

THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BY-LAW 41-20

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

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

WHEREAS Novel Coronavirus is present within Middlesex County, 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. Reg. 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 Strathroy-Caradoc 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 Strathroy-Caradoc;

NOW THEREFORE BE IT ENACTED BY THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC AS FOLLOWS:

MANDATORY FACE COVERINGS BY-LAW

1. In this by-law:

By-law means this By-law

Municipality means the Corporation of the Municipality of Strathroy-Caradoc

Council means the Municipal Council of Strathroy-Caradoc

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 or other places of worship;
- (c) community centres including indoor recreational facilities;
- (d) libraries, art galleries, museums, and other similar facilities;
- (e) community service agencies providing services to the public;
- (f) banquet halls, 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 and all other entertainment facilities.

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

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

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

Person or any expression referring to a person or people, means an individual over the age of twelve (12) and also includes a partnership, limited partnership, and a corporation and its directors and officers, and all heirs, executors, assignees and administrators;

2. (a) 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.
- (b) The Operator of the Establishment 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 from the requirement to wear a Mask or Face Covering:
 - (1) children under twelve years of age;
 - (2) persons with an underlying medical condition which inhibits their ability to wear a Mask or Face Covering;
 - (3) persons who are unable to place or remove a Mask or Face Covering without assistance;
 - (4) employees and agents of the person responsible for the Establishment within an area designated for them and not for public access, or within or behind a physical barrier; and
 - (5) persons who are reasonably accommodated by not wearing a Mask or Face Covering in accordance with the Ontario Human Rights Code.
- (b) The policy 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.

- (c) Subject to the exemptions in section 3(a), the policy shall require that employees wear a Mask or Face Covering when working in the enclosed public space.
 - (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 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 STRATHROY-CARADOC
BY-LAW 41-20**

5. The Operator shall ensure that all persons working at the Establishment are trained in the requirements of the policy and this By-law.
6. 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.
7. Despite section 6 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; and
 - (c) hospitals, independent health facilities and offices of regulated health professionals.
8. 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.

Administration, Inspection and Enforcement

9. The Municipality's Municipal Law Enforcement Officer is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City employees for those purposes.
10. The provisions of this By-law may be enforced by an Officer

11. 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:
 - an order or other requirement made under this By-law; or
 - an order made under section 431 of the *Municipal Act*, 2001.

12. An Officer, for the purposes of the inspection under section 11 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.

13. 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 section 11.

14. 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*, R.S.O. 1990, Chapter P.33, as amended.

15. Upon conviction of an offence under this By-law, a person or operator shall be liable to a fine in accordance with section 429 of the Municipal Act, 2001, as follows:
 - A. a minimum of \$500 and a maximum fine of \$100,000.00;

 - B. in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum of \$500 and a maximum fine of \$10,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00; and

- C. in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine of \$10,000.00, and the total of all fines for each included offence is not limited to \$100,000.00.
16. 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.
17. An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the Municipal Act, 2001.
18. 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.

Enacted and passed on July 20, 2020.



Joanne Vanderheyden, Mayor



Fred Tranquilli, Clerk