

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5248-20**

**A BY-LAW TO PROVIDE FOR TEMPORARY REGULATIONS TO
REQUIRE THE WEARING OF MASKS OR FACE COVERINGS IN
ENCLOSED PUBLIC SPACES IN THE TOWN OF NIAGARA-ON-
THE-LAKE DURING THE COVID-19 PANDEMIC.**

WHEREAS on March 17, 2020 a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the Emergency Management and Civil Protection Act related to COVID-19;

AND WHEREAS on March 23, 2020 an emergency was declared by the Lord Mayor, under the provisions of the Emergency Management and Civil Protection Act, R.S.O. 1990, c.E.9, relating to the outbreak of the Novel Coronavirus 19 (COVID-19);

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 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;

AND WHEREAS The Council of The Corporation of the Town of Niagara-on-the-lake 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 health authorities at the Federal, Provincial, and Regional level have recommended that persons wear face coverings in public where physical distancing cannot be maintained;

AND WHEREAS the existence of an enforceable temporary by-law requirement will help to educate the public on the importance of a properly worn mask or face covering and encourage voluntary compliance;

AND WHEREAS the Council of The Corporation of the Town of Niagara-on-the-Lake wishes to implement temporary regulations to protect the health, safety, and well-being of residents and visitors as the Town 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 CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE ENACTS AS FOLLOWS:**

1. DEFINITIONS

For the purpose of this By-Law:

- 1.1. "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.

- 1.2. “Mask” or “Face Covering” means a mask, face shield, 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.
- 1.3. “Municipality” and “Municipal” means the Town and the Regional Municipality of Niagara;
- 1.4. “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;
- 1.5. "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.

2. ENCLOSED PUBLIC SPACES

- 2.1. 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
- 2.2. 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.

2.3. Notwithstanding section 2.1 and 2.2 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 postsecondary 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;

3. FACE COVERING POLICY

3.1. The Operator of an Enclosed Public Space shall post, at every public entrance to the premises, prominent and clearly visible signage that persons are required to wear a Mask in accordance with this By-law.

3.2. The operator shall:

- (a) exempt the persons set out in Section 4.1 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 this by-law;
- (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

4. PERSONAL EXEMPTIONS

- 4.1. The following persons shall be exempt from the requirement to wear a Mask:
 - (a) children under 10 years of age;
 - (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.
- 4.2. An Operator shall not require any person to provide proof of any of the exemptions set out in Section 4.1.
- 4.3. Masks can be temporarily removed if the service provided requires they be removed. Exemptions include:
 - (a) Receiving services that require removal of a mask such as dental, medical, cosmetic, or other related services;
 - (b) Actively engaging in athletic or fitness activity, including water-based activities;
 - (c) While actively engaged in delivering vocal artistic performances arranged for by the operator of the establishment;
 - (d) Participation in religious rights or ceremonies not compatible with the face being covered;

- (e) Consuming food or drinks; and
- (f) Emergency or medical purposes.

5. GENERAL

- 5.1. 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.
- 5.2. 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.
- 5.3. Where any provision of this By-law is inconsistent with or conflicts with any provision of any other by-law of the Town, the provisions of this By-law shall prevail, but only to the extent of such inconsistency or conflict.
- 5.4. 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.
- 5.5. Enforcement of this by-law shall first take the form of education and every effort to encourage voluntary compliance.

6. FORCE AND EFFECT

- 6.1. This By-law shall come into force seven days following approval of this by-law to allow for every Operator of an Enclosed Public Space that is open to the public, sufficient time to post approved signage and prepare 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.
- 6.2. 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 by repeal of the by-law by Council whichever comes first.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 16th DAY OF JULY, 2020.

LORD MAYOR BETTY DISERO

TOWN CLERK PETER TODD