



The Regional
Municipality
of Durham

Health Department

605 ROSSLAND ROAD EAST
LEVEL 2
PO BOX 730
WHITBY, ON L1N 0B2
CANADA

905-668-7711
1-800-841-2729
Fax: 905-666-6214

durham.ca

An Accredited
Public Health Agency

 [facebook.com/
DurhamRegionHealth](https://www.facebook.com/DurhamRegionHealth)

 [twitter.com/
DurhamHealth](https://twitter.com/DurhamHealth)

CLASS ORDER

made pursuant to Section 22(5.0.1) of the Health Protection and Promotion Act

Date: November 26, 2020

TO: All persons who own or operate the following types of business, place, facility, or establishment located in the Regional Municipality of Durham (The Region) where employees or the public are regularly present:

a) Retail stores, including stores located in shopping malls

I, Dr. Robert Kyle, Medical Officer of Health for the Regional Municipality of Durham, pursuant to section 22(5.01) of the *Health Protection and Promotion Act* ("HPPA"), ORDER you to take the following actions, **effective 12:01 am on November 27, 2020:**

- 1) Implement measures as outlined in the applicable provincial regulations, advice of the Chief Medical Officer of Health of Ontario, and/or Durham Region Health Department (DRHD);
- 2) Develop and implement a written safety plan available on-site for viewing by patrons, staff and visitors. This safety plan must be posted in a conspicuous location. All staff must follow the safety plan. The safety plan must include provisions addressing the following:
 - a) Screening of all patrons, staff and visitors
 - b) Self-isolation for staff if they become ill while at work
 - c) Physical distancing and a procedure to address crowding inside and outside the facility and ensure all patrons and staff maintain a distance of 2 metres (m) apart
 - d) Face coverings for patrons, staff and visitors, with limited exemptions
 - e) Cleaning and disinfection of the retail store
 - f) Support of hand hygiene for patrons, staff and visitors, particularly handwashing and/or use of hand sanitizer, as applicable
 - g) Reminding patrons, staff and visitors about good respiratory (cough and sneeze) etiquette and to avoid touching their face
 - h) Notification to DRHD of any staff either diagnosed with COVID-19 or identified as a high-risk contact to someone with COVID-19;

- 3) Immediately set a maximum capacity for patrons and staff in the retail store, that effectively supports maintaining a physical distance of 2 m. Actively monitor compliance with the said capacity limit at all entrances. DRHD has the right to decrease the capacity limit at any time;
- 4) Post appropriate visible signage at all entrances indicating that non-medical masks or face coverings are required inside the premises, with limited exemptions;
- 5) Actively monitor all common areas of the retail store to ensure physical distancing of 2 m is being maintained and proper usage of face masks/face coverings, with limited exemptions, are being followed. All surveillance should be documented and include any problematic areas and corrective actions taken;
- 6) Actively manage all line ups/patrons congregating and ensure all patrons waiting in line ups inside or outside the facility wear a face mask/face covering, with limited exemptions, and maintain a physical distance of at least 2 m;
- 7) Post signage indicating one-way flow of patrons and staff in the retail store to ensure physical distancing is maintained;
- 8) Ensure eating and drinking is only permitted in compliance with the [Reopening Ontario \(A Flexible Response to COVID-19\) Act, 2020](#) (ROA) and the applicable regulations;
- 9) Conduct screening of all patrons, staff and visitors; and
- 10) Clean and disinfect all high-touch surfaces at least twice a day or when visibly soiled using an approved disinfectant. Document all cleaning and disinfecting and ensure logs are available for review, as requested by DRHD.

THE REASONS for this ORDER are that:

1. COVID-19 has been designated as communicable under Ontario Regulation 135/18 as amended. COVID-19 has been declared a pandemic by the World Health Organization.
2. COVID-19 is present in the Region and therefore poses a risk to the health of the residents of the Region through community transmission. The COVID-19 virus (SARS CoV-2) is spread from an infected person to a close contact by direct contact or when respiratory secretions from the infected person enter the eyes, nose

or mouth of another person.

3. The risk of transmission of COVID-19 is greatest in close contact environments where persons are within 2 m and/or without face coverings. Persons may be infected with COVID-19 without showing symptoms, and may spread COVID-19 to other persons, their families, and others with whom they come into contact.
4. Cases of COVID-19 and percent positivity continue to increase in The Region.
5. The Province has issued Regulations under the ROA to implement the Keeping Ontario Safe and Open Framework. The terms of this Order are intended to operate concurrently to supplement the Regulations.
6. There is increasing evidence that safe and prescribed physical distancing rules and protocols are not being followed in retail stores as described in this Order.
7. The need for a precautionary approach to public health interventions is a recognized principle that applies to Orders issued under the *Health Protection and Promotion Act*.

I am of the opinion, on reasonable and probable grounds that:

- a) a communicable disease exists or may exist or there is an immediate risk of an outbreak of a communicable disease in the health unit served by me;
- b) the communicable disease presents a risk to the health of persons in the health unit served by me; and
- c) the requirements specified in this Order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

I am also of the opinion that the delivery of notice of this Order to each and every member of the class is likely to cause a delay that could significantly increase the risk to the health of any person residing in the health unit, so notice shall be provided through the public media and the internet via posting on the DRHD website:

<https://www.durham.ca/en/health-and-wellness/novel-coronavirus-update.aspx>.

The following definitions apply to this Order:

“Durham Region Health Department” means the Medical Officer of Health or Durham Region Health Department staff acting under the direction of the Medical Officer of Health.

“Retail Store” means a place of business open to the general public for the sale of goods including but not limited to clothing, food and personal items, where the sale of goods is the primary business.

NOTICE

TAKE NOTICE THAT each member of the class is entitled to a hearing by the Health Services Appeal and Review Board if the member has delivered to me, at the address below, and to the Health Services Appeal and Review Board, by e-mail to hsarb@ontario.ca or faxed to the HSARB at 416-327-8524., notice in writing, requesting a hearing within 15 days after publication of this Order or otherwise in accordance with applicable law.

AND TAKE FURTHER NOTICE THAT although a hearing may be requested this Order takes effect when it is delivered to a member of the class or brought to the attention of a member of the class.

FAILURE to comply with this Order is an offence for which you may be liable, on conviction, to a fine of not more than \$5,000.00 for every day or part of each day on which the offence occurs or continues.

Original signed by

Robert Kyle, BSc, MD, MHSc, CCFP, FRCPC, FACPM
Medical Officer of Health
Durham Region Health Department
605 Rossland Road East
Whitby, Ontario L1N 0B2

This Order shall be posted on the Durham Region Health Department website: <https://www.durham.ca/en/health-and-wellness/novel-coronavirus-update.aspx>.

Inquiries about this Order should be directed to the Durham Region Health Department at (905) 668-2020 or 1-800-841-2729.