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## **CITY OF MANCHESTER**

*Office of the City Solicitor*

### **MEMORANDUM**

To: The Board of Mayor and Aldermen

From: Gregory T. Muller, Esq  
Office of the City Solicitor

Date: October 15, 2020

Re: Face Covering Rule for City Buildings

Enclosed please find a copy of the proposed *Face Covering Rule for City Buildings* for your consideration. Due to the ongoing pandemic caused by COVID-19 and the concerns regarding the current state of the virus, I was asked to draft a rule that could be adopted by the Board of Mayor and Aldermen that would require face coverings for all persons in a city building when social distancing was not possible subject to certain exceptions.

R.S.A. 41:11-a grants authority to the Board of Mayor and Aldermen to set rules governing the use of its real property.

The proposed rule would require face coverings for all persons unable to maintain social distancing entering, exiting, and found in any city buildings, except those governed by an operating agreement. The rule carves out several exceptions enumerated in paragraph 3 including an exception specifically dealing with ballots and voting and additionally provides authority to Department Heads to amend or suspend this proposed rule when it interferes with the performances of their official functions. The goal in drafting this proposed rule was to provide the mitigating benefits of face coverings to all persons in city buildings while insuring that people have full access to city government and city employees are unhindered in the performance of their duties.

If you have any questions or comments, please feel free to contact me at 624-6523.

Encl.

*“The City of Manchester Board of Mayor and Aldermen pursuant to its authority under R.S.A. 41:11-a adopts a rule requiring the wearing of face coverings by persons in all municipal building and facilities to address the public health emergency presented by the spread of viruses, including the novel coronavirus, SARS-CoV-2, (a/k/a/ COVID-19) through respiratory droplets”*

***The City of Manchester, New Hampshire Board of Mayor and Aldermen hereby ordains the following rule governing all municipal buildings and facilities:***

1. **Definitions:** As used herein, the following terms shall have the following definitions:
  - a. *Face Covering* – The term “face covering” shall mean a covering made of cloth, fabric, or other soft or permeable material, without holes, cuts, tears or slits in the mouth and nose area that covers only the person’s nostrils, mouth, and immediately adjacent areas of the lower face to a sufficient degree to prevent the spread of respiratory droplets from the nose or mouth of the wearer. A face covering may be factory-made or homemade and improvised from ordinary household material, so long as it serves as barrier to spread of respiratory droplets from the mouth and nose of the wearer.
  - b. *Government Building* – The term “government building” shall mean any and all buildings or facilities owned by the City of Manchester including City Hall, unless governed by an operating agreement in which case that agreement will control.
  - c. *Licensed Medical Professional* – The term “licensed medical professional” shall mean a duly licensed medical doctor (M.D.), physician’s assistant (P.A.), nurse practitioner (N.P.), or doctor of osteopathic medicine (D.O.)
  - d. *Emergency* – The term “emergency” shall mean any serious threat to the public health, public safety or the health and safety of any individual that is created by a flood, storm, fire, earthquake, explosion, riot, ongoing criminal activity that poses a risk of bodily injury, medical episode or other disaster.
2. **Rule:** Subject to the exceptions set out herein, all persons entering, in queue to enter any entrance to, exiting, working in or found in any government building shall wear a face covering over their mouth and nose at all time whenever a person cannot maintain social distancing of at least six feet from all other persons.
3. **Exceptions:**
  - a. The rule stated above shall not apply to children under 10 years of age.
  - b. The rule stated above shall not apply to persons whom a licensed medical professional has advised that the wearing of a covering poses a risk to said persons due to a diagnosed medical condition.
  - c. The rule stated above shall not apply to any person seeking to avail themselves of a governmental service offered by the City if the City has not provided a reasonable alternative means for the accessing of that service by persons who are not wearing face coverings. A person’s refusal to accept a reasonable alternative mean offered by the City shall neither render the alternative means invalid or unreasonable nor excuses with compliance with this rule.

- d. The rule stated above shall not apply to any polling place, polling location, or any person entering City Hall and the Office of the City Clerk for the express purpose of obtaining a ballot or casting a ballot.
  - e. The rule stated above shall not apply to any person who is requested by a city official or city employee to temporarily lower or remove their face covering for the purpose of identifying a person related to an official function.
  - f. The rule stated above shall not apply when the person is requested by any city employee engaged in an official function to temporarily lower their covering to facilitate understanding and comprehension of the person's speech. However, compliance with the rule must recommence at any time the person is not actively speaking.
  - g. The rule stated above shall not apply when an evacuation of a government building has been ordered due to an emergency or an emergency signal has been activated and compliance with this rule would endanger the life, safety or health of a person or cause an unreasonable and unsafe delay in complying with the order or alarm signaling the need to evacuate.
  - h. The rule stated above shall not apply to any police officer, firefighter, paramedic, first responder, or licensed medical professional responding to aid in dealing with an emergency in a government building.
4. **Designation of Authority to Department Heads.** Pursuant to the City Charter, the Board of Mayor and Aldermen designates to the Department Heads of the City of Manchester the authority to modify, amend, or suspend the provisions of this rule as it may apply to persons entering, exiting, working or being found in their department for good cause and as may be necessary to permit performance of any official purpose, function, business, requirement of their department.

This rule shall be effective immediately upon passage and shall continue in effect so long as the State of New Hampshire remains in a State of Emergency due to the novel coronavirus, SARS-CoV-2 virus or until modified, rescinded, or revoked by formal action of the City of Manchester Board of Mayor and Aldermen, whichever occurs first.