



July 6, 2020

The Regional  
Municipality  
of Durham

Health Department

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To: Commercial Establishments in Durham Region

**Re: Durham Region Medical Officer of Health  
Instructions to Commercial Establishments  
Currently Operating (under the *Emergency  
Management and Civil Protection Act (EMCPA)*,  
*R.S.O. 1990* and related Regulations)**

I am writing to all persons responsible for operating commercial establishments<sup>1</sup> currently permitted to operate under [EMCPA Ontario Regulation 263/20 – Stage 2 Closures](#) to highlight your responsibilities. These responsibilities are important in ensuring continued successful reopening and to safeguard against COVID-19 community circulation now and into the fall.

Please be reminded of your responsibilities for **general compliance** per provincial legislation ([O. Reg 263/20](#)):

4. (1) The person responsible for a business or organization that is open shall ensure that the business or organization operates in accordance with all applicable laws, including the [Occupational Health and Safety Act](#) and the regulations made under it.
- (2) The person responsible for a business or organization that is open shall operate the business or organization in **compliance** with the advice, recommendations and **instructions of public health officials**, including any advice, recommendations or instructions on physical distancing, cleaning or disinfecting.
- (3) The person responsible for a business that is open to the public, or an organization responsible for a facility that is open to the public, shall ensure that the place of business or facility is operated to enable members of the public in the place of business or facility to, to the fullest extent possible, maintain a physical distance of at least two metres from other persons.

As Durham Region Medical Officer of Health, the following are my instructions, pursuant to [O. Reg 263/20 s.4\(2\)](#) (or as current), to **all commercial establishments currently operating** during Stage 2 within Durham Region, effective 12:01 p.m., July 7, 2020:

1. To the fullest extent possible, ensure effective public health measures are in place to prevent the spread of COVID-19.
2. Public health measures include, but are not limited to, ensuring physical distancing, recommending excellent hygiene practices including hand hygiene (handwashing or the use of alcohol-based hand sanitizer), and cough and sneeze etiquette.
3. Implement screening practices for employees and members of the public, including requiring those who are ill to stay home and be advised to be tested for COVID-19.

Effective 12:01 a.m. July 10, 2020, instructions to **all commercial establishments currently operating** during Stage 2 within Durham Region will include the following:

1. Have a policy in place to prohibit Persons<sup>ii</sup> from entering the premises of the commercial establishment that is permitted to open under [EMCPA Ontario Regulation 263/20 – Stage 2 Closures](#) or remaining in the premises if the Person is not wearing a non-medical mask or face covering<sup>iii</sup>. Best efforts<sup>iv</sup> shall be made to only allow entry to Persons wearing a non-medical mask or face covering. The non-medical mask or face covering must be worn inside the premises at all times, unless it is reasonably required to temporarily remove the face covering for services provided by the establishment.

A Person shall be exempt from wearing a non-medical mask or face covering on the premises if:

- a. The Person is a child under the age of two years; or a child under the age of 5 years either chronologically or developmentally and he or she refuses to wear a face covering and cannot be persuaded to do so by their caregiver;
- b. The Person is incapacitated and unable to remove their mask without assistance;
- c. The wearing a non-medical mask or face covering would inhibit the Person's ability to breathe in any way;
- d. For any other medical reason, the Person cannot safely wear a non-medical mask or face covering such as, but not limited to, respiratory disease, cognitive difficulties or difficulties in hearing or processing information.
- e. For any religious reason, the Person cannot wear a non-medical mask or face covering, or cannot cover the face in a manner that would properly control the source.

2. The policy should be enacted and enforced in 'good faith' and should be used as an opportunity to educate about the use of non-medical masks or face coverings in premises where physical distancing may be difficult.
3. Post appropriate visible signage indicating that non-medical masks or face coverings are required inside the premises. Sample signage can be found on the Durham Region Community Reopening Toolkit: <https://www.durham.ca/en/health-and-wellness/community-reopening-toolkit.aspx>.
4. Ensure all employees are aware of the policy and are trained on your establishment's expectations.

While the science on the use of non-medical masks or face coverings by the general public is not definitive, there is a growing body of evidence on the effectiveness of these masks to prevent the spread of COVID-19. To further reduce the risk of spreading COVID-19 in your establishment and within the broader community, it is important to adhere to the above listed public health instructions.

The Durham Region Health Department will be taking a progressive enforcement approach to ensure compliance, with a focus on education. As per the EMCPA, those who do not comply with the above noted requirements may be liable for a fine of \$750 - \$1,000 for an individual, to a maximum of \$100,000 or in the case of a corporation, not more than \$10,000,000 for each day or part of each day on which the offence occurs or continues.

Should you require additional information, please contact Durham Region Health Department at (905) 668-2020 (toll-free 1-800-841-2729). Visit [durham.ca/novelcoronavirus](https://www.durham.ca/novelcoronavirus) for additional information and resources.

Original signed by

Robert Kyle, BSc, MD, MHSc, CCFP, FRCPC, FACPM  
Commissioner & Medical Officer of Health

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<sup>i</sup> **Commercial establishments** refers to those portions of a fixed commercial premises that are openly accessible to members of the public and that are used for the purposes of offering goods or services for sale to members of the public and include a mall or other structure containing a number of commercial premises, and include the following:

- Retail stores, convenience stores, malls/plazas, restaurants, personal service settings, grocery stores and bakeries, gas stations, indoor farmer's markets, areas of mechanics' shops/garages/repair shops which are open to the public

The areas of a commercial establishment that are subject to the non-medical mask and face covering requirements of these instructions are:

- Any areas in which customers interact with one another or with staff members, OR
- Any areas that are open or accessible to members of the public
- Except where: the area is outside, whether or not the area is covered (e.g. a restaurant patio)

<sup>ii</sup> A **Person** means any customer, patron, employee or visitor, who enters the premises.

<sup>iii</sup> A **face covering** means a non-medical mask or other face coverings such as a bandana, a scarf or cloth (including hijab and niqab) that covers the mouth, and nose ensuring a barrier that limits the community transmission.

<sup>iv</sup> **Best efforts** when restricting entry to customers wearing face coverings are defined as follows:

- Where an establishment has a person restricting occupancy into the premises, a verbal reminder that the customer should be wearing a face covering as a result of these instructions shall be given to any customer entering the premises without one. For greater clarity, there is not a need for a business to turn away the customer to achieve the best effort standard.
- For customers in a premise seen removing their face covering for extended periods of time, a verbal reminder to that customer of the requirement to wear face coverings under these instructions.