

The Corporation of the Town of  
New Tecumseth

## By-law

Number 2020-081

### “Face Covering By-law”

A by-law to require face coverings in indoor public spaces and on public transit vehicles in the Town of New Tecumseth

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**Whereas** under sections 8 and 11(2)/10(2) of the *Municipal Act*, 2001 (the "Act"), the Town of New Tecumseth may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the Town;

**And Whereas** the Province of Ontario has declared an emergency as a result of the COVID-19 pandemic pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended;

**And Whereas** the Province of Ontario has enacted Regulations and orders under Subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act* to permit certain businesses to close and reopen for attendance by members of the public subject to conditions, including the advice, recommendations and instructions of public health officials;

**AND WHEREAS** physical distancing is difficult to maintain in indoor public spaces and on public transit;

**And Whereas** on July 7<sup>th</sup>, 2020, to come into effect 12:01 a.m. on July 13<sup>th</sup>, 2020, the Simcoe Muskoka District Health Unit Medical Officer of Health provided instructions to all employers/persons responsible for businesses or organizations within the Simcoe Muskoka District Health Unit service area, requiring owners and operators of all businesses or organizations and all public transit services to have a policy in place to restrict persons from entering or remaining in the indoor public space if the person is not wearing a face covering to limit the spread of COVID-19 and thereby help protect the health, safety and well-being of the residents of the Town of New Tecumseth;

**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;

**Now Therefore** the Council of The Corporation of the Town of New Tecumseth does hereby enact as follows:

1. For the purpose of this By-law, the following terms shall have the following meanings:

“Best Efforts” when restricting entry to customers wearing Face Coverings are defined as follows:

- a) Where an establishment has a person restricting occupancy into the premises, a verbal reminder that the customer should be wearing a Face Covering as a result of these instructions shall be given to any customer entering the premises without one. For greater clarity, there

is not a need for a business to turn away the customer to achieve the best effort standard.

- b) For customers in a premise seen removing their Face Covering for extended periods of time, a verbal reminder to that customer of the requirement to wear Face Coverings under these instructions.

“Business or Organization” includes a mall or other structure containing a number of businesses or organizations, and may include but is not limited to the following:

- Places of worship
- Community centres
- Convenience stores
- Farmers’ markets
- Grocery stores and bakeries
- Gas stations
- Hospitals
- Independent health facilities
- Libraries
- Malls and plazas
- Mechanics shops, garages and repair shops
- Offices of regulated health professionals
- Personal service settings
- Retail stores
- Restaurants, pubs and bars

“Council” means Town Council of the Corporation of the Town of New Tecumseth.

“Face Covering” means a medical mask or a non-medical mask or other face covering such as a bandana, scarf or cloth (including hijab and niqab) that covers the nose, mouth and chin that provides a barrier that limits the community transmission. Face shields (clear plastic coverings to protect the eyes and possibly the lower part of the face) are not an acceptable alternative to a face covering for the purpose of this by-law. A face shield may be used by a person in addition to a face covering for added protection and can also be used in situations when an individual is unable to use any other type of face covering.

“Indoor Public Space” means any wholly enclosed areas within the business or organization that are open or accessible to members of the public and not exclusively to employees/employers only.

“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 for the Simcoe Muskoka District Health Unit service area; 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, is responsible for and/or has control over and/or directs, the operation of a business, organization or public transit vehicle;

“Person” means any customer, patron, employee or visitor, who enters the premises.

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

“Public Transit Service” means any vehicle which is used as part of the municipal, County, Regional or Provincial bus transportation system which operates within the Town.

“Sufficient Barrier” means a solid surface such as glass or Plexiglas that forms a complete barrier between employees/volunteers and members of the public.

“Town” means The Corporation of the Town of New Tecumseth and/or the municipal boundaries of the Town of New Tecumseth.


2. (a) The Operator of a Business or Organization or Public Transit Service, shall adopt a policy to restrict Persons from entering the Indoor Public Space or public transit vehicle, and to restrict Persons from remaining in the Indoor Public Space or vehicle, if the Person is not wearing a Face Covering, in a manner which covers their mouth, nose and chin.
- (b) The Operator shall make Best Efforts to only allow entry to customers wearing a Face Covering.
- (c) The Operator shall make Best Efforts to ensure that the Face Covering is worn within the Indoor Public Space at all times, unless it is reasonably required to temporarily remove the Face Covering for services provided by the Business or Organization or Public Transit Service.
- (d) The Operator of the Business or Organization or Public Transit Service shall, upon request, provide a copy of the policy for inspection by any person authorized to enforce this By-law.
3. (a) The policy shall include the following exemptions for Persons from the requirement to wear a Face Covering in the Business or Organization or on Public Transit Service:
  - i. A child under the age of two years; or a child under the age of 5 years either chronologically or developmentally and he or she refuses to wear a face covering and cannot be persuaded to do so by their caregiver;
  - ii. Persons who are incapacitated and unable to place or remove their Face Covering without assistance;
  - iii. Persons with an underlying medical reason that does not permit the Person to safely wear a Face Covering such as, but not limited to, respiratory disease, cognitive difficulties or difficulties in hearing or processing information; and
  - iv. Persons who are precluded from wearing a Face Covering for any religious reason.
- (b) The policy shall permit the temporary removal of a Face Covering where the wearing of a Face Covering would inhibit the Person’s ability to breathe such as, but not limited to, during moderate to intense

- physical activity (such as running) or activity that would preclude its use (such as swimming).
- (c) The policy may permit an employee or volunteer of the Business or Organization or Public Transit Service to not wear a Face Covering where:
    - i. The Indoor Public Space or vehicle is limited to access by employees or volunteers only; or
    - ii. Where Sufficient Barriers are provided for employees that protect the employee from close contact from a member of the Public.
  - (d) The policy shall not require employees or members of the public to provide proof of any of the exemptions set out in section 3(a).
4. The policy should be enacted and enforced in good faith and used as a means to educate people on Face Covering use in premises where physical distancing can be a challenge. The Operator shall not be required to deny entry to their Indoor Public Space or Public Transit Service if the Operator makes "Best Efforts".
5. The Operator shall conspicuously post clearly visible signage containing the following text:
- All Persons Entering or Remaining  
In These Premises Shall Wear A  
Face Covering Which Covers  
The Nose, Mouth and Chin as Required  
Under Town of New Tecumseth By-law 2020-xx.
6. The Operator shall ensure that all persons working at the Business or Organization or Public Transit Service are trained in the requirements of the policy and this By-law.
7. Every person who contravenes any provision of this By-law is guilty of an offence, and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.
8. Despite section 8 above, the following Businesses or Organizations are not an Indoor Public Space for purposes of this By-law:
- (a) Schools under the *Education Act*, R.S.O. 1990, c. E.2, as amended;
  - (b) Child care centres and providers governed by the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, as amended
  - (c) Day camps.
9. This By-law may be enforced by:
- (a) a police officer of the Ontario Provincial Police;
  - (b) a municipal law enforcement officer or by-law officer appointed by the Council of The Corporation of the Town of New Tecumseth; and
  - (c) a Public Health Inspector appointed by the Simcoe Muskoka District Health Unit.

10. (a) Every person who contravenes any provision of this By-law is guilty of an offence.
- (b) Upon conviction, every person who contravenes any provision in this By-law is liable to a fine not exceeding one thousand dollars (\$1,000), 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.
11. If any provision of this By-law is declared invalid for any reason by a court of competent jurisdiction, only that invalid portion of the By-law shall be severed and the remainder of the By-law shall still continue in force.
12. 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*, R.S.O. 1990, c. E.9, as amended.
13. This By-law may be cited as the "Face Covering By-law".
14. This By-law shall come into force and effect upon passage until repealed by Council.

**Read a first, second and third time and finally passed this 20<sup>th</sup> day of July, 2020.**

  
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**Mayor**

  
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**Deputy Clerk**