

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2020-46

A BY-LAW TO REQUIRE MANDATORY FACE
COVERINGS IN ENCLOSED PUBLIC PLACES
DURING THE COVID-19 PANDEMIC

WHEREAS on March 17, 2020, an emergency was declared by the Government of Ontario ("Province") pursuant to Order in Council 518/2020 under section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 ("EMCPA") in response to the outbreak of COVID-19;

WHEREAS on April 3, 2020 The Regional Municipality of Niagara and Niagara's 12 local area municipalities jointly declared a State of Emergency under s 7.0.1 (1) of the *Emergency Management and Civil Protection Act*;

WHEREAS public health authorities at the Federal and Provincial level have recommended that persons wear face coverings in public where physical distancing cannot be maintained;

WHEREAS subsection 8(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority to enable it to govern its affairs as it considers appropriate and to enhance its ability to respond to municipal issues;

WHEREAS The Regional Municipality of Niagara has the authority to enact by-laws for the health, safety and well-being of persons pursuant to section 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended; and

WHEREAS the Council of The Regional Municipality of Niagara wishes to enact a temporary by-law to protect the health, safety, and well-being of residents and visitors to Niagara Region as the Province reopens to require individuals to wear a face covering while in certain enclosed public spaces to assist in reducing the spread of COVID-19 in the Region.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. (1) (a) Every person within an enclosed public place shall wear a face covering.

- (b) Every person before entering and while riding any municipal public transit vehicle owned or operated by The Regional Municipality of Niagara or the local area municipalities shall wear a face covering.

- (2) Every person that is the parent or guardian accompanying a child that is five (5) years old or older in an enclosed public place or a public transit vehicle owned or operated by The Regional Municipality of Niagara or the local area municipalities shall ensure that the child wears a face covering.

- (3) A “person” in subsections (1) and (2) of this section shall include any occupant within an enclosed public place or riding a municipal public transit vehicle owned or operated by The Regional Municipality of Niagara or the local area municipalities and shall include, but not be limited to, any owner, operator, employee, worker, customer, patron or other visitor but shall not include any of the following persons:
 - (a) a child who is under the age of five (5) years old;
 - (b) a person who is unable to wear a face covering as a result of a medical condition or a disability pursuant to the Human Rights Code, R.S.O. 1990, c. H.19, who is unable to put on or remove a face covering without assistance or for whom a face covering would inhibit the person’s ability to breathe;
 - (c) a person while consuming food or drink provided by a business that is permitted to operate under the Provincial Emergency Orders and provided that all other conditions of the Emergency Orders are met;
 - (d) a person while receiving services involving the face and requiring the temporary removal of a face covering provided such services are permitted to operate under the Provincial Emergency Orders and provided 2 metres distance is maintained from all other persons other than the person providing the service;
 - (e) a person engaged in a sport or other strenuous physical activity;
 - (f) a person while assisting or accommodating another person with a hearing disability; and
 - (g) employees and agents for the owner or operator of the enclosed public space within an area not for public access, or within or behind a physical barrier.

- (4) No person shall be required to provide proof of any of the exemptions set out in subsections (3) (a), (b) and (f) of this section.
- (5) For the purposes of this By-law, an enclosed public place shall mean all or any portion of a building that is located indoors and where the public is ordinarily invited or permitted access to whether or not a fee is charged or a membership is required for entry.
- (6) For greater clarity, an enclosed public place shall include the following:
 - (a) retail stores where goods and services are sold to customers;
 - (b) businesses that primarily sell food including restaurants, supermarkets, grocery stores, bakeries and convenience stores;
 - (c) churches, mosques, temples, synagogues and other places of worship, except during a religious rite or ceremony that is incompatible with the face being covered;
 - (d) shopping malls or similar structures which contain multiple places of business;
 - (e) lobby areas of commercial buildings;
 - (f) common areas of hotels and motels and other short term accommodations, such as lobbies, elevators, meeting rooms or other common use facilities but does not include the common areas of residential apartment buildings or condominiums;
 - (g) laundromats;
 - (h) concert venues, theatres and cinemas;
 - (i) fitness centres, gyms, other recreational and sports facilities and clubhouses;
 - (j) arcades and other amusement facilities;
 - (k) premises utilized as an open house, presentation centre, or other facility for real-estate purposes;

- (l) museums, galleries, historic sites and similar attractions;
 - (m) businesses providing personal care services;
 - (n) banquet halls, convention centres, arenas, stadiums and other event spaces; and
 - (o) municipal buildings.
- (7) For greater clarity, a waiting area, lobby, service counter, washroom, hallway, stairwell and elevator are included as part of an enclosed public place prescribed in subsection (6) of this section if they are open to the general public.
- (8) For greater clarity, the following places shall not be included as an enclosed public place for the purposes of this section:
- (a) day cares, schools, post secondary institutions and other facilities used solely for educational purposes;
 - (b) hospitals, independent health facilities and offices of regulated health professionals; and
 - (c) buildings and services owned or operated by the Province of Ontario or the Federal Government of Canada;
 - (d) an indoor area of a building that is accessible only to employees; and
 - (e) portions of buildings that are being used for the purpose of providing day camps for children or for the training of amateur or professional athletes.
- (9) For the purposes of this by-law, a face covering shall mean a mask or other face covering, including a bandana or scarf constructed of cloth, linen or other similar fabric that fits securely to the head and is large enough to completely and comfortably cover the mouth, nose and chin without gaping.

- (10) Every person who is an owner or operator of an enclosed public place shall adopt a policy regarding the wearing of face coverings that prohibits persons from entering, or otherwise remaining, within the enclosed public place unless they are wearing a face covering, subject to the exemptions provided for in this by-law.
- (11) Every person who is an owner or operator of an enclosed public place shall ensure that all persons working at the enclosed public place are trained in the requirements of the policy.
- (12) Every person who is an owner or operator of an enclosed public place shall provide a copy of the face covering policy for inspection by any persons authorized to enforce this by-law.
- (13) Every person who is the owner or operator of an enclosed public place shall post clearly visible signage conspicuously at all entrances to the enclosed public place containing the following text in a minimum font size of 24 point:

Protect each other
Wear a face covering
Cover your nose, mouth, and chin
Required by the Face Covering By-law
Does not apply to children under the age of five and those who are
unable to wear a face covering as a result of a medical condition or a
disability.

- (14) Every person who is the owner or operator of an enclosed public space shall provide hand sanitizer with a minimum 70% alcohol content, at all public entrances and exits at all times for the use of members of the public attending the enclosed public place.
 - (15) A “person” in subsection (10) of this section shall include, but not be limited to, a corporation.
2. This By-law may be enforced by:
- (1) A provincial offences officer of a lower tier municipality or The Regional Municipality of Niagara or other person appointed under the authority of a municipal by-law to enforce municipal by-laws;
 - (2) A public health inspector acting under the direction of the Medical Officer of Health;

- (3) A police officer of the Niagara Regional Police Service;
 - (4) Such other person as designated from time to time by The Regional Municipality of Niagara.
3.
 - (1) Every person who contravenes any provision of this By-law is guilty of an offence.
 - (2) Upon conviction, every person who contravenes any provision in this By-law is liable to a fine not exceeding one thousand dollars (\$1,000), exclusive of costs, for each offence, recoverable under the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, or any successor legislation thereto.
4. If any provision of this By-law is declared invalid for any reason by a court of competent jurisdiction, only that invalid portion of the By-law shall be severed and the remainder of the By-law shall still continue in force.
5. This By-law shall not be interpreted so as to conflict with a Provincial or Federal statute, regulation, or instrument of a legislative nature, including an order made under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended. For greater certainty, nothing in this By-law shall be construed as permitting the opening or access to an enclosed public place that is not permitted or is restricted by a Provincial Emergency Order. The owner or operator of an enclosed public place is responsible to ensure that it is operated in accordance with all applicable Provincial Emergency Orders and laws, including the Occupational Health and Safety Act and regulations thereunder.
6. This By-law may be cited as the "Face Covering By-law".
7. This By-law shall come into force and effect on July 31, 2020.
8. This By-law shall be deemed repealed and no longer in force and effect at 12:01 a.m. on October 1, 2020 unless otherwise extended or repealed by resolution of Council.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>