

THE CORPORATION OF HALDIMAND COUNTY

By-law Number 2191/20

Being a by-law to impose temporary regulations regarding the wearing of face coverings within enclosed public spaces in Haldimand County

WHEREAS the spread of a Novel Coronavirus, which causes the disease known as COVID-19, was declared to be a pandemic by the World Health Organization on March 11, 2020;

WHEREAS on March 17, 2020, the Province of Ontario declared an emergency under section 7.0.1(1) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, in response to the COVID-19 pandemic;

WHEREAS an emergency was declared by the Head of Council for The Corporation of Haldimand County on March 24, 2020 pursuant to section 4(1) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, also in response to the COVID-19 pandemic;

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the "*Municipal Act, 2001*") provides that the powers of a municipality under that Act shall be interpreted broadly to enable a municipality to govern its affairs as it considers appropriate and to enhance a municipality's ability to respond to municipal issues;

WHEREAS subsection 8(3) of the *Municipal Act, 2001* further provides a broad scope for municipalities to pass by-laws to, among other things, regulate or prohibit respecting a matter, and require persons to do things respecting the matter so regulated;

WHEREAS subsection 10(2)6 of the *Municipal Act, 2001* provides that single tier municipalities may pass by-laws respecting the health, safety and well-being of persons;

WHEREAS COVID-19 is readily communicable from person to person, carries a risk of serious health complications (including respiratory issues that may result in death) is present within Haldimand County ("the County"), and constitutes a danger to the health, safety and well-being of persons within the County;

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

WHEREAS it is believed that the existence of a by-law requirement will help to educate the public on the importance of a properly worn face covering and encourage voluntary compliance;

AND WHEREAS Council for the Corporation of Haldimand County desires to enact a temporary by-law to require 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 residents,

NOW THEREFORE, the Council of The Corporation of Haldimand County enacts as follows:

Part 1 - Definitions

1. **THAT** 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 related to COVID-19 including any regulations enacted pursuant to the Act.

“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 Face Covering 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 Haldimand County and Norfolk County;

“Municipality” and “Municipal” means Haldimand County;

“Officer” means:

- a. a Municipal Law Enforcement Officer duly appointed by Council;
- b. a public health inspector; acting under the direction of the Medical Officer of Health; or
- c. a police officer employed by the Ontario Provincial Place;

“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. **THAT** 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. **THAT** for greater clarity Enclosed Public Spaces shall be divided into two (2) distinct categories which include but are not limited to:
- a. Category 1
 - i. businesses that primarily sell food including supermarkets, grocery stores, bakeries and convenience stores;
 - ii. shopping malls or similar structures which contain multiple places of business;
 - iii. financial institutions, including banks;
 - iv. pharmacies;
 - v. retail businesses with a gross floor area of greater than 465 square metres;
 - vi. 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.
 - b. Category 2

Any business or facility not included in Category 1, including but not limited to:

 - i. premises or any portion thereof which are used as a place of business for the sale of goods and services;
 - ii. businesses that primarily sell food including restaurants, cafés, cafeterias;
 - iii. churches, mosques, synagogues, temples, or other places of worship;
 - iv. 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;
 - v. indoor sports and recreational facilities, sports clubs, gyms, yoga studios, dance studios, arenas, stadiums and clubhouses;
 - vi. premises utilized as an open house, presentation centre, or other facility for real estate purposes;
 - vii. other businesses, organizations and places that are permitted to operate in accordance with the Emergency Orders.
4. **THAT** notwithstanding Sections 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. daycares, 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 Enclosed Public Space - Category 1

5. **THAT** every Operator of an Enclosed Public Space - Category 1 that is open to the public, shall adopt a practice 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 Face Covering, subject to the exemptions provided in this by-law.
6. **THAT** the Operator of an Enclosed Public Space – Category 1 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 HALDIMAND COUNTY BY-LAW NO. 2191-20

Part 4 – Physical Distancing and Face Covering Enclosed Public Space – Category 2

7. **THAT** every Operator of an Enclosed Public Space – Category 2 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 can maintain at all times a physical distance of 2 metres from all persons within the public area of the Enclosed Public Space.
8. **THAT** where the physical distance requirement in Section 7 cannot be achieved or maintained, persons entering into or otherwise remaining within, the public areas of the Enclosed Public Space are required to wear a Face Covering, subject to the exemptions provided in this by-law.
9. **THAT** the Operator shall provide a copy of the policy for inspection by an Officer, upon request.
10. **THAT** the Operator of an Enclosed Public Space – Category 2 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 MAINTAIN A PHYSICAL DISTANCE OF MINIMUM 2 METRES (6 FEET) FROM OTHER CUSTOMERS AND STAFF. WHERE SUCH DISTANCE CANNOT BE ACHIEVED, YOU ARE REQUIRED TO WEAR A MASK OR A FACE COVERING WHICH COVERS THE NOSE, MOUTH AND CHIN, AS REQUIRED UNDER HALDIMAND COUNTY BY-LAW NO. 2191-20.

11. **THAT** the policy developed for Category 2 Enclosed Public Spaces shall:
- a. exempt the persons set out in Section 12 from the obligation of wearing a Face Covering, 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 Face Covering, 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 Face Covering 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.

Part 5 – Personal Exemptions

12. **THAT** 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 Face Covering, including breathing difficulties, claustrophobia 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;
 - f. any paramedic, fire fighter or police officer acting in the course of their duties.

13. **THAT** an Operator shall not require any person to provide proof of any of the exemptions set out in Section 12.

Part 6 – General

14. **THAT** 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.
15. **THAT** for greater certainty, nothing in this by-law shall be construed as permitting the opening or access to an Enclosed Public Space – Category 1 or Category 2 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.
16. **THAT** where any provision of this by-law is inconsistent with or conflicts with any provision of any other by-law of the County, the provisions of this by-law shall prevail, but only to the extent of such inconsistency or conflict.
17. **THAT** 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 7 - In Force and Effect

18. **THAT** this by-law shall come into force on August 1, 2020.
19. **AND THAT** this by-law is deemed to be no longer in effect and revoked at 12:01 a.m. on the first day after the November 2, 2020 Council meeting, unless extended by Haldimand County Council.

READ a first and second time this 27th day of July, 2020.

READ a third time and finally passed this 27th day of July, 2020.

MAYOR

CLERK