

CITY OF ST. CATHARINES

BY-LAW NO. 2020-97

A By-law to impose temporary regulations requiring the wearing of masks within enclosed public spaces in the City of St. Catharines (the "City").

WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization on March 11, 2020; and

WHEREAS an emergency was declared by the Provincial Government pursuant to Order in Council 518/2020 ("Ontario Regulation 50/20") on March 17, 2020 pursuant to section 7.0.1 of the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 (the "Act"); and

WHEREAS an emergency was declared by the City's Head of Council on April 3, 2020 pursuant to section 4 of the Act; and

WHEREAS the Province of Ontario has enacted O. Reg. 263/20 (STAGE 2 CLOSURES) under Subsection 7.0.2 (4) (or as current) of Emergency Management and Civil Protection Act to permit certain businesses to reopen for attendance by members of the public subject to conditions, including the advice, recommendations and instructions of public health officials; and

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

WHEREAS physical distancing is difficult to maintain in enclosed public spaces; and

WHEREAS it is believed that the existence of an enforceable temporary by-law

requirement will help to educate the public on the importance of a properly worn face coverings and encourage voluntary compliance; and

WHEREAS Council for the City of St. Catharines desires to enact a temporary by-law to require mandatory face coverings in enclosed public spaces as a necessary, recognized, practicable and effective method to help limit the spread of COVID-19, and thereby help protect the health, safety and well-being of the City residents;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts as follows that:

Part 1 – Definitions

1. In this By-law, the following terms shall have the following meanings:

“Emergency Order” means the emergency orders passed by the Province of Ontario pursuant to the Emergency Management and Civil Protection Act (“the Act”) related to COVID-19 including any regulations enacted pursuant to the Act.

“Mask” or “Face Covering” means: a cloth (non-medical) Mask, medical mask or other face coverings, (e.g., bandana, a scarf or cloth), for filtering respiratory droplets that securely covers the nose, mouth, and chin and is in contact with the surrounding face without gapping. For clarity, a Mask may include, but is not required to be a medical mask such as surgical masks, N95 or other masks required by healthcare workers;

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of Niagara;

“Municipality” and “Municipal” means the City and the Regional Municipality of Niagara;

“Officer” means:

- (a) a provincial offences officer appointed by a Municipality to enforce Municipal bylaws;
- (b) a public health inspector; acting under the direction of the Medical

Officer of Health; or

(c) a police officer employed by the Niagara Regional Police Service;

"Operator" means the person who controls, governs, directs, or is responsible for the activity carried on within the Enclosed Public Space and includes the person who is actually in charge at any particular time.

Part 2 – Enclosed Public Spaces

2. For the purposes of this By-law, "Enclosed Public Space" means all or any portion of a building that is located:

- (a) indoors; and
- (b) where the public is ordinarily invited or permitted access to whether or not a fee is charged or a membership is required for entry.

3. For greater clarity Enclosed Public Spaces include but are not limited to:

- a. premises or any portion thereof which are used as a place of business for the sale or offering for sale of goods and services;
- b. businesses that primarily sell food including restaurants, cafés, cafeterias, supermarkets, grocery stores, bakeries and convenience stores;
- c. shopping malls or similar structures which contain multiple places of business;
- d. churches, mosques, synagogues, temples, or other places of worship;
- e. libraries, museums, galleries, bingo halls, banquet or convention halls, community centres, cinemas, theatres, concert venues, special event venues, or other similar entertainment, cultural, leisure or event spaces and facilities;
- f. indoor sports and recreational facilities, sports clubs, gyms, yoga studios, dance studios, arenas, stadiums and clubhouses;
- g. common areas of hotels, motels, and other short-term accommodations, such as lobbies, elevators, meeting rooms, rest rooms, laundry rooms, gyms, and kitchens or other common use facilities but does not include the common areas of residential

apartment buildings and condominiums;

- h. premises utilized as an open house, presentation centre, or other facility for real estate purposes;
- i. other businesses, organizations and places that are permitted to operate in accordance with the Emergency Orders.

4. Notwithstanding section 2 and 3 above, the following premises or portions of premises used for the following purposes are not an Enclosed Public Space for purposes of this By-law even if they would otherwise fall within the definition of an Enclosed Public Space:

- a. day cares, child care facilities, day camps for children, schools, and post-secondary institutions;
- b. private and public transportation;
- c. hospitals, independent health facilities and offices of regulated health professionals;
- d. buildings and services owned or operated by the Province of Ontario or the Federal Government of Canada;

Part 3 – Face Covering Policy

5. Every Operator of an Enclosed Public Space that is open to the public, shall adopt a policy as required under this By-law that prohibits persons to enter or otherwise remain within, the public areas of the Enclosed Public Space unless that person is wearing a Mask, subject to the exemptions provided in this By-law.

6. The Operator shall provide a copy of the policy for inspection by an Officer, upon request.

7. The Operator of an Enclosed Public Space shall post, at every public entrance to the premises, prominent and clearly visible signage containing the following text:

ALL PERSONS ENTERING OR REMAINING IN THESE PREMISES
SHALL WEAR A MASK OR A FACE COVERING WHICH COVERS THE
NOSE, MOUTH AND CHIN, AS REQUIRED UNDER CITY OF ST.
CATHARINS BY-LAW NO. 2020-97.

8. The policy shall:
- a. exempt the persons set out in Section 10 from the obligation of wearing a Mask, without requiring proof of such exemption;
 - b. ensure that all persons working at the business or organization are trained in the requirements of the policy;
 - c. require that employees and agents wear a Mask, except when they are:
 - i. Within an area of the premises where the public is not permitted access, or
 - ii. within or behind a physical barrier;
 - d. permit the temporary removal of a Mask where necessary for the purpose of:
 - i. receiving services;
 - ii. while actively engaging in an athletic or fitness activity including water-based activities;
 - iii. while actively engaged in delivering a vocal artistic performance, paid for or otherwise arranged by the Operator;
 - iv. while participating in a religious rite or ceremony that is incompatible with the face being covered;
 - v. consuming food or drink; or
 - vi. for any emergency or medical purpose
9. Every Operator of an Enclosed Public Space shall ensure the availability of alcohol-based hand rub at all public entrances and exits.

Part 4 – Personal Exemptions

10. The following persons shall be exempt from the requirement to wear a Mask:
- a. children under ten (10) years of age (either chronologically or developmentally);
 - b. persons with medical conditions which inhibit their ability to wear a Mask, including breathing difficulties or cognitive difficulties;

- c. persons who are unable to apply or remove a Mask without assistance, including those who are accommodated under the Accessibility for Ontarians with Disabilities Act (AODA);
 - d. persons who have protections, including reasonable accommodations, in accordance with the Ontario Human Rights Code which would prevent them from wearing a Mask;
 - e. persons while assisting or accommodating another person with a hearing disability.
11. An Operator shall not require any person to provide proof of any of the exemptions set out in Section 10.

Part 5 - General

12. 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 Emergency Order.
13. For greater certainty, nothing in this By-law shall be construed as permitting the opening or access to an Enclosed Public Space that is not permitted or is restricted by an Emergency Order. The Operator is responsible to ensure that the business or organization operates in accordance with all applicable Emergency Orders and laws, including the Occupational Health and Safety Act and the regulations made under it.
14. Where any provision of this By-law is inconsistent with or conflicts with any provision of any other by-law of the City, the provisions of this By-law shall prevail, but only to the extent of such inconsistency or conflict.
15. Every Person who contravenes any provision of this By-law is guilty of an offence, and upon conviction is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act.

Part 6 – In Force and Effect

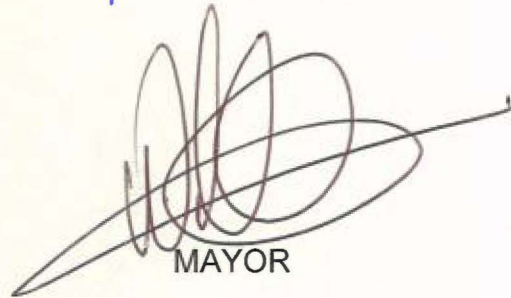
16. This By-law shall come into force on a date to be determined jointly by the Mayor and the City's Chief Administrative Officer, in consultation with the Medical

Officer of Health.

17. This By-law shall cease to be effective upon the withdrawal of the local municipal emergency declaration described in the recitals of this by-law, or a such date to be determined jointly by the Mayor and the City's Chief Administrative Officer, in consultation with the Medical Officer of Health, whichever comes later.

Read and passed this 13th day of July 2020.


CLERK


MAYOR