

**BY-LAW NUMBER 101-2020**

**OF THE CORPORATION OF THE MUNICIPALITY OF  
CHATHAM-KENT**

A by-law requiring that masks be worn in certain enclosed public spaces to limit the spread of COVID-19.

FINALLY PASSED the 10<sup>th</sup> day of August, 2020.

**WHEREAS** pursuant to subsection 8(3) of the *Municipal Act, 2001*, S.O. 2001, c.25 (the "*Municipal Act*"), municipalities may regulate or prohibit, or require persons to do certain things respecting a matter;

**AND WHEREAS** pursuant to subsection 10(2), paragraphs 6 and 8, of the *Municipal Act*, a municipality may pass by-laws respecting the health, safety, and well-being of persons, and the protection of persons;

**AND WHEREAS** on March 17, 2020, an emergency was declared in the Province of Ontario (Order in Council 518/2020) pursuant to Section 7.1 of the *Emergency Management and Civil Protection Act* due to the spread of the Novel Coronavirus, which causes COVID-19, a disease that is communicable from person to person close contact, primarily through respiratory droplets that are released through the nose and mouth;

**AND WHEREAS** COVID-19 carries the risk of serious complications such as pneumonia and respiratory failure, and may cause death;

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

**AND WHEREAS** the vast majority of persons in Chatham-Kent remain susceptible to COVID-19 and it continues to be transmitted in Chatham-Kent, and with the resurgence of COVID-19 being observed in many countries new outbreaks of COVID-19 could occur in Chatham-Kent at any time, and there is increasing scientific evidence of the effectiveness of masks to prevent community transmission leading to provincial, national and international public health organizations recommending the wearing of masks when physical distancing cannot be assured;

**AND WHEREAS** in light of the public health emergency caused by the spread of COVID-19, it is therefore deemed desirable to put into place temporary regulations requiring persons to wear masks in enclosed public spaces where close contact between persons is likely and increases the risk of spreading COVID-19, subject to certain exceptions;

**AND WHEREAS** the mandatory requirement to wear masks in enclosed public spaces is further deemed to be a reasonable, practicable and effective method of limiting the spread of COVID-19 for the health, safety and well-being of residents of Chatham-Kent;

**THEREFORE** Council of the Municipality of Chatham-Kent enacts as follows:

**Section 1 - Definitions**

In this by-law:

**"Enclosed Public Space"** means the interior area of any building or structure to which the public is invited or permitted access, either expressly or by implication regardless of whether a fee is charged for entry, in order to receive or to provide goods or services, including but not limited to the public areas of the following:

- a. restaurants, cafés, cafeterias, banquet halls;
- b. retail establishments and shopping malls;
- c. churches, mosques, synagogues, temples, or other places of worship;
- d. libraries, museums, art galleries, recreational facilities, bingo halls, cinemas, theatres, concert venues, special event venues, convention centres, or other similar entertainment, cultural, or leisure facilities;
- e. sports facilities, sports clubs, gyms, yoga studios, dance studios, and stadiums;

- f. hotels, motels, or short-term rental premises;
- g. premises under the control of a regulated health professional under the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, as amended;
- h. temporary facilities, such as construction trailers and temporary sales offices;
- i. municipal facilities and any community centre, cultural, arts or leisure centre, recreational or sporting facility, parks building, client service centre or indoor parking facility; and,
- j. other businesses, organizations and places that are permitted to operate in accordance with the Emergency Orders passed by the Province of Ontario pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c.E.9, as amended,

but the following are not considered an Enclosed Public Space for the purposes of this by-law:

- l. schools under the *Education Act*, R.S.O. 1990, c. E.2, as amended;
- m. childcare centres and providers governed by the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, as amended;
- n. any isolation/homelessness shelter operated by, or on behalf of, the Municipality;
- o. portions of buildings that are being used for the purpose of providing day camps; and
- p. offices of professional service providers such as lawyers and accountants where clients receive services in areas not open to the general public;

“**Mask**” means a cloth (non-medical) mask, medical mask or other face covering such as a bandana or scarf, that securely covers the nose, mouth and chin, and is in contact with the surrounding face without gapping, and filters respiratory droplets;

“**Operator**” means the person who controls, governs, directs, or is responsible for the activity carried on within the Enclosed Public Space and includes the person who is actually in charge at any particular time; and,

“**person**” includes an individual, a corporation, a partnership, and an association, as applicable.

## Section 2 - Exemptions

1. This by-law does not apply to:

- 1. a child who is younger than nine (9) years of age chronologically or developmentally, but children between four (4) and nine (9) years of age are still encouraged to wear a Mask while in an Enclosed Public Space;
- 2. a person with a medical condition, including breathing or cognitive difficulties, or a disability, that prevents them from safely wearing a Mask,
- 3. a person who is unable to put on or remove their Mask without the assistance of another person; and,
- 4. a person who needs to temporarily remove their Mask while in the Enclosed Public Space for the purposes of:
  - 1. receiving services that require the removal of their Mask;
  - 2. actively engaging in an athletic or fitness activity including water-based activities, including lifeguards working at indoor pools;
  - 3. consuming food or drink; or
  - 4. an emergency or medical purpose.

2. No person shall be required to provide proof of any of the exemptions set out in subsection (1).

3. A person who is employed by or is an agent of the Operator of an Enclosed Public Space is not obligated to wear a Mask under this by-law while:

- i) in an area of the premises that is not designated for public access, or
- ii) when located either within or behind a physical barrier, including but not limited to a plexiglass barrier.

### **Section 3 - Mandatory mask in enclosed public space**

Subject to Section 2, every person who enters or remains in an Enclosed Public Space shall wear a Mask in a manner that covers their mouth, nose, and chin.

### **Section 4 - Duty of operator**

1. The Operator of an Enclosed Public Space shall ensure that every person who is not wearing a Mask while in the premises is provided with a verbal reminder to do so as soon as practicable following entry, and if applicable, of the exemptions set out in Section 2.
2. The Operator of an Enclosed Public Space shall post, at every entrance to the premises used by the public, prominent and clearly visible signage that contains the following messages:

*All persons entering or remaining in these premises must wear a mask that covers the nose, mouth, and chin as required under Municipal By-law 101-2020.*

### **Section 5 - Interpretation**

Nothing in this by-law is intended to conflict with a Federal or Provincial statute, regulation or order, including an order made under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c.E.9, as amended.

### **Section 6 to 8 - Offences and penalties**

#### **Section 6**

Any person who contravenes any of the provisions of this by-law is guilty of an offence.

#### **Section 7**

Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.

#### **Section 8**

1. Every person who is convicted of an offence under this by-law is liable to a minimum fine not exceeding \$500 and to a maximum fine not exceeding \$100,000 for each day that the offence occurs or continues pursuant to subsections 429(1), (2) and (3) of the *Municipal Act, 2001*, and all such offences are designated as continuing offences as provided for in subsection 429(2), paragraph 2, of the *Municipal Act, 2001*.
2. In addition to subsection (1), the total of all daily fines for the offence is not limited to \$100,000 as provided for in subsection 429(3), paragraph 2, of the *Municipal Act, 2001*.
3. When a person has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction may, in addition to any penalty imposed on the person convicted, issue an order
  1. prohibiting the continuation or repetition of the offence by the person convicted; and
  2. requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

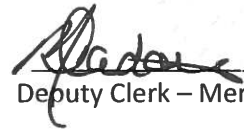
**Section 9 - Effective date**

1. This by-law shall come into effect at 12:01 a.m. on August 14, 2020.

ENACTED AND PASSED this 10th day of August 2020.



\_\_\_\_\_  
Mayor – Darrin Canniff



\_\_\_\_\_  
Deputy Clerk – Meredith Cadotte