

## **Public Health Emergency Order Mandating Face Coverings and Prohibiting Non-Essential Visitors to Concord Housing Authority Properties**

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, on May 1, 2020, Governor Baker issued an Order (the “May 1, 2020 Executive Order”) requiring face coverings in public places where social distancing is not possible; and

Whereas, the Select Board of the Town of Concord issued a local Declaration of Emergency on March 19, 2020; and

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

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

Whereas, the Board of Health of the Town of Concord is vested by M.G.L. c. 111, § 104<sup>3</sup> with the authority and responsibility to prevent the spread of infection; and Whereas, the Board of Health of the Town of Concord is given authority to enact emergency orders by 310 C.M.R. 11.05;<sup>4</sup> and

Whereas, the Board of Health of the Town of Concord is vested by M.G.L. c. 111, § 31<sup>5</sup> with the authority and responsibility to make reasonable health regulations; and

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

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

- 1) Employees of all businesses shall wear a face covering over their mouth and nose when interacting with the public and whenever they are within six feet of a co-worker or a customer. Acceptable face coverings include cloth masks, non-medical grade surgical masks and other types of face coverings (“Acceptable Face Coverings”).
- 2) Employees at all licensed food service establishments must wear Acceptable Face Coverings over their mouth and nose when preparing or handling food.
- 3) Members of the public entering any business, work site, or government building must wear Acceptable Face Coverings over their nose and mouth.
- 4) Members of the public entering a restaurant for the purpose of picking up food for take-out must wear Acceptable Face Coverings over their nose and mouth.
- 5) Personnel who deliver food or other goods to the customer if there is person-to-person exchange must wear Acceptable Face Coverings over their nose and mouth.
- 6) All businesses open to the public must post signs at their entrances advising customers that they are required to wear Acceptable Face Coverings prior to entering.
- 7) Roads, sidewalks, bicycle paths, and trails: Walkers, joggers, cyclists, inline skaters, and others must wear Acceptable Face Coverings when approaching or overtaking other persons who are not in the same household. When no person outside the same household is nearby, the face covering may be worn or held in a position from which it can be quickly pulled up over the nose and mouth when needed. When approaching or overtaking a person outside of their household, both parties or household groups must both (i) wear Acceptable Face Coverings and (ii) move off the path to the side to establish at least six feet of separation.

- 8) Residents, visitors, and members of the general public entering or exiting a residential or commercial building complex of greater than two (2) units must wear Acceptable Face Coverings 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-distancing.html>. Residential and commercial building complexes shall post signage informing all residents, staff, and visitors that Acceptable Face Coverings must be worn 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.
- 9) Visitors to all properties owned or operated by the Concord Housing Authority shall be restricted to those individuals providing essential services (food, medicine, home health aides, Personal Care Attendants (PCAs), etc. and housecleaning services). See <https://www.mass.gov/info-details/covid-19-essential-services> for guidance on essential care workers.
- 10) a. Essential retail establishments as defined by Governor Baker's COVID-19 Executive Orders, as they may be updated from time to time, 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 the "Guidance for Grocery Stores" issued by the Massachusetts Commissioner of Public Health on April 7, 2020, as it may be updated from time to time. See this order at: <https://www.mass.gov/doc/order-grocery-stores-40-percent/download>. Maximum occupancy shall be posted at each entrance to the establishment and shall be readily visible to members of the public.
  - 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.
  - c. Any portions of the store requiring extra staffing solely dedicated to services that are deemed nonessential pursuant to Governor Baker's COVID-19 Executive Orders shall be closed.
  - d. Reusable shopping bags are prohibited. Single-use bags are permitted and shall be provided at no extra cost to customers.

This Emergency Order shall not apply to anyone under the age of two, 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, the May 1, 2020 Executive Order or the Massachusetts Department of Public Health guidelines. In

addition, this Emergency Order shall apply to children between the age of two and five in a manner consistent with any guidance issued by the Commissioner of Public Health in accordance with the May 1, 2020 Executive Order. 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 or recommend the wearing of a face covering in outdoor settings when a safe distance (minimum of six feet) between other persons is observed (so long as an Acceptable Face Covering is available in the event of passing or other impediments to safe distancing). Nothing in this order is intended to encourage residents to act as an enforcement authority for the Town of Concord. 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 shall take effect on May 9, 2020 at 6:01 a.m. and shall remain in effect for as long as the May 1, 2020 Executive Order remains in effect, unless and until earlier notice is given, pursuant to the Board of Health's judgement, that the Public Health Emergency no longer exists, whichever occurs first.

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 Concord Board of Health on May 8, 2020, by

Mark Haddad, Esq., Acting Chair

Jill Block, MPH

Ray Considine, MSW

Mark Haddad, Esq.

Alma Healy, RN

## FOOTNOTES

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>.

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...””