



Covid -19 Precautionary Measures for Town Meeting 2022 – An FAQ

(Issued on February 2, 2022)

Municipal Election Officials are again facing the management of public health concerns due to the lingering pandemic when scheduling and conducting town meeting. With this FAQ we wanted to highlight key suggestions taken from the [Universal Best Practices](#) publication from the State of New Hampshire, and then provide guidance on measures municipalities can implement to help prevent the further spread of Covid-19 and its variants at business meetings, deliberative sessions and the official ballot voting day.

Getting prepared for municipal meetings and elections starts with planning consultations involving the moderator, governing body (select board, school board, village district commissioners), town & district clerk, supervisors of the checklist, health officer, emergency management director, fire chief and police chief. Those planning meetings should consider the following precautionary measures

- Management and arrangement of the polling or meeting place to maintain a distance of at least 6 feet or more of physical separation between people or related groups.
- Consider mandating the wearing of a face mask by voters attending polling stations and meeting places. Throughout the pandemic, face mask use has increasingly been shown to be an important measure for controlling the spread of COVID-19. Face mask use protects the person wearing the mask, and others around that person in the event that they are asymptotically infected.
- Face masks should not be required for people who are under the age of 2 years. Face masks should also not be required for a person with a valid medical or developmental reason that prevents that person from wearing a face mask
- Consider using cohorting strategies and limiting group size. “Cohorting” involves creating small groups of individuals, keeping those individuals consistently together in one group, and preventing interaction between people of different groups

Can face coverings be required in the polling place on the official ballot voting day?

Part 2, Art. 32 of the N.H. Constitution provides that elections “shall be . . . governed by [the] moderator,” and, as such, the moderator has the authority to manage the polling place, including the authority to choose whether to require a mask at the polling place.

Note, of course, that governing bodies also have a role if the election takes place in a municipal building. A building may make itself available to outside groups subject to rules, such as requiring users to wear masks, and RSA 41:11-a gives governing bodies authority over town buildings.

How about requiring voters to wear face coverings at business meetings and deliberative sessions?

There are two sources of authority to require the wearing of face masks at town meeting business and deliberative sessions. First, under RSA 40:4, the moderator has the authority to regulate the business of the meeting and prescribe rules of procedure, which could include the wearing of a face mask by all of those in attendance. Second, if the facility being used for the meeting is under the management of the governing body, such as a select board under RSA 40:11-a, the select board could implement use regulations of the public building and require the wearing of face masks by those attending town meetings.

If we require wearing face masks in the polling place or for those in attendance at business or deliberative sessions, how do we address voters without face coverings?

While the moderator may require masks in the polling station or location of town meeting, every qualified voter must be given an opportunity to cast a ballot or participate in town meeting, even if not wearing a mask. Therefore, moderators who require masks must establish alternative means of participation for voters who do not wear masks. This could include separate entrances and exits for those not wearing masks, and separate seating areas and other accommodations to allow those who decline to wear a mask to vote or fully participate in the town meeting.

What are the potential alternatives for non-masked voters?

Any moderator contemplating requiring masks should call the Attorney General Office's election hotline 1-866-868-3703 to discuss alternatives. Each polling place is unique and no one-size-fits-all solution will work everywhere, but alternatives such as separate spaces within the polling place for unmasked voters, outdoor spaces for unmasked voters, or, potentially, accessible voting pursuant to RSA 659:20-a may be permissible in your particular situation. Assuming that such alternatives are available and refused, it may be permissible to deny the unmasked voter entry to the polling place, but such a possibility should be discussed with town counsel and the election hotline prior to the election.

What is the source of the authority for the municipality to require face coverings at public meetings and public places?

The governing body (select board or town or city council), in consultation with the Health Officer/Board of Health and Emergency Management Director, can adopt public health regulations on gaining access to public buildings under [RSA 147:1](#), [RSA 47:17, XV](#) and [RSA 41:11-a](#). Those regulations could include regulating public access to town or city hall and other public buildings to respond to the local public health emergency arising out of the community spread of Covid-19. Considering recent guidance issued by the Centers for Disease Control (CDC), a governing body could conclude that those entering town and city buildings must wear a face covering or mask. This could include the requirement that those who attend public meetings at public facilities be required to wear a mask covering their nose and mouth. Similar authority to regulate access to library property can be exercised by the Library Trustees.