



Health, Housing & Community Services Department
Public Health Officer

**ORDER OF THE HEALTH OFFICER
OF THE CITY OF BERKELEY
FOR THE WEARING OF FACE COVERINGS IN INDOOR SETTINGS**

DATE OF ORDER: August 2, 2021

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120275 *et seq.*)

Summary of Order: This Order requires all individuals to wear face coverings when indoors in workplaces and public settings, with limited exemptions, and recommends that businesses make face coverings available to individuals entering the business.

Background: Since April 2021, the SARS-CoV-2 B.1.617.2 (“Delta”) variant has been detected circulating in the City of Berkeley. This variant is highly transmissible especially in indoor settings and requires multi-component prevention strategies to reduce spread. Despite high vaccination rates, the City of Berkeley is experiencing substantial levels of community transmission due to the Delta variant. While the risk for COVID-19 infection is highest among unvaccinated residents, the proportion of post-vaccination infections is increasing. Hospitalizations have also increased. The City of Berkeley is also seeing a concerning increase in cases among staff and residents in worksites, healthcare facilities and in other congregate settings.

The COVID-19 vaccines currently authorized in the US have been shown to be highly safe and effective at providing protection to individuals and communities, particularly against severe COVID-19 disease and death, and are recommended by the Centers for Disease Control and Prevention (“CDC”) for all populations for whom the vaccine is authorized by the U.S. Food and Drug Administration. The Health Officer strongly recommends that all eligible persons in the City be vaccinated. Information on obtaining a COVID-19 vaccine in the City of Berkeley is available here: <https://www.cityofberkeley.info/covax/>

On July 16, 2021, in light of the apparent increased transmissibility of the Delta variant, the City of Berkeley recommended that all individuals including fully vaccinated persons wear masks in public indoor settings. On July 27, 2021, the CDC updated guidance for fully vaccinated people given new evidence regarding the Delta variant, including evidence that vaccinated people infected with the Delta variant may be more likely to infect others than vaccinated people infected with other known variants. CDC recommends that fully vaccinated persons wear a mask in public indoor settings, in addition to its recommendation that unvaccinated and not fully vaccinated persons wear a mask in public indoor settings. On July 28, 2021, the California Department of Public Health (“CDPH”) issued its Guidance for the Use of Face Coverings in



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alignment with the CDC's recommendation for universal masking in public indoor settings statewide. CDPH recommends fully vaccinated persons wear a mask in public indoor settings, while requiring unvaccinated and not fully vaccinated persons to wear a mask in public indoor settings.

Household transmission and small gatherings also continue to be major drivers of COVID-19 transmission. CDPH recommends that fully vaccinated people at higher risk for severe COVID-19 infection or residing with unvaccinated individuals or individuals at higher risk for severe disease, as well as unvaccinated and not fully vaccinated people consider wearing a mask in non-public indoor settings.

Universal indoor use of face coverings, also known as masking, is the least disruptive and most immediately impactful additional measure to take to limit the spread of the COVID-19 Delta variant. This Order is part of a strategy to support the continued operations of businesses, activities and schools.

The Health Officer will continue to assess the public health situation as it evolves and may modify this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.

ORDER

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101475 AND 120175, THE HEALTH OFFICER OF THE CITY OF BERKELEY ("HEALTH OFFICER") ORDERS:

1. This Order will take effect at 12:01 a.m. on August 3, 2021, and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the Health Officer. But this Order will not be enforced until 8:00 a.m. on August 7, 2021.
2. This order applies to vaccinated and unvaccinated people alike, and is therefore more restrictive than the most recent guidance for face coverings issued by the CDPH. Except as otherwise set forth herein, the June 28, 2021 Guidance for the Use of Face Coverings issued by the CDPH, as may be amended from time to time, continues to apply throughout the City. CDPH guidance for wearing masks effectively can be accessed here: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Get-the-Most-out-of-Masking.aspx>
3. This Order directs that face coverings shall be worn, regardless of vaccination status, over the mouth and nose, in all indoor public settings, venues, gatherings, and workplaces, such as, but not limited to: offices, retail stores, restaurants and bars,



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theaters, family entertainment centers, conference and event centers, and government offices serving the public.

4. Individuals, businesses, venue operators, hosts, and others responsible for the operation of indoor public settings must:
 - Require all patrons to wear face coverings for all indoor settings, regardless of their vaccination status; and
 - Post clearly visible and easy-to-read signage at all entry points for indoor settings to communicate the masking requirements to all patrons.

In addition, those responsible for indoor public settings are strongly encouraged to provide face coverings at no cost to individuals required to wear them.

5. Exemptions from face covering requirements – Individuals are not required to wear face coverings in the following circumstances:
 - Persons who are working alone in a closed office or room;
 - Persons who are actively eating and/or drinking;
 - Persons swimming or showering in a fitness facility;
 - Persons who are obtaining a medical or cosmetic service involving the head or face for which temporary removal of the face covering is necessary to perform the service;
 - Performers at indoor live events such as theater, opera, symphony, religious choirs, and professional sports while actively performing or practicing, but such individuals should maximize physical distancing as much as practicable;
 - Participants in indoor recreational sports, gyms, and yoga studios may not remove their mask except while actively engaged in water-based sports (swimming, swim lessons, diving, water polo) and other sports where masks create imminent risk to health (e.g., wrestling, judo).
 - In a school setting, students with medical or behavioral exemptions;
 - Persons younger than two years old must not wear a mask because of the risk of suffocation;
 - Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance;



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- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication;
 - Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
 - Participants in indoor religious gatherings may remove masks when necessary to participate in religious rituals.
6. Non-public indoor settings. The Health Officer strongly recommends that fully vaccinated people, as well as unvaccinated and not fully vaccinated persons wear masks in non-public indoor settings when people from multiple households are present.
 7. The Health Officer will continue to monitor several key indicators to inform the decision whether to modify the restrictions in this Order. The Health Officer will continually review whether modifications to the Order are warranted based on (1) progress in countering the spread of COVID-19 in the City; (2) developments in methods and strategies for preventing and treating COVID-19; and (3) scientific understanding of the transmission dynamics and clinical impact of COVID-19.
 8. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 3, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the City, the March 10, 2020 Resolution of the City Council Ratifying the Proclamation of Local Emergency, and guidance issued by the CDPH and CDC, as each of them have been and may be supplemented.
 9. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer and subsequent orders and guidance issued by the Governor, the State Health Officer, and the CDPH and Department of Industrial Relations, including without limitation the CDPH June 28, 2021 Guidance for the Use of Face Coverings. The Health Officer may adopt more stringent restrictions and requirements addressing the particular facts and circumstances in the City, necessary to control the public health emergency as it is evolving within the City and the region. Where a City Health Officer Order and any state public health order related to the COVID-19 pandemic conflict, the most restrictive provision controls.



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10. Failure to comply with any of the provisions of this Order constitutes an imminent threat and immediate menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
11. The City must promptly provide copies of this Order as follows: (1) by posting on the City's website (cityofberkeley.info); (2) by posting at Old City Hall, located at 2134 Martin Luther King Jr. Way, Berkeley, CA 94704; and (3) by providing to any member of the public requesting a copy.
12. If any provision of this Order or its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:

Lisa B. Hernandez, MD, MPH
Public Health Officer of the
City of Berkeley

August 2, 2021