

A by-law to require mandatory face coverings in
indoor spaces and vehicles accessible to the public
in the City of Mississauga

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 (“*EMCPA*”) in response to the outbreak of COVID-19;

AND WHEREAS on March 18, 2020, the Regional Municipality of Peel (“Region of Peel”) declared an emergency in support of the Province’s efforts to contain the spread of COVID-19;

AND WHEREAS on March 23, 2020, the Corporation of the City of Mississauga (the “City”) declared an emergency pursuant to section 4 of the *EMCPA* in support of the Province’s and Region of Peel’s efforts to contain the spread of COVID-19;

AND WHEREAS health authorities at the Federal and Provincial level have recommended that persons wear face coverings in public where physical distancing cannot be maintained;

AND WHEREAS in May 2020 the Medical Officer of Health for the Region of Peel strongly recommended the use of masks or face coverings and on June 30, 2020 recommended the mandatory use of masks or face coverings in connection with and to support the safe re-opening of the Region of Peel in accordance with the Province’s Stage 2 Re-Opening Framework;

AND WHEREAS Council for the City is desirous to enact a by-law to require mandatory face coverings in indoor public spaces and vehicles 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, as amended (“*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 well-being 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;

AND WHEREAS subsections 425(1) and 429(1) of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

AND WHEREAS subsection 436(1) of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the *Municipal Act, 2001* is being complied with;

AND WHEREAS subsection 444(1) of the *Municipal Act, 2001* authorizes a municipality to make an order requiring the person who contravened a by-law, caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

NOW THEREFORE the Council of The Corporation of the City of Mississauga
ENACTS as follows:

Part 1 – Definitions

1. For the purposes of this By-law:

“**By-law**” means this By-law;

“**City**” means The Corporation of the City of Mississauga and/or the municipal boundaries of the City of Mississauga;

“**Council**” means City Council of the Corporation of the City of Mississauga;

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

“**Emergency Orders**” means the emergency orders passed by the Province of Ontario pursuant to the *EMCPA* related to COVID-19, including any regulations enacted pursuant to the *EMCPA*;

“**Face Covering**” means a mask or face covering (including a bandana or scarf) constructed 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 gaping. For greater clarity, a Face Covering may include, but is not required to be, a medical mask such as surgical masks, N95 or other masks required by healthcare workers;

“**Medical Officer of Health**” means the Medical Officer of Health for the Regional Municipality of Peel;

“**Municipal Act, 2001**” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

“**Municipality**” means the City and the Regional Municipality of Peel or their local boards or agencies, including the Peel Regional Police;

“**Mississauga Transit Vehicle**” means any vehicle which is used as part of the City’s public bus transportation system and falls under the operation and control of Mississauga Transit;

“**Officer**” means

- (a) a by-law enforcement officer employed by a Municipality to perform the duties of enforcing City or Region of Peel by-laws;
- (b) a police officer employed by the Peel Regional Police or the Ontario Provincial Police; or
- (c) a public health inspector acting under the direction of the Medical Officer of Health.

“**Operator**” means a Person or organization who alone or with others, owns and/or has control over and/or directs, the operation of a Public Establishment, or vehicle described in subsection 9(2) of this By-law, but does not include a Municipality;

“**Person**” or any expression referring to a person, means an individual of any age and also includes a partnership, limited partnership, and a corporation and its directors and officers, and the heirs, executors, assignees and administrators;

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

Part 2 – Public Establishments

2. For the purposes of this By-law, “Public Establishment” means any portion of a building in the City that is located:

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

3. For greater clarity, Public Establishments shall include the following:

- (1) retail stores where goods and services are sold to customers;

- (2) businesses that primarily sell food including restaurants, supermarkets, grocery stores, bakeries and convenience stores;
 - (3) churches, mosques, temples, synagogues and other places of worship, except during a religious rite or ceremony that is incompatible with the face being covered;
 - (4) indoor sports and recreational facilities and private clubs;
 - (5) shopping malls or similar structure which contains multiple places of business;
 - (6) businesses providing personal care services;
 - (7) common areas of hotels and motels and other short term accommodations, such as lobbies, elevators, meeting rooms or other common use facilities, but does not include the common areas of residential apartment buildings and condominiums;
 - (8) libraries, museums, galleries and other similar facilities;
 - (9) banquet halls, conventions centres, arenas, stadiums and other event spaces;
 - (10) concert venues, theatres, cinemas, casinos and other entertainment establishments;
 - (11) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
 - (12) buildings operated by a Municipality; and
 - (13) other businesses, organizations and places that are permitted to operate in accordance with the Emergency Orders.
4. Notwithstanding the generality of section 2 and the specificity of section 3, Public Establishment shall not include the following:
- (1) day cares, schools, post-secondary institutions and other facilities used solely for educational purposes;
 - (2) hospitals and portions of buildings used by regulated health professionals;
 - (3) buildings owned or services operated by the Province of Ontario or the Government of Canada;
 - (4) portions of community centres, arenas or other buildings that are being used for the purpose of providing day camps for children or for the training of amateur or professional athletes;
 - (5) portions of community centres, arenas or other buildings operated by a Municipality used for the purpose of providing community services or programs for which registration is required; and
 - (6) school transportation vehicles.

Part 3 – Face Covering Policy

5. The Operator shall adopt a Face Covering policy to ensure that no Person is permitted entry to, or otherwise remains within, a Public Establishment or a vehicle as described in subsection 9(2), unless the Person is wearing a Face Covering, subject to the exemptions set out in Part 5 of this By-law and otherwise in accordance with this By-law.
6. The Operator shall, upon request, provide a copy of the Face Covering policy for inspection by an Officer.
7. No Operator shall permit a Person to enter or to remain in, a Public Establishment or a vehicle as described in subsection 9(2), without a Face Covering in contravention of this By-law or the Face Covering policy required to be adopted in accordance with section 5.

8. Every Operator shall conspicuously post at all entrances to the Public Establishment or inside a vehicle as described in subsection 9(2) of this By-law clearly visible signage that Persons are required to wear a Face Covering in accordance with this By-law.

Part 4 – Face Coverings

9. Every Person shall wear a Face Covering:
 - (1) before entering and while inside a Public Establishment; and
 - (2) before entering into and while riding in a:
 - (a) Mississauga Transit Vehicle;
 - (b) vehicle licensed by the City in accordance with the City's Public Vehicle Licensing By-law 420-04, as amended; and
 - (c) private vehicle for hire, including but not limited to, a TNC vehicle as further described in the City's Transportation Network Company Licensing By-law 0109-2019.
10. Every Person shall ensure that any Person under ones care including children comply with Section 9 of this By-law.

Part 5 – Exemptions

11. Notwithstanding Part 4 of this By-law, the following Persons shall be exempt from wearing a Face Covering:
 - (1) children 2 years of age or younger;
 - (2) children between the ages of 3 and 5 who refuse to wear a Face Covering and cannot be persuaded to do so by their caregiver;
 - (3) Persons who have trouble breathing or are otherwise unable to wear a Face Covering for medical reasons or for reason of disability, including Persons who are unable to remove masks without assistance;
 - (4) Persons inside a restaurant or bar while consuming food or drink, provided such businesses are permitted to operate in accordance with the Emergency Orders and all other conditions of the Emergency Orders are met;
 - (5) Persons who are engaged in an athletic, fitness or aquatic activity in accordance with the Emergency Orders;
 - (6) employees and agents of the Operator or a Municipality within an area not for public access, or within or behind a physical barrier;
 - (7) Persons while receiving services involving the face and requiring the removal of a Face Covering, provided such services are permitted to operate in accordance with the Emergency Orders and provided 2 metre distance is maintained from all other Persons other than the person providing the service;
 - (8) police, fire or paramedics during the course of responding to an emergency call; and
 - (9) Persons while testifying, examining or making submissions at a court, tribunal, arbitration or other quasi-judicial proceeding.
12. A Person who is not or refuses to wear a Face Covering shall identify if they are a Person who is exempt from wearing a Face Covering when asked by an Operator or Officer but Persons shall not be required to identify which exemption prevents them from wearing a Face Covering or provide proof in order to meet any of the exemptions set out in section 11 of this By-law.

Part 6 – Administration, Enforcement and Inspection

13. The City's Enforcement Division is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City employees for those purposes.
14. The provisions of this By-law may be enforced by an Officer.
15. (1) An Officer may enter any lands, buildings, and structures at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law is being complied with.
 - (2) For greater certainty, for the purposes of conducting an inspection pursuant to this By-law, an Officer 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 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.
16. No Person shall prevent, hinder, or obstruct, or attempt to hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law, including by refusing to identify themselves when requested to do so by an Officer.

Part 7 – Orders

17. An Officer may order any Person or Operator found in contravention or a Person or Operator who caused or permitted the contravention of this By-law to leave a Public Establishment or a vehicle described in subsection 9(2) of this By-law.
18. An order made pursuant to this Part may be given by an Officer verbally or in writing.
19. An order in writing shall:
 - (1) identify the following:
 - (a) the location where the contravention occurred;
 - (b) the reasonable particulars of the contravention; and
 - (c) the date and time by which compliance with the order is required; and
 - (2) be served personally to the Person to whom it is directed or by registered mail to the Person and shall be deemed to be served on the fifth day after mailing.
20. Every Person and Operator shall comply with an order made under this By-law.

Part 8 – Offences and Penalties

21. (1) Every Person over the age of 12 and every Operator who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*, as each may be amended from time to time.
 - (2) In addition to section 21 (1), any Person or any Operator who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:
 - (a) a minimum fine not exceeding \$500 and a maximum fine not exceeding \$100,000;

- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine not exceeding \$500, and a maximum fine not exceeding \$10,000, and the total of all daily fines for the offence is not limited to \$100,000; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine not exceeding \$500, and a maximum fine not exceeding \$10,000, and the total of all fines for each included offence is not limited to \$100,000.

22. An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the *Municipal Act, 2001*.

Part 9 – General

23. In the event of conflict, the specific conflicting provision of this By-law will be of no force and effect to the extent that it conflicts with:

- (1) an Emergency Order, and for greater certainty nothing in this By-law shall be construed as permitting the opening or access to a Public Establishment that is not permitted or is restricted by an Emergency Order;
- (2) any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada; or
- (3) a by-law enacted by the Regional Municipality of Peel.

24. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires.

25. Should a court of competent jurisdiction declare any part or provision of this By-law to be invalid or of no force and affect, it is the intention of Council in enacting this By-law that the remainder of its provisions remain valid and binding, and that it be applied and enforced in accordance with its terms to the fullest extent possible according to law.

26. This By-law may be referred to as the “COVID-19 Mandatory Face Covering By-law.”

Part 10 – In Force and Repealing Dates

27. This By-law shall be in force and effect commencing on July 10, 2020.

28. This By-law shall remain in effect until 12:01a.m. on October 1, 2020 at which time this By-law shall be repealed, unless extended by resolution of Council on the advice of the Medical Officer of Health.

ENACTED AND PASSED THIS DAY OF _____, 2020.

APPROVED AS TO FORM City Solicitor MISSISSAUGA			
<i>R. Genoway</i>			
Date	2020	7	7

MAYOR

CLERK