

Mandatory Mask By-law Q&A

On July 13, 2020, St. Catharines City Council passed a by-law requiring that all visitors and staff in enclosed public spaces to wear a face mask or covering at all times. The by-law comes as more businesses and institutions reopen in the City, responding to recent research showing masks can limit the spread of COVID-19, including from asymptomatic individuals.

The by-law additionally prescribes that operators of enclosed public spaces have hand sanitizer available at entrances for the use of visitors.

Why is the City enacting a mandatory mask by-law?

COVID-19 spreads readily in indoor spaces, especially where physical separation of two metres between individuals is not possible or difficult. With recovery efforts underway more people are sharing indoor spaces. With growing evidence that masks operate as a barrier preventing those with COVID-19, including asymptomatic individuals, from spreading it to others, ensuring mask use is widely adopted will help to slow the spread of the virus while ensuring re-opening efforts continue.

Furthermore, the visual nature of masks act as a reminder that COVID-19 is still a risk, providing a visual cue for others that public-health measures such as physical distancing and good hand hygiene are still required.

Cases are dropping in Niagara and very few individuals have COVID-19 here, why do we need to wear masks if the risk is so low?

While COVID-19 cases may be dropping in Niagara, area residents are not the only individuals who shop, dine, play and do business in Niagara. Also, as restrictions continue to ease, there is the potential for more instances where the ability to practice physical distancing will be impossible or limited. Mask requirements help ensure visitors don't spread COVID-19 to our residents.

What constitutes a mask or face covering?

Under the by-law any cloth (non-medical) mask, medical mask or other face covering such as a bandana or scarf may be used, provided it securely covers the nose, mouth and chin without gaps

What about face shields?

Face shields do not meet the requirements of the by-law. With a focus on stopping airborne droplets being expelled from individuals' nose and mouth, the spacing around face shields is ineffective.

When does the by-law come into effect?

The new by-law will come into full effect on Friday July 17, 2020. With the by-law enacted the City will undertake an education campaign, focussed on assisting businesses in development of mask policies and infrastructure, alongside informing the public of the new requirements.

Who does the by-law apply to?

Everyone entering an enclosed space that is open to the public, including employees and visitors.

Who is exempt from the by-law?

The by-law lays out several exemptions for individuals who cannot wear a mask or face covering including:

- Children under the age of 10 (including developmentally)
- Persons with medical conditions which prevent them from wearing a mask, including breathing difficulties and cognitive difficulties
- Individuals who are unable to apply or remove a mask without assistance
- Persons with protections, including reasonable accommodations, in accordance with the Ontario Human Rights Code that would prevent them from wearing a mask
- Persons assisting or accommodating another person with a hearing disability

Who is a person with protection?

The Ontario Human Rights Code prohibits actions that discriminate against people based on 14 prohibited grounds including disability, age or creed (such as religious beliefs). The purpose of the exemption is to make it clear to both operators and the public that the by-law is not to be applied in a discriminatory way against people based on a prohibited ground.

Isn't it a violation of human rights to force someone to wear a mask?

Only if they are discriminated against on the basis of a prohibited ground, all of which are protected in the exemptions of the City by-law.

Where does the by-law apply?

All enclosed (indoor) public space open to the public, including establishments where a fee or membership is required for admission. In general, if non-employees of a business or location, enter a space, it is covered by the by-law.

Enclosed public spaces, include, but are not limited to:

- Retail businesses
- Personal service businesses
- Food-sales businesses including restaurants, cafes, grocery stores, convenience stores
- Shopping malls and similar structures
- Places of worship
- Entertainment, recreation and cultural venues such as museums, galleries, bingo halls, banquets halls, community centres, cinemas, and concert venues
- Indoor sports and recreational facilities such as gyms, arenas, yoga studios and clubhouses
- Common areas of hotels, motels and other short-term accommodations including elevators, lobbies, rest rooms, laundry rooms, gyms and kitchens; this does not include common areas of residential apartment buildings and condominiums
- Locations used as an open house, presentation centre or other real-estate facility
- Areas of City facilities open to the public

What if the service or activity being offered at the space requires a mask to be removed?

The by-law allows for the temporary removal of masks for the purposes of:

- Receiving services
- Actively engaging in athletic or fitness activity, including water-based activities
- While actively engaged in delivering vocal artistic performances arranged for by the operator of the establishment
- Participation in religious rights or ceremonies not compatible with the face being covered
- Consuming food or drinks
- Emergency or medical purposes

Are there any enclosed public spaces where the by-law does not apply?

Yes, there are a limited number of facilities and spaces where masks will not be required:

- Day cares, child-care facilities, day camps for children, schools and post-secondary institutions
- Private and public transportation

- Hospitals, independent health facilities and offices of regulated health professionals
- Buildings and services owned and/or operated by the Province of Ontario or Federal Government of Canada

What about transit, do I need a mask to ride the bus?

While transportation is exempt from the by-law the St. Catharines Transit Commission has made the decision to voluntarily comply with the by-law. Transit is asking its riders, and those visiting its facilities, to wear a mask or face covering.

Why are some employees in areas behind barriers or out of reach for the public not wearing masks?

The by-law does not require employees behind physical barriers such as Plexiglas at cashier counters, or outside of areas the public is permitted to access, to wear masks.

What are my duties as a business owner or operator of an enclosed public space?

Business owners will be required to develop a written policy prohibiting persons from entering the enclosed space, or remaining within it, unless that person is wearing a mask.

Additionally, business owners will be required to post clear and prominent signage at entry points that visitors and employees are required to wear a mask in accordance with the by-law.

The policy must be available for inspection by enforcement officers by request, and should outline not only the mask requirement but also the exemptions mentioned above. The policy must also require employees within areas accessible by the public to also wear masks and all employees must be trained in the requirements of the policy.

Businesses are also expected to have hand sanitizer at entrances / exits to the premises.

The policy must also outline exemptions for temporary removal of masks.

The City has released a Mandatory Masks By-law Guide for Operators, including a sample policy, alongside other resources for businesses at stcatharines.ca/Masks.

Does the by-law require operators to prohibit individuals from entering without a mask?

No, the operator of the business is not required under the City by-law to ask anyone to leave. However, as they control their own premises they may choose to do so.

Does the by-law require an operator to ask for proof of an exemption claimed by any individual?

No, in fact, the by-law provides no authority to do so and the City does not recommend this practice. If an operator's policy requires all individuals to wear a mask or proof of exemption, the operator will be responsible for any claims made on the basis the policy is discriminatory or violates privacy rules.

What are my obligations to provide masks to my employees?

Protections of workers is covered under the Occupational Health and Safety Act. Employers should consult the Act and its regulations.

Is there a fine? Is a fine possible?

There is no set fine for operators who do not comply with the by-law. The City's intention is to take a graduated enforcement approach that emphasizes education and voluntary compliance.

The City could prosecute operators under the Provincial Offences Act, with the fine set by the presiding Justice of the Peace. Such charges would be placed under Part 3 of the Act, carrying a fine of up to \$5,000.

Will the City provide businesses with masks and sanitizer?

While the City will provide assistance in establishing operator policies and the design of signage, masks and sanitizer will not be provided by the City.

I believe a business is operating in contravention of the by-law, what do I do?

Complaints can be addressed to Citizens First via phone at 905.688.5600 or by email at CitizensFirst@stcatharines.ca.

How long will the by-law be in effect?

The by-law will be in effect until the City ends its declared state of emergency, or until the Mayor and the City's Chief Administrative Officer, in consultation with the Medical Officer of Health, determine a date.