

BY-LAW 106 - 2020

OF

THE CORPORATION OF THE CITY OF BRANTFORD

*Being a by-law to require the wearing of face coverings in prescribed, enclosed public places in response to the COVID-19 pandemic*

WHEREAS the spread of a Novel Coronavirus, which causes the disease known as COVID-19, was declared to be a pandemic by the World Health Organization on March 11, 2020;

AND WHEREAS on March 17, 2020, the Province of Ontario declared an emergency under section 7.0.1(1) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, in response to the COVID-19 pandemic;

AND WHEREAS an emergency was declared by the Head of Council for The Corporation of the City of Brantford on March 19, 2020 pursuant to section 4(1) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, also in response to the COVID-19 pandemic;

AND WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the "*Municipal Act, 2001*") provides that the powers of a municipality under that Act shall be interpreted broadly to enable a municipality to govern its affairs as it considers appropriate and to enhance a municipality's ability to respond to municipal issues;

AND WHEREAS subsection 8(3) of the *Municipal Act, 2001* further provides a broad scope for municipalities to pass by-laws to, among other things, regulate or prohibit respecting a matter, and require persons to do things respecting the matter so regulated;

AND WHEREAS subsection 10(2)6 of the *Municipal Act, 2001* provides that single tier municipalities may pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS COVID-19 is readily communicable from person to person, carries a risk of serious health complications (including respiratory issues that may result in death) is present within the City of Brantford, and constitutes a danger to the health, safety and well-being of persons within the City of Brantford;

AND WHEREAS, on July 7, 2020, the Acting Medical Officer of Health for the Brant County Health Unit advised the municipalities within the Health Unit, including The Corporation of the City of Brantford, that she supports the enactment of a by-law

requiring masks and face coverings in indoor public spaces and public transit for the protection of the health, safety and well-being of residents;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF BRANTFORD HEREBY ENACTS AS FOLLOWS:

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 2 years old or older in an enclosed public place shall ensure that the child wears a face covering.
3. Notwithstanding section 1 of this By-law, the following persons shall be exempt from wearing a face covering:
  - (a) a child who is under the age of 2 years old;
  - (b) a child between the ages of 3 and 5 who refuses to wear a face covering and cannot be persuaded to do so by their caregiver;
  - (c) a person who is unable to put on or remove a face covering without assistance;
  - (d) a person with a medical condition or other disability that inhibits their ability to wear a face covering, including persons who are reasonably accommodated pursuant to the (Ontario) Human Rights Code by not wearing a face covering;
  - (e) employees or agents of the owner or operator of any enclosed public place within or behind a physical barrier or within an area designated for them and to which the general public is not invited;
  - (f) any paramedic, fire fighter or police officer acting in the course of their duties.
4. A person who 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 owner or any person charged with enforcing this By-law but shall not be required to provide proof of any of the exemptions set out in subsections 3(a), (b), (c) or (d) of this By-law.
5. Notwithstanding sections 1 and 2 of this By-law, the temporary removal of face coverings mandated within those sections is permitted where necessary for the purpose of receiving services, which includes the consumption of food or drink, or while actively engaged in a strenuous athletic or fitness activity.
6. Every person who is the owner or operator of an enclosed public place shall post clearly visible signage noticeably 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 two and those who are unable to wear a face covering as a result of a medical condition or disability.”

7. Every person who is the owner or operator of an enclosed public place shall not permit a person to enter or remain in such enclosed public place without a face covering.
8. A “person” in sections 6 and 7 of this By-law shall include, but not be limited to, a corporation.
9. For the purposes of this By-law, an “enclosed public place” shall mean the indoor areas of any of the following establishments, buildings or facilities that are located in the City of Brantford and are open to the general public, meaning the public is ordinarily invited or permitted access whether or not a fee is charged or a membership is required for entry:
  - (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;
  - (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) shopping malls;
  - (e) libraries;
  - (f) lobby areas of commercial buildings;
  - (g) common areas of hotels and motels, such as lobbies, elevators, stairs, meetings rooms, or other common facilities therein;
  - (h) laundromats;
  - (i) concert venues, theatres, casinos and cinemas;
  - (j) fitness centres, gyms and other recreational and sports facilities;
  - (k) arcades and other amusement facilities;
  - (l) premises utilized as an open house, presentation centre, or other facility for real-estate purposes;
  - (m) museums, galleries, historic sites and similar attractions;

- (n) places of worship, except during a religious rite or ceremony that is incompatible with the face being covered and where physical distancing is maintained;
  - (o) municipal buildings; and
  - (p) public transportation vehicles, bus shelters and platforms at any transit station owned or operated by The Corporation of the City of Brantford.
10. For greater certainty, a waiting area, lobby, service counter, washroom, hallway, stairwell and elevator is included as part of any “enclosed public place” prescribed in this By-law if it is open to the general public.
11. For greater certainty, the following places shall not be included as an “enclosed public place” for the purposes of this By-law:
- (a) an enclosed public place that is owned or operated by or on behalf of the Provincial or Federal Government;
  - (b) universities, colleges and schools;
  - (c) hospitals, independent health facilities and offices of regulated health professionals; and
  - (d) that portion of any indoor area of a building that is accessible only to employees, including, without limitation, private offices, board rooms, washrooms and facilities that are not open to the general public.
12. For the purposes of this By-law, a “face covering” shall mean a medical mask or non-medical mask or other face covering, including a bandana, scarf or other fabric or material that covers the nose, mouth and chin without gaping to create a barrier to limit the transmission of respiratory droplets.
13. This By-law may be enforced by:
- (a) an officer with the Brantford Police Service;
  - (b) a municipal law enforcement officer or by-law officer appointed by the Council of The Corporation of the City of Brantford; and
  - (c) other person as designated from time to time by the Council for The Corporation of the City of Brantford.
14. 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*, R.S.O. 1990, c. P.33, and the *Municipal Act*, 2001 as each may be amended from time to time, or any successor legislation thereto.
15. 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. 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.

16. This By-law may be cited as the "Face Covering By-law".

17. This By-law shall come into force and effect on Friday, July 17, 2020.

READ A FIRST TIME: July 14, 2020

READ A SECOND TIME: July 14, 2020

PASSED: July 14, 2020

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MAYOR

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CITY CLERK