

Mandatory Mask Bylaws – Canadian Jurisdictional Scan

Appendix 1

City	Bylaw	Relevant Provisions	Jurisdiction to Enact
Toronto	<p>City of Toronto Bylaw 541-2020</p> <p><i>“To impose temporary regulations requiring the wearing of masks or other face coverings within enclosed public spaces”</i></p> <p>Bylaw enacted July 7, 2020 and to remain in force until 12:01 am on the first day after the first Council meeting after the summer recess (September 30 and October 1, 2020), unless extended by Council.</p>	<p>Section 1 requires operators of establishments to adopt a policy to ensure that no member of the public is permitted entry, or to remain within, an enclosed space within the establishment unless the member of the public wears a mask or face covering that covers their mouth, nose and chin. Operators to provide a copy of the policy on request of a person authorized to enforce the bylaw.</p> <p>Section 2 sets out exemptions to the requirement to wear a mask or face covering: (1) children under 2 years of age; (2) persons with an underlying medical condition that inhibits the use of a mask; (3) persons who cannot place or remove a mask without assistance; (4) employees within or behind a physical barrier or designated employee area; (5) persons reasonably accommodated under the Ontario Human Rights Code.</p> <p>Further exemptions include where removal of the mask is necessary for receiving services or engaging in athletic activity.</p> <p>Proof of exemption is not required.</p> <p>Section 3 requires operators to place signs at all entrances stating:</p> <p>“ALL PERSONS ENTERING OR REMAINING IN THESE PREMISES SHALL WEAR A MASK OR FACE COVERING WHICH COVERS THE NOSE, MOUTH AND CHIN AS REQUIRED UNDER CITY OF TORONTO BY-LAW 541-2020”</p> <p>Establishment is defined at section 6 which is pretty much all encompassing for indoor or enclosed establishments. Exceptions are identified at section 7: schools, post-secondary institutions and child care facilities, private and public transportation and hospitals, independent health facilities and offices of regulated health professionals.</p> <p>Mask is defined as: mask, balaclava, bandana, scarf, cloth or other similar item that covers the nose, mouth and chin without gapping.</p>	<p><i>The City of Toronto Act</i>, sections 7 and 8 allow Toronto to pass bylaws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City.</p> <p><i>The Emergency Management and Civil Protection Act</i>, subsection 8(1) provides Toronto with broad authority to provide any service or thing the City considers necessary or desirable for the public.</p>

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Waterloo	<p data-bbox="388 233 569 261">Bylaw 20-034</p> <p data-bbox="388 298 680 565">A Bylaw to amend Bylaw 13-050 (Code of Conduct) to require face coverings on public transit and enclosed public places of Regional Buildings</p> <p data-bbox="388 634 680 846">Bylaw was passed July 6, 2020 and is deemed repealed and no longer in force and effect at 11:59 pm on September 30, 2020 unless extended by Council.</p>	<p data-bbox="709 233 1520 354">Subsection 1(1.1) defines a face covering as "... 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".</p> <p data-bbox="709 386 1415 414">Bylaw does not apply to employees or agents of the Region.</p> <p data-bbox="709 446 1520 630">Subsection 2(2.1) requires that a person wear a face covering within a transportation vehicle, bus shelter or platform at a transit station. Exemptions: (1) children under 5; (2) medical conditions that prevent wearing face masks or inhibit ability to breathe; (3) a person who needs assistance or is accommodating another person with a hearing ability.</p> <p data-bbox="709 662 1520 813">Subsection 2(2.2) requires that a person in an area open to the general public within a Region building wear a face covering. Exemptions are the same as for subsection 2(2.1), with the addition of exempting from wearing for persons where a face covering is not permitted pursuant to any federal or provincial legislation or directive.</p> <p data-bbox="709 846 1115 873">Proof of exemption is not required.</p>	<p data-bbox="1556 233 1856 331">See <i>Emergency Management and Civil Protection Act</i> above.</p> <p data-bbox="1556 363 1877 597">Ontario's <i>Municipal Act</i>, 2001 SO 2001, c 25, section 11 which grants Waterloo the authority to enact bylaws for the health, safety and well-being of persons.</p>
Waterloo	<p data-bbox="388 911 569 938">Bylaw 20-035</p> <p data-bbox="388 976 680 1110">A by-law that requires face covering in enclosed public spaces</p> <p data-bbox="388 1143 680 1354">Bylaw was passed July 13, 2020 and is deemed repealed and no longer in force and effect at 11:59 pm on September 30, 2020 unless extended by Council.</p>	<p data-bbox="709 911 1478 1094">Section 1 states that any person in an enclosed public space shall wear a face covering and that every parent or guardian accompanying a child over 5 years old shall ensure the child is wearing a face covering. Persons include occupants, owners, operators, employees, workers, customers, patrons and other visitors.</p> <p data-bbox="709 1127 1520 1338">Exemptions also identified: (a) a child under 5; (b) a person unable to wear a face covering due to medical condition or recognized disability under human rights legislation; (c) person engaged in sport or other strenuous activity; (d) a person assisting another person who has a hearing disability; (e) person consuming food or drink as part of a religious activity within a place of worship. Proof of exemption is not required.</p>	

		<p>Definition of an enclosed space is set out at subsections 1(5) and (6) and is fairly all encompassing and includes elevators, washrooms, stairwells, hallways, service counters, lobbies and waiting areas of “enclosed public spaces”.</p> <p>Specifically exempt from the definition of an enclosed public space are: (a) an enclosed space owned or operated by or on behalf of the Provincial or Federal Government; (b) universities, colleges and schools; hospitals, independent health facilities and offices of regulated health professionals; and (d) an indoor area of building accessible only to employees [Subsection 1(7)].</p> <p>Face covering is defined in subsection 1(8) as 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.”</p> <p>Businesses are required to post signs stating [subsection 1(9)]:</p> <p>“Protect each other Wear a face covering Cover your nose, mouth and chin Required by the Face Covering Bylaw 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.”</p> <p>Section 2 allows the bylaw to be enforced by police, municipal law enforcement officers and other designated officers.</p> <p>Section 3 states fines cannot exceed \$1,000.</p>	
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Hamilton	<p>Bylaw No 20-155</p> <p><i>“A by-law to require the Wearing of Face Coverings Within Enclosed Public Spaces and to amend City of Hamilton By-law No. 17-225, being a By-law to Establish a System of Administrative Penalties”</i></p> <p>Effective date of the bylaw is July 20. 2020 at 12:01 am.</p>	<p>Operator Requirements contained in Part 2: Section 2.1 requires operators to place signs at all establishment entrances stating:</p> <p>“All persons entering or remaining in these premises shall wear a face covering which covers the nose, mouth and chin as required under City of Hamilton By-law No. 20-155 (unless exempt). Please also respect the rights of those persons who are exempt from the requirement to wear a face covering in accordance with this By-law.”</p> <p>Exempt from the definition of an establishment are airports or federal facilities, provincial public transportation facilities, schools or post-secondary institutions, child care facilities, portions of an establishment that are not open to general public, hospitals, independent health facilities or offices of regulated health professionals and any portion of property used as a private dwelling.</p> <p>Operators are required to ensure that reasonable steps are taken to ensure that no member of the public is permitted entry to or may otherwise remain in the establishment unless a face covering is worn. Operators are required to ask persons refusing to comply to leave. [Sections 2.4 and 2.5]</p> <p>Personal Requirements contained in Part 3: Section 3.1 requires persons who enter or remain in an establishment to wear a face covering (same definition as previous bylaws) and 3.2 requires that parents and guardians ensure children 2 years and older wear a mask.</p> <p>Section 4.1 exempts the following persons: (a) child under 2; (b) a child under 5, but at least 2, who refuses to wear a mask and cannot be persuaded by their caregiver; (c) underlying medical conditions inhibiting wearing of mask; (d) unable to place or remove without assistance; (e) employee of operator within an area not for public access or behind physical barrier; (f) accommodation under human rights code; (g) is in a swimming pool; (h) engaged in athletics or fitness activity; (i) if necessary to remove to receive services or treatment; (j) who is sleeping or in a bed at homeless shelter; (k) states that one of the exemptions applies to them.</p> <p>Fines: Individuals up to \$10,000 for first offence; not more than \$25,000 for second offence or any subsequent conviction (section 6.2) and for corporations, \$25,000 and \$50,000, for first and subsequent offences (section 6.3). Also contains provisions for continuing offences (6.4).</p>	<p>See Ontario’s <i>Municipal Act</i> and <i>Emergency Management and Civil Protection Act</i>.</p>

City	Bylaw	Relevant Provisions	Jurisdiction to Enact
Ottawa	<p>Bylaw No 2020-186</p> <p>A by-law of the City of Ottawa of temporary application requiring that masks be worn in certain enclosed public spaces to limit the spread of COVID-19</p> <p>Bylaw passed July 15, 2020 and deemed no longer to be in effect at 12:01 am on the day after next regularly scheduled Council meeting following meeting on July 15, 2020 unless extended by Council.</p>	<p>Section 1 defines “enclosed public space” as fairly all-encompassing and provides specific exemptions: schools, child care facilities, portions of buildings used for providing day camps, offices of professional services such as lawyers, accountants where services are received in area not open to general public and public transportation properties (which are separately regulated).</p> <p>Section 3 states all persons who enter or remain in an enclosed public space shall wear a mask that covers their nose mouth and chin. Mask is defined as “a cloth (non-medical) mask or other face covering such as a bandana or scarf, that securely covers the nose, mouth and chin, and is in contact with the surrounding face without gapping, and filters respiratory droplets”.</p> <p>Section 2 exempts children under 2, or over 2 and under 5, who refuse to wear a mask and cannot be persuaded by caregiver, those with medical conditions that prevent them from safely wearing a mask, those unable to remove or put on mask alone, those who need to temporarily remove to receive services, those engaged in athletics, those consuming food or drink and those engaged in an emergency or for a medical purpose from the requirement to wear a mask.</p> <p>Proof of exemption is not required.</p> <p>Section 4 sets out duties of operators: 4(1) – verbal reminder to people not wearing a mask 4(2) – post entrance signs stating:</p> <p>“All persons entering or remaining in these premises must wear a mask that covers the nose, mouth, and chin as required under City of Ottawa By-law 2020-186. Toutes les personnes qui entrent ou restent dans ces locaux doivent porter un masque qui couvre le nez, la bouche et le menton, comme l'exige le règlement 2020-186 de la Ville d'Ottawa.”</p> <p>4(3) – ensure availability of alcohol based hand rub at all public entrances and exits.</p> <p>Section 5 requires users of public transport to wear masks, subject to exemptions in section 2.</p> <p>Section 9 sets out fines of minimum \$500 per offence, not exceeding a maximum of \$100,000 for each day the offence continues.</p>	<p><i>Municipal Act</i>, SO 2001, c 25, subsection 8(3) allows cities to regulate, prohibit or require persons to do certain things respecting a matter.</p> <p>Section 10 allows cities to pass by-laws respecting the health, safety and well-being of persons and protecting persons.</p> <p>See also <i>Emergency Management and Civil Protection Act</i> above.</p>

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Calgary	<p data-bbox="388 232 583 297"> Bylaw Number 26M2020 </p> <p data-bbox="388 334 684 496"> Bylaw to require the wearing of face coverings in indoor public premises and in public vehicles </p> <p data-bbox="388 570 655 634"> Effective date of bylaw July 27, 2020. </p>	<p data-bbox="707 232 1530 350"> Section 3 requires the wearing of a face covering in a public premises or a public vehicle unless the person is separated from others by an installed screen, shield or other barrier. Definition of face covering similar to the other bylaws noted above. </p> <p data-bbox="707 388 1499 594"> Exemptions are contained in section 4: children under 2, persons with underlying medical condition or disability that inhibits ability to wear, persons unable to use without assistance, persons eating or drinking at public premises offering food or beverage, engaged in athletic or fitness activity, caring for or accompanying person with a disability where wearing mask would hinder accommodation and temporary removal to provide or receive a service. </p> <p data-bbox="707 631 1514 777"> “Public premises” means “all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation but excludes any premises for which there is an enrolment or membership requirement in order to access it”. </p> <p data-bbox="707 815 1499 896"> “Public vehicle” means “a bus, light rail transit (LRT) vehicle, taxi or other vehicle that is used to transport members of the public for a fee”. </p> <p data-bbox="707 933 1509 1015"> Operators are required to display signage in the form and containing the content prescribed in Schedule A to the bylaw. The message is similar to other messages noted above. </p> <p data-bbox="707 1052 1518 1170"> Specified penalties for those willing to pay voluntarily without a Court appearance are prescribed in Schedule B - \$100 for failing to wear a face covering where required and \$200 for failing to display the prescribed signage. </p>	<p data-bbox="1551 232 1877 362"> <i>Municipal Government Act</i>, section 7 authorizes the passage of bylaws respecting: </p> <ul data-bbox="1551 367 1885 699" style="list-style-type: none"> - the safety, health and welfare of people and the protection of people and property - people, activities and things in, on or near a public place - business, business activities and persons engaged in business

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Edmonton	Bylaw 19408 Temporary Mandatory Face Coverings Bylaw Bylaw comes into force on August 1, 2020 and is repealed December 31, 2020.	<p>Purpose is to temporarily mandate the wearing of face coverings in indoor public places and public vehicles.</p> <p>Similar to other bylaws "face covering" is defined as meaning a "medical or non-medical mask or other face covering that fully covers the nose, mouth and chin."</p> <p>"Public place" is defined as "any property, whether publicly or privately owned, to which members of the public have access as of right or by express or implied invitation, whether on payment of a fee or not". Public places exempted are identified in section 6: schools and other educational facilities, hospitals and health care facilities, child care facilities, areas exclusively accessed or used by public place employees and public vehicle operator provided physical barriers or physical distancing practices are implemented.</p> <p>Exemptions to the requirement to wear a face covering at all times while in an indoor, enclosed, or substantially enclosed public place or in a public vehicle [section 4] are contained in section 5: persons under 2, persons unable to place, use or remove without assistance, persons unable to wear for reasons protected under human rights, persons consuming food or drink in designated seating area or as part of religious or spiritual ceremony, persons engaged in water activities or physical exercise, persons providing care or assistance to those with a disability where assistance would be hindered with face covering, and persons engaged in services that require temporary removal.</p> <p>Violation tickets may be issued with fine amount not less than \$100 or attendance at court may be required without the alternative of making a voluntary payment.</p>	Not apparent on the face of the bylaw.