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# HALDIMAND COUNTY

## Memorandum CDS-M01-2020 Face Covering Regulations

For Consideration by Council in Committee on October 27, 2020

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**To:** Mayor Hewitt and Members of Council

**From:** Mike Evers, MCIP RPP, General Manager Community & Development Services

On July 27<sup>th</sup> Council passed By-law 2191/20, being a By-law to impose temporary regulations regarding the wearing of face coverings within closed public spaces in the County. The By-law was enacted for a temporary period which expires on November 3<sup>rd</sup>. The By-law, as approved, was structured as follows:

- focuses on enclosed (indoor) spaces – not outdoor;
- sets up businesses and organizations into two distinct categories: firstly, those that generate a large amount of in/out foot traffic (Category 1); and secondly, those that are lesser foot traffic generators (Category 2);
- Category 1 (uses like banks, grocery stores, pharmacy, large retail business) require a mask be worn by all persons in the publicly accessible areas; whereas, Category 2 (uses like restaurants, libraries, churches, recreation facility, municipal office) requires a social distancing (SD) policy be put in place, with masks only required when SD cannot be achieved (again, for all persons in the publicly accessible areas);
- specific exemptions for certain businesses/facilities (e.g. daycares, schools, those Provincially operated, etc.), areas (staff only areas, behind enclosures) and persons (e.g. those with medical conditions, children under 10, etc.).

To date, the implementation of the By-law has been successful and reaction generally positive. Staff's approach has been one of education, with strict enforcement (fines) being a last resort. Municipal Law Enforcement staff have not had to issue any fines and have received only 12 inquiries on the By-law, with just 7 of those being complaints. Of those 7 complaints, compliance was achieved in 100% of the investigations upon the provision of education and instruction by staff to the business owner. Follow-up visits demonstrated continued compliance by the businesses that were investigated. Based on public feedback and in field observations, it is clear that businesses and organizations have made great efforts to comply, while the general public has supported public health objectives by complying with the requirement for donning a face covering. In this regard, it is important to point out the goodwill of residents and business owners alike as they seek to take care of each other and willingly cooperate to protect the health and safety of the community.

As noted above, the By-law is set to expire on November 3<sup>rd</sup>. Staff were preparing to present an extension at the November 2<sup>nd</sup> Council meeting given the benefit of this instrument in protecting public health. However, the Province has now released its own regulations which effectively make those of the County redundant. The regulations, released on October 5<sup>th</sup>, are in full force and effect as part of O. Reg. 364/20. They are similar to the County's By-law in terms of the types of uses they cover; however, the regulations are more restrictive (than the County's By-law) in terms of how the uses are categorized. More specifically, the Province's regulations do not distinguish uses by intensity of foot traffic, and instead set out that all businesses and organizations require persons to wear a face covering in public areas at all times (with some exemptions – see below paragraph). Effectively, the Province's regulations treat everything like a 'Category 1' as is contained in the County's By-law (and described above) and do not allow for consideration of a 'Category 2'.

The Province's regulations set out a series of exemptions (to wearing a face covering) which are similar to those in the County's By-law. These exemptions include children younger than two years of age; those consuming food/drink; those receiving a service (that requires mask removal); those with medical conditions; and, those that work for a business/organization in an area not accessible to the public and where social distancing can be achieved.

Based on the foregoing, the effect of the Province's regulations is essentially this: a stand-alone County by-law is no longer required and would have little to no effect if it were extended. There is a well established principle that a municipality can be more stringent than the Province but cannot be less stringent. While a County by-law is not required, County staff still are and will continue to have a role in education and enforcement of the Province's regulations. The OPP will similarly continue with a role in this regard. Should the Province rescind its regulations, staff would work towards bringing another by-law forward for Council's consideration. However, at this time, there is no indication from the Province that the regulations are intended to be for a brief, defined period of time, meaning the law is expected to extend into the winter months. Staff would advise that Norfolk County with whom we share a Health Unit is similarly relying on the Provincial Regulation O. Reg. 364/20 to guide requirements for face coverings within closed public spaces.