
MEMORANDUM

CAO 16-2020

Subject: Supplemental Information - Options to Consider for Mandating Face Coverings

Date: July 23, 2020

To: Regional Council

From: Ron Tripp, Acting Chief Administrative Officer

At its special meeting held on July 8, 2020, Regional Council considered report CAO 15-2020 – Options to Consider for Mandating Face Masks (Appendix 1). Council subsequently passed the following resolution:

1. That Regional Council **CONSIDER** the options presented in Report CAO 15-2020; and
2. That staff **BE DIRECTED** to proceed with a comprehensive education campaign regarding face coverings when physical distancing is not possible.

Correspondence Item CL-C 50-2020, provides Council with additional information respecting the education campaign regarding face coverings when physical distancing is not possible.

On July 8, Council deferred the matter of approval of a temporary by-law requiring mandatory face coverings in enclosed public places during the COVID-19 pandemic and requested staff include in the proposed by-law provisions requiring owners and operators of enclosed public spaces to have a policy in place respecting the wearing of face coverings similar to the by-law passed by the City of Mississauga.

Report CAO 15-2020 outlined options with regard to mandating face coverings, one of which was to support local area municipalities that implement by-laws for mandatory face coverings. Since the July 8 meeting, the City of St. Catharines and Town of Niagara-on-the-Lake have passed by-laws to impose temporary regulations requiring the wearing of Masks within Enclosed Public Spaces. In addition, some of the other local area municipalities have expressed their intention to also pass by-laws respecting face coverings. The option to support lower tier municipalities that implement by-laws is an approach that the Region of Peel has taken in this regard with Mississauga, Brampton and Caledon each passing their own by-laws rather than the Region of Peel doing so.

The authority that would be relied upon to pass a by-law respecting face coverings is pursuant to section 11 of the Municipal Act, 2001 which provides for the ability for bothe

lower and upper tier municipalities to pass by-laws regarding the health, safety and well-being of persons.

The draft by-law prepared by staff would govern all enclosed public places within the Region, as defined in the by-law in order to focus the regulation on indoor spaces where members of the public may have difficulty maintaining the required physical distancing, consistent with public health advice. The by-law does not include “staff only areas” of enclosed public places where member of the public do not attend, given that employers have greater ability to control those areas in accordance with their responsibilities under the *Occupational Health and Safety Act*.

The draft by-law also exempts buildings and services under Provincial and Federal jurisdiction, and specific institutions/facilities that are subject to their own regulatory regime, such as hospitals and schools. The draft by-law further expressly provides that it will not be interpreted to conflict with a Provincial or Federal statute including Emergency Orders.

The draft by-law primarily places responsibility on individuals to wear a face covering when in an enclosed public place, but also places some limited responsibilities on owners/operators of enclosed public places. To the extent that Council consider the focus of any regulation regarding face coverings should be on businesses, the power to pass by-laws related to business licensing largely rests with the local area municipalities should they wish to rely on that authority to impose special conditions related to face coverings as a part of their business licensing requirements.

A revised draft by-law, including red-line revisions has been attached to this memorandum as Appendix 4, further to direction provided by Council on July 8, and the further review by staff of by-laws approved by other jurisdictions since that time.

Upon the request of Council to include provisions within the by-law requiring owners and operators of enclosed public spaces to have a policy in place respecting the wearing of face coverings, staff have included an new provision in section 10 that provides for this measure. As well, staff have included provisions to ensure training for employees is undertaken with respect to the policy.

Council further discussed at the Special meeting whether or not the by-law should be applicable to Regional transit. Staff have further reviewed this issue in response and confirmed that Niagara’s transit operators have been aligned with a “recommended” mask policy across all systems. This followed from federal and provincial health direction (as well as a unanimous trend across the transit industry in Ontario) and was done in consultation with Niagara Region Public Health partners who approved of the transit mask policy and subsequent public campaign. At present, ‘strongly recommended’ is the masking policy on all Niagara transit (locals and Regional).

However, with the passing of the City of St. Catharines mandatory masking by-law it is the understanding of staff that the St. Catharines Transit Commission has also opted to align its masking policy with the City's by-law. Moving forward, all St. Catharines operated transit will move to the mandatory masking policy in line with City facilities and City roll out.

As Niagara Region Transit is Regionally-funded and locally-operated, the Region's local transit partners have been consulted and alerted to the incongruence of one service moving to mandatory while the others remain 'recommended'. As such, Niagara Region transportation staff support the inclusion of transit into any mandatory face covering by-law as may be approved by Regional Council. Therefore the draft by-law has further been revised to apply to Regional transit.

Transportation staff have noted that there may be larger operational issues around enforcement and refusal of service that will likely need to be addressed.

Given the inclusion in the draft by-law of transit, staff reached out to the Region's Business Licensing Unit to confirm if taxis and vehicles for hire should also be included as part of the by-law. Business Licensing staff have expressed a preference that any required controls for this industry area be addressed through the business licensing process. As such taxis and vehicles for hire have not been included in the by-law which is consistent with the approach that has been taken by the Region of Waterloo.

In addition, at the July 8, 2020, Special Council meeting, Council approved an amendment to the draft by-law to provide that owners or operators shall provide hand sanitizer at all public entrances and exits for the use of members of the public attending the enclosed public space. Therefore this provision has also been included in the draft by-law.

As other jurisdictions have continued to consider and implement requirements related to mandatory face coverings, staff have provided an updated summary (Appendix 2).

Some of the Public Health considerations canvassed at the Special Meeting applicable to face coverings were also the subject of a subsequent email communication issued by Dr. Hirji to provide further information on the topic (Appendix 3).

If Regional Council desires to enact a temporary Regional by-law mandating face coverings, a suggested motion would be:

That Regional Council **APPROVE** the temporary by-law to require mandatory face coverings in enclosed public places during the COVID-19 pandemic attached as Appendix 4 to Report CAO 15-2020.

Respectfully submitted and signed by

Ron Tripp, P. Eng
Acting, Chief Administrative Officer

Attachments:

- Appendix 1 Report CAO 15-2020 – Options to Consider for Mandating Face Coverings
- Appendix 2 Actions by Other Jurisdictions respecting Face Coverings
- Appendix 3 Email message from Dr. Hirji: The Evidence & Controversy around Face Coverings
- Appendix 4 Draft Proposed By-law