

THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NO. 2020-47

A by-law to require mandatory face coverings in indoor spaces and vehicles accessible to the public in the Town of Caledon

WHEREAS on March 17, 2020, an emergency was declared by the Government of Ontario ("Province") pursuant to Order in Council 518/2020 under section 7.0.1 of the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 ("EMCPA") in response to the outbreak of COVID-19;

AND WHEREAS on March 18, 2020, the Regional Municipality of Peel ("Region of Peel") declared an emergency in support of the Province's efforts to contain the spread of COVID-19;

AND WHEREAS on March 18, 2020, the Corporation of the Town of Caledon (the "Town") declared an emergency pursuant to section 4 of the *EMCPA* in support of the Province's and Region of Peel's efforts to contain the spread of COVID-19;

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 Council for the Town is desirous to enact a by-law to require mandatory face coverings in indoor public spaces and vehicles that are accessible to the public to help mitigate the spread of COVID-19;

AND WHEREAS subsection 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended ("Municipal Act, 2001") 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 subsection 11(2) of the Municipal Act, 2001 authorizes a municipality to pass by-laws with respect to: economic, social and environmental well-being of the municipality, including respecting climate change; the health, safety and well-being of persons; and the protection of persons and property, including consumer protection;

AND WHEREAS the Municipal Act, 2001 authorizes a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

AND WHEREAS Subsection 436(1)1. of the Municipal Act, 2001 provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the Municipal Act, 2001 is being complied with;

AND WHEREAS subsection 444(1) of the Municipal Act, 2001 authorizes a municipality to make an order requiring the person who contravened a by-law, 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 Corporation of the Town of Caledon ENACTS AS FOLLOWS:

Short Title

This By-law shall be known as the "COVID-19 Mandatory Face Covering By-law".

Part 1 – Definitions

1. For the purposes of this By-law:

"By-law" means this By-law;

"Council" means Town Council of the Corporation of the Town of Caledon;

"EMCPA" means the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended;

“Emergency Orders” means the emergency orders passed by the Province of Ontario pursuant to the *EMCPA* related to COVID-19 including any regulations enacted pursuant to the *EMCPA*;

“Face Covering” means a mask or 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 without gaping. For greater 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 the Regional Municipality of Peel;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

“Municipality” means the Town and the Regional Municipality of Peel or their local boards or agencies, including Caledon Fire and Emergency Services;

“Officer” means:

- (a) a provincial offences officer of a Municipality or other person appointed by or under the authority of a municipal by-law to enforce municipal by-laws;
- (b) a public health inspector acting under the direction of the Medical Officer of Health; or
- (c) an officer of the Ontario Provincial Police or the Royal Canadian Mounted Police.

“Operator” means a Person or organization who alone or with others, owns and/or has control over and/or directs, the operation of a Public Establishment or vehicle described in subsection 9(2) of this By-law, but does not include a Municipality;

“Person” or any expression referring to a person, means an individual of any age and also includes a partnership, limited partnership, and a corporation and its directors and officers, and the heirs, executors, assignees and administrators;

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended;

“Town” means The Corporation of the Town of Caledon and/or the municipal boundaries of the Town of Caledon; and

“Transit Vehicle” means any vehicle which is used as part of the municipal bus transportation system which operates within the Town.

Part 2 – Public Establishments

2. For the purposes of this By-law, “Public Establishment” means all or any portion of a building in the Town that is located:

- (1) indoors; and
- (2) 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, Public Establishments shall include the following:

- (1) retail stores where goods and services are sold to customers;
- (2) businesses that primarily sell food including restaurants, supermarkets, grocery stores, bakeries and convenience stores;
- (3) churches, mosques, temples, synagogues and other places of worship, except during a religious rite or ceremony that is incompatible with the face being covered;
- (4) indoor sports and recreational facilities and clubhouses;
- (5) shopping malls or similar structure which contains multiple places of business;
- (6) businesses providing personal care services;
- (7) common areas of hotels and motels and other short term accommodations, such as lobbies, elevators, meeting rooms or other common use facilities but does not include the common areas of residential apartment buildings and condominiums;

- (8) libraries, museums, galleries and other similar facilities;
 - (9) banquet halls, conventions centres, arenas, stadiums and other event spaces;
 - (10) concert venues, theatres, cinemas, casinos and other entertainment establishments;
 - (11) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
 - (12) buildings owned and operated by the Municipality; and
 - (13) other businesses, organizations and places that are permitted to operate in accordance with the Emergency Orders.
4. Notwithstanding sections 2 and 3, Public Establishment shall not include the following:
- (1) day cares, schools, post-secondary institutions and other facilities used solely for educational purposes;
 - (2) school transportation vehicles;
 - (3) hospitals and portions of buildings used by regulated health professionals;
 - (4) buildings and services owned or operated by the Province of Ontario or the Federal Government of Canada;
 - (5) portions of community centres, arenas or other buildings that are being used for the purpose of providing day camps for children or for the training of amateur or professional athletes; and
 - (6) portions of community centres, arenas or other buildings owned or operated by the Municipality used for the purposes of providing community services or programs for which registration is required.

Part 3 – Face Covering Policy

- 5. Every Operator shall adopt a policy regarding the wearing of Face Coverings that prohibits Persons to enter, or otherwise remains within, a Public Establishment unless the Person is wearing a Face Covering, subject to the exemptions provided for in Part 5 of this By-law and otherwise in accordance with this By-law.
- 6. The Operator shall, upon request, provide a copy of the policy for inspection by an Officer.
- 7. No Operator of a Public Establishment shall permit a Person to enter or to remain in a Public Establishment or a vehicle as described in subsection 9(2) without a Face Covering in accordance with this By-law or their policy.
- 8. Every Operator shall conspicuously post at all entrances to the Public Establishment or inside a vehicle described in subsection 9(2) of this By-law clearly visible signage that Persons are required to wear a Face Covering in accordance with this By-law.

Part 4 – Face Coverings

- 9. Every Person shall wear a Face Covering:
 - (1) before entering and while inside a Public Establishment; and
 - (2) before entering onto and while riding in a:
 - (a) Transit Vehicle; or
 - (b) taxi or limousine licensed by the Town in accordance with the Town's Licensing By-law 2013-127, as amended.
- 10. Every Person shall ensure that any Person under his or her care including children comply with section 9 of this By-law.

Part 5 – Exemptions

11. Notwithstanding Part 4 of this By-law, the following Persons shall be exempt from wearing a Face Covering:

- (1) children 2 years of age or younger;
- (2) children between the ages of 3 and 5 who refuse to wear a Face Covering and cannot be persuaded to do so by their caregiver;
- (3) Persons who have trouble breathing or are otherwise unable to wear a Face Covering for medical reasons or for reason of disability, including Persons who are unable to remove masks without assistance;
- (4) Persons while consuming food or drink provided such businesses are permitted to operate under the Emergency Order and all other conditions of the Emergency Order are met;
- (5) Persons while receiving services involving the face and requiring the removal of a Face Covering, provided such services are permitted to operate under the Emergency Order and provided 2.0 metre distance is maintained from all other Persons other than the Person providing the service;
- (6) Persons who are engaged in an athletic, fitness or aquatic activity in accordance with the Emergency Orders;
- (7) police, fire, or paramedics during the course of an emergency call; and
- (8) employees and agents of the Operator or Municipality within an area not for public access, or within or behind a physical barrier.

12. A Person who is not or refuses to wear a Face Covering shall identify if they are a Person who is exempt from wearing a Face Covering when asked by an Operator or Officer but Persons shall not be required to identify which exemption prevents them from wearing a Face Covering or provide proof in order to meet any of the exemptions set out in section 11 of this By-law.

Part 6 – Administration, Enforcement and Inspection

13. The Town's Regulatory Services Division is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to Town employees for those purposes.

14. The provisions of this By-law may be enforced by an Officer.

15. (1) An Officer may enter any lands, buildings, and structures at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law is being complied with.
- (2) For greater certainty, for the purposes of conducting an inspection pursuant to this By-law, an Officer 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 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.

16. No Person shall prevent, hinder, or obstruct, or attempt to hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law, including by refusing to identify themselves when requested to do so by an Officer.

Part 7 – Orders

17. An Officer may order any Person found in contravention or a Person who caused or permitted a contravention of this By-law to:

- (1) leave a Public Establishment or a Transit Vehicle; or
- (2) immediately correct the contravention by putting on and continuing to wear a Face Covering.

18. An order made pursuant to this Part may be given by an Officer verbally or in writing.

19. An order in writing shall:

- (1) identify the following:
 - (a) the location where the contravention occurred;
 - (b) the reasonable particulars of the contravention; and
 - (c) the date and time by which compliance with the order is required; and
- (2) be served personally to the Person to whom it is directed by registered mail to the Person and shall be deemed to be served on the fifth day after mailing.

Part 8 – Offences and Penalties

20.(1) Every Person over the age of 12 who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*, as each may be amended from time to time.

(2) In addition to section 20(1), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:

- (a) a minimum fine not exceeding \$500 and a maximum fine not exceeding \$100,000;
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine not exceeding \$500, and a maximum fine not exceeding \$10,000, and the total of all daily fines for the offence is not limited to \$100,000; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine not exceeding \$500, and a maximum fine not exceeding \$10,000, and the total of all fines for each included offence is not limited to \$100,000.

(3) If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order prohibiting the continuation or repetition of the offence by the Person convicted.

21. An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the *Municipal Act, 2001*.

Part 9 – General

22. In the event of conflict, the specific conflicting provision of this By-law will be of no force and effect to the extent that it conflicts with:

- (1) an Emergency Order, and for greater certainty nothing in this By-law shall be construed as permitting the opening or access to a Public Establishment that is not permitted or is restricted by an Emergency Order;

(2) any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada; or

(3) a by-law enacted by the Regional Municipality of Peel.

23. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires.

24. Should a court of competent jurisdiction declare any part or provision of this By-law to be invalid or of no force and effect, it is the intention of Council in enacting this By-law that the remainder of its provisions remain valid and binding, and that it be applied and enforced in accordance with its terms to the fullest extent possible according to law.

Part 10 – In Force and Effect

25. Part 3 of this By-law shall come into force on July 15, 2020 and all other provisions of this By-law shall come into force on July 10, 2020.

26. This By-law shall remain in effect until 12:01a.m. on October 1, 2020 at which time this By-law shall be repealed, unless extended by resolution of Council on the advice of the Medical Officer of Health.

Enacted by the Town of Caledon Council this 7th day of July, 2020.

Allan Thompson, Mayor

Laura Hall, Acting Town Clerk