

THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW # 4270(2020)

**A By-law to Require the Wearing of Face Coverings in Enclosed Public Places During the COVID-19 Pandemic**

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**Whereas** The Corporation of the Town of Pelham has the authority to enact by-laws for the health, safety and well-being of persons pursuant to section 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended;

**And Whereas** the Province of Ontario. Regional Municipality of Niagara and The Corporation of the Town of Pelham have declared emergencies as a result of the COVID-19 pandemic pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended;

**And Whereas** the Council of The Corporation of the Town of Pelham wishes to implement a requirement for persons to wear a face covering while in certain enclosed public places to assist in reducing the spread of COVID-19 within The Corporation of The Town of Pelham;

The Council of The Corporation of The Town of Pelham ENACTS as follows:

1. (1) Every person within an enclosed public place shall wear a face covering.
- (2) Every person that is the parent or guardian accompanying a child that is 5 years old or older in an enclosed public place shall ensure that the child wears a face covering.
- (3) A “person” in subsections (1) and (2) of this section shall include any occupant within an enclosed public place and shall include, but not be limited to, any owner, operator, employee and worker in the enclosed public place and any customer, patron or other visitor in the enclosed public place but shall not include any of the following persons:
  - (a) A child who is under the age of five years old;
  - (b) A person who is unable to wear a face covering as a result of a medical condition or a disability pursuant to the Human Rights Code, R.S.O. 1990, c. H.19, who is unable to put on or remove a face covering without assistance or for whom a face covering would inhibit the person’s ability to breathe;
  - (c) A person engaged in a sport or other strenuous physical activity;
  - (d) A person while assisting or accommodating another person with a hearing disability; and
  - (e) A person while consuming food or drink as part of a religious activity within a place of worship.
- (4) No person shall be required to provide proof of any of the exemptions set out in subsections (3)(a), (b) and (d) of this section.
- (5) For the purposes of this section, an “enclosed public place” shall mean the indoor areas of any building as part of the following establishments within The Corporation of the Town of Pelham that are open to the general public:
  - (a) Stores and other establishments that sell or offer to sell food, beverages, consumer products, vehicles, equipment or other goods;

- (b) Restaurants, bars and other establishments that sell or offer to sell food or drink to the public for on-site consumption or take-out, with the exception of the patrons while consuming food and drinks in the seating areas therein including outdoor patio areas;
  - (c) Establishments that provide or offer to provide services, including but not limited to professional, counselling, personal care, funeral home, transportation, repair and rental services, to the public, with the exception of services related to child care and day camps, care for the elderly and persons with disabilities;
  - (d) Lobby areas of commercial buildings;
  - (e) Hotels and motels, with the exception of the rented rooms therein;
  - (f) Laundromats;
  - (g) Concert venues;
  - (h) Fitness centres, gyms and other recreational and sports facilities;
  - (i) Real-estate open houses;
  - (j) Museums, galleries, historic sites and similar attractions;
  - (k) Places of worship; and
  - (l) Municipal buildings.
- (6) For greater certainty, a waiting area, lobby, service counter, washroom, hallway, stairwell and elevator are included as part of any “enclosed public place” prescribed in subsection (5) of this section if they are open to the general public.
- (7) For greater certainty, the following places shall not be included as an “enclosed public place” for the purposes of this section:
- (a) an enclosed public place that is owned or operated by or on behalf of the Provincial or Federal Government;
  - (b) schools under the *Education Act* R.S.O 1990, c. E.2 as amended;
  - (c) independent health facilities and offices of regulated health professionals; and
  - (d) an indoor area of a building that is accessible only to employees.
- (8) For the purposes of this section, a “face covering” shall mean a medical mask or non-medical mask or other face covering, including a bandana, scarf or other fabric that covers the nose, mouth and chin to create a barrier to limit the transmission of respiratory droplets.
- (9) Every person who is the owner or operator of an enclosed public place shall post clearly visible signage conspicuously at all entrances to the enclosed public place containing the following text in a minimum font size of 24 point:
- Protect each other  
Wear a face covering  
Cover your nose, mouth, and chin  
Required by the Face Covering By-law
- Does not apply to children under the age of five and those who are unable to wear a face covering as a result of a medical condition or a disability.
- (10) A “person” in subsection (9) of this section shall include, but not be limited to, a corporation.

2. This By-law may be enforced by:

- (1) a police officer of The Regional Municipality of Niagara;
  - (2) a municipal law enforcement officer or by-law officer appointed by the Council of The Corporation of the Town of Pelham;
  - (3) such other person as designated from time to time by The Corporation of the Town of Pelham.
3. (1) Every person who contravenes any provision of this By-law is guilty of an offence.
- (2) Upon conviction, every person who contravenes any provision in this By-law is liable to a fine not exceeding one thousand dollars (\$1,000), exclusive of costs, for each offence, recoverable under the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, or any successor legislation thereto.
- (3) Each Person who contravenes any provision of this By-law shall, upon issuance of a Penalty Notice in accordance with the Administrative Penalty Process By-law 4228(2020), be liable to pay to the Town an Administrative Penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.
- (4) Administrative Penalty Process By-law 4228(2020) applies to each Administrative Notice issued pursuant to this By-law.
4. If any provision of this By-law is declared invalid for any reason by a court of competent jurisdiction, only that invalid portion of the By-law shall be severed and the remainder of the By-law shall still continue in force.
5. 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*, R.S.O. 1990, c. E.9, as amended.
6. This By-law may be cited as the "Face Covering By-law".
7. This By-law shall come into force and effect on August 10, 2020.
8. This By-law shall be deemed repealed and no longer in force and effect at 12:01 a.m. on October 1, 2020 unless otherwise extended or repealed by resolution of Council.

Enacted, signed and sealed this

10th day of August, 2020.

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MAYOR MARVIN JUNKIN

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CLERK NANCY J. BOZZATO