

BY-LAW NUMBER 123-2020

A BY-LAW TO IMPOSE TEMPORARY REGULATIONS REQUIRING THE WEARING OF MASKS OR OTHER FACE COVERINGS WITHIN ENCLOSED PUBLIC SPACES

Passed the 24th day of August, 2020.

**WHEREAS** under subsection 10(2) of the Municipal Act, 2001 (the “Act”) the City of Windsor may pass by-laws with respect to the health, safety and well being of persons and the economic, social and environmental well-being of the City;

**AND WHEREAS** Novel Coronavirus is present within the City of Windsor and causes the disease COVID-19 that is readily communicable from person to person and carries a risk of serious complications and may result in death;

**AND WHEREAS** the spread of COVID-19 was declared a global pandemic by the World Health Organization on March 11, 2020;

**AND WHEREAS** the City of Windsor declared a state of emergency pursuant to subsection 4(1) of the *Emergency Management and Civil Protection Act* in support of the efforts to contain the spread of the COVID-19 pandemic;

**AND WHEREAS** the Province of Ontario has enacted Ontario Regulation 364/20 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 Windsor Essex County Health Unit’s Medical Officer of Health issued an order effective June 26, 2020 requiring the owners and operators of commercial establishments to have a policy in place to prohibit persons from entering the premises of the commercial establishment unless that person is wearing a face covering, subject to certain exceptions;

**AND WHEREAS** physical distancing of at least two metres is difficult to maintain in enclosed Public Places, and wearing a Non-Medical 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 citizens of Windsor;

**AND WHEREAS** it is believed that requiring the Operator of an enclosed Public Place that is open to the public to adopt a policy to require persons entering into 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 citizens of Windsor.

**THEREFORE** the Council of the Corporation of the City of Windsor enacts as follows:

1. The Operator of a Public Place that is open to the public shall adopt a policy as required by 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.

2. The Operator of the Public Place shall, upon request, provide a copy of the policy for inspection by anyone authorised to enforce this By-law.

3. The policy shall include the following exemptions for the requirement to wear a Non-Medical Face Covering:

- a) Children under the chronological age of 2 years , or the developmental age of 5 years, and who refuse to wear a Non-Medical Face Covering and cannot be persuaded to do so by their caregivers;
- b) Persons with an underlying medical condition which inhibits their ability to wear a Non-Medical Face Covering;
- c) Persons who are unable to place or remove a Non-Medical Face Covering without assistance;
- d) Clients of homeless shelters while on premises;
- e) Persons who are reasonably accommodated by not wearing a Non-Medical Face Covering under the Ontario Human Rights Code.

4. The policy shall permit the temporary removal of a Non-Medical Face Covering where necessary for the purpose of receiving services, or while actively engaging in an athletic or fitness activity, physical recreation activity, or while conducting or participating in religious ceremonies.

5. Subject to the exemptions in this By-law, the policy shall require that all employees who are working in the Public Place must wear a Non-Medical Face Covering, unless they are located in an area designated solely for employees which is not accessible to the public, or within or behind a physical barrier.

6. The policy shall not require employees or members of the public to provide proof of any of the exceptions set out in Section 3.

7. The Operator shall conspicuously post clearly visible signage in all entrances to the Public Place containing the following text:

**ALL PERSONS ENTERING OR REMAINING IN THESE PREMISES SHALL WEAR A MASK OR FACE COVERING WHICH COVERS THE NOSE, MOUTH, AND CHIN AS REQUIRED BY BY-LAW 123-2020**

8. The Operator shall ensure that all persons working in the Public Place are trained in the requirements of the policy.

9. Every person who contravenes any provision of this By-law is guilty of an offense, and on conviction is liable to a fine as provided for in the Provincial Offenses Act.

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

**Public Place** means any of the following

- (a) Premises or any portion thereof which are used as a place of business or offering for sale of any goods or services, and includes a mall or similar structure which contains multiple places of business;
- (b) Churches, mosques, synagogues, temples, or other places of worship;
- (c) Community centres including indoor recreation facilities;
- (d) Libraries, art galleries, museums, aquariums, zoos, and other similar facilities;
- (e) Banquet halls, convention centres, arenas, stadiums, and other event spaces;
- (f) Premises used as an open house, presentation centre, or other facility for real estate purposes;
- (g) Common areas of hotels, motels or other short term rentals; such as lobbies, elevators, meetings rooms, or other common use facilities;
- (h) Concert venues, theatres, cinemas, casinos, and other entertainment facilities;
- (i) Public transportation and private transportation services, such as taxis, private limousine services, and ride-sharing services)
- (j) Any common use area within a multi-unit dwelling, including lobbies, elevators, laundry rooms, meeting rooms, and corridors.

**Public Place** does **NOT** include:

- (a) Schools, post-secondary institutions, child care facilities, day camp, corrections centres, and jails;
- (b) Hospitals, independent health facilities, and offices of regulated health professionals
- (c) Court facilities and professional offices where clients received purchased services by appointment, including lawyer or accountant offices
- (d) Places within a Public Place which are accessible only by employees of the Public Place.

**Non-Medical Face Covering** means a mask, balaclava, bandana, scarf, cloth, or other similar item that covers the nose, mouth, and chin without gapping and may include medical-grade masks.

**Operator** means a person or organization which is responsible or otherwise has control over the operation of a Public Place. In the case of a multi-unit dwelling, the Operator includes the superintendent, property manager, or condominium corporation, as the case may be.

11. This By-law shall not be interpreted so as to conflict with any Provincial or Federal statute, regulation, or instrument of a legislative nature, including any orders made under the *Emergency Management and Civil Protection Act*.

12. If there is any conflict between this By-law and the Order of the Medical Officer of Health for the Windsor Essex County Health Unit, then the more stringent provisions shall prevail.

13. This By-law shall come into force immediately upon the passing thereof, and is deemed to be no longer in effect and revoked at 12:01 a.m. on September 28, 2020, unless extended by City Council.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - August 24, 2020  
Second Reading - August 24, 2020  
Third Reading - August 24, 2020