

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 47-20

A TEMPORARY BY-LAW TO REQUIRE THE WEARING OF NON-MEDICAL MASKS/FACE COVERINGS IN ENCLOSED PUBLIC PLACES IN THE REGIONAL MUNICIPALITY OF HALTON.

WHEREAS subsection 11(2) of the *Municipal Act, 2001* (the “Act”), provides the general authority for municipalities to pass by-laws for the “health, safety and well-being of persons”;

AND 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 in the Province of Ontario on March 17, 2020, pursuant to Order in Council 518/2020 for the purposes of section 7.1 of the *Emergency Management and Civil Protection Act*, and has been extended pursuant to section 7.0.7 of the *Emergency Management and Civil Protection Act*, due to the health risks to Ontario residents arising from COVID-19;

AND WHEREAS on March 23, 2020, the Regional Chair declared a state of emergency in support of the Province’s efforts to contain the spread of the COVID-19 pandemic, made pursuant to subsection 4(1) of the *Emergency Management and Civil Protection Act*;

AND WHEREAS the Province of Ontario has enacted Ontario Regulation 263/20 under subsection 7.0.2(4) of the *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/instructions of public health officials;

AND WHEREAS the Province of Ontario has enacted Bill 195, *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, which continues orders made under sections 7.0.2 and 7.1 of the *Emergency Management and Civil Protection Act* in relation to COVID-19. While the Provincial declaration of emergency has ended, the new act will provide the Province with the necessary flexibility to address the ongoing risks and effects of the COVID-19 outbreak;

AND WHEREAS physical distancing (keeping distance from one another and limiting activities outside the home; when outside the home, staying at least 2 metres away from other people whenever possible) is difficult to maintain in enclosed public places;

AND WHEREAS a by-law requiring persons to wear a non-medical mask/face covering in enclosed public places is deemed a necessary, recognized,

practicable, and effective method to limit the spread of COVID-19, and thereby help protect the health, safety and well-being of the Halton Region community;

AND WHEREAS a by-law requiring the Operator of an enclosed Public Place that is open to the public to adopt a policy to require persons entering the enclosed Public Place to wear a non-medical mask/face covering is deemed a necessary, recognized, practicable, and effective method to limit the spread of COVID-19, and thereby help protect the health, safety and well-being of the Halton Region community;

AND WHEREAS section 425 of the Act provides that any person who contravenes any by-law of the Region is guilty of an offence;

AND WHEREAS section 444 of the Act provides that the Region may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

1. THAT:

- a) every person must wear a Non-Medical Mask / Face Covering when inside an enclosed Public Place within the geographic area of the Region of Halton;
- b) such a Non-Medical Mask / Face Covering shall cover their mouth, nose and chin.

2. THAT every person that is the parent or guardian accompanying a child that is five (5) years old or older in an enclosed Public Place shall ensure that the child wears a Non-Medical Mask / Face Covering. For clarity, every person aged five (5) years old or older shall wear a Non-Medical Mask or Face Covering in an enclosed Public Place.

3. THAT a “person” shall include any occupant within an enclosed Public Place and shall include, but not be limited to, any owner, operator, employee and worker in the enclosed Public Place and any customer, patron or other visitor in the enclosed Public Place, subject to the exemptions below.

4. THAT no person shall be required to provide proof of any of the exemptions set out below in Section 6.

5. THAT:

- a) the Operator of an Public Place that is open to the public, shall adopt a policy as required under this By-law to ensure that no member of the public is permitted entry to, or otherwise remains within, any enclosed space within the Public Place, unless the member of the public is wearing a Non-Medical Mask/Face Covering, in a manner which covers their mouth, nose and chin;
 - b) the Operator of the Public Place shall, upon request, provide a copy of the policy for inspection by any person authorized to enforce this By-law.
6. THAT this By-law and the policy shall have the following exemptions from the requirement to wear a Non-Medical Mask/Face Covering in enclosed Public Places within Halton Region:
- i. the person is under the age of five (5) years old;
 - ii. the person has an underlying medical condition where wearing a Mask or Face Covering would inhibit the person's ability to breathe in any way;
 - iii. the person may experience a negative impact to their emotional well-being or mental health;
 - iv. the person has a developmental disability which inhibits their ability to wear a Non-Medical Mask or Face Covering;
 - v. the person has a disability whereby the wearing of a Non-Medical Mask or Face Covering would limit their ability to reasonably communicate with others or otherwise present a hardship for a person or persons assisting the individual;
 - vi. the person is unable to place or remove a Non-Medical Mask or Face Covering without assistance;
 - vii. persons temporarily removing their Non-Medical Mask / Face Covering when necessary for receiving services (such as having a meal), or while actively engaging in an athletic or fitness activity; and
 - viii. employees and agents of the person responsible for the Public Place within an area designated for them and not for public access, or within or behind a physical barrier; in both instances where a physical distance of at least 2

metres can be maintained at all times between the patron(s) and the employee(s).

7. THAT no person shall be discriminated against for not wearing a Non-Medical Mask / Face Covering due to an exemption.
8. THAT this By-law and the policy, subject to the above exemptions, shall require that employees wear a Non-Medical Mask / Face Covering when working in the enclosed space within the Public Place.
9. THAT this By-law and the policy shall not require employees or members of the public to provide proof of any of the exemptions set out above.
10. THAT the Operator shall conspicuously post at all entrances to the Public Place clearly visible signage containing the following text:

ALL PERSONS ENTERING OR REMAINING IN THESE PREMISES SHALL WEAR A NON-MEDICAL MASK OR FACE COVERING WHICH COVERS THEIR NOSE, MOUTH AND CHIN AS REQUIRED UNDER THE REGIONAL MUNICIPALITY OF HALTON BY-LAW 47-20.

THE FOLLOWING PERSONS SHALL BE EXEMPT FROM THE REQUIREMENT TO WEAR A NON-MEDICAL MASK / FACE COVERING IN ENCLOSED PUBLIC PLACES WITHIN HALTON REGION:

- i. the person is under the age of five (5) years old;
- ii. the person has an underlying medical condition where wearing a Non-Medical Mask or Face Covering would inhibit the person's ability to breathe in any way;
- iii. the person may experience a negative impact to their emotional well-being or mental health;
- iv. the person has a developmental disability which inhibits their ability to wear a Non-Medical Mask or Face Covering;
- v. the person has a disability whereby the wearing of a Non-Medical Mask or Face Covering would limit their ability to reasonably communicate with others or otherwise present a hardship for a person or persons assisting the individual;

- vi. **the person is unable to place or remove a Non-Medical Mask or Face Covering without assistance;**
- vii. **persons temporarily removing their Non-Medical Mask / Face Covering when necessary for receiving services (such as having a meal), or while actively engaging in an athletic or fitness activity; and**
- viii. **employees and agents of the person responsible for the Public Place within an area designated for them and not for public access, or within or behind a physical barrier; in both instances where a physical distance of at least 2 metres can be maintained at all times between the patron(s) and the employee(s).**

Please be respectful of the rights of individuals who are exempt from wearing a mask in conformity with the exemptions provided in the By-law.

To report an incident of noncompliance, contact the Halton Regional Police Service COVID19 Hotline: 905-825-4722.

IF YOU HAVE ANY QUESTIONS OR CONCERNS, PLEASE CALL 311.

- 11. THAT the Operator shall ensure that all persons working at the Public Place are trained in the requirements of the policy and this By-law.
 - 11.1 This By-law may be enforced by an Officer.
 - 11.2 Any person or Operator 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 by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
 - 11.3 An Officer may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - a. an order or other requirement made under this By-law; or
 - b. an order made under section 431 of the *Municipal Act, 2001*.
 - 11.4 An Officer, for the purposes of the inspection under section 11.3 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, may:

- a. require the production for inspection of documents or things relevant to the inspection;
- b. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c. require information in writing or otherwise as required by an Officer from any person concerning a matter related to the inspection; and,
- d. alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

11.5 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where they have been prevented or is likely to be prevented from carrying out an inspection under section 11.3

11.6 All contraventions of any provision of this By-law are designated as multiple offences and continuing offences pursuant to subsections 429(2) and (5) of the *Municipal Act, 2001*.

11.7 Upon conviction of an offence under this By-law pursuant to Part III of the Provincial Offences Act, a person or operator shall be liable to a fine in accordance with section 429 of the *Municipal Act, 2001*.

11.8 Where a person or Operator has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:

- a. prohibiting the continuation or repetition of the offence by the person or operator convicted; and,
- b. requiring the person or operator convicted to correct the contravention in the manner and within the period that the court considers appropriate.

12. Intentionally Deleted.

13. THAT the following definitions shall apply in this By-law:

- (a) **“Enclosed Common Areas”** includes lobbies, elevators, laundry rooms, and mailrooms.

(b) **“Local Municipality”** means the Corporations of: The City of Burlington, The Town of Oakville, The Town of Milton or The Town of Halton Hills.

(c) **“Municipality”** means the Region or a Local Municipality.

(d) **“Non-Medical Mask/Face Covering”** means a mask, balaclava, bandana, scarf, cloth or other similar item that covers the nose, mouth and chin without gapping;

(e) **“Officer”** means:

(i) a police officer,

(ii) a constable appointed pursuant to any Act,

(iii) a municipal law enforcement officer referred to in subsection 101 (4) of the *Municipal Act, 2001*, while in the discharge of his or her duties, including a municipal law enforcement officer from a Local Municipality;

(iv) a by-law enforcement officer of any Municipality or of any local board of any Municipality, while in the discharge of his or her duties, including any by-law enforcement officer from a Local Municipality;

(v) an officer, employee or agent of any Municipality or of any local board of any Municipality whose responsibilities include the enforcement of a by-law, an Act or a regulation under an Act, while in the discharge of his or her duties, or

(vi) a person designated under subsection 1(3) of the *Provincial Offences Act*.

(f) **“Operator”** means a person or organization which is responsible for or otherwise has control over the operation of a Public Place;

(g) **“Public Place”** means all places that the public has access to within the following:

a. premises or any portion thereof which are used as a place of business for the sale or offering for sale of goods or services;

b. churches, mosques, synagogues, temples, or other places of worship;

c. community centres including indoor recreational facilities;

d. libraries, art galleries, museums, aquariums, zoos and other similar facilities;

- e. community service agencies providing services to the public, including municipal administrative buildings;
- f. banquet halls, convention centres, arenas, stadiums, and other event spaces;
- g. premises utilized as an open house, presentation centre, or other facility for real estate purposes;
- h. Enclosed Common Areas of hotels, motels and other short-term rentals, such as lobbies, elevators, meeting rooms or other common use facilities;
- i. concert venues, theatres, cinemas, casinos, and other entertainment facilities;
- j. public transportation and private transportation services (such as taxis, private limousine services, Uber, Lyft and other similar ride programs); and
- k. Enclosed Common Areas of an apartment or condominium building, including the lobby, elevator, laundry room, and mailrooms.

14. THAT despite Section 13(g) above, the following premises are not a Public Place for the purposes of this By-law, even if they would otherwise fall within the definition of a Public Place:

- a) Schools, post-secondary institutions, and child care facilities, correction centres and jails;
- b) hospitals, independent health facilities and offices of regulated health professionals;
- c) staff-only areas within a Public Place;
- d) court facilities and professional offices where clients receive purchased services (such as lawyer or accountant office) that are not open to members of the public except by appointment;
- e) indoor areas of a building accessible to only employees; and
- f) indoor/outdoor day care and day camps;.

15. 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 order made under the *Emergency Management and Civil Protection Act*, and/or the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*.

16. THAT this By-law comes into force seven (7) days after the date of enactment (being 12:01am on September 23, 2020).

17. THAT this By-law shall be deemed to no longer be in effect, and revoked at 11:59pm on April 30, 2022, unless extended by Regional Council.

READ and PASSED this 16th day of September, 2020.

REGIONAL CHAIR

REGIONAL CLERK

Report No. LPS78-20