



The Corporation of the Town of Orangeville By-law Number 2020-

A by-law to establish Mandatory Face Coverings in the Town of Orangeville

WHEREAS the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus 19 hereinafter referred to as COVID-19;

AND WHEREAS on March 17, 2020 a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9*, as amended, hereinafter referred to as “the Act” related to COVID-19;

AND WHEREAS on March 20, 2020 Mayor Sandy Brown for the Town of Orangeville declared an emergency pursuant to section 4(1) of the Act;

AND WHEREAS on July 14, 2020 the Medical Officer of Health for Wellington-Dufferin-Guelph issued a Class Order requiring all persons who own or operate a Commercial Establishment or other Establishment or a vehicle providing private commercial transportation in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit to prohibit persons from entering the premises of the Establishment or remaining in the premises or a Private Commercial Vehicle if the said person is not wearing a face covering;

AND WHEREAS on September 18, 2020 the Medical Officer of Health for Wellington-Dufferin-Guelph updated the Class Order;

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

AND WHEREAS Council for the Town of Orangeville 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 mitigate the spread of COVID-19;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, hereinafter referred to as the “Municipal Act” 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 8(3) of the Municipal Act provides the power to regulate, prohibit or require persons to do such things as may be necessary to respond to matters affecting the municipality;

AND WHEREAS subsection 11(2) of the Municipal Act authorizes a municipality to pass by-laws with respect to:

- economic, social and environmental well-being of the municipality;
- the health, safety and well-being of persons; and
- the protection of persons and property, including consumer protection;

AND WHEREAS without limiting sections 9 and 11 of the Municipal Act, a local municipality may prohibit and regulate matters such as dangerous places, public nuisances and business hours and closures, as well as regulate and govern real and personal property used for by a business and the person carrying it on or engaged in it;

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

AND WHEREAS subsection 436(1) of the Municipal Act 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 is being complied with;

AND WHEREAS subsection 444(1) of the Municipal Act 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 be it resolved that the Council of The Corporation of the Town of Orangeville hereby enacts as follows:

1. TITLE

- 1.1 This by-law may be referred to as the “COVID-19 Mandatory Face Coverings By-law”.

2. DEFINITIONS

- 2.1 For the purposes of this By-law:

“Common Area” means enclosed common areas including vestibules, lobbies, hallways, stairs, elevators, underground parking levels, meeting rooms, mailrooms, garbage storage areas, laundry rooms, washrooms, spectator areas and other common use amenity spaces;

“Orders” mean the orders passed by the Province of Ontario pursuant to the **Reopening Ontario Act**;

“Face Covering” means a medical mask or a non-medical mask or other face covering such as a bandana, a scarf or cloth that covers the mouth, nose and chin;

“Municipality” means the **Town** and County of Dufferin or their local boards or agencies, including the Ontario Provincial Police and Orangeville Fire;

“Officer” means a By-law Enforcement Officer, a Property Standards Officer, a Police Officer, Public Health Inspector or any other person appointed to enforce the provisions of this By-law.

“Operator” means a **Person** or organization who alone or with others, owns and/or has control over and/or directs, the operation of an Establishment, but does not include a **Municipality**;

“Orangeville Transit Vehicle” means any vehicle which is used as part of the **Town’s** public bus transportation system and falls under the operation and control of Orangeville Transit and includes the Grey County Community Transit Service;

“Orders” mean the orders passed by the Province of Ontario pursuant to the **Reopening Ontario Act**;

“Person” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

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

“Private Commercial Vehicle” means a vehicle used for the provision of transportation services of the general public such as a bus, taxicab, limousine, vehicle for hire and rideshare vehicle but does not include a vehicle owned and operated by a government authority;

“Reopening Ontario Act” means the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c. 17, as amended and its regulations;

“**Town**” means the Corporation of the Town of Orangeville or the land within the geographical limits of the Town of Orangeville as the context requires.

3. ESTABLISHMENT

3.1 For the purposes of this By-law, “Establishment” means all or any portion of a building or place in the **Town** that is located:

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

3.2 Notwithstanding section 3.1, an “Establishment” shall include multi-unit residential buildings including apartments and condominiums, but for greater clarity, this does not include the dwelling units in these same buildings.

3.3 For greater clarity, an Establishment shall include the following:

- (a) retail stores where goods and services are sold to customers;
- (b) businesses that primarily sell food including restaurants, bars, taverns, supermarkets, grocery stores, bakeries and convenience stores;
- (c) churches, mosques, synagogues, temples and other places of worship, except during a religious rite or ceremony conducted that is incompatible with the face being covered;
- (d) indoor community, sports and recreational facilities and clubhouses, play zones and arcades;
- (e) shopping malls, plazas or similar structure which contains multiple places of business;
- (f) businesses providing personal care services;
- (g) **Common Area** of multi-unit residential buildings (including apartments and condominiums), hotels and motels and short term accommodations;
- (h) libraries, museums, galleries, art studios and other similar facilities;
- (i) banquet halls, conventions centres, arenas, stadiums and other event spaces;
- (j) concert venues, theatres, cinemas, casinos, charitable

gaming halls and other entertainment establishments;

- (k) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
- (l) mechanic shops, garages, repair shops, gas stations and car dealerships;
- (m) public indoor tour of facilities;
- (n) Farmer's Markets;
- (l) vehicle licensed or operated in accordance with the **Town's** Licensing By-law and a **Private Commercial Vehicle** operating within the **Town**;
- (m) buildings operated by the **Municipality**; and
- (n) other businesses, organizations and places that are or may be permitted to operate in accordance with the **Orders**.

3.4 Notwithstanding sections 3.1, 3.2 and 3.3, an Establishment shall not include the following:

- (a) day cares, schools, post-secondary institutions and other facilities used solely for educational purposes;
- (b) hospitals and portions of buildings used by regulated health professionals;
- (c) buildings owned or services operated by the Province of Ontario or the Federal Government of Canada;
- (d) 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. For greater certainty, a **common area** is not included as part of the exemption;
- (e) portions of community centres, arenas or other buildings operated by the **Municipality** that are being used for the purpose of providing community services or programs. For greater certainty, a **common area** is not included as part of the exemption;
- (f) school transportation vehicles;
- (g) offices not open to members of the public.

4. FACE COVERING SIGNAGE

- 4.1 Every **Operator** shall conspicuously post at all entrances to an Establishment clearly visible signage:
- (a) provided by the **Town**; or
 - (b) containing text requiring a **Person** to wear a **Face Covering** in accordance with this By-law.
- 4.2 Every **Operator** of a multi-unit residential building including an apartment and condominium, in addition to Section 4.1, shall conspicuously post at all entrances to a **common area** clearly visible signage:
- (a) provided by the **Town**; or
 - (b) containing text requiring a **Person** to wear a **Face Covering** in accordance with this By-law.
- 4.3 No **Operator** shall permit a **Person** to enter or to remain in an Establishment without a **Face Covering** in contravention of this By-law.

5. FACE COVERINGS

- 5.1 Every **Person** shall wear a **Face Covering**:
- (a) before entering and while inside an Establishment; and
 - (b) before entering onto and while riding:
 - i) **Orangeville Transit Vehicle**;
 - ii) a vehicle licensed by the **Town** in accordance with its By-laws;
 - iii) a **Private Commercial Vehicle**.
- 5.2 Every **Person** shall ensure that any **Person** under his or her care or control including children comply with Section 5.1 of this By-law.

6. EXEMPTIONS

- 6.1 Notwithstanding Sections 4 and 5 of this By-law, the following **Persons** shall be exempt from wearing a **Face Covering**:
- (a) children 2 years of age or younger;

- (b) children between the ages of 3 and 4 who refuse to wear a **Face Covering** and cannot be persuaded to do so by their caregiver;
- (c) **Persons** who have trouble breathing or are otherwise unable to wear a **Face Covering** for medical reasons or by reason of disability, including **Persons** unable to place or remove a **Face Covering** without assistance;
- (d) **Persons** who are engaged in an athletic, fitness, or aquatic activity in accordance with the **Orders**;
- (e) **Persons** while consuming food or drink provided such businesses are permitted to operate under the **Orders** and all other conditions of the **Orders** are met;
- (f) **Persons** while receiving services involving the face and requiring the removal of a **Face Covering**, provided such services are permitted to operate under the **Orders** and provided 2.0 metre distance is maintained from all other **Persons** other than the **person** providing the service;
- (g) employees and agents of the **Operator** or a **Municipality** within an area not for public access, or within or behind a physical barrier;
- (h) police, fire or paramedics while on duty; and
- (i) **Persons** while testifying, examining or making submissions at a court, tribunal, arbitration or other quasi-judicial proceeding.

6.2 A **Person** who is not wearing 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 such **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 6.1 of this By-law.

7. ENFORCEMENT AND INSPECTION

7.1 The provisions of this By-law may be enforced by an **Officer**.

7.2 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.

7.3 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.

7.4 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**.

8. ORDERS

8.1 An **Officer** may order any **Person** found in contravention of this By-law or a **Person** who caused or permitted the contravention of this By-law to:

- (a) leave an Establishment, **Orangeville Transit Vehicle** or **Private Commercial Vehicle**;
- (b) immediately correct the contravention by putting on and continuing to wear a **Face Covering**.

8.2 An order made pursuant to this By-law may be given by an **Officer** verbally or in writing.

8.3 An order in writing shall:

- (a) identify the following:
 - (i) the location where the contravention occurred;
 - (ii) the reasonable particulars of the contravention; and
 - (iii) the date and time by which compliance with the order is required; and
- (b) be served personally to the **Person** to whom it is directed, or by registered mail to the **Person** shall be deemed to be served on the fifth day after mailing.

8.4 Every **Person** shall comply with an order made under this By-law.

9. PENALTIES

9.1 Every **Person** over the age of 12 who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, 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, as each may be amended from time to time.

9.2 In addition to section 9.1, any **Person** 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 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.

9.3 If a **Person** is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order prohibiting the continuation or repetition of the offence by the **Person** convicted.

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

10. GENERAL

10.1 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:

- (a) an **Order**, and for greater certainty nothing in this By-law shall be construed as permitting the opening or access to an Establishment that is not permitted or restricted by an **Order**;

- (b) any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada.

10.2 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.

10.3 Should a court of competent jurisdiction declare any part or provision of this By-law to be invalid or of no force and effect, 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.

11. FORCE AND EFFECT

11.1 This By-law shall come into force on October 1, 2020.

Read three times and passed in open Council this 28th day of September, 2020.

Sandy Brown, Mayor

Karen Landry, Clerk