

# The Corporation of the Town of Lakeshore

## By-Law 78-2020

### Being a By-Law to Require the Use of Face Coverings during the COVID-19 Pandemic

**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 in response to the outbreak of COVID-19;

**And whereas** on March 22, 2020 an emergency was declared by The Corporation of the Town of Lakeshore pursuant to section 4 of the EMCPA in support of the Province's efforts to contain the spread of COVID-19;

**And whereas** Federal and Provincial health authorities have recommended that persons wear face coverings in public where physical distancing cannot be maintained;

**And whereas** the wearing of face coverings may act as one component of an overall COVID-19 mitigation strategy, of which frequent hand-washing and maintaining a safe physical distancing are also important components;

**And whereas** on June 23, 2020, the Medical Officer of Health of the Windsor-Essex County Health Unit issued an order pursuant to the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, requiring operators of establishments to have a policy regarding face coverings;

**And whereas** Council believes it to be necessary and desirable to enact a by-law to require mandatory face coverings in enclosed spaces that are accessible to the public to help contain the spread of COVID-19;

**And whereas** subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*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 wellbeing 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;

**Now therefore the Council of The Corporation of the Town of Lakeshore enacts as follows:**

#### Definitions

1. In this by-law:

"Town" means The Corporation of the Town of Lakeshore or the municipality of the Town of Lakeshore, as the context requires;

"Council" means the municipal council of the Town;

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

"Establishment" means any portion of a building that is located:

- (a) indoors;
- (b) where the public is ordinarily invited or permitted access to whether or not a fee or membership is charged for entry;

The definition of Establishment shall include, but is not limited to:

- (i) premises or any portion thereof which are used as a place of business for the sale or offering for sale of goods or services, including restaurants or the sale of any food or beverage, and including a mall or similar structure containing multiple places of business;
- (ii) churches, mosques, synagogues, temples, or other places of worship;
- (iii) Town indoor recreational facilities open to the public, community centres including indoor recreational facilities, whether publicly accessible or requiring membership;
- (iv) libraries, art galleries, performing arts centres, museums, aquariums, zoos, and other similar facilities;
- (v) community service agencies providing services to the public;
- (vi) banquet halls, convention centres, arenas, stadiums, and any other event space;
- (vii) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
- (viii) common areas of hotels, motels or other short-term rentals, such as lobbies, elevators, meeting rooms, or other common use facilities; and
- (ix) concert venues, theatres, cinemas, casinos, and other entertainment facilities; and,

The definition of Establishment does not mean:

- (i) day cares, schools, post-secondary institutions, and other facilities used solely for educational purposes;
- (ii) hospitals and portions of buildings used by regulated health professionals;
- (iii) buildings owned or operated by the Province of Ontario or the Government of Canada;
- (iv) portions of community centres, arenas or other buildings that are being used for the purpose of day camps for children or for the training of amateur or professional athletes;
- (v) school transportation vehicles;
- (vi) court facilities, or a portion of a building where any similar legislated judicial or quasi-judicial proceeding is taking place;
- (vii) professional offices that are not open to the public and are open by appointment only (such as a lawyer or accountant office); and,
- (viii) indoor areas of buildings that are accessible to employees only.

"Face Covering" means a mask or face covering, including a bandana or scarf, construction 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 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;

"HPPA" means the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7;

"Officer" means a police officer and means Provincial Offences Officers pursuant to the *Provincial Offences Act* that are designated for enforcement of by-laws, including the Windsor-Essex County Health Unit;

“Operator” means a person or organization which is responsible for or otherwise has control over the operation of an Establishment; and,

“Person”, or any expression referring to a person or people, means an individual over the age of 12 years, a partnership, limited partnership, and a corporation and its directors and officers, and all heirs, executors, assignees and administrators, as the context requires.

#### **Application of this By-law**

2. This by-law applies to all Establishments and Persons in the Town.
3. Notwithstanding section 2, this by-law does not apply to any Officer, Town employee, or a person hired or engaged by the Town to do work or perform services within an Establishment for the specific purposes of performing policing, municipal or enforcement services, including but not limited to, the enforcement of this by-law, or the provisions of an act of Parliament or the Legislature, or an order made under an act of Parliament or the Legislature.

#### **General Obligations and Prohibitions - Operator**

4. No Operator shall permit or cause to permit a Person to enter or be in the Operator’s Establishment without a Face Covering unless the person is exempt under this by-law.
5. Every Operator shall post clearly visible signage in large print, in English, and in a conspicuous location at all entrances to the Establishment stating:  
  
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 Town by-law.

#### **General Obligations and Prohibitions – All Persons**

6. No Person shall enter or be inside an Establishment without wearing a Face Covering that covers the Person’s nose, mouth and chin without gapping.
7. No Person shall permit or cause a Person under their care to be in an Establishment, including children, without wearing a Face Covering that covers the Person under their care’s nose, mouth and chin without gapping.
8. Notwithstanding sections 6 and 7, the following Persons shall be exempt from wearing a Face Covering:
  - (a) Persons with an underlying medical condition or disability which inhibits their ability to wear a Face Covering;
  - (b) Persons who are unable to place or remove a Face Covering without assistance;
  - (c) 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;
  - (d) Persons who are reasonably accommodated by not wearing a Face Covering in accordance with the Ontario Human Rights Code;
  - (e) Persons in an Establishment, while receiving services that require the removal of the Face Covering, including but not limited to eating or drinking, or while actively engaging in an athletic or fitness activity;
  - (f) Police, fire, or paramedics where it may interfere with the performance of their duties;
  - (g) Persons participating in a religious service for rituals which require an uncovered mouth; and,

- (h) Persons under the age of 2 years.
- 9. No Person shall be required to provide proof of any of the exemptions set out in section 8.

### **Administration, Inspection, and Enforcement**

- 10. The Town's Manager of Building Services is responsible for the administration of this by-law and may appoint delegates or assign duties to Town employees for those purposes.
- 11. The provisions of this by-law may be enforced by an Officer.
- 12. 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 requirement made under this by-law; or
  - (b) an order made under section 431 of the *Municipal Act, 2001*.
- 13. An Officer, for the purposes of the inspection under section 20 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.
- 14. 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 this by-law.
- 15. 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*.
- 16. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power or performing a duty under this by-law.
- 17. No Person shall refuse or neglect to produce for inspection any document or thing required by a By-law Compliance Officer pursuant to this by-law.

### **Offences**

- 18. Any Person who contravenes any provision of this by-law, a condition to a Permit or an order issued pursuant to this by-law is guilty of an offence and subject to prosecution pursuant to the *Provincial Offences Act*. A Person found guilty shall be liable:
  - a) upon conviction, to a minimum fine of \$500 and a maximum fine of \$100,000 for a first conviction;
  - (b) for each subsequent conviction, a minimum fine of \$500 and a maximum fine of \$10,000 for each day that the offence continues; and,

- (c) upon conviction for each multiple offence, for each offence included in the multiple offence, the minimum fine shall not exceed \$500 and the maximum fine shall not exceed \$10,000; however, the total of all fines for each included offence is not limited to \$100,000.
19. Any director or officer of a corporation who knowingly concurs in the contravention of this by-law, a condition to a Permit or an Order issued pursuant to this by-law is guilty of an offence and subject to prosecution pursuant to the *Provincial Offences Act*.
20. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted; and,
- (b) require the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
21. Fines owing to the Town that are in default pursuant to section 69 of the *Provincial Offences Act* shall be added by the Treasurer to the tax roll for any property in the Town for which an operator is responsible for paying the fine and the fine may be collected in the same manner as municipal taxes.

#### **General**

22. The headings contained herein are for ease of reference only and do not form part of this by-law.
23. References in this by-law to words in the singular shall be deemed to include the plural.
24. Reference to any statute or by-law includes any amendment to that statute or by-law and any successor thereto.
25. 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 EMCPA or the HPPA.
26. Nothing in this by-law shall serve to relieve any person from the obligation to comply with all other applicable law.
27. If any court of competent jurisdiction finds any provision of this by-law is invalid or is *ultra vires* of the jurisdiction of the Town, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this by-law.

#### **Short Title**

28. This by-law may be referred to as the "Mandatory Mask By-law".

#### **Effect**

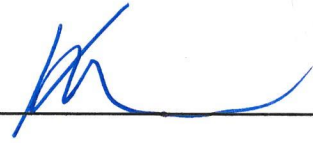
29. This by-law comes into force and effect on September 3, 2020 and shall remain in effect until such time as the regulation O. Reg. 364/20, *Rules for Areas in Stage 3*, issued pursuant to the EMCPA, is revoked.

Read and passed in open session on September 1, 2020.



A handwritten signature in blue ink, appearing to read "T. Bain", written over a horizontal line.

**Mayor  
Tom Bain**



A handwritten signature in blue ink, appearing to read "K. Newman", written over a horizontal line.

**Clerk  
Kristen Newman**