

**ANCHORAGE, ALASKA**  
**AO No. 2021-91(S)**

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY REGARDING**  
2 **PUBLIC HEALTH AND SAFETY MEASURES FOR THE COVID-19 PANDEMIC.**  
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4  
5 **WHEREAS**, on July 27, 2021 the Centers for Disease Control and Prevention  
6 (CDC) updated their public health recommendations given new evidence on the  
7 highly transmissible B.1.617.2 (Delta) variant of the virus that causes COVID-19,  
8 which is now the dominant variant circulating in Alaska and around the United  
9 States; and

10  
11 **WHEREAS**, the CDC's updated guidance includes a recommendation that all  
12 people, including fully vaccinated people, wear a mask in public indoor settings in  
13 areas of substantial or high transmission of COVID-19; and

14  
15 **WHEREAS**, the CDC notes that until vaccination coverage is high, communities and  
16 organizations should regularly assess the need for prevention strategies, based on  
17 five critical factors, including: 1) level of SARS-CoV-2 community transmission; 2)  
18 health system capacity; 3) vaccination coverage; 4) capacity for early detection of  
19 increases in COVID-19 cases; and 5) populations at risk for severe outcomes from  
20 COVID-19; and

21  
22 **WHEREAS**, despite drops in case counts this past spring and early summer, the  
23 Municipality of Anchorage (MOA), and all of Alaska, has seen a marked increase in  
24 COVID-19 cases over the past two months, and the Municipality, and most of  
25 Alaska, is currently in high alert status for per capita incidence of new cases of  
26 COVID-19, based on the total number of new reported cases per 100,000 persons  
27 in the past 7 days; and

28  
29 **WHEREAS**, the Alaska State Hospital & Nursing Home Association, as well as  
30 representatives from hospitals in Anchorage, have expressed concerns about the  
31 capacity of our local health care system to respond to rapid increases in COVID-19  
32 cases and related hospitalizations; and

33  
34 **WHEREAS**, on September 1st, a record 30 patients were holding in the emergency  
35 department at Providence Hospital and the emergency room waiting area was past  
36 capacity for safe distancing, so some patients waited in their cars; and

37  
38 **WHEREAS**, on September 1st, Jared Kosin, president and CEO of the Alaska State  
39 Hospital and Nursing Home Association told the Anchorage Daily News, "I want to  
40 be clear and on the record: We are in crisis"; and

41  
42 **WHEREAS**, on September 2nd during testimony at a hearing of the State  
43 Legislature's House Health and Social Services Committee describing the current  
44 crisis situation to state legislators, Dr. Robert Onders of the Alaska Native Tribal

1 Health Consortium said “We are not doing well at all,” Dave Wallace, CEO of Mat-  
2 Su Regional Medical Center said, “We are in disaster mode here,” and Preston  
3 Simmons, CEO of Providence Alaska said “We are being tested like never before”;  
4 and

5  
6 **WHEREAS**, on September 8th, there were 208 people hospitalized with the virus  
7 around the state, higher than at any other point in the pandemic, and 117 in  
8 Anchorage hospitals, according to the official Anchorage Municipal COVID-19 Data  
9 dashboard; and

10  
11 **WHEREAS**, on August 30th, the Anchorage School District had to suspend certain  
12 student bus routes on an alternating schedule due to a shortage of drivers related  
13 to COVID-19 concerns, on September 1st the ASD Superintendent reported four  
14 classrooms in the district have had to transition to at-home learning as a result of  
15 COVID-19 spread, and on September 10th the ASD COVID-19 dashboard reports  
16 338 active confirmed self-reported positive COVID-19 cases among enrolled  
17 students; and

18  
19 **WHEREAS**, over the past two weeks hospitals have begun instituting additional  
20 restrictions such as pausing all visitation except for several specific exemptions:  
21 children under 18 can have one caregiver with them; women in labor can have one  
22 partner; and families can visit patients who are dying; and

23  
24 **WHEREAS**, in late August, 26 out of 136 COVID-positive people hospitalized in  
25 Alaska were vaccinated, according to the Alaska State Hospital and Nursing Home  
26 Association, and of 33 COVID-19 patients in the ICU, five were vaccinated, and out  
27 of 18 on ventilators, one was vaccinated; and

28  
29 **WHEREAS**, the CDC recognizes that increasing COVID-19 vaccination coverage  
30 remains the most important public health action to end the pandemic; and

31  
32 **WHEREAS**, 59.3% of MOA residents age 12 and older have completed the full  
33 vaccination series; and

34  
35 **WHEREAS**, children under the age of 12 are not eligible for vaccination at this time  
36 and the CDC recommends implementing other protection strategies to protect  
37 people who are not fully vaccinated; and

38  
39 **WHEREAS**, the CDC reports that proven effective strategies against SARS-CoV-2  
40 (COVID-19) transmission, beyond vaccination, include using masks consistently  
41 and correctly, maximizing ventilation, maintaining physical distance, and avoiding  
42 crowds; and

43  
44 **WHEREAS**, the CDC recommends to maximize protection from the Delta variant to  
45 wear a mask indoors in public if in an area of substantial or high transmission, and  
46 to follow basic public health measures such as staying home when sick,  
47 handwashing, and regular cleaning of high-touch surfaces are also encouraged; and

48  
49 **WHEREAS**, it is in the best interest of the MOA and its residents to update protocols  
50 at Municipal buildings to align with new public health guidance, in order to minimize

1 preventable illness and death during the current surge of COVID-19 cases; and

2  
3 **WHEREAS**, the Anchorage Health Department issues COVID-19 risk assessments  
4 and has consistently made the following recommendations to the public: (1) Get  
5 vaccinated; (2) Wear a mask in public indoor settings if in an area of substantial or  
6 high transmission; (3) Practice social distancing; (4) Wash hands for at least 20  
7 seconds or sanitize hands frequently; and (5) Get tested if experiencing COVID-19  
8 symptoms or are exposed to someone with COVID-19, regardless of vaccination  
9 status; and

10  
11 **WHEREAS**, the Anchorage Health Department's risk assessment also include  
12 recommendations for local businesses that Dr. Savitt, Chief Medical Officer for the  
13 Municipality, further indicated should also apply to the Municipal workforce as well:  
14 (1) Encourage and continue to support telework when feasible; (2) Encourage use  
15 of virtual meetings versus in-person meetings when feasible; (3) Encourage event  
16 organizers to consider keeping number of participants small, encourage mask  
17 wearing and hosting events outside whenever feasible; (4) Encourage unvaccinated  
18 front line workers to get tested weekly and anyone experiencing symptoms of  
19 COVID-19 to get tested as needed to ensure continuity of critical services; (5)  
20 Consider allowing employees to get tested or vaccinated on work time; and (6)  
21 Encourage all employers to review OSHA's Guidance on Mitigating and Preventing  
22 the Spread of COVID-19 in the Workplace; and

23  
24 **WHEREAS**, the Pfizer BioNTech COVID-19 vaccine, to be marketed as Comirnaty,  
25 received the Food and Drug Administration's first full approval for individuals age 16  
26 and older starting on August 23, 2021, taking it out of emergency use authorization  
27 status for adults, now that it has met the high standards for safety, effectiveness,  
28 and manufacturing quality the FDA requires; and

29  
30 **WHEREAS**, Mayor Bronson when interviewed about the challenges the Municipality  
31 is facing with regard to the effects of COVID-19, especially hospital capacity, he  
32 responded "I don't know what more we can do," consistent with his stance to not to  
33 institute Municipal areawide mandates applicable to individuals and private  
34 businesses; and

35  
36 **WHEREAS**, management authority over Municipal buildings is vested in the  
37 Executive Branch under the Mayor per Anchorage Municipal Code section  
38 25.20.050, and he may exercise control over Municipal land including issuing  
39 directives regulating their use; and

40  
41 **WHEREAS**, on September 9, 2021, President Biden issued new directives to the  
42 Occupational Safety and Health Administration to require all employers with over  
43 100 employees to mandate workers to be vaccinated or face weekly testing and will  
44 also mandate that the businesses offer employees paid time off to get vaccinated;  
45 and

46  
47 **WHEREAS**, even though the Municipality has over 1,000 employees, on September  
48 9th in response to the announcement about the new federal directives to OSHA,  
49 Mayor Bronson issued a statement that if the Municipality is not constitutionally  
50 required to comply with the President's directive, then he would not require it of the

1 Municipal workforce, pending legal advice; and

2  
3 **WHEREAS**, a state report by the Alaska Division of Public Health released in  
4 January 2021, on Anchorage’s restrictions last summer, have shown that masking,  
5 capacity restrictions and gathering limitations help ease the burden on hospitals and  
6 prevent deaths by slowing the spread of COVID-19; and

7  
8 **WHEREAS**, on September 17, 2021, Joint Base Elmendorf-Richardson (JBER)  
9 declared a public health emergency and Lieutenant General David Krumm stated  
10 “the lack of mitigation measures off-base has resulted in alarmingly high infection  
11 rates, hospitalizations and deaths in our community”; **and**

12  
13 **WHEREAS, the Municipality has the power to legislate for the health and**  
14 **welfare of Anchorage residents and visitors under Charter § 3.01, and this**  
15 **legislative power is vested in the Assembly, pursuant to Charter §4.01;** Now  
16 therefore,

17  
18 **THE ANCHORAGE ASSEMBLY ORDAINS:**

19  
20 **Section 1.** The Assembly hereby finds that a health crisis exists with the COVID-  
21 19 pandemic based on the circumstances described in this ordinance, and that the  
22 unforeseen rapid increase in COVID-19 infections and hospitalizations have  
23 resulted in insufficiency of services by the health care system and local hospitals  
24 substantial enough to endanger the public health, safety or welfare.

25  
26 **Section 2.** A substantial or high alert level occurs when either of the following two  
27 criteria are met: there are more than 50 new cases of COVID-19 per 100,000  
28 persons in the MOA over the past 7 days; or the percentage of positive COVID-19  
29 tests in the past 7 days exceeds 8%. So long as the Municipality of Anchorage is in  
30 the substantial or high alert level for community transmission of COVID-19 and at  
31 any time the Municipality of Anchorage again reaches one of these levels, the  
32 requirements of this ordinance shall be in effect.

33  
34 **Section 3.** All individuals must wear masks or face coverings over their noses and  
35 mouths when they are (a) indoors in public settings or communal spaces outside  
36 the home; or (b) outdoors at large crowded public events, **regardless of whether**  
37 **they have been vaccinated for COVID-19.** Unvaccinated individuals are  
38 additionally encouraged to wear masks at all outdoor public gatherings, regardless  
39 of size.

40  
41 A. A face shield is generally not permitted in lieu of a mask or face  
42 covering, as face shields are less effective in stopping the spread of  
43 COVID-19. However, face shields may be permitted in lieu of a mask  
44 or face covering for the following individuals, who must wear a face  
45 shield whenever a mask or face covering would be required unless it  
46 is impossible to do so:

- 47  
48 1. Any individual who cannot tolerate a mask due to a physical or  
49 mental disability;  
50 2. Individuals who are communicating with someone who is deaf

- 1 or hard of hearing;
- 2 3. Individuals performing an activity that cannot be conducted or
- 3 safely conducted while wearing a mask (for example, a driver
- 4 experiencing foggy glasses, a dental patient receiving care, an
- 5 equipment operator where there is a risk of dangerous
- 6 entanglement).
- 7 4. Employers must make sure employees who are present in the
- 8 workplace have access to and wear masks or face coverings
- 9 when with the public or unvaccinated coworkers.

10

11 **Section 4.** This Ordinance does not apply to the following categories of people or

12 activities:

- 13
- 14 A. Any child under the age of 2 years. Additionally, masks are
- 15 recommended, but not required, for children ages 2-5. Daycare
- 16 settings that serve preschool children are encouraged but not required
- 17 to enforce mask usage for children age 2 and older.
- 18
- 19 B. Individuals who are incarcerated, in police custody, or inside a
- 20 courtroom; these individuals should follow guidance particular to their
- 21 location or institution.
- 22
- 23 C. Presenters, musicians, others communicating to an audience or being
- 24 recorded, if they are 10 feet from the audience and all members of the
- 25 audience are wearing masks or face coverings.
- 26
- 27 D. Individuals removing their masks or face coverings to eat, drink, or
- 28 briefly scratch an itch.
- 29
- 30 E. Employees within their own fully enclosed office or workspace or
- 31 within an unenclosed workspace if they are totally alone.
- 32
- 33 F. Fully vaccinated employees working in a separate room from the
- 34 public and unvaccinated coworkers. Employers wishing to utilize this
- 35 exception must verify their employees' vaccination status in a manner
- 36 consistent with workplace anti-discrimination laws.
- 37
- 38 G. Individuals while they are swimming, diving, **or participating in an**
- 39 **organized or sanctioned athletic activity or competition where**
- 40 **distancing is not possible or practical (such as running, hockey,**
- 41 **football, volleyball, and wrestling); however, for indoor sports,**
- 42 **athletes will still wear masks while on the sidelines [OR**
- 43 **COMPETITELY WRESTLING].**
- 44
- 45 H. Individuals performing an activity that cannot be conducted or safely
- 46 conducted while wearing a mask.
- 47
- 48 I. Individuals who cannot tolerate a mask due to physical or mental
- 49 disability.
- 50

1 **Section 5.** Businesses and building owners shall deny admittance to any individual  
2 who fails to comply with this Ordinance and shall require or compel removal of such  
3 individuals from the premises. Provided, however, that this regulation shall be  
4 applied in a manner consistent with the federal Americans with Disabilities Act  
5 (ADA) and any other applicable provision of law. Businesses may choose to allow  
6 individuals who request an accommodation under the ADA to wear a face shield, or  
7 may consider accommodating these individuals through alternate means of  
8 providing goods or services, such as curbside, delivery, or telephonic service.

9  
10 **Section 6.** Facilities in the ownership or control of the Municipality of Anchorage  
11 shall comply with Section 5 of this Ordinance. The Municipal Manager, Real Estate  
12 Department Director, and head of the department with management authority over  
13 a Municipal facility is hereby authorized to interpret and apply the exceptions in  
14 Section 4.

15  
16 **Section 7.** When the Municipality of Anchorage is in the substantial or high alert  
17 level for community transmission of COVID-19, as defined in Section B, the  
18 Municipality of Anchorage shall:

- 19  
20 A. Support telework for employees when feasible.  
21  
22 B. Notwithstanding municipal code, use virtual meetings versus in-  
23 person meetings when feasible. Video conferencing is preferred.  
24  
25 C. Keep all events and gatherings to a small number of participants,  
26 encourage mask wearing, and host events outside when feasible.  
27  
28 D. Encourage front line workers to get tested weekly and also when  
29 experiencing COVID-19 symptoms.  
30  
31 E. Allow employees to get tested and vaccinated on work time.  
32

33 **Section 8.** The Anchorage Assembly requests the Mayor strongly encourage,  
34 through public health communication platforms and on his own behalf as Mayor,

- 35  
36 A. the use of masks in public indoor spaces, regardless of vaccination  
37 status;  
38  
39 B. vaccinations for those residents who are eligible to get vaccinated;  
40 and  
41  
42 C. observance of physical distancing, limiting gatherings, and avoiding  
43 crowds.  
44

45 **Section 9.** The Anchorage Assembly recommends and encourages all people to  
46 practice effective strategies to prevent the spread of COVID-19, including getting  
47 vaccinated, maintaining physical distance, avoiding crowds, and practicing basic  
48 public health measures such as staying home when sick, handwashing, and regular  
49 cleaning of high-touch surfaces. The Assembly requests the Mayor issue public  
50 health information, including periodic briefings, to the public consistent with these

1 recommendations.

2  
3 **Section 10.** The Municipality reserves the right to use all available enforcement  
4 options to assure compliance with this **ordinance [ORDER], including seeking**  
5 **civil fines and injunctive relief. Enforcement may occur under AMC sections**  
6 **15.05.070 or 15.20.020. Definitions of terms in Title 15 applicable to those**  
7 **sections are incorporated by this ordinance, except as to defined terms in**  
8 **Section 11. Violation of orders to cease activity in violation of this ordinance**  
9 **or to comply with this ordinance may be prosecuted under AMC section**  
10 **8.30.010. Each day of violation of any provision of this ordinance shall**  
11 **constitute a separate offense.**

12  
13 **A.** **Upon application for injunctive relief and a finding that a person**  
14 **is violating or threatening to violate any provision of this**  
15 **ordinance, or any order issued pursuant to this ordinance, the**  
16 **superior court shall grant injunctive relief to restrain the**  
17 **violation.**

18  
19 **B.** Violation of this **ordinance [ORDER]** does not create grounds for  
20 residents to harass individuals who do not comply with it. **Any person**  
21 **aggrieved by a violation of this ordinance may initiate a private**  
22 **enforcement action before the administrative hearings officer to**  
23 **abate the violation.**

24  
25 **1.** **A private enforcement action is commenced upon filing of**  
26 **a written complaint to the administrative hearings officer.**  
27 **The complaint must identify by name and description or**  
28 **street address the property involved, the business name if**  
29 **the violation involves a business entity, the record owner**  
30 **of the property, the provision of this ordinance alleged to**  
31 **be violated, and the facts upon which the complaint is**  
32 **based. The provisions of Title 14 apply to the initiated**  
33 **proceeding.**

34  
35 **C.** **The Assembly hereby refers civil violations of this ordinance to**  
36 **the jurisdiction of the administrative hearings officer pursuant to**  
37 **AMC subsection 14.20.020A.3. Fines shall be in accordance with**  
38 **the fine schedule in AMC section 14.60.030 for violations of AMC**  
39 **section 15.20.020A (first offense \$50.00-\$300.00, second and**  
40 **subsequent offense \$300.00-\$600.00). Enforcement of AHO**  
41 **orders may be pursued by the Municipality under AMC section**  
42 **14.20.030.**

43  
44 **Section 11.** Definitions.

45  
46 A. "Mask" means a medical grade mask.

47  
48 B. "Face covering" means a cloth, polypropylene, paper or other face  
49 covering that covers the nose and the mouth and that rests snugly  
50 above the nose, below the mouth, and on the sides of the face.

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1. The following are not face coverings because they allow droplets to be released: 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.

C. "Face shield" means a clear plastic shield that covers the forehead, extends below the chin, and wraps around the sides of the face.

D. "Fully vaccinated" individual is an individual who has received a COVID-19 vaccine where at least two weeks have elapsed since receipt of the Johnson & Johnson vaccine or two weeks since the second dose of the Moderna or Pfizer vaccines.

E. "Unvaccinated" individual means any individual who is not fully vaccinated.

F. "Large crowded public events" means events such as live performances, parades, and sporting events bringing together a multitude of individuals from different households where six feet of physical distancing between household groups is not maintained.

**Section 12.** This Ordinance shall be effective immediately upon passage and approval by the Assembly. This ordinance shall expire December 31, 2021, without further action by the Assembly. The Assembly may, by resolution and without a public hearing if it chooses, terminate this ordinance before the expiration date herein.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Chair of the Assembly

ATTEST:

\_\_\_\_\_  
Municipal Clerk