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## Order #D2021-063

# In the Matter of Requiring Personal Use of Masks or Cloth Face Coverings in Indoor and Outdoor Public Settings

Adopted Tuesday, August 17, 2021

### Background

The significantly more transmissible Delta variant of the SARS-CoV-2 virus has become the predominant strain in the U.S. and Benton County, Oregon.

While continuing to increase the number of vaccinated individuals is an important safety measure against COVID-19, more action is needed to counteract the more transmissible Delta variant. Universal use of face coverings in all public settings, including all outdoor settings where 6 feet of physical distance cannot be maintained, is the least disruptive measure to take at this time. Masks are safe and effective, and will have an immediate impact on our current surge in Benton County.

Benton County needs to protect the gains made through COVID-19 vaccinations, use of masks, and other prevention efforts to mitigate the renewed occurrence and spread of COVID-19 illness that could cause the State or County to reimpose tighter restrictions, adversely impact health care systems, and imperil essential workers and vulnerable individuals.

On August 17, 2021 the Benton County Board of Commissioners adopted Order #D2021-063, requiring individuals 5 years of age and older to wear masks or face-covering at all times in indoor public settings, and requiring individuals 5 years of age and older to wear masks or face-covering in outdoor public settings where physical distancing of 6 feet is not feasible.

### Definitions

- 1) "Business" means an individual, organization or entity engaged in commercial, industrial, or professional activities.
- 2) "Common or shared space" means an area where individuals may interact such as a restroom, breakroom, hallway, elevator, lobby, classroom, large room with cubicles, meeting room, conference room and any area open to the public.
- 3) "Face covering" means a cloth, polypropylene, paper or other face covering that covers the nose and the mouth and that rests snugly above the nose, below the chin, and on the sides of the face. Face coverings are not a covering that incorporates a valve that is designed to facilitate easy exhalation, mesh masks, lace masks or other coverings with openings, holes, visible gaps in the design or material, or vents.
- 4) "Face shield" means a clear plastic shield that covers the forehead, extends below the chin, and wraps around the sides of the face.

- 5) "Fully vaccinated individual" means an individual who has received both doses of a two-dose COVID-19 vaccine or one dose of a single-dose COVID-19 vaccine and at least 14 days have passed since the individual's final dose of COVID-19 vaccine.
- 6) "Indoor spaces" means anywhere indoors, including but not limited to public and private workplaces, businesses, indoor areas open to the public, building lobbies, common or shared spaces, classrooms, elevators, bathrooms, transportation services and other indoor space where people may gather for any purpose. An indoor space does not include a private residence or a private automobile being used for personal use and that is not used for ride sharing.
- 7) "Outdoor spaces" means anywhere outdoors, including but not limited to public and private workplaces, businesses, outdoor areas open to the public, common or shared spaces, and other outdoor space where people may gather for any purpose.
- 8) "Mask" means a medical grade mask.
- 9) "Person responsible for an indoor space" means any person or governmental entity responsible for the activities within an indoor space.
- 10) "Person responsible for an outdoor space" means any person or governmental entity responsible for the activities within an outdoor space.
- 11) "Private individual workspace" means an indoor space within a public or private workplace used for work by one individual at a time that is enclosed on all sides with walls from floor to ceiling and with a closed door.
- 12) "Public and private workplaces" means indoor and outdoor places where people work, including but not limited to businesses, banks, food processing plants, manufacturing facilities, construction sites, warehouses and farms.
- 13) "Public transportation" means any form of transportation open to the public including but not limited to trains, buses, trolleys, street cars, vans, school buses, airplanes, boats, ride sharing services. Public transportation does not include private vehicles unless the private vehicle is being used for public transportation such as ride sharing services.
- 14) "Ride sharing services" means transportation services, whether public or private, where a driver transports an individual or a group of people in a vehicle and charges a fare or bills for services. Ride sharing services include, but are not limited to, taxicabs, Uber, and Lyft.

## **General Guidance**

The order does not prohibit a person, including a business, from applying further preventative measures.

The order does not intend to prohibit an employer or place of public accommodation from making reasonable accommodations in order to comply with the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act, ORS 659.850 or applicable provisions of ORS chapter 659A.

An individual or person responsible for an indoor and/or outdoor space who violates any provision of Order #D2021-063 is subject an escalating complaint process including education and outreach, provision of signage and educational resources, letters of notice, and site visits. Indoor violations are subject to OSHA under OAR 437-001-0744(3)(b).

## **Guidance for Individuals**

Individuals, regardless of vaccination status, are required to wear a mask, face covering or face shield when in an indoor space unless the individual:

- 1) Is under five years of age; unless an individual is using public transportation or in transportation hubs in which case an individual under two years of age is not required to wear a mask, face covering or face shield.

- 2) Is sleeping.
- 3) Is actively eating or drinking.
- 4) Is engaged in an activity that makes wearing a mask, face covering or face shield not feasible, such as when actively swimming.
- 5) Is in a private individual workspace.
- 6) Must remove the mask, face covering or face shield briefly because the individual's identity needs to be confirmed by visual comparison, such as at a bank or if interacting with law enforcement.
- 7) Is practicing or playing a competitive sport at any level.
- 8) Is performing, including but not limited to playing music, delivering a speech to an audience, and theater.

Individuals, regardless of vaccination status, should continue to follow CDC guidance for [unvaccinated people](#) or [fully vaccinated people](#) to protect themselves and others.

### **Guidance for Indoor Spaces**

A person responsible for an indoor space must:

- 1) Ensure that employees, contractors, and volunteers comply with Order #D2021-063 within the indoor space.
- 2) Make reasonable efforts to ensure customers, guests, visitors and other individuals comply with this order within the indoor space.
- 3) Post signs at every entrance to the indoor space that face coverings are required as described in this order.

### **Guidance for Outdoor Spaces**

A person responsible for an outdoor space must:

- 1) Ensure that employees, contractors, and volunteers comply with Order #D2021-063 while at the outdoor space.
- 2) Make reasonable efforts to ensure customers, guests, visitors and other individuals comply with this order at the outdoor space.
- 3) Post signs at every entrance to the outdoor space that face coverings are required as described in this order.