

**Report to  
Rapport au:**

**Council  
Conseil**

**26 August 2020 / 26 août 2020**

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**Submitted by  
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**Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE      File Number: ACS2020-EPS-GEN-0003**

**SUBJECT: TEMPORARY MANDATORY MASK BY-LAW – UPDATE**

**OBJET: RÈGLEMENT TEMPORAIRE SUR LE PORT OBLIGATOIRE DES  
MASQUES – MISE À JOUR**

## **REPORT RECOMMENDATION**

**That City Council approve the amendments to the Temporary Mandatory Mask By-law (2020-186), attached as Document 1 and as described in this report.**

## RECOMMANDATION DU RAPPORT

**Que le Conseil municipal adopte les modifications au règlement municipal temporaire sur le port obligatoire des masques faciaux (2020-186), ci-joint en tant que document 1, et tel que décrit dans ce rapport.**

## BACKGROUND

On July 6, 2020, the Medical Officer of Health issued a Letter of Instruction to Business Operators. This letter instructed businesses and organizations to adopt a policy to ensure the use of masks in enclosed public spaces, provided a list of exemptions, offered guidance on implementation and defined the types of enclosed spaces where face masks should be mandated. As well, starting June 15, 2020, all OC Transpo customers had been, by policy, required to wear a mask or face covering while using their services, with some exceptions.

Subsequently, the Medical Officer of Health recommended that City Council enact a by-law that would require residents to wear a face mask in enclosed public spaces, with some exceptions, to support the objectives of the above-noted letter and the OC Transpo policy, to limit the spread of COVID-19 in Ottawa.

At its meeting of July 15, 2020 therefore, City Council considered a report submitted by the Medical Officer of Health and the General Manager of Emergency and Protective Services, entitled “Temporary Mandatory Mask By-law for Enclosed Public Spaces in the City of Ottawa” ([ACS2020-OPH-MOH-0005](#)) and approved the said by-law (2020-186) which took effect that date.

The [Temporary Mandatory Mask By-law](#) requires that:

- With some exemptions, every person, including patrons and workers, wear a mask that covers the mouth, nose and chin, while in a publicly-accessible area of enclosed public spaces, including but not limited to eating and retail establishments, places of worship, recreational facilities, hotels, health facilities, municipal facilities, other places permitted to operate under the Province’s reopening regulations;
- Operators of enclosed public spaces:
  - verbally remind patrons accessing their premises of the mask requirement;
  - post at every entrance to the premises used by the public, clear visible signage notifying patrons of the mask requirement;

- ensure the availability of alcohol-based hand rub at all public entrances and exits of the premises;
- With some exemptions, every person entering or remaining on transit property wear a mask
- Exemptions include:
  - young children, persons with medical conditions and disabilities that prevent them from safely wearing a mask, persons who are unable to put on or remove their mask without assistance, and persons who need to temporarily remove their mask for specific activities.
  - schools and childcare centres, which are regulated by provincial legislation, as well as offices of professional service providers in the areas where clients receive services and the area is not open to the general public.

As well, in keeping with the temporary nature of the mask and other by-law requirements, Council approved that the by-law would expire the day after the next regularly scheduled Council meeting following its July 15<sup>th</sup>, 2020 enactment, unless is extended by Council.

Between July 15 and August 19, 2020, Emergency and Protective Services' By-law and Regulatory Services has received 473 Service Requests related to the by-law and issued 167 verbal warnings and one charge for contraventions.

Further, by letter dated August 6, 2020, the Medical Officer of Health issued correspondence to multi-unit dwelling managers and owners, landlords, condominium corporations, and residential building management companies, with a strong recommendation to implement mask policies in relation to common areas in such structures, with the same exemptions for individuals as prescribed in the Temporary Mandatory Mask By-law. The recommendation was issued in light of the on-going pandemic and as an additional preventative measure in enclosed settings where there is a risk of transmission.

## **DISCUSSION**

Given the current status of the COVID-19 pandemic in Ottawa, the Medical Officer of Health and the General Manager of Emergency and Protective Services recommend that Council approve an extension of the effective period of the Temporary Mask By-law to and including the full day of October 31<sup>st</sup>, 2020, as well as a number of amendments

which are outlined in Document 1 and described in this report, which serve to address issues that have emerged, and to provide for a timely and effective response to them, and which include some minor administrative amendments.

The recommended amendments are based on the factors outlined below.

### **COVID-19 in our Community**

Throughout this pandemic, Ottawa Public Health's (OPH) objective has been, and continues to be, to protect the health of Ottawa's population by limiting the spread of infection. From the onset, OPH has been monitoring the pandemic closely, both locally and in other jurisdictions, and regularly updating guidance and protocols based on the most up-to-date scientific evidence, the latest data and expert opinion.

Ottawa is continuing to see a fluctuating rate of people infected with COVID-19 in our community. In recent weeks, the City of Ottawa experienced an increase in the reported number of people infected with COVID-19 for a short period of time. This served as a stark reminder of the potential for this virus to spread if it is given the opportunity to do so. With the virus present in our community and the vast majority of residents being susceptible to infection, it is critical to exercise precautions and to continue to be [COVIDWise](#) to prevent transmission that could overwhelm our health care system and lead to deaths.

It is known that COVID-19 is present and circulating in our community and will continue for several months. It is also known that people can be asymptomatic or presymptomatic and still be infectious.

With schools resuming and businesses re-opening in new ways, our city must continue to keep transmission in the community low to prevent potential outbreaks in vulnerable settings. While testing and contact tracing efforts are an important part of the COVID-19 response, these strategies occur after the virus has been transmitted rather than preventing transmission. In order to reduce the opportunities for new infections and further spread, public health measures are key.

Being **COVIDWise** is a critical public health measure to prevent the virus from resurging in our community. This means taking the right precautions to help keep COVID-19 under control including:

**W** – Wear a mask or face covering when you are in indoor public spaces and when you cannot maintain a physical distance of two metres (six feet).

**I** – Isolate yourself from others when you are sick (and get tested promptly if you have COVID-like symptoms).

**S** – Stay two metres (six feet) apart from those outside your household.

**E** – Exercise proper hand hygiene; wash your hands regularly or use sanitizer especially before touching your face.

Increasing scientific evidence supports wearing a mask as an important measure in reducing COVID-19 transmission, while the risk of rising rates of infection continues. Ottawa has seen positive uptake of mask use in our community, especially since the introduction of the Temporary Mandatory Mask By-Law. It is likely that without mask use, the recent increase in people diagnosed with COVID-19 could have been much worse. Wearing masks where people cannot maintain physical distance is an important tool for residents to help control the spread of COVID-19 in our community.

### **Common Areas of Condominiums and Multi-Unit Residential Buildings**

In accordance with the above-noted August 6<sup>th</sup> letter from the Medical Officer of Health and to further support public health and safety objectives, staff is proposing that the Temporary Mandatory Mask By-law be amended to require that:

- persons entering or remaining in the enclosed commons areas of condominiums and multi-unit residential buildings be required to wear a mask; and,
- building operators post signage at every entrance to the premises advising of the mask requirement and that they ensure the availability of alcohol-based hand rub at all entrances.

This approach is consistent with the impetus behind the enactment of the by-law initially following the issuance of the Medical Officer of Health of the July 6<sup>th</sup> Letter of Instructions requiring masks, signage and hand rub in enclosed public spaces city-wide. Further, Ottawa Public Health and the City have been made aware by both residents and building operators that the policy recommendation approach to masks has not been widely adopted, putting residents of multi-unit buildings at risk, particularly those who are among the most vulnerable of the city's population.

### **Designated Unenclosed Public Spaces**

Over the course of the spring and summer months, there have been a number of instances of large gatherings in outdoor areas of the city where 2-metre physical

distancing was not practicable and masks were not being worn, thereby posing a significant risk for the transmission of the virus.

With the reopening of businesses, including patios, and the impending reopening of elementary, secondary and post-secondary schools, as well as continued opportunities for residents to enjoy the outdoors, and wanting to socialize, mechanisms to quickly address situations where there is a high risk of transmission are necessary.

Staff is therefore recommending that Council delegate to the General Manager of Emergency and Protective Services the authority to identify high risk areas or “zones” in the city, including City of Ottawa property, where masks would be required on specific days of the week during specific hours of the day. The General Manager would issue an Order to require masks in a Designated Unenclosed Public Space, which would be defined by legal description or a map. The General Manager would also be able to rescind the Order accordingly, when the risk is sufficiently reduced or eliminated. Staff does not anticipate that such Orders would be imposed frequently or for extended periods of time. This delegation of authority is being recommended in order to provide for a timely response to emerging issues.

The criteria associated with this delegated authority include:

- written confirmation from the Medical Officer of Health to the General Manager that an Order is necessary for the furtherance of public health and safety;
- notification to the affected Ward Councillor and the affected Business Improvement Area, as applicable;
- automatic expiry of an Order within sixty (60) days of the date of issuance, unless otherwise stated to expire on an earlier date, as specified in the Order;
- application of an Order to a limited geographic area no greater than is necessary to address the factors outlined below;
- the number of substantiated complaints received, or circumstances noted through investigations by, the Emergency and Protective Services Department about the wearing of masks by general public while congregating in the Designated Unenclosed Public Space; and,
- the size and dimensions of the Designated Unenclosed Public Space and whether 2-meter physical distancing is practicable by the general public when congregating there.

Notification of the issuance or revocation of such an Order would be provided through a variety of avenues, including but not limited to the City's and OPH's website, social media channels, posting directly on the designated property, or direct mail to Business Improvement Areas or property owners, as applicable.

### **Minor Amendments**

The proposed amendments in Document 1 include an update to the long title of the by-law and to the reference to applicable provincial legislation which has changed name, as well as the addition of vehicles-for-hire to the enclosed public spaces to which the mask requirement applies, in order to be consistent with Medical Officer of Health's July 6<sup>th</sup> Letter of Instruction.

### **Expiry of the By-law**

As the by-law is intended to be of a temporary nature, staff is proposing an updated expiry date of and including the full day of October 31, 2020—in essence, 12:01 November 1<sup>st</sup>, which provides for a periodic review of two months.

The by-law amendments will take effect immediately upon approval by Council and will remain in effect until and including October 31, 2020, when the patio season is essentially over, unless Council approves another extension to the by-law at a meeting prior to October 31, as necessary to meet public health objectives related to COVID-19, based on public health data and other information that may be available from the Medical Officer of Health and the General Manager of Emergency and Protective Services.

By-law and Regulatory Services will continue to administer and enforce the Temporary Mandatory Mask By-law while it is in effect and work collaboratively with the Transportation Services Department for public transit property, as well as with Ottawa Public Health to promote awareness of the by-law requirements and their public health and safety objectives.

It should be noted however that, with current staffing levels, response times with respect to enforcement of this and other regulations within By-law and Regulatory Services' purview may vary based on demand for service.

### **RURAL IMPLICATIONS**

There are no rural implications associated with this report.

## CONSULTATION

The recommendation for a by-law mandating the use of masks in enclosed public spaces initially was based on the results of OPH's community engagement survey, consultations with Ottawa's business community and discussions with neighbouring health units. The proposed amendments discussed in this report related to the common areas of condominiums and multi-unit residential buildings are consistent with the Medical Officer of Health's August 6<sup>th</sup> correspondence to their owners and managers recommending the use of masks in common areas. Further, the Eastern Ontario Landlords Organization was consulted and concurred generally with respect to the proposals related to multi-unit residences and welcomed the support that by-law provisions would provide.

## LEGAL IMPLICATIONS

As per the Legal Implications section set out in the report entitled "Temporary Mandatory Mask By-law for Enclosed Public Spaces in the City of Ottawa" (ACS2020-OPH-MOH-0005), there are no legal impediments to the implementation of the recommendations contained in this report.

The extension of this temporary measure is enacted in the furtherance of Subsection 10(2) of the *Municipal Act, 2001* which gives the authority for municipalities like the City of Ottawa to enact by-laws for the "health, safety and well-being of persons", and for the "economic, social and environmental well-being of the municipality."

The Temporary Mandatory Mask By-law is temporary in nature and therefore contains a "sunset clause". Currently, the sunset clause provides that the entire By-law will no longer be in effect at 12:01 a.m. on the day after the next regularly scheduled Council meeting following the Council meeting of July 15<sup>th</sup>, 2020, unless it is extended by Council. Should Council amend the By-law as recommended by staff in this report, the By-law will continue to be temporary and Council would be required to renew the By-law if the need exists to extend its application beyond the sunset date of 12:01 a.m. on November 1, 2020.

The proposed delegation of authority to the General Manager of Emergency and Protective Services is a limited delegation and is consistent with the delegation powers under the *Municipal Act, 2001* to allow for effective administration of the Temporary Mandatory Mask By-law, as informed by current public health guidance based on the local epidemiological experience during the continuing reopening/recovery phases.



**RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

**FINANCIAL IMPLICATIONS**

There are no direct financial implications associated with respect to the administration and enforcement of the by-law.

**ACCESSIBILITY IMPACTS**

Accessibility impacts were considered in preparing this report and drafting the corresponding amending by-law. The by-law continues to provide exemptions for a person with a disability or a medical condition, including breathing and cognitive difficulties which prevent them from wearing a mask safely, and a person who is unable to put on or remove a mask without assistance.

**SUPPORTING DOCUMENTATION**

Document 1 – Amending By-law – Temporary Mandatory Mask By-law

**DISPOSITION**

Emergency and Protective Services and Ottawa Public Health will implement any necessary public education programs, and any other direction from Council emanating from this report.

Emergency and Protective Services will make application to the Ontario Court of Justice for updated set fines upon enactment of the by-law amendments.