

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 46-2020

A By-law to impose temporary regulations requiring the wearing of masks or other face coverings within enclosed public spaces in the Municipality of Thames Centre.

WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization on March 11, 2020;

AND WHEREAS Novel Coronavirus is present within Thames Centre, and it causes the disease COVID-19 that is readily communicable from person to person and carries a risk of serious complications such as pneumonia or respiratory failure, and may result in death;

AND WHEREAS on March 17, 2020, an emergency was declared by means of Order in Council 518/2020 for purposes of s.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 ("the Act"), due to the health risks to Ontario residents arising from COVID-19;

AND WHEREAS an emergency was declared by the Municipality's Head of Council On March 17, 2020 pursuant to the Act;

AND WHEREAS the Province of Ontario has enacted O. Re. 263/20 (STAGE 2 CLOSURES) under subsection 7.0.2(4) (or as current) of the Act to permit certain businesses to reopen for attendance by members of the public subject to conditions, including advice, recommendations and instructions from public health officials;

AND WHEREAS the Municipality has the authority to pass by-laws respecting matters related to the economic, social and environmental well-being of the Municipality, and the health, safety and well-being of persons;

AND WHEREAS the following is deemed necessary, as there exists a pressing need for establishments to implement appropriate measures and regulations to better prevent the spread of COVID-19 and protect the health, safety and well-being of the residents of the Municipality of Thames Centre within enclosed public spaces;

AND WHEREAS it is believed that 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 physical distancing is difficult to maintain in enclosed public spaces, the Medical Officer of Health has advised that the following temporary regulations requiring businesses and organizations that have enclosed spaces open to the public adopt a policy to ensure that persons wear a mask or face covering as it is 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 residents of the Municipality of Thames Centre;

NOW THEREFORE the Council of The Corporation of the Municipality of Thames Centre **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** in this By-law, the following terms shall have the following meanings:

DEFINITIONS

"**Council**" means the Municipal Council of the Municipality of Thames Centre;

"**Establishment**" means any of 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, and includes a mall or similar structure which contains multiple places of business;
- (b) churches, 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;
- (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) common areas of hotels, motels and other short-term rentals, such as lobbies, elevators, meeting rooms or other common use facilities; and
- (i) concert venues, theatres, cinemas, and all other entertainment facilities;
- (j) municipal buildings.

"Mask or Face Covering" means a mask, balaclava, bandana, scarf, cloth or other similar item that covers the nose, mouth and chin without gapping. A Face Covering may include, but is not required to be, a medical mask such as surgical masks, N95 or other similar masks worn by healthcare workers.

"Officer" means a police officer; a person appointed by Council as a municipal by-law enforcement officer; an officer, employee or agent of the municipality whose responsibility includes enforcement of this By-law.

"Operator" means a person or organization responsible for or otherwise controlling the operation of an Establishment.

2. **THAT** Despite section 1 above, the following premises are not an Establishment for purposes of this By-law even if they would otherwise fall within the definition of an Establishment:

- (a) schools, post-secondary institutions, and child care facilities;
- (b) private transportation and public transportation;
- (c) professional offices that are not open to the public and are open by appointment only;
- (d) indoor areas of buildings that are accessible to employees only; and
- (e) hospitals, independent health facilities and offices of regulated health professionals.

APPLICATION OF THIS BY-LAW

- 3. **THAT** This By-law shall apply to all establishments and persons in the Municipality.
- 4. **THAT** Every Person shall wear a Mask or Face Covering before entering and while inside an Establishment.
- 5. **THAT** For the purposes of this By-law, an Establishment means any portion of a building that is located indoors.

OPERATOR RESPONSIBILITY UNDER THIS BY-LAW

6. **THAT** The Operator of an Establishment 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 Establishment unless the member of the public is wearing a Mask or Face Covering, in a manner which covers their mouth, nose and chin.
7. **THAT** The Operator of the Establishment shall, upon request, provide a copy of the policy adopted under section 6 of this by-law for inspection by any person authorized to enforce this By-law.
8. **THAT** the policy adopted in section 6, shall include exemptions from the requirement to wear a Mask or Face Covering as contained in Appendix "A" attached to this by-law.
9. **THAT** the policy adopted in section 6 shall permit the temporary removal of a Mask or Face Covering where necessary for the purpose of receiving services, or while actively engaging in an athletic or fitness activity.
10. **THAT** subject to the exemptions in section 8 of this by-law, the policy shall require that employees wear a Mask or Face Covering when working in the enclosed public space.
11. **THAT** the policy shall not require employees or members of the public to provide proof of any of the exemptions set out in section 7.
12. **THAT** the Operator shall conspicuously post at all entrances to the Establishment clearly visible signage 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
UNDER MUNICIPALITY OF THAMES CENTRE
BY-LAW 46-2020**

13. **THAT** the Operator shall ensure that all persons working at the Establishment are trained in the requirements of the policy and this By-law.

INSPECTION AND ENFORCEMENT

14. **THAT** this By-law shall be enforced by:
 - (a) An Ontario Provincial Police Officer;
 - (b) A municipal by-law enforcement officer appointed by Thames Centre; and
 - (c) Such other person designated from time to time by Thames Centre.
15. **THAT** an Officer may enter on land or buildings 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 requirements made under this By-law; or
 - (b) an order made under section 431 of the Municipal Act, 2001.

16. **THAT** every person who contravenes any provision of this By-law is guilty of an offence, and upon conviction is liable to a fine as provided for in the Provincial Offences Act as amended and as set out in the Set Fines Schedule attached as Appendix "B".
17. **THAT** upon conviction, every person who contravenes any provision in this By-law is liable to a fine not exceeding eight hundred dollars (\$800.00), exclusive of costs, for each offence, recoverable under the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, or any successor legislation thereto.
18. **THAT** 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.

ADMINISTRATION

19. **THAT** the Clerk be authorized to amend Appendix A should this section be amended by the Medical Officer of Health's Instruction under Ontario's *Emergency Management and Civil Protection Act* (EMCPA).
20. **THAT** this By-law shall come into force immediately upon receiving first, second and third reading by the Municipal Council and shall remain in effect until the withdrawal of the local municipal health emergency described in the recitals of this by-law, or a date to be determined by the Mayor and the Chief Administrative Officer, in consultation with the Medical Officer of Health.
21. **THAT** if a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this Bylaw and it is the intention of Council that the remainder of this By-law shall continue to be of full force and effect.
22. **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.
23. **THAT** that this By-law comes into effect on the day it is passed.

READ a FIRST and SECOND time this 24th day of July, 2020.

READ a THIRD time and **FINALLY PASSED** this 24th day of July, 2020.



Mayor, A. Warwick



Clerk, T. Michiels

APPENDIX "A"

Exemptions from the Requirement to Wear a Mask or Face Covering

- (a) children under two years of age under any circumstance;
- (b) children under twelve years of age if not developmentally appropriate as determined by their caregiver;
- (c) persons with an underlying medical condition or disability which inhibits their ability to wear a Face Covering;
- (d) persons who are unable to place or remove a Face Covering without assistance;
- (e) employees or agents of the Establishment within an area designated for them and not publicly accessible, or in an area separated by a physical barrier;
- (f) persons who are reasonably accommodated by not wearing a Face Covering in accordance with the Ontario Human Rights Code or the Accessibility for Ontarians with Disabilities Act (AODA);
- (g) persons requiring the temporary removal of a Face Covering where necessary for receiving services involving the face, consuming food or drink, actively engaging in an athletic or fitness activity, or any medical or emergency purpose;
- (h) police, fire, or paramedics where it may interfere with the performance of their duties; and
- (i) persons participating in a religious service, for rituals that require an uncovered mouth.

Appendix "B"

MUNICIPALITY OF THAMES CENTRE
Part 1 Set Fine Schedule
Provincial Offences Act
By-law 46-2020: Mask or Face Covering By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Not wearing a Mask or Face Covering inside an Establishment.	4.	\$800

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 16 of the By-law No. 46-2020, a certified copy of which by-law has been filed.