



Board of Health

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Public Health Emergency Order Mandating Face Coverings

Whereas, on March 10, 2020, Massachusetts Governor Charles D. Baker, acting pursuant to the powers provided by Chapter 639 of the Acts of 195 and Section 2A of Chapter 17 of the General Laws, declared a state of emergency in the Commonwealth of Massachusetts due to the outbreak of the 2019 novel Coronavirus (COVID-19, or SARS-CoV2 virus); and

Whereas, on March 15, 2020 Governor Baker issued an emergency Order (the “March 15, 2020 Order”) to respond to the evolving COVID-19 public health emergency impacting the Commonwealth, including prohibitions on public gatherings of twenty-five or more people and prohibiting on-premises consumption of food or drinks at bars and restaurants from March 17, 2020 until April 6, 2020; and

Whereas, on March 23, 2020 Governor Baker issued an Order (the “March 23, 2020 Executive Order”) limiting gatherings of more than ten people in the Commonwealth of Massachusetts and ordering businesses, other than those that provide COVID-19 essential services as defined in the March 23, 2020 Executive Order as amended (“COVID-19 Essential Businesses”), to close their brick and mortar operations and operate only by remote means; and

Whereas, the Select Board of the Town of Needham issued a local Declaration of Emergency on March 20, 2020; and

Whereas, current scientific consensus is that the SARS-CoV2 virus can be transmitted both by asymptomatic and pre-symptomatic cases;¹ and

Whereas, some scientific evidence supports the use of face coverings to prevent transmission by large droplets;² and

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>

² National Academies of Sciences, Engineering, and Medicine 2020. Rapid Expert Consultation on the Effectiveness of Fabric Masks for the COVID-19 Pandemic (April 8, 2020). Washington, DC: The National Academies Press. <https://doi.org/10.17226/25776>.

This Emergency Order was first proposed on April 24, 2020, and was the subject of a Board of Health hearing on April 28, 2020. It was adopted by unanimous vote of the Needham Board of Health on April 28, 2020, and took effect on May 1, 2020 at 6:01 a.m. Revised versions of the Order were considered and approved by the Board of Health on June 16, July 28, September 10, 2020, October 9, 2020, and November 12, 2020, reflecting alignment with state orders or regulations as well as greater scientific understanding of the COVID-19 virus and the most effective steps to limit its spread.

Whereas, the Board of Health of the Town of Needham is vested by M.G.L. c. 111, § 104³ with the authority and responsibility to prevent the spread of infection; and

Whereas, the Board of Health of the Town of Needham is given authority to enact emergency orders by 310 C.M.R. 11.05;⁴ and

Whereas, the Board of Health of the Town of Needham is vested by M.G.L. c. 111, § 31⁵ with the authority and responsibility to make reasonable health regulations; and

Whereas, the Board of Health of the Town of Needham is vested by M.G.L. c. 111, § 122 to examine and destroy, remove, or prevent causes of sickness;⁶

Now therefore, the Board of Health of the Town of Needham does hereby order the following:

- 1) Employees of all businesses shall wear a face covering over their mouth and nose, except when in a private office with a closed door. Face coverings must be employed when interacting with the public, co-workers, or customers. Please see personal protective equipment guidelines and recommendations at: <http://www.needhamma.gov/4860/Face-MaskCovering-Guidance>. Please note that a face shield is not a substitute for the required face covering.
- 2) Members of the public entering any business, work site, or government building must wear a face covering such as a well-fitted, multi-layered fabric mask over their nose and mouth.⁷
- 3) Members of the public entering a restaurant for the purpose of picking up food for take-out must wear a face covering over their nose and mouth. Notwithstanding the previous section, those persons dining at a restaurant must employ a face covering and may only remove face coverings in the actual act of eating and drinking. Face coverings are required at all other times while seated at tables and when waitstaff are present at tables.

³ M.G.L. § 104 provides: “If a disease dangerous to the public health exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of infection...”

⁴ 310 C.M.R. 11.05 states: “Whenever an emergency exists in which the interest of protecting public health ... requires that ordinary procedures be dispensed with, the board of health or its authorized agent, acting in accordance with the provisions of M.G.L. c. 111 §30, may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as the board of health deems necessary to meet the emergency.”

⁵ M.G.L. § 31 provides: “Boards of health may make reasonable health regulations.”

⁶ M.G.L. § 122 provides: ““The board of health shall examine into all nuisances, sources of filth and causes of sickness within its town, or on board of vessels within the harbor of such town, which may, in its opinion, be injurious to the public health, shall destroy, remove or prevent the same as the case may require, and shall make regulations for the public health and safety relative thereto...”

⁷ For additional information about face coverings, their importance, maintenance, donning and doffing instructions, and other items, please visit: <https://www.mass.gov/news/mask-up-ma>

4) Residents, visitors, and members of the general public entering or exiting a residential or commercial building complex of two (2) or more units must wear a face covering over their nose and mouth while in common areas and communal spaces and must exercise social distancing in these spaces in accordance with CDC guidelines available at:

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-di...> Residential and commercial building complexes shall post signage informing all residents, staff, and visitors that face coverings must be at all times in common areas of the building, and reminding all residents, staff, and visitors that a distance of six feet between individuals must be observed, except when those individuals are members of the same household or are engaged in caring for a child.

5) a. Retail establishments must limit the number of customers and staff inside the establishment at any given time so that social distancing of six feet may be maintained. All retail establishments must establish maximum occupancy loads in accordance with published state guidance, including the “Safety Standards and Checklist for Retail Businesses” which is available at:

<https://www.mass.gov/info-details/safety-standards-and-checklist-retail-businesses>. Maximum occupancy shall be posted at each entrance to the establishment and shall be readily visible to members of the public. Retail establishments are limited to ten (10) persons, excluding staff, per 1,000 square feet of accessible space or to 50% of the retail establishment’s maximum permitted occupancy, whichever is fewer. Buildings for which no permitted occupancy limitation is on record may allow up to 10 people (excluding staff) per 1,000 square feet of accessible space. No enclosed space shall exceed occupancy of 10 persons per 1,000 square feet.

b. An employee of the retailer shall be designated to ensure the maximum number of individuals inside of the store is not exceeded. Customers queued outside of the store must maintain a minimum of six feet distance. The retailer shall install visual social distancing markers to remind customers to remain six feet apart.

This Emergency Order shall not apply to anyone under the age of five, anyone who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the mask without assistance, and/or any other person exempted by Center for Disease Control & Prevention guidelines or Massachusetts Department of Public Health guidelines. Those who are unable to safely don a face covering due to access or functional needs should not wear one.

This Emergency Order shall not reduce or eliminate the requirement of maintaining safe distancing. The use of a face covering should be combined with social distancing

and frequent handwashing and refraining from touching one's face. The use of a face covering is NOT intended to replace those activities but rather to supplement them.

This Emergency Order does not require the wearing of a face covering in outdoor setting when a safe distance (minimum of six feet) between other persons is observed or when it is reasonable to expect that a person may maintain a six-foot distance from other people at all times.

Nothing in this order is intended to encourage residents to act as an enforcement authority for the Town of Needham. Residents should not take it upon themselves to approach people in violation of this order. Residents are urged to focus solely on their personal and family compliance with this order.

This emergency order originally took effect on Friday May 1, 2020 at 6:01 a.m. and was renewed on Tuesday June 16, 2020 at 10:30 a.m. The order was modified on July 28, 2020 to more closely align with state guidance documents and Executive Orders from MA Governor Charlie Baker, and was edited slightly and extended again on September 10, 2020, and further edited to comply with state orders on October 9, 2020, November 12, 2020 and March 26, 2021. **The Order shall remain in effect until 11:59 p.m. on June 30, 2021** or until notice is given, pursuant to the Board of Health's judgement, that the Public Health Emergency no longer exists, whichever occurs first, unless superseded by a statewide order, if state order lapses, Needham BOH will still continue.

To the extent necessary, this Order shall be enforced by the Director of Health & Human Services and others he chooses to empower as agents of the Board of Health.

ORDERED by vote of the Needham Board of Health on March 26, 2021, by,



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