; and

7 WHEREAS, the Centers for Disease Control and Prevention (CDC) recommend the use by everyone,
8 regardless of vaccination status, of simple cloth face covering in public when indoors to slow and limit the
9 spread of the COVID-19 virus and its variants in areas of “substantial“ or “high“ transmission; and

10 WHEREAS, the City has previously adopted face covering mandates in an effort to limit the spread of
11 the COVID-19 virus and its variants; and

12 WHEREAS, these mandates and the voluntary use of face coverings along with the City’s high
13 vaccination rates have been effective in slowing the spread of COVID-19 and its variants; and

14 WHEREAS, individuals who have chosen to get vaccinated are now vastly safer than during earlier
15 stages of the pandemic,¹ however community spread of the virus continues to occur at levels that putting
16 operating pressures on the state’s hospitals and causing other disruptions²;

17 WHEREAS, despite the City and its citizens’ best efforts, the continued spread of COVID-19 and its
18 variants along with the on-coming winter season warrant strong efforts to fight and stem the tide of the on-
19 going and pernicious spread of this disease; and

20 WHEREAS, the City seeks to support its business community in its recovery from the disruptions of
21 this long pandemic; and

¹ See D. Leonhardt, The Latest Covid Surge, NY Times (Nov. 23, 2021) (noting that the death rate for vaccinated people under 65 to 50 is 0.0 per 100,000 in several states and hospitalization for similar populations was in the single digits per 100,000).

² See Coronavirus in Vermont, VTDigger (Nov. 23, 2021) (tracking the upsurge in new COVID cases and COVID-related hospitalizations across Vermont).

22 WHEREAS, in some settings (such as grocery stores) there are limited negative impacts of a mask
23 mandate but in others, due to the nature of the activity, implementing a mask mandate significantly impacts
24 the activity in those spaces and/or involves frequent mask removal (i.e. restaurant patrons must temporarily
25 remove their masks to consume meals); and

26 WHEREAS, the risk of severe infection, disease or death and even transmission of the virus between
27 vaccinated individuals is rare³; and

28 WHEREAS, there are negative impacts of mask mandates, especially for employees who must
29 experience the discomfort and inconvenience of masking for an extended period of time, and thus should be
30 lifted once they are no longer warranted by public health guidance; and

31

32 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby enacts the following ordinance
33 to protect the public health of Burlingtonians and visitors to our City:

34 Section 17-10: Public Face Covering Requirement

35 17-10A Definitions

36 For the purpose of this ordinance:

- 37 (1) “Face Covering” means any cloth or tightly woven fabric that can be worn on an individual’s face over
38 their nose and mouth and substantially complies with the CDC’s recommended guidance for masks
39 such as surgical masks, N95 respirators, double-layer cloth gators, or any similar mask that fits snugly
40 around the nose and chin, has multiple layers and/or inner filter pockets, and do not let light through
41 when held up to a light source.
- 42 (2) “Person” means any individual regardless of their status within a Public Building including but not
43 limited to an employee, an owner, a customer, a licensee, an invitee, a visitor, or any other individual.
- 44 (3) “Public Building” means any building or portion of a building within the City of Burlington that is
45 regularly accessible to the general public. For purposes of this ordinance, a Public Building shall not
46 include a private residence or residential unit, a public pre-school or K through 12 school (which
47 remains under the authority of the school board under Act 1 of the 2021 Special Session), a church or
48 other house of worship, office space where the occupant(s) can be physically separated from the
49 general public, or the portions of a theater, gym, or athletic arena where all of the individuals

³ CDC, Interim Public Health Recommendations for Fully Vaccinated People, Centers for Disease Control and Prevention (Nov. 19, 2021) (“Risk of SARS-CoV-2 infection, severe disease, and death is reduced for fully vaccinated people.”); see also L. Maragakis & G. Kelen, Breakthrough Infections: Coronavirus After Vaccination, Johns Hopkins, School of Medicine (Nov. 23, 2021) (noting that while breakthrough infections are becoming more common, they are still lower than infection rates among unvaccinated).

50 performing, exercising, or playing have been vaccinated and where there is either space, a physical
51 barrier, or ventilation system separates them from the general public or audience.

52

53 17-10B Face Covering Mandate

- 54 a) Starting December 3, 2021, any Person shall wear Face Coverings over their nose and mouth any time
55 they are in a Public Building, within the City of Burlington, unless otherwise excepted in Part 1.03.
- 56 b) Persons must also wear Face Coverings over their nose and mouth any time they are using public
57 transportation conveyances, including buses, trains, taxis, ride shares, vehicles for hire, or any other
58 ride services within the City of Burlington.
- 59 c) Persons inside a Public Building or portion thereof may temporarily remove their Face Coverings to
60 participate in the primary purpose of the business, such as eating or drinking, only to the extent that
61 such removal occurs at an isolated location, such as a table or booth, and that any Person who removes
62 such Face Coverings must restore their Face Coverings as soon as their activity is completed or to the
63 extent that they traverse or move about the premises away from their isolated location. Under no
64 circumstances shall this ordinance allow for the crowding of three or more people outside of a table or
65 similar isolated location within a Public Building, except as stated below.
- 66 d) Violations of this ordinance shall be a civil offense under Section 1-9 of the Burlington Code of
67 Ordinances with a fine of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for
68 the second offense, and five hundred dollars (\$500.00) for any subsequent offense. A Person found
69 violating this ordinance will also be directed to comply with the Face Covering mandate or will be
70 obligated to leave the building or area where the offense occurred.
- 71 e) Nothing in this ordinance shall be interpreted to relieve a Person or business of any state or federal face
72 covering obligations, and this ordinance shall be subordinate to any federal or state laws concerning
73 vaccines or Face Coverings.

74

75 17-10C Exceptions

- 76 a) Any Person under the age of 2, anyone with a medical condition that is complicated or irritated by a
77 facial covering, or anyone with difficulty breathing, or anyone who is unconscious, incapacitated, or
78 otherwise unable to remove the mask without assistance are not required to wear a Face Covering.
- 79 b) Any Person who is alone in a Public Building is not required to wear a Facial Covering so long as they
80 remain alone.

81 c) Any Person entering a business, or a portion of a business, located within a Public Building, including
82 but not limited to retail, food and beverage, gym, theater, or similar high-traffic business, which
83 actively screens and limits who may enter its premises to only Persons with established proof of
84 vaccination for the COVID-19 Virus, will not be obligated to wear a Face Covering within the
85 business but only to the extent that the Person is actually screened and provides proof of vaccination.
86

87 17-10D Posting Requirement

88 Each Public Building and each separate business or separate premise within a Public Building must post
89 signage at the entrance and at other appropriate locations stating that Persons entering are required to wear
90 face coverings by order of the Burlington City Council. Other locations can be alternative entrances (back
91 doors, etc.) or at transaction locations such as registers. Signage requirements will have an effective date of
92 Friday, December 3, 2021.
93

94 17-10E Effective Period

- 95 a) Following its promulgation, the City Council shall review this ordinance every 30 days to reconsider
96 and shall vote to either rescind or extend this ordinance for the ensuing 30 days.
- 97 b) Enforcement of this ordinance may be suspended by an Executive Order promulgated by the Mayor
98 prior to its expiration upon the determination by the City’s Covid-19 Response Leader that the seven
99 day average of new cases for Chittenden County has dropped to the CDC’s “moderate” transmission
100 level for a period of ten consecutive days. Subsequently, prior to the expiration of the ordinance,
101 enforcement may be reinstated by an Executive Order promulgated by the Mayor upon a determination
102 by the City’s Covid-19 Response Leader that the seven-day average for Chittenden County has
103 returned to “substantial” or “high” levels of transmission for ten consecutive days. Public notice of
104 these Executive Orders shall be circulated publicly and on the City’s website.
- 105 c) If extended and still in effect, this Ordinance shall sunset effective at 11:59 pm on Saturday, April 30,
106 2022 per Act 1 of the 2021 Special Session of the Vermont General Assembly.