



Town of Weathersfield

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To: Selectboard & Residents
From: Town Manager
Date: 11/27/2021
Re: Local Mask Mandates

Dear Selectors & Weathersfield Residents,

The State of Emergency in Vermont expired on June 15, 2021. The governor called the Legislature for a special session on Monday, November 22nd after legislative leaders called for a renewal of the State of Emergency and a statewide mandate. The Governor refused to declare another state of emergency; however, he offered the local option as an “olive branch” to the leaders. This allows towns to pass their own mask mandates for 30-day increments until the end of April 2022. Schools are exempt. Governor Scott stated, “As you’ve heard me say repeatedly, masking when inside in public spaces is a good idea right now, because masks work, but at this point in the pandemic mandates won’t,” Scott said. “And I think they’ll be divisive and counterproductive.”

Currently, the Weathersfield School and Library both require masks to enter their facilities.

The CDC holds the following:

1. Everyone 2 years of age or older who is not fully vaccinated should wear a mask in indoor public places.
2. In general, you do not need to wear a mask in outdoor settings.
3. In areas with high numbers of COVID-19 cases, consider wearing a mask in crowded outdoor settings and for activities with close contact with others who are not fully vaccinated.
4. People who have a condition or are taking medications that weaken their immune system may not be fully protected even if they are fully vaccinated. They should continue to take all precautions recommended for unvaccinated people, including wearing a well-fitted mask, until advised otherwise by their healthcare provider.
5. If you are fully vaccinated, to maximize protection from the Delta variant and prevent possibly spreading it to others, wear a mask indoors in public if you are in an area of substantial or high transmission.
6. Wearing a mask over your nose and mouth is required on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and while indoors at U.S. transportation hubs such as airports and train stations. Travelers are not required to wear a mask in outdoor areas of a conveyance (like on open deck areas of a ferry or the uncovered top deck of a bus).

The Vermont Department of Health holds the following:

1. Wear a mask in public indoor settings because a significant number of Vermonters remain unvaccinated, and the more transmissible Delta variant is still spreading.
2. The need to wear a mask indoors is expected to be temporary, while vaccination levels increase and the Delta variant surge ends.
3. Wearing a mask helps protect you and the people around you from getting or spreading COVID-19.
4. A mask helps contain your respiratory droplets and can keep them from reaching other people.
5. COVID-19 can spread even if a person does not have any symptoms. This is how we reduce spread of the virus and outbreaks in our communities, schools, and businesses.

If the Selectboard decides to create a local mask mandate, I have the following questions:

1. How will we enforce the mask mandate? *See Attachment C*
2. Will there be a penalty for a person who does not wear a mask? *See attachment C*
3. Will this apply to both public and private facilities?
4. If it applies to both, should we send a notice to businesses in Weathersfield?
5. Who will be charged with enforcing the mask mandate? The Health Officer? EMD? EMC? TM? Police?
6. When will masks be required for employees?
 - a. For example, in the past, masks were required when an employee was “in the presence of others.” An employee was considered in the presence of another when that employee was within 6 feet from another person.
 - b. Will masks be required when employees are alone in their offices?
 - c. At public meetings, for example, if board or committee members are socially distanced, will masks still be required?
 - d. Will highway workers be required to wear masks when they’re in the same vehicle with each other?
 - e. Does this apply to police? For example, when the police make a stop will they be required to approach the motorist with a face mask on?
7. Will there be a certain type of mask that is required? *See Attachment E*

ATTACHMENTS

Attachment A - Bill passed by House & Senate

Attachment B - VLCT - Background

Attachment C - VLCT - Face Covering Rule FAQs

Attachment D - VDH - What to do if you are a close contact of someone with COVID-19

Attachment E - Understanding the Difference between masks

ATTACHMENT A
BILL PASSED BY HOUSE & SENATE

SPECIAL SESSION

S.1

An act relating to temporary municipal rules in response to COVID-19

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. MUNICIPAL REGULATORY AUTHORITY; TEMPORARY
AUTHORITY TO ADOPT RULES REQUIRING FACE
COVERINGS

(a) As used in this section, “municipality” means a city, town, or incorporated village.

(b) For the purpose of COVID-19 prevention and mitigation, the legislative body of a municipality shall have the authority to adopt a temporary rule requiring individuals to wear face coverings while indoors at locations that are open to the public. A rule adopted pursuant to this section shall not apply to school buildings or school property, which shall remain under the authority of the school board.

(c)(1) The legislative body of a municipality shall adopt a rule authorized by this section at a regular or special meeting of the legislative body warned for that purpose.

(2) Notwithstanding 24 V.S.A. §§ 1972 and 1973 or any municipal charter provision to the contrary, a rule adopted pursuant to this section shall

take effect upon adoption and shall not be subject to a petition for permissive referendum.

(d) A rule adopted pursuant to this section shall remain in effect for not more than 45 days following its initial adoption. The legislative body of a municipality that adopted a rule pursuant to this section shall meet during the period in which the initial rule is in effect and vote either to rescind the rule or to extend the rule for an additional 30 days. Thereafter, the legislative body shall meet at a minimum once every 30 days to reconsider the rule, at which meeting the legislative body shall vote either to rescind the rule or to extend the rule for an additional 30-day period.

(e) The authority granted by this section shall expire on April 30, 2022, and any municipal face covering rule in effect on that date shall be repealed.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

ATTACHMENT B
VLCT BACKGROUND

Governor Signs Legislation Authorizing Face Covering Rules

Nov. 23, 2021. As winter and the holiday season approach, Vermont's COVID-19 cases counts are surging, putting Vermont near the top of states reporting new COVID-19 cases. Yesterday, in an extraordinarily unusual move, Governor Scott called the legislature into a one-day special session to consider granting cities, towns, and villages temporary authority to establish face covering requirements in public places within the boundaries of their jurisdictions. In the last several weeks, the governor made it clear that while his administration is doing everything possible to encourage people to get vaccinated, wear face coverings while indoors in public places or in close confines, and practice social distancing, especially indoors, he does not support re-imposing a mask mandate and would not establish such a requirement statewide. His administration likewise would not make use of Title 18 section 613, which reads,

§ 613. Powers of local board.

(a) A local board of health may make and enforce rules in such town or city relating to the prevention, removal, or destruction of public health hazards and the mitigation of public health risks, provided that such rules have been approved by the Commissioner. Such rules shall be posted and published in the same manner that ordinances of the municipality are required to be posted and published.

In August, the governor denied a petition from the Town of Brattleboro to re-impose a masking requirement pursuant to that law. No town has since taken up the issue, there being no point when a denial of permission was certain.

Last week, Scott *did* offer the legislature the option of passing a law to authorize cities, towns, and villages to establish such requirements on a temporary basis, on the condition that the bill not deviate from the draft the administration had prepared.

On Monday, the legislature considered a single bill: S.1. The Senate, having taken testimony last week, debated, amended, and passed the bill in the early afternoon. At the same time, the House Government Operations Committee took testimony on the bill, including from your Advocacy staff. We thanked the committee for taking up the matter since no statewide mask mandate would be forthcoming. We also answered questions about the historic authority to enact health orders; the names of the municipalities that might discuss, adopt, and implement a mask requirement; and the ability of local government to undertake such efforts.

The bill, which passed the House in the early evening, authorizes towns, cities, and villages to establish masking requirements through rule. A local legislative body may initially adopt the masking requirement for up to 45 days and may renew it subsequently for 30-day periods through April 30, 2022. The rule would not be subject to petition and could take effect immediately upon adoption at a duly warned regular or special meeting of the local legislative body. The rule would not apply to schools. The VLCT Municipal Assistance Center can help answer questions regarding the details of S.1.

S.1 is a permissive grant of authority and not a mandate – the helpful kind of authority that local governments request of the legislature. A municipality may now discuss and adopt a face covering rule if case counts and trends in their jurisdictions warrant such action. It is, however, under no obligation to do so.

Governor Scott signed the legislation today.

- [Advocacy handouts to House Government Operations Committee](#)
- [S.1 as passed](#)

Karen Horn, Director
Public Policy and Advocacy

ATTACHMENT C
VLCT FACE COVERING FAQS



Published on *Vermont League of Cities and Towns* (<https://www.vlct.org>)

[Home](#) > Face Covering Rule FAQs

Face Covering Rule FAQs

Tuesday, November 23, 2021

Act 1 was recently passed by the Legislature and signed by the governor. It temporarily authorizes a municipality's legislative body to adopt a face covering rule. The law is new and short but that does not mean it lacks detail. For that reason, the VLCT Municipal Assistance Center has compiled this list of frequently asked questions and answers about Act 1 and the face covering rules municipalities may now adopt. For more information, including model mask rules created by the VLCT Municipal Assistance Center (MAC) please refer to our [Face Covering Rule Toolkit](#) [1] or [COVID-19 Resources](#) [2] page.

This is not a comprehensive discussion of this topic. For assistance with the response to a specific question, please contact your town attorney or the VLCT Municipal Assistance Center at (800) 649-7915 or info@vlct.org [3].

The resources listed below were developed by VLCT staff for informational purposes only and do not constitute legal advice or a substitute for legal counsel. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship. You should not rely or act upon this information without seeking professional counsel. VLCT makes no express or implied guarantee of legal enforceability or legal compliance. VLCT also does not represent that any resource is appropriate for any particular municipality. Please seek legal counsel before taking action based on anything found in these resources.

[What does Act 1, an act relating to temporary municipal rules in response to COVID-19 \("Act"\), temporarily allow?](#)

The Act provides municipal legislative bodies with the temporary and limited authority to make and enforce face covering rules in indoor locations that are open to the public. These rules can apply to any public or private place within the town's boundaries that is open to the public.

[Is there any other way that municipalities can implement a town-wide face covering requirement?](#)

VLCT MAC thinks that municipalities have the authority to impose a local face covering rule applicable

town-wide (as opposed to just on municipally owned property) under their own authority to make and enforce rules to prevent, remove, or destroy a public health hazard and to mitigate a public health risk pursuant to [18 V.S.A. § 613\(a\)](#) [4]. Under this law before such rules can be implemented, they must first be approved by the VT Commissioner of Health and posted and published in the same manner that ordinances are required to be posted and published.

However, the Governor calls this opinion in question. The Governor has taken the position that Executive Order No. 06-21 (COVID-19 Post Emergency Recovery Activities issued June 15, 2021), supersedes 18 V.S.A. § 613(a) and requires all policy adoptions or changes related to the COVID-19 response or recovery to be approved by the Governor.

In response to recent calls from VLCT and legislative leaders, the Governor has offered temporary municipal face covering rulemaking authority as a compromise, allowing municipalities the temporary authority to enact and enforce temporary face covering rules for indoor public places.

Given this hostility to local control, we recommend that legislative bodies consult with their town attorneys prior to adopting any rules outside the scope of the limited authority granted by the Act.

Can any municipal entity enact a local face covering rule?

No. The law explicitly confers this grant of temporary authority only upon the legislative bodies of towns (selectboards), villages (boards of trustees, prudential committee members), and cities (city councils, board of alderpersons).

Do local face covering rules apply to schools?

No. The Act specifically states that adoption of a local face covering rule does not apply to school buildings or school property because these remain under the authority of the school board.

Do local face covering rules apply to everyone?

Yes, unless the selectboard makes exceptions. The law has no stated exceptions to whom the rule applies; however, since municipalities have not only those powers and functions specifically authorized by the legislature but also any additional powers that are incidental, subordinate, or necessary to the exercise of such express authority, it is fairly safe to assume that they may also carve out exceptions to any rule they create so long as they are reasonable, do not implicate a suspect class, and are rationally related to the rule's objectives. *Hinesburg Sand & Gravel Co. v. Town of Hinesburg*, 135 Vt. 484 (1977).

How are local face covering rules adopted?

Face covering rules are adopted in nearly the same manner as ordinances. The only exception is that the Act states that such rules are not subject to the permissive referendum process, but rather will take effect upon adoption. The vote to adopt a face covering rule must take place at a duly warned

regular or special selectboard meeting and passage requires the majority approval of the total membership of the legislative body.

Do local face covering rules have to be posted?

Yes. The Act requires that such rules be posted and published in the same manner that ordinances are required to be posted and published. The law governing the posting of ordinances requires that the full text or a concise summary be posted in at least five conspicuous places in town and published in a newspaper of general circulation within 14 days of the selectboard's vote to adopt it. The same standard therefore must be applied to local face covering rules. The information in the newspaper must include the following: the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the rule or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text of the rule may be examined.

How long do local face covering rules last?

The rules continue in effect for a period not to exceed 45 days from the initial date of adoption or sooner if rescinded by the selectboard. The selectboard must meet while the rule is still in effect during this initial 45-day period to either rescind or extend the rule for an additional 30 days. Thereafter, the selectboard must meet at least once every 30 days to reconsider the rule, at which time it may rescind it or extend it for an additional 30-day period. If the selectboard does not act to extend the rule every subsequent 30-day period, the rule will automatically expire. The authority to adopt face covering rules last until April 30, 2022, which at that time, any existing local face covering rules will be repealed by operation of law (i.e. sunset) and have no further force and effect.

Do the posting requirements apply if and when the selectboard votes to extend or amend its face covering rule?

The Act is silent on this question. MAC's opinion is that, because it is a rule, the adoption process and posting/publication process of rules and ordinances under 24 V.S.A. §§ 1972 (with exception of the voter referendum authority) applies. Given the risk of challenge to a renewed or amended rule on procedural grounds, we recommend adopting a conservative approach to this question and posting anew in accordance with the standards stated above.

How are local face covering rules enforced?

If your municipality adopts a local face covering rule, the town's first and primary method of enforcement should be educating the public of the rule's requirements and requesting voluntary compliance. If necessary, enforcement of an order would occur as with any rule or ordinance adopted pursuant to [Title 24, Chapter 59](#) [5] of the Vermont Statutes Annotated. This typically occurs via issuance of a civil ticket enforceable in the Vermont Judicial Bureau, the court with statewide jurisdiction over violations of civil rules and ordinances, though injunctive relief (court order commanding or preventing an action) can also be sought in Superior Court.

Can a local face covering rule be criminally enforced?

Yes, but a rule may only be designated as either criminal or civil, not both. Therefore, in order to enforce it criminally, the rule must be adopted specifically as a criminal rule. Violation of a criminal rule is enforced in the Criminal Division of Superior Court and may impose a fine not to exceed \$800.00 and a term of imprisonment not to exceed one year.

Who is responsible for enforcing a local face covering rule

As with any other ordinance or rule adopted pursuant to Title 24, Chapter 59 this responsibility would fall upon whomever is designated as the enforcement officer in the rule by the selectboard.

Can we require people to wear a face covering when they enter municipally owned property?

Yes. The Act does not alter in any way a municipality's power to oversee its own property. Under the municipal manager form of government, the manager has "charge and supervision of all public municipality buildings . . . unless otherwise provided for by the selectboard." [24 V.S.A. § 1236\(4\)](#) [6]. Therefore, the municipal manager may make this decision unless the selectboard has made other arrangements. Alternatively, the selectboard could make this decision in those towns without the town manager form of government. In such an event, although we believe that municipalities could decline service to individuals who are not wearing a face covering just businesses may, they would still have to provide an alternate way for those not wearing a face covering to access their services, programs, and activities such as by offering on-line or curbside services, remote access, or other innovative solutions.

Links

[1] <https://www.vlct.org/node/16830>

[2] <https://www.vlct.org/node/15178/>

[3] <mailto:info@vlct.org>

[4] <https://legislature.vermont.gov/statutes/section/18/011/00613>

[5] <https://legislature.vermont.gov/statutes/chapter/24/059>

[6] <https://legislature.vermont.gov/statutes/section/24/037/01236>

ATTACHMENT D
VERMONT DEPARTMENT OF HEALTH
WHAT TO DO IF YOU COME INTO CONTACT WITH COVID-19

What to do if you are a close contact of someone with COVID-19

When someone tests positive for COVID-19, it is important to notify their close contacts to help keep COVID-19 from spreading. Close contact means being within 6 feet, for a total of 15 minutes or more over a 24-hour period, of someone with COVID-19 during their infectious period.

The infectious period is when the person with COVID-19 is contagious. It starts two days before symptoms began and continues until [they are recovered](#). For people who haven't had symptoms, the infectious period starts two days before they had a positive test.

If you are a close contact or think you had close contact with someone who tested positive for COVID-19, immediately begin following the testing and quarantine guidance below. You may find out that you are a close contact from the person who tested positive, the Health Department (a text message from 89361 or a phone call), your employer, your college, your child's school, your health care provider, or another place you went to recently.

Do I need to get tested?

If you are unvaccinated:

- The Health Department recommends that you get tested twice – as soon as two days after you were exposed to the person with COVID-19, and again seven days after the exposure.
- If your first test is negative, remain in quarantine and follow the quarantine guidance on the next page. If it is positive, [begin isolation immediately](#).
- Stay at home and away from other people while you wait for your test results – especially anyone who is unvaccinated, at [increased risk of severe illness from COVID-19](#), or lives with someone who is at increased risk.

If you are unvaccinated and have recovered from COVID-19 within the past three months:

- Testing is not recommended if you do not have symptoms of COVID-19.
- If you do have symptoms, talk to your health care provider for next steps.

If you are fully vaccinated and do not have symptoms of COVID-19:

- You are well protected from COVID-19 once you are fully vaccinated. If you'd like reassurance, consider getting tested 3 to 5 days after you were exposed to someone with COVID-19.

If you are fully vaccinated and you have symptoms of COVID-19:

- If you develop **any** symptoms within 14 days of being exposed to someone with COVID-19, you should get tested. COVID-19 vaccines are highly effective, but occasionally people who are fully vaccinated can get COVID-19. Most often your symptoms will be mild. Being vaccinated protects you from severe illness, hospitalization and death.

- Stay at home and away from other people while you wait for your test results – especially anyone who is unvaccinated, at [increased risk of severe illness from COVID-19](#), or lives with someone who is at increased risk.

[Find a free COVID-19 test](#)

Do I need to quarantine?

Close contacts will need to quarantine (see exceptions below). Quarantine means staying home and away from others for 14 days. Your quarantine period starts on day 0, which was the last day you were in close contact with the person who tested positive.

You do not need to quarantine if you do **not** have symptoms of COVID-19, **and**:

- you are fully vaccinated, unless you are an inpatient or resident in a health care setting, **or**
- you have recovered from COVID-19 within the past three months, **or**
- you had close contact with someone who is a close contact (for example, you live with someone or take care of someone who is in quarantine).

How do I quarantine?

Here's what you need to do to quarantine:

- Day 0 is the day you were last in contact with the person who has COVID-19.
- Stay home, except to get tested, for urgent medical care, or if you feel unsafe at home. [Wear a mask](#) if you need to leave home.
- Call ahead before visiting a health care provider or emergency department and tell them you are quarantining because you are a close contact of someone with COVID-19.
- Watch for symptoms, even if mild, of cough, shortness of breath or difficulty breathing, fever, chills, fatigue, muscle or body aches, headache, sore throat, new loss of taste or smell, congestion or runny nose, nausea or vomiting, or diarrhea.
- If possible, stay in a specific room in your home and use a separate bathroom.
- Stay at least 6 feet away from others in your home at all times.
- Wear a mask if you're in any room with other people, unless you have trouble breathing.
- Don't share household items.

Daily cleaning and washing:

- [Clean and disinfect surfaces](#) in your home. As much as possible, if you are staying in a separate room and using a separate bathroom, clean them yourself, and have someone else clean the other areas of the home.
- Thoroughly wash household items, like utensils, after using them.
- Wash your hands often with soap and water for at least 20 seconds. Use alcohol-based hand sanitizer if soap and water aren't available.

If at any point you start to feel sick or you develop symptoms:

- Call your health care provider right away. Let them know you are quarantining at home because you are a close contact of someone with COVID-19. If you don't have a health care provider, call 2-1-1 to be connected to care, or contact the nearest [federally qualified health center](#) or one of [Vermont's free & referral clinics](#).
- If you're having a medical emergency, call 9-1-1 or go to the hospital.
- If you have mild illness, treat your symptoms at home by getting plenty of rest, drinking plenty of fluids, and taking fever-reducing medication if needed.
- If you test positive for COVID-19, begin isolation immediately. Find out [what to do if you test positive for COVID-19](#).

When to get medical care immediately:

Get medical care immediately if you have trouble breathing, persistent pain or pressure in the chest, new confusion, inability to wake or stay awake, or changes in color on your lips, gums, face, around the eyes, or nails. Tell your health care provider or 9-1-1 that you are quarantining at home because you are a close contact of someone with COVID-19.

When you can end quarantine:

You can end quarantine after 14 days if you don't get sick.

You have the **option to end quarantine early** if you:

- get tested on or after day 7 and get a negative test result. The test should be for a current infection (like a PCR test), except it should not be an antigen test (also known as a rapid test), **and**
- did not have any symptoms of COVID-19. You must continue to monitor yourself for symptoms for the full 14 days.

If you are an unvaccinated inpatient or an unvaccinated resident of a long-term care facility, you do not have the option to test out of quarantine early.

ATTACHMENT E
CDC - UNDERSTANDING THE DIFFERENCE BETWEEN MASKS

Understanding the Difference



Surgical Mask



N95 Respirator

Testing and Approval

Cleared by the U.S. Food and Drug Administration (FDA)

Evaluated, tested, and approved by NIOSH as per the requirements in 42 CFR Part 84

Intended Use and Purpose

Fluid resistant and provides the wearer protection against large droplets, splashes, or sprays of bodily or other hazardous fluids. Protects the patient from the wearer's respiratory emissions.

Reduces wearer's exposure to particles including small particle aerosols and large droplets (only non-oil aerosols).

Face Seal Fit

Loose-fitting

Tight-fitting

Fit Testing Requirement

No

Yes

User Seal Check Requirement

No

Yes. Required each time the respirator is donned (put on)

Filtration

Does NOT provide the wearer with a reliable level of protection from inhaling smaller airborne particles and is not considered respiratory protection

Filters out at least 95% of airborne particles including large and small particles

Leakage

Leakage occurs around the edge of the mask when user inhales

When properly fitted and donned, minimal leakage occurs around edges of the respirator when user inhales

Use Limitations

Disposable. Discard after each patient encounter.

Ideally should be discarded after each patient encounter and after aerosol-generating procedures. It should also be discarded when it becomes damaged or deformed; no longer forms an effective seal to the face; becomes wet or visibly dirty; breathing becomes difficult; or if it becomes contaminated with blood, respiratory or nasal secretions, or other bodily fluids from patients.

This information provides clarification regarding respirator and mask use in workplaces in which employees are exposed to respiratory hazards, it is not specific for the COVID-19 pandemic.



Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health