

**EMERGENCY ORDINANCE #2020-11  
OF DURHAM, NEW HAMPSHIRE  
(RESCINDED – June 7, 2021)**

**AN EMERGENCY ORDINANCE REQUIRING THE WEARING OF FACE COVERINGS UNDER CERTAIN  
CONDITIONS WITHIN THE TOWN OF DURHAM**

The Town of Durham, through the Town Council ordains that:

**WHEREAS**, there is a pandemic situation with Coronavirus Disease 2019 (COVID-19) with many areas within the United States and around the world; and

**WHEREAS**, infectious diseases are caused by germs such as viruses, bacteria, and parasites. COVID-19 is a viral illness that has the ability to be spread from person to person very easily through respiratory droplets and aerosols. Public Health Officials have determined that it is well established that an individual infected with COVID-19 can transmit the disease whether or not they are exhibiting any symptoms (an asymptomatic carrier); and

**WHEREAS**, it is clinically established that the best means of slowing the spread of a virus is through minimizing close personal contact with individuals in a public environment, social/physical distancing, covering one's mouth and nose by wearing a face covering, and frequent and proper handwashing. For optimal protection, the following key factors should be considered even while wearing a face covering. The safe use of face coverings requires the wearer to maintain proper hand hygiene by hand washing frequently with either soap and water or hand sanitizer for at least 20 seconds. The wearer should prevent the spread of disease by avoiding touching their face, nose, or eyes and not touching the outside of the face coverings at all times; and

**WHEREAS**, social/physical distancing by keeping a distance of at least six feet between yourself and others also greatly protects against the spread of our respiratory droplets and aerosols, whether an individual is indoors or outdoors; and

**WHEREAS**, face coverings are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings as they reduce the spray of respiratory droplets and aerosols, particularly when combined with social/physical distancing and other sanitary measures such as washing hands or utilizing hand sanitizer; and

**WHEREAS**, it has been determined that the virus which causes COVID-19 spreads very easily and sustainably between people, particularly within indoor environments with limited fresh air exchange but also amongst persons in close physical proximity, indoors or outdoors, who cannot adequately social distance; and

**WHEREAS**, as previously noted, COVID-19 can be spread by people who do not have symptoms (asymptomatic carriers) and therefore are unaware they are infected. It is therefore important that everyone wear face coverings in certain public settings whether or not they are feeling ill; and

**WHEREAS**, the Town of Durham has an interest in protecting all persons within the community from unnecessary exposure to COVID-19 with its risk of contracting a devastating illness that may prove fatal, it follows that the wearing of a face covering under certain circumstances is crucial; and

**WHEREAS**, the more closely a person interacts with others and the longer that interaction occurs, the higher the risk of COVID-19 spread; and

**WHEREAS**, the Town's Emergency Management Director and Health Officer have discussed this matter in detail while keeping current with the latest guidelines put forward by the Centers for Disease Control and Prevention (CDC) and other trustworthy organizations and recommend the following emergency ordinance measures to the Town Council for adoption; and

**WHEREAS**, despite the issuance of Administrative Order #7 by the Town Administrator on May 28, 2020 requesting the voluntary use of cloth face coverings by community members to help slow the spread of COVID-19 and similar recommendations by the NH Department of Health and Human Services, the use of face coverings in Durham by residents is less than desired; and

**WHEREAS**, the Durham Police Department has limited resources and numerous responsibilities critical to public safety; and

**WHEREAS**, the Town Council understands that the Durham Police Department may handle complaints regarding non-compliance with this Ordinance as lower priority calls for service with a delayed response or follow-up, or may use the complaint solely as information to identify future directed patrol areas and times; and

**WHEREAS**, because COVID-19 presents a clear and present danger to the general Durham population it behooves the community for the Town Council to continue to implement this emergency measure requiring the wearing of face coverings in certain situations to protect the public health; and

**WHEREAS**, Section 3.9 “Emergency ordinances” of the Durham Town Charter allows the Town Council to adopt emergency ordinances by a two-thirds affirmative vote of those present and voting; and

**WHEREAS**, this Emergency Ordinance was originally adopted on August 3, 2020 and has been readopted every two months to stand repealed as of the 61<sup>st</sup> day following the date on which it was last adopted; and

**NOW, THEREFORE BE IT RESOLVED** for the purpose of continuing to provide safety for its residents and visitors resulting from the unique features of a college community, the Town Council does hereby extend Emergency Ordinance 2020-11 for 61 days following the date on which it was adopted.

**BE IT FURTHER RESOLVED** that the Town of Durham, through the Town Council ordains that in accordance with Section 3.9 of the Charter of the Town of Durham, the Town of Durham, through the chief of police, shall take immediate action to ensure that persons wear facial coverings under the conditions listed below within the Town of Durham.

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**WEARING OF FACIAL COVERINGS IN THE TOWN OF DURHAM:**

1. Employees of all businesses, restaurants or establishments serving alcoholic beverages are strongly encouraged to 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.
2. Members of the public entering or queued to enter, remaining in, or exiting from any Town of Durham government building, including the designated polling place at the Oyster River High School while elections are being held, and the Durham Swap Shop and surrounding area at the Raymond A. LaRoche Transfer Station and Recycling Center, must wear a face covering. The Oyster River Cooperative School District, University of New Hampshire, and State and Federal authorities may have different regulations for their facilities.
3. Members of the public entering, remaining in, or exiting from any business, restaurant, or establishment serving alcoholic beverages are strongly encouraged to wear a face covering.
4. Members of the public utilizing public recreational lands, as well as at the Churchill Rink, are encouraged but not required to wear a face covering over their nose and mouth to the fullest extent practicable and especially where there is a high likelihood of coming into contact with others and social/physical distancing of at least six feet may not be possible. The Parks & Recreation Department, in conjunction with the Administrator, will develop policies and procedures taking into account the latest public health guidelines

and Durham-specific considerations for its programs and use of Town property.

5. As used herein “face covering” means a covering made of cloth, fabric, or other soft or permeable material, including surgical masks, without holes, that covers only the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household material.
6. Notwithstanding the above this order does not require children under 10 years of age to wear face covering (parents should make their own judgment). Face covering is not recommended for children less than 2 years of age.
7. A face covering is also not required to be worn by any person if said person can show a medical professional has advised that wearing a face covering may pose a risk to said person for health-related reasons.

**PENALTIES:**

Anyone who violates this ordinance AND refuses to comply with local, county, or state law enforcement officers to meet the requirements outlined herein shall be subject to a fine in the amount of \$100 for the first offence, \$200 for the second offense, and \$500 for the third and subsequent offense, and/or shall be summoned to the Dover District Court.

**EFFECTIVE DATE**

In accordance with Section 3.9 of the Town Charter, this Emergency Ordinance shall be effective on May 24, 2021 and shall stand repealed as of the 61<sup>st</sup> day following that date which it took effect, but this shall not prevent reenactment of the ordinance by the Town Council in the manner specified in Section 3.9 of the Charter if the emergency still exists.

**PASSED TO RESCIND original ordinance and all extensions** this 7<sup>th</sup> day of **June, 2021** by two-thirds (2/3) affirmative roll call vote of **Seven (7)** to **Zero (0)** of the Durham Town Council as follows:

Sally Tobias	<u>Yes</u>	Wayne Burton	<u>Yes</u>
Dinny Waters	<u>Yes</u>	James Lawson	<u>Yes</u>
Al Howland	<u>Yes</u>	Sally Needell	<u>Yes</u>
Katherine Marple	<u>Absent</u>	Chuck Hotchkiss	<u>Yes</u>
Carden Welsh	<u>Absent</u>		

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Katherine Marple, Chair  
Durham Town Council

**ATTEST:**

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Lorrie Pitt, Town Clerk-Tax Collector