

**AGENDA
LEBANON CITY COUNCIL
AUGUST 5, 2020**

9. NEW BUSINESS:

**9.D – DISCUSSION & SET PUBLIC HEARING FOR
AUGUST 12, 2020: EMERGENCY ORDINANCE #2020-11,
REQUIRING THAT PERSONS WEAR FACE MASKS
UNDER CERTAIN CIRCUMSTANCES**

BACKGROUND

The COVID-19 Pandemic poses a health risk to the residents, as well as those persons traveling through the City. The proposed emergency ordinance is within the authority of the City Council to enact in accordance with the provisions of RSA 47:17,XV; RSA 147:1; RSA 47:12 and the City Charter. A similar ordinance enacted by the City of Nashua has withstood efforts in the Court regarding an injunction at this point.

ACTION

Should the Council decide to move forward with proposed Ordinance #2020-11, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, August 12, 2020, beginning at 7:00 pm, Remote via Microsoft Teams, for the purpose of receiving public input and taking action on proposed Ordinance #2020-11, an emergency ordinance requiring that persons wear face masks under certain circumstances.

Included in this Section:

1. Proposed Ordinance #2020-11
2. Link to CDC website regarding the benefits of wearing a mask;
<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>
3. Link to the CDC website regarding the evidence that masks reduce the risk of transmission;
<https://www.cdc.gov/media/releases/2020/p0714-americans-to-wear-masks.html>

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EMERGENCY ORDINANCE 2020-11 FACE MASKS

FOR THE PURPOSE OF reducing the risk of the spread of the COVID-19 virus; reducing the potential shutdown of the local economy and the negative impacts associated with such a shutdown; and potentially reducing the need for hospitalization and the number of fatalities, the City of Lebanon ordains as follows:

WHEREAS, a primary function of municipal government is the health and safety of those persons residing within or entering into it; 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. 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; and

WHEREAS, on January 23, 2020, the World Health Organization declared a Public Health Emergency of International Concern and the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and

WHEREAS, on March 11, 2020 the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency under the federal Stafford Act due to the spread of COVID-19; and

WHEREAS, on March 13, 2020, the Governor of the State of New Hampshire declared a state of emergency exists due to the impacts of the COVID-19 pandemic; and

WHEREAS, the top officials of the World Health Organization, the Centers for Disease Control, the National Institute of Health and the New Hampshire Department of Health and Human Services (NH DHHS) Division of Public Health have all determined that COVID-19 is most commonly spread from an infected person to others through the dispersion of respiratory droplets, including:

1. Through the air by coughing or sneezing;
2. Close personal contact, such as touching or shaking hands;
3. Touching an object or surface with the virus on it, then touching mouth, nose, or eyes before washing of hands.

And,

WHEREAS, the CDC has determined that COVID-19 may also be spread before an infected person shows symptoms of the virus and are therefore unaware they are infected; 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 utilizing frequent and proper hand washing. For optimal protection, the following key factors should be considered 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, cloth 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, particularly when combined with social/physical distancing and other sanitary measures such as washing hands or utilizing hand sanitizer; and

WHEREAS, the NH DHHS Division of Public Health has found that community-based transmission of COVID-19 has been identified in all counties of the State; and

WHEREAS, as of August 5, 2020 there have been ***** deaths worldwide related to COVID-19, ***** in the United States, and***** in the State of New Hampshire. As of this date worldwide there have been ***** persons infected with COVID-19, ***** in the United States, *****in the State of New Hampshire and ** in the City of Lebanon. As of this date there have been ***** persons hospitalized worldwide due to COVID-19, ***** in the United States, and ***** in the State of New Hampshire; and

WHEREAS, the provisions of RSA 47:17, XV provide authority to city councils to adopt By-Laws and Ordinances for the well-being of the cities. Further, RSA 147:1 allows towns to make regulations for the public health and safety of the people and RSA 47:12 vests the authority of towns to make such public health regulations to city councils; and

WHEREAS, The City's goal is to reduce the risk of the spread of the COVID-19 virus, and reducing the potential for additional impacts to the local economy, while also acknowledging that community mitigation measures reduce the number of fatalities and those needing hospital care.

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 who cannot adequately social distance; and

WHEREAS, in September 2020, more than 2,000 Dartmouth College students are expected to return to the Upper Valley to resume classes, traveling to the region from across the United States and countries around the world; and

WHEREAS, the CDC, NIH, the Surgeon General of the United States and NH DHHS Division of Public Health have all recommended that persons wear a face covering to reduce

the risk of spreading COVID-19 when within 6 feet of other persons (along with other mitigation measures); and

WHEREAS, the City's Emergency Management Director and Health Officer have discussed this matter in detail and recommend the following emergency ordinance measures to the City Council for adoption; and

WHEREAS, COVID-19 presents a clear and present danger to the general population of Lebanon and it behooves the community for the Council to take this emergency measure requiring the wearing of face coverings in certain situations to protect the public health.

NOW, THEREFORE the Lebanon City Council adopts the following Emergency Public Health regulations:

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.
2. Members of the public entering or queued to enter; remaining in or exiting from, any business, governmental or non-profit owned premises including without limitation any outdoor area where business of any sort is conducted, work site, work place, or government building, must wear a face covering, such as a fabric mask, scarf, or bandana over their nose and mouth. This requirement shall also apply to persons traveling on public transportation such as Advance Transit buses. Policies regarding face coverings in governmental buildings within the geographical boundaries of the City of Lebanon adopted by the governmental entity having jurisdiction over such buildings are hereby recognized by this ordinance and shall control in such buildings. Property owners shall have the authority to regulate the requirement to wear masks by any person, while on the premises of their property, by allowing persons to temporarily remove their masks while remaining on the premises when it is practical or becomes necessary to do so based upon the requirements of the services provided.
3. Members of the public entering or queued to enter; remaining in or exiting from a restaurant or an establishment serving alcoholic beverages for the purpose of picking up food for take-out or any other purpose must wear a face covering over their mouth and nose. Members of the public dining indoors or outdoors at a restaurant may remove face covering while seated at their table. Members of the public must wear a mask when entering, using or leaving the restroom of a restaurant.
4. Residents, visitors, and members of the public entering or present at a residential or commercial building complex of greater than two (2) units must wear a face covering over their nose and mouth while in common areas and communal spaces.
5. Members of the public utilizing the Mascoma Greenway, the Northern Rail Trail, sidewalks and other pedestrian public ways, or public recreational lands, are strongly encouraged but not required to wear a face covering to the fullest extent

practicable and especially when there is a highly likelihood of coming into contact with others and social distancing of at least six feet may not be possible.

6. As used herein “face covering” means a covering made of cloth, fabric, or other soft or permeable material, 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.
7. 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.
8. 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.
9. Any person who violates this ordinance shall be subject to a fine for the first offense in the amount of \$100, for a second offense or subsequent offense the fine shall be \$250.
10. A person may temporarily remove their mask when in a business if obtaining a service or product that requires verification of the person’s identity or age.

This ordinance shall be effective immediately upon passage and shall continue in effect until rescinded by action of the Council.