

Strategic Priorities and Policy Committee

Report

14th Special Meeting of the Strategic Priorities and Policy Committee
July 20, 2020

PRESENT: Mayor E. Holder (Chair), Councillors M. van Holst, S. Lewis, M. Salih, J. Helmer, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, S. Turner, E. Pelozo, A. Kayabaga, S. Hillier

ALSO PRESENT: M. Schulthess, S. Spring, B. Westlake-Power

Remote Attendance: L. Livingstone, A. Barbon, B. Card, A. Anderson, S. Corman, K. Dickins, O. Katolyk, G. Kotsifas, J.P. McGonigle, D. O'Brien, K. Scherr, E. Skalski, C. Smith

The meeting is called to order at 4:10 PM; it being noted that the following Members were in remote attendance: M. van Holst, M. Salih, J. Helmer, M. Cassidy, A. Hopkins, S. Turner, A. Kayabaga

1. Disclosures of Pecuniary Interest

Councillor S. Turner discloses a pecuniary interest in the added item 4.1, having to do with potential additional legislative actions to prevent the spread of COVID-19, and the related confidential item 6.1, by indicating that the matter concerns the Medical Officer of Health, Middlesex-London Health Unit, which is his employer.

2. Consent

None.

3. Scheduled Items

None.

4. Items for Direction

4.1 Additional Legislated Measures to Reduce the Risk of Further COVID-19 Infections in the City of London

That the following actions be taken with respect to additional legislated measures to reduce the risk of further COVID-19 infections in the City of London:

- a) on the recommendation of the City Manager, with the concurrence of the Medical Officer of Health, Middlesex-London, the revised attached by-law BE INTRODUCED at the Municipal Council meeting to be held on July 21, 2020, to temporarily require the use of face coverings within enclosed publicly-accessible spaces in the City of London; it being noted that the proposed by-law was amended in section 25, by adding the following at the end, "or until such time as the regulation O. Reg 364/20: Rules for Areas in Stage 3, made under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9. is revoked.";
- b) the Civic Administration, in conjunction with appropriate stakeholders, BE DIRECTED to report back to the Strategic Priorities and Policy Committee in sixty-day increments, with respect to the above-noted proposed by-law related to mandatory face covering in public spaces; and,
- c) the presentation from Dr. C. Mackie, and the communications from M. Sheehan and D. Pietsch, with respect to this matter, BE RECEIVED;

it being noted that the attached Supplemental Report, dated July 20, 2020 from A. Anderson was submitted as per the Committee direction.

Motion Passed

Voting Record:

Moved by: A. Hopkins
Seconded by: E. Pelosa

That the presentation from Dr. C. Mackie, and the communications from M. Sheehan and D. Pietsch, BE RECEIVED.

Yeas: (14): Mayor E. Holder, M. van Holst, S. Lewis, M. Salih, J. Helmer, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, E. Pelosa, A. Kayabaga, and S. Hillier

Recuse: (1): S. Turner

Motion Passed (14 to 0)

Moved by: J. Morgan
Seconded by: S. Lewis

That the draft by-law BE AMENDED in section 25 by adding the following after "until December 31, 2020",

"or until such time as the regulation O. Reg 364/20: Rules for Areas in Stage 3, made under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9. is revoked."

Yeas: (13): Mayor E. Holder, M. van Holst, S. Lewis, M. Salih, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, E. Pelosa, A. Kayabaga, and S. Hillier

Nays: (1): J. Helmer

Absent: (1): S. Turner

Motion Passed (13 to 1)

Moved by: J. Helmer
Seconded by: M. Cassidy

That, on the recommendation of the City Manager, with the concurrence of the Medical Officer of Health, Middlesex-London, the revised attached by-law BE INTRODUCED at the Municipal Council meeting to be held on July 21, 2020, to temporarily require the use of face coverings within enclosed publicly-accessible spaces in the City of London;

Yeas: (13): Mayor E. Holder, S. Lewis, M. Salih, J. Helmer, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, E. Pelosa, A. Kayabaga, and S. Hillier

Nays: (1): M. van Holst

Absent: (1): S. Turner

Motion Passed (13 to 1)

Moved by: M. Salih
Seconded by: A. Kayabaga

That the Civic Administration, in conjunction with appropriate stakeholders, BE DIRECTED to report back to the Strategic Priorities and Policy Committee in sixty-day increments, with respect to the proposed by-law related to mandatory face covering.

Yeas: (14): Mayor E. Holder, M. van Holst, S. Lewis, M. Salih, J. Helmer, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, E. Pelozza, A. Kayabaga, and S. Hillier

Absent: (1): S. Turner

Motion Passed (14 to 0)

5. Deferred Matters/Additional Business

None.

6. Confidential (Enclosed for Members only.)

Moved by: M. Cassidy
Seconded by: S. Lewis

That the Strategic Priorities and Policy Committee convene, In Closed Session, at this time for the purpose of considering a matter pertaining to litigation or potential litigation and advice that is subject to solicitor-client privilege, including communications necessary for that purpose and directions and instructions to officers and employees or agents of the municipality.

Yeas: (14): Mayor E. Holder, M. van Holst, S. Lewis, M. Salih, J. Helmer, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, E. Pelozza, A. Kayabaga, and S. Hillier

Recuse: (1): S. Turner

Motion Passed (14 to 0)

The Strategic Priorities and Policy Committee convenes, In Closed Session, from 6:00 PM to 6:44 PM, with respect to a matter pertaining to litigation or potential litigation and advice that is subject to solicitor-client privilege, including communications necessary for that purpose and directions and instructions to officers and employees or agents of the municipality.

Moved by: J. Helmer
Seconded by: M. Cassidy

That the Strategic Priorities and Policy Committee convene, In Closed Session, with respect to a matter pertaining to solicitor-client privileged advice, as it relates to publicly releasing a confidential staff report.

Yeas: (14): Mayor E. Holder, M. van Holst, S. Lewis, M. Salih, J. Helmer, M. Cassidy, P. Squire, J. Morgan, S. Lehman, A. Hopkins, P. Van Meerbergen, E. Pelozza, A. Kayabaga, and S. Hillier

Absent: (1): S. Turner

Motion Passed (14 to 0)

The Strategic Priorities and Policy Committee convenes, In Closed Session, from 7:04 PM to 7:32 PM with respect to a matter pertaining to solicitor-client privileged advice.

7. Adjournment

The meeting adjourned at 9:14 PM.

TO:	CHAIR AND MEMBERS STRATEGIC PRIORITIES AND PLANNING COMMITTEE MEETING ON JULY 20, 2020
FROM:	LYNNE LIVINGSTONE CITY MANAGER
SUBJECT:	ADDITIONAL LEGISLATED MEASURES TO REDUCE THE RISK OF FURTHER COVID-19 INFECTIONS IN THE CITY OF LONDON

RECOMMENDATIONS

That, on the recommendation of the City Manager, with the concurrence of the Medical Officer of Health, Middlesex-London, the attached by-law BE INTRODUCED at the Municipal Council meeting to be held on July 21, 2020, to temporarily require the use of face coverings within enclosed publicly-accessible spaces in the City of London.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

There are no previous reports on this matter.

BACKGROUND

On March 11th, 2020 the World Health Organization declared a worldwide pandemic related to the COVID-19 Virus. In response to this, the Province of Ontario declared a state of emergency on March 17, 2020. In conjunction with the declaration, the Province issued numerous orders resulting in closures of business, reduced social activities and personal interactions to curtail the spread of the virus across the province. The Provincial approach includes three phases with less restrictions at each stage. In addition, health officials locally and across the province have strongly recommended several key actions to prevent the spread of the virus. These include maintaining a distance of two metres from other people, proper hand hygiene, appropriate coughing and sneezing etiquette and wearing a mask if you are unable to maintain a two metre distance. On July 13, 2020 the Province announced they will move to phase three, allowing most businesses to operate and gatherings of 50 people indoors and 100 people outdoors.

At a local level the City of London (the “City”) declared a state of emergency on March 20, 2020. At the writing of this report, there have been 591 cases in London and 49 cases in the County of Middlesex. There have been 57 deaths, and 570 cases have recovered. Over the last few weeks there has been a decrease in the number of daily cases including no cases in Long Term Care and no new deaths. Some of the recent cases have centred on situations where people are congregating indoors. As a result of these issues the Medical Officer of Health for Middlesex London (“Medical Officer of Health”) issued an order on July 7th, 2020 under section 22 of the Health Protection and Promotion Act requiring anyone entering a personal care business, taxis, ride shares and Transit to wear a mask or face covering. There has been ongoing discussions across the province regarding mask requirements and several municipal governments have recently passed bylaws requiring masking for members of the public in all publicly accessible spaces.

On July 14, 2020 a motion was introduced and passed at the Strategic Priorities and Planning Committee requesting:

- a) the Civic Administration, including the City Solicitor, BE DIRECTED to consult with the County of Middlesex and the Medical Officer of Health, Dr. Chris Mackie, and to bring forward, for consideration at the earliest opportunity by Municipal Council, any

legislative measures that the Medical Officer of Health recommends the City of London should enact to reduce the risk of further COVID-19 infections within the City of London, including the possibility of a temporary municipal bylaw requiring the wearing of masks or face coverings in enclosed public spaces; and,

- b) the Medical Officer of Health, Dr. Chris Mackie, BE REQUESTED to attend the standing committee meeting(s), to provide advice and answer questions about any advice or actions that may result from part a) above.

DISCUSSION

Consultations took place with both the County of Middlesex and the Medical Officer of Health. The Chief Administrative Officer for Middlesex County has indicated interest in reviewing any actions including bylaws that the City may be considering to prevent the spread of COVID-19. He further advised that each municipality within Middlesex County would be responsible to make their own decision and he will facilitate further consultations with each Municipality and the City of London.

Dr. Chris Mackie was consulted regarding the City of London implementing an additional legislative measure to reduce the risk of further COVID-19 infections within the City of London. He is recommending that the City of London pass a temporary by law that would require members of the public to wear a face covering in all indoor public spaces to reduce the spread of the COVID-19 Virus. The attached by law outlines the specific requirements including definitions, exemptions and enforcement.

Definitions and Application

The bylaw defines essential terms for interpretation and application, including face coverings, establishments, person and operator. The definition for Face Covering goes beyond a conventional mask to include any scarf or bandana as long as it covers the mouth, nose and chin. The definition of establishment specifically identifies many businesses or types of uses and buildings for ease of reference, but also includes a "catch all" provision that describes any business allowed to operate in accordance with the emergency orders.

Exemptions

The bylaw outlines several exemptions including those related to age, ability, accommodation or medical condition. The bylaw does not apply to federal or provincial facilities or employees. An important component of the exemption framework is a provision that removes any onus from the claimant of an exemption.

Enforcement

With the adoption of any new municipal by law, the standard protocol has been a three-pronged approach: education, voluntary compliance and enforcement if necessary. The approach to this by law will have a very strong front-ended focus on education, warnings and voluntary compliance.

In accordance with the standard process associated with the adoption of new by-laws, Civic Administration will submit an application to a Senior Regional Judge for a set fine related to the prohibition noted in the by law. The requested set fine amount will be in keeping with other City by laws and in consultation with Ontario municipalities. The proposed minimum fine is \$500. The approval of set fines are being undertaken electronically and time frames have been reduced. Without a set fine, officers have the enforcement option of issuing summonses which is not the preferred option should enforcement of this by law be required.

This by law will be enforced by the City's Municipal Law Enforcement Officers. This by law will be enforced proactively and in response to complaints. For the proactive protocol, officers will visit premises and focus on education. Officers will also respond to

complaints, however, based on the nature of the complaints, the response will be triaged and officers, if available, will attend “hot spots” to educate and employee enforcement actions if required. The enforcement of this bylaw will impact the response to standard property related complaints.

Medical Officer of Health Jurisdiction

The Medical Officer of Health has independent legislative tools to address public health and safety matters within the jurisdiction of the Middlesex London Health Unit. One available option is the issuance of an Instruction under section 364-20 of the Emergency Management and Civil Protection Act. A second available option is the issuance of an Order pursuant to section 22 of the Health Protection and Promotion Act. These tools and decisions are entirely within the discretion of the Medical Officer of Health and Middlesex London Health Unit and beyond the scope of the City’s legislative options.

This bylaw is proposed to be temporary in nature and therefore contains a sunset clause. The time frame identified was recommended by the Medical Officer of Health given the potential continued spread of the COVID-19 virus in our community.

Communication Strategy

Dr. Mackie also recommended an accompanying communication strategy to assist with the service of the by-law, clarify understanding of the by-law and reinforcing other critical public health precautions including maintaining a distance of two metres from other people, proper hand hygiene, appropriate coughing and sneezing etiquette.

A communications strategy has been developed and will be implemented pending Council’s approval of the by-law.

Dr. Mackie will attend the committee to provide further information regarding his recommendation.

Financial Impact

There are no financial implications arising from this report.

Acknowledgements

This report was written with the assistance of David O’Brien, Orest Katolyk, Aynsley Anderson, Barb Westlake Power, George Kotsifas, Dr. Chris Mackie (MLHU), Dr. Alex Summers (MLHU), and Alison Locker (MLHU)

SUBMITTED BY:
LYNNE LIVINGSTONE CITY MANAGER CITY OF LONDON

Bill No. [no. inserted by Clerk's Office]
2020

By-law No. [inserted by Clerk's]

A By-law to temporarily require the use of face coverings within enclosed publicly-accessible spaces in the City of London.

WHEREAS on March 17, 2020, an emergency was declared by the Government of Ontario ("Province") pursuant to Order in Council 518/2020 under section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 ("EMCPA") in response to the outbreak of COVID-19;

AND WHEREAS on March 20, 2020 an emergency was declared by the Corporation of the City of London ("City") pursuant to section 4 of the EMCPA in support of the Province's efforts to contain the spread of COVID-19;

AND WHEREAS health authorities at the Federal and Provincial level have recommended that persons wear face coverings in public where physical distancing cannot be maintained;

AND WHEREAS the wearing of face coverings may act as one component of an overall COVID-19 mitigation strategy, of which frequent hand-washing and maintaining a safe physical distancing are also important components;

AND WHEREAS on July 6, 2020, the Medical Officer of Health of the Middlesex London Health Unit ("Medical Officer of Health") made an Order, pursuant to section 22 (5.0.1) of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, requiring the use of face coverings for owners, operators and passengers of public transit or commercial vehicles for hire, as well as owners and operators of personal care service establishments;

AND WHEREAS because physical distancing is impossible to guarantee in enclosed public spaces, the Medical Officer of Health has advised that the following temporary regulations are a necessary, recognized, practicable, and effective method to limit the spread of COVID-19 and thereby help protect the health, safety, and well-being of the residents of the City;

AND WHEREAS the Medical Officer of Health advises that in addition to reducing the spread of COVID-19, the following temporary measures are likely to reduce anxiety and contribute positively to economic wellbeing;

AND WHEREAS Council of the City is desirous to enact a by-law to require mandatory face coverings in enclosed spaces that are accessible to the public to help contain the spread of COVID-19;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority to enable it to govern its affairs as it considers appropriate and to enhance its ability to respond to municipal issues;

AND WHEREAS subsection 11(2) of the *Municipal Act, 2001* authorizes a municipality to pass by-laws with respect to: economic, social and environmental well-being of the municipality, including respecting climate change; the health, safety and well-being of persons; and the protection of persons and property, including consumer protection;

AND WHEREAS subsections 425(1) and 429(1) of the *Municipal Act, 2001* authorize a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

AND WHEREAS subsection 436(1) of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the *Municipal Act, 2001* is being complied with;

AND WHEREAS subsection 444(1) of the *Municipal Act, 2001* authorizes a municipality to make an order requiring the person who contravened a by-law, caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

MANDATORY FACE COVERINGS BY-LAW

Definitions

1. In this by-law:

"By-law" means this By-law;

"City" means The Corporation of the City of London or the municipality of the City of London, as the context requires;

"Council" means the Municipal Council of the City of London;

"EMCPA" means the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended from time to time;

"Emergency Order" means the emergency orders passed by the Province of Ontario pursuant to the EMCPA related to COVID-19 including any regulations enacted pursuant to EMCPA;

"Face Covering" means a mask or face covering, including a bandana or scarf, construction of cloth, linen or other similar fabric that fits securely to the head and is large enough to completely and comfortably cover the mouth, nose and chin without gapping. A Face Covering may include, but is not required to be, a medical mask such as surgical masks, N95 or other similar masks worn by healthcare workers;

"HPPA" means the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended from time to time;

"Officer" means a police officer; a person appointed by Council as a municipal law enforcement officer; an officer, employee or agent of the City whose responsibility includes enforcement of this By-law;

"Operator" means a person or organization which is responsible for or otherwise has control over the operation of an Establishment;

"Person" or any expression referring to a person or people, means an individual over the age of twelve (12) and also includes a partnership, limited partnership, and a corporation and its directors and officers, and all heirs, executors, assignees and administrators;

Application of this By-law

2. This By-law applies to all Establishments and Persons in the City.
3. For the purposes of this By-law, an Establishment means any portion of a building that is located:
 - (a) indoors; and,
 - (b) where the public is ordinarily invited or permitted access to whether or not a fee or membership is charged for entry.
4. For greater clarity, Establishments shall include the following:
 - (a) premises or any portion thereof which are used as a place of business for the sale or offering for sale of goods or services, including restaurants or the sale of any food or beverage, and including a mall or similar structure containing multiple places of business;
 - (b) churches, mosques, synagogues, temples, or other places of worship;
 - (c) City indoor recreational facilities open to the public, community centres including indoor recreational facilities, whether publically accessible or requiring membership;
 - (d) libraries, art galleries, performing arts centres, museums, aquariums, zoos, and other similar facilities;
 - (e) community service agencies providing services to the public;
 - (f) banquet halls, convention centres, arenas, stadiums, and any other event space;
 - (g) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
 - (h) common areas of hotels, motels or other short-term rentals, such as lobbies, elevators, meeting rooms, or other common use facilities;
 - (i) concert venues, theatres, cinemas, casinos, and other entertainment facilities;
 - (j) other business, organizations and places that are permitted to operate in accordance with the Emergency Orders.
5. Notwithstanding the generality of section 3 and the specificity of section 4, Establishments shall not include the following:
 - (a) day cares, schools, post-secondary institutions, and other facilities used solely for educational purposes;
 - (b) hospitals and portions of buildings used by regulated health professionals;
 - (c) buildings owned or operated by the Province of Ontario or the Government of Canada;
 - (d) portions of community centres, arenas or other buildings that are being used for the purpose of day camps for children or for the training of amateur or professional athletes;
 - (e) school transportation vehicles;
 - (f) court facilities, or a portion of a building where any similar legislated judicial or quasi-judicial proceeding is taking place;
 - (g) professional offices that are not open to the public and are open by appointment only (such as a lawyer or accountant office);
 - (h) indoor areas of buildings that are accessible to employees only.
6. Notwithstanding section 2, this By-law does not apply to any Officer, City employee, or a person hired or engaged by the City to do work or perform services within an Establishment for the specific purposes of performing policing, municipal or enforcement services, including but not limited to, the enforcement of this By-law, or the provisions of an act of Parliament or the Legislature, or an order made under an act of Parliament or the Legislature.

7. Nothing in this By-law is to be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in this respect between federal or provincial legislation, or *EMCPA* order, or *HPPA* order, the federal or provincial legislation and orders authorized thereunder shall prevail.

General Obligations and Prohibitions - Operator

8. Subject to the exemptions in section 12, every Operator shall require that Face Coverings are worn by anyone engaged in the operation of the business or delivery of a service or product at an Establishment, including employees, volunteers, agents, or contractors.

9. The Operator shall conspicuously post at all entrances to the Establishment clearly visible signage containing the following text:

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 LONDON BY-LAW PH-20.

The following persons are exempt from the requirement to wear a Mask or Face Covering:

- (a) children under twelve years of age;**
- (b) Persons with an underlying medical condition or disability which inhibits their ability to wear a Face Covering;**
- (c) Persons who are unable to place or remove a Face Covering without assistance;**
- (d) employees or agents of the Establishment within an area designated for them and not publically accessible, or in an area separated by a physical barrier;**
- (e) Persons who are reasonably accommodated by not wearing a Face Covering in accordance with the Ontario Human Rights Code;**
- (f) Persons in an Establishment, while receiving services involving the face and requiring the removal of the Face Covering, including but not limited to eating or drinking, or while actively engaging in an athletic or fitness activity.**

Please be respectful of the rights of individuals who are exempt from wearing a mask in conformity with the exemptions provided in the By-law.

To report an incidence of non-compliance with the By-law, contact covidorderconcerns@london.ca or (519) 661-4660

General Obligations and Prohibitions – All Persons

10. Every Person shall wear a Face Covering before entering and while inside an Establishment.

11. Every Person shall ensure that any Person under their care, including children, comply with section 10 of this By-law.

12. Notwithstanding sections 10 and 11 of this By-law, the following Persons shall be exempt from wearing a Face Covering:

- (a) Persons with an underlying medical condition or disability which inhibits their ability to wear a Face Covering;
- (b) Persons who are unable to place or remove a Face Covering without assistance;
- (c) employees or agents of the Establishment within an area designated for them and not publically accessible, or in an area separated by a physical barrier;
- (d) Persons who are reasonably accommodated by not wearing a Face Covering in accordance with the Ontario Human Rights Code;
- (e) Persons in an Establishment, while receiving services involving the face and requiring the removal of the Face Covering, including but not limited to eating or drinking, or while actively engaging in an athletic or fitness activity; and,
- (f) police, fire, or paramedics where it may interfere with the performance of their duties.

13. No Person shall be required to provide proof of any of the exemptions set out in section 12.

Administration, Inspection, and Enforcement

14. The City's Municipal Law Enforcement Office is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City employees for those purposes.

15. The provisions of this By-law may be enforced by an Officer.

16. An Officer may enter on land or buildings at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) an order or other requirement made under this By-law; or
- (b) an order made under section 431 of the *Municipal Act, 2001*.

17. An Officer, for the purposes of the inspection under section 20 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information in writing or otherwise as required by an Officer from any person concerning a matter related to the inspection; and,
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

18. An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where they have been prevented or is likely to be prevented from carrying out an inspection under section 16.

19. Any Person or Operator who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine and such other penalties as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

20. Upon conviction of an offence under this By-law, a person or operator shall be liable to a fine in accordance with section 429 of the *Municipal Act, 2001*, as follows:

- (a) a minimum of \$500 and a maximum fine of \$100,000.00;
- (b) in the case of a continuing offence, for each day or part of a day that the offence

continues, a minimum of \$500 and a maximum fine of \$10,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00; and
(c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine of \$10,000.00, and the total of all fines for each included offence is not limited to \$100,000.00.

21. Where a person or operator has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:

- (a) prohibiting the continuation or repetition of the offence by the person or operator convicted; and,
- (b) requiring the person or operator convicted to correct the contravention in the manner and within the period that the court considers appropriate.

22. An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the *Municipal Act, 2001*.

General

23. 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 EMCPA or the HPPA.

24. If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of Council that the remainder of this By-law shall continue to be of full force and effect.

25. This By-law comes into force and effect on the day it is passed and shall remain in effect until December 31, 2020.

PASSED in Open Council on July 21, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

Bill No. [no. inserted by Clerk's Office]
2020

By-law No. [inserted by Clerk's]

A By-law to temporarily require the use of face coverings within enclosed publicly-accessible spaces in the City of London.

WHEREAS on March 17, 2020, an emergency was declared by the Government of Ontario ("Province") pursuant to Order in Council 518/2020 under section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 ("EMCPA") in response to the outbreak of COVID-19;

AND WHEREAS on March 20, 2020 an emergency was declared by the Corporation of the City of London ("City") pursuant to section 4 of the EMCPA in support of the Province's efforts to contain the spread of COVID-19;

AND WHEREAS health authorities at the Federal and Provincial level have recommended that persons wear face coverings in public where physical distancing cannot be maintained;

AND WHEREAS the wearing of face coverings may act as one component of an overall COVID-19 mitigation strategy, of which frequent hand-washing and maintaining a safe physical distancing are also important components;

AND WHEREAS on July 6, 2020, the Medical Officer of Health of the Middlesex London Health Unit ("Medical Officer of Health") made an Order, pursuant to section 22 (5.0.1) of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, requiring the use of face coverings for owners, operators and passengers of public transit or commercial vehicles for hire, as well as owners and operators of personal care service establishments;

AND WHEREAS because physical distancing is impossible to guarantee in enclosed public spaces, the Medical Officer of Health has advised that the following temporary regulations are a necessary, recognized, practicable, and effective method to limit the spread of COVID-19 and thereby help protect the health, safety, and well-being of the residents of the City;

AND WHEREAS the Medical Officer of Health advises that in addition to reducing the spread of COVID-19, the following temporary measures are likely to reduce anxiety and contribute positively to economic wellbeing;

AND WHEREAS Council of the City is desirous to enact a by-law to require mandatory face coverings in enclosed spaces that are accessible to the public to help contain the spread of COVID-19;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority to enable it to govern its affairs as it considers appropriate and to enhance its ability to respond to municipal issues;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* authorizes a municipality to pass by-laws with respect to: economic, social and environmental well-being of the municipality, including respecting climate change; the health, safety and well-being of persons; and the protection of persons and property, including consumer protection;

AND WHEREAS subsections 425(1) and 429(1) of the *Municipal Act, 2001* authorize a municipality to pass by-laws providing that a person who contravenes a municipal by-law is guilty of an offence and to establish a system of fines for offences under a by-law;

AND WHEREAS subsection 436(1) of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the *Municipal Act, 2001* is being complied with;

AND WHEREAS subsection 444(1) of the *Municipal Act, 2001* authorizes a municipality to make an order requiring the person who contravened a by-law, caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

MANDATORY FACE COVERINGS BY-LAW

Definitions

1. In this by-law:

"By-law" means this By-law;

"City" means The Corporation of the City of London or the municipality of the City of London, as the context requires;

"Council" means the Municipal Council of the City of London;

"EMCPA" means the *Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9*, as amended from time to time;

"Emergency Order" means the emergency orders passed by the Province of Ontario pursuant to the EMCPA related to COVID-19 including any regulations enacted pursuant to EMCPA;

"Face Covering" means a mask or face covering, including a bandana or scarf, construction of cloth, linen or other similar fabric that fits securely to the head and is large enough to completely and comfortably cover the mouth, nose and chin without gapping. A Face Covering may include, but is not required to be, a medical mask such as surgical masks, N95 or other similar masks worn by healthcare workers;

"HPPA" means the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*, as amended from time to time;

"Officer" means a police officer; a person appointed by Council as a municipal law enforcement officer; an officer, employee or agent of the City whose responsibility includes enforcement of this By-law;

"Operator" means a person or organization which is responsible for or otherwise has control over the operation of an Establishment;

"Person" or any expression referring to a person or people, means an individual over the age of twelve (12) and also includes a partnership, limited partnership, and a corporation and its directors and officers, and all heirs, executors, assignees and administrators;

Application of this By-law

2. This By-law applies to all Establishments and Persons in the City.
3. For the purposes of this By-law, an Establishment means any portion of a building that is located:
 - (a) indoors; and,
 - (b) where the public is ordinarily invited or permitted access to whether or not a fee or membership is charged for entry.
4. For greater clarity, Establishments shall include the following:
 - (a) premises or any portion thereof which are used as a place of business for the sale or offering for sale of goods or services, including restaurants or the sale of any food or beverage, and including a mall or similar structure containing multiple places of business;
 - (b) churches, mosques, synagogues, temples, or other places of worship;
 - (c) City indoor recreational facilities open to the public, community centres including indoor recreational facilities, whether publically accessible or requiring membership;
 - (d) libraries, art galleries, performing arts centres, museums, aquariums, zoos, and other similar facilities;
 - (e) community service agencies providing services to the public;
 - (f) banquet halls, convention centres, arenas, stadiums, and any other event space;
 - (g) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
 - (h) common areas of hotels, motels or other short-term rentals, such as lobbies, elevators, meeting rooms, or other common use facilities;
 - (i) concert venues, theatres, cinemas, casinos, and other entertainment facilities;
 - (j) other business, organizations and places that are permitted to operate in accordance with the Emergency Orders.
5. Notwithstanding the generality of section 3 and the specificity of section 4, Establishments shall not include the following:
 - (a) day cares, schools, post-secondary institutions, and other facilities used solely for educational purposes;
 - (b) hospitals and portions of buildings used by regulated health professionals;
 - (c) buildings owned or operated by the Province of Ontario or the Government of Canada;
 - (d) portions of community centres, arenas or other buildings that are being used for the purpose of day camps for children or for the training of amateur or professional athletes;
 - (e) school transportation vehicles;
 - (f) court facilities, or a portion of a building where any similar legislated judicial or quasi-judicial proceeding is taking place;
 - (g) professional offices that are not open to the public and are open by appointment only (such as a lawyer or accountant office);
 - (h) indoor areas of buildings that are accessible to employees only.
6. Notwithstanding section 2, this By-law does not apply to any Officer, City employee, or a person hired or engaged by the City to do work or perform services within an Establishment for the specific purposes of performing policing, municipal or enforcement services, including but not limited to, the enforcement of this By-law, or the provisions of an act of Parliament or the Legislature, or an order made under an act of Parliament or the Legislature.

7. Nothing in this By-law is to be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in this respect between federal or provincial legislation, or *EMCPA* order, or *HPPA* order, the federal or provincial legislation and orders authorized thereunder shall prevail.

General Obligations and Prohibitions - Operator

8. Subject to the exemptions in section 12, every Operator shall require that Face Coverings are worn by anyone engaged in the operation of the business or delivery of a service or product at an Establishment, including employees, volunteers, agents, or contractors.

9. The Operator shall conspicuously post at all entrances to the Establishment clearly visible signage containing the following text:

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 LONDON BY-LAW PH-20.

The following persons are exempt from the requirement to wear a Mask or Face Covering:

- (a) children under twelve years of age;**
- (b) Persons with an underlying medical condition or disability which inhibits their ability to wear a Face Covering;**
- (c) Persons who are unable to place or remove a Face Covering without assistance;**
- (d) employees or agents of the Establishment within an area designated for them and not publically accessible, or in an area separated by a physical barrier;**
- (e) Persons who are reasonably accommodated by not wearing a Face Covering in accordance with the Ontario Human Rights Code;**
- (f) Persons in an Establishment, while receiving services involving the face and requiring the removal of the Face Covering, including but not limited to eating or drinking, or while actively engaging in an athletic or fitness activity.**

Please be respectful of the rights of individuals who are exempt from wearing a mask in conformity with the exemptions provided in the By-law.

To report an incidence of non-compliance with the By-law, contact covidorderconcerns@london.ca or (519) 661-4660

General Obligations and Prohibitions – All Persons

10. Every Person shall wear a Face Covering before entering and while inside an Establishment.

11. Every Person shall ensure that any Person under their care, including children, comply with section 10 of this By-law.
12. Notwithstanding sections 10 and 11 of this By-law, the following Persons shall be exempt from wearing a Face Covering:
- (a) Persons with an underlying medical condition or disability which inhibits their ability to wear a Face Covering;
 - (b) Persons who are unable to place or remove a Face Covering without assistance;
 - (c) employees or agents of the Establishment within an area designated for them and not publically accessible, or in an area separated by a physical barrier;
 - (d) Persons who are reasonably accommodated by not wearing a Face Covering in accordance with the Ontario Human Rights Code;
 - (e) Persons in an Establishment, while receiving services involving the face and requiring the removal of the Face Covering, including but not limited to eating or drinking, or while actively engaging in an athletic or fitness activity; and,
 - (f) police, fire, or paramedics where it may interfere with the performance of their duties.
13. No Person shall be required to provide proof of any of the exemptions set out in section 12.

Administration, Inspection, and Enforcement

14. The City's Municipal Law Enforcement Office is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City employees for those purposes.
15. The provisions of this By-law may be enforced by an Officer.
16. An Officer may enter on land or buildings at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) an order or other requirement made under this By-law; or
 - (b) an order made under section 431 of the *Municipal Act, 2001*.
17. An Officer, for the purposes of the inspection under section 20 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by an Officer from any person concerning a matter related to the inspection; and,
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
18. An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where they have been prevented or is likely to be prevented from carrying out an inspection under section 16.
19. Any Person or Operator who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine and such other penalties as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

20. Upon conviction of an offence under this By-law, a person or operator shall be liable to a fine in accordance with section 429 of the *Municipal Act, 2001*, as follows:

- (a) a minimum of \$500 and a maximum fine of \$100,000.00;
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum of \$500 and a maximum fine of \$10,000.00, and the total of all daily fines for the offence is not limited to \$100,000.00; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine of \$10,000.00, and the total of all fines for each included offence is not limited to \$100,000.00.

21. Where a person or operator has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:

- (a) prohibiting the continuation or repetition of the offence by the person or operator convicted; and,
- (b) requiring the person or operator convicted to correct the contravention in the manner and within the period that the court considers appropriate.

22. An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the *Municipal Act, 2001*.

General

23. 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 EMCPA or the HPPA.

24. If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of Council that the remainder of this By-law shall continue to be of full force and effect.

25. This By-law comes into force and effect on the day it is passed and shall remain in effect until December 31, 2020 or until such time as the regulation O. Reg 364/20: Rules for Areas in Stage 3, made under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9., is revoked.

PASSED in Open Council on July 21, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

SUPPLEMENTAL REPORT

TO:	CHAIR AND MEMBERS STRATEGIC PRIORITIES AND POLICY COMMITTEE MEETING ON MONDAY, JULY 20, 2020
FROM:	AYNSLEY ANDERSON SOLICITOR
SUBJECT	MANDATORY WEARING OF FACE COVERINGS

RECOMMENDATION

That, on the recommendation of the City Solicitor's Office, the following report **BE RECEIVED** for information.

LEGAL CONSIDERATIONS

This report was prepared to accompany the report dated July 20, 2020, titled "Additional Legislated Measures to Reduce the Risk of Further COVID-19 Infections in the City of London." For additional factual context, please see accompanying report.

Jurisdiction

Throughout the COVID-19 Emergency, the City of London has been relying on, and following the direction of the Medical Officer of Health for the Middlesex London Health Unit (the "Medical Officer of Health").

The *Health Protection and Promotion Act* provides the Board of Health with jurisdiction over the "control of infectious diseases and diseases of public health significance, ... health promotion, health protection and disease and injury prevention"¹ and the Medical Officer of Health with jurisdiction over matters of "issues relating to public health concerns and to public health programs."²

Similarly, municipal council has jurisdiction over matters that are set out in the *Municipal Act, 2001*, namely as found in subsection 10(2), which includes

A single-tier municipality may pass by-laws respecting the following matters:

6. Health, safety and well-being of persons.

There is some overlap here.

Charter of Rights and Freedoms

Any government action, including the enactment of by-laws, is subject to the Charter, regardless of whether it is explicitly stated. A Charter challenge is typically assessed as a "two-step" test, and examples of grounds for identifying a breach of a Charter-protected right are outlined below.

Step 1 – Has there been a breach of a Charter-protected right?

Section 7 establishes that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. Section 7 rights protect people from state intervention; do not impose positive obligations on the state. Principles of fundamental justice are not protected interests, but rather qualifications on the right not to be deprived of life, liberty and security. Principles of fundamental justice require a balancing of state and individual interests.

1 Subsection 5(2) and (3) HPPA

2 Subsection 67(1) HPPA

Section 8 establishes that everyone has the right to be secure against unreasonable search or seizure. To establish a violation, claimants must demonstrate: first, that a governmental act constituted a “search or seizure”; and second, that the search or seizure was “unreasonable”. The “search or seizure” question reduces to whether the act intruded on the claimant’s “reasonable expectation of privacy”.

Section 15 establishes that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Step 2: If there was a breach, is the breach justified?

Once a breach is established, the burden shifts to the government to demonstrate that the breach is justified through the Oakes Test. There are two parts to the Oakes test. The first part asks whether the purpose of the law is a significant (i.e. pressing and substantial) objective to society. The object must be of sufficient importance to warrant overriding of a constitutionally protected right or freedom. The object identified must be the original purpose of the legislation. The second part asks whether the breach is proportional. To be proportional, the considerations are threefold. First, there must be a rational connection (i.e. is the by-law connected to the end the government seeks to achieve). The by-law must not be unfair, arbitrary, or based on irrational factors. Second, there must be minimal impairment to the charter right. Third, there must be proportionality between means and effects.

Use of *Health Protection and Promotion Act* (“HPPA”) Orders

The HPPA Order, pursuant to section 22 of the HPPA, is a tool that has been used by the Medical Officer of Health in London with respect to mandatory face coverings on public transit, in commercial vehicles for hire, and in personal service establishments.

***Emergency Management and Civil Protection Act* (“EMCPA”) Plan and Orders**

The Municipality has actioned an Emergency Response Plan and declared a State of Emergency, in accordance with the provisions of the *Emergency Management and Civil Protection Act* (“EMCPA”). In accordance with that legislation, there exists an ability to make any order required to implement the emergency plan of the municipality and to protect the health, safety and welfare of the inhabitants of the emergency area. The City’s Emergency Response Plan does not describe the use of masks or face coverings as an action that could be implemented under the jurisdiction of the EMCPA. Any actions or decisions with respect to the City’s Emergency Response Plan occur in consultation with the City’s Emergency Operations Centre Policy Committee.

Occupier’s Liability Act

The City is an “occupier” for the purposes of this legislation on all City property, and as such owes the general public a reasonable duty of care regarding safe enjoyment of that property. The City has already taken steps to ensure the safety of the public on public property, including signage, self-checks, and physical distancing. A precondition to entry imposed by an occupier must be reasonable in itself and in its connection to protecting the safety of persons on the property.

Obligation to enforce By-laws

Generally, a municipality has broad discretion on the manner and extent of enforcement of by-laws, as long as it is acting in good faith and reasonably under the circumstances. However, once adopted as a by-law containing prohibitions with corresponding offence provisions, Council cannot specifically direct enforcement officers with respect to the manner in which they are enforced, or not enforced. Enforcement will occur in accordance with the Municipal Law Enforcement Services Standard Operating Guidelines, unless Council directs otherwise. The City also has an obligation to honour the terms of the Memorandum of Understanding, entered into between the City and the Attorney General with the respect to prosecution of municipal by-laws, for example, in section 2.1.7:

The entire justice process, from the laying of charges through to final disposition of appeals, shall continue to operate independently and free from political intervention.

The Medical Officer of Health has no jurisdiction with respect to the enforcement of the proposed by-law.

PREPARED AND RECOMMENDED BY:	
	AYNSLEY ANDERSON SOLICITOR II



Choose
health!

ML MIDDLESEX-LONDON
HEALTH UNIT

Public Health Measures to Prevent the Spread of COVID-19

Special Meeting of the Strategic Priorities and Policy Committee

Dr. Chris Mackie

Medical Officer of Health

Middlesex-London Health Unit

Local Surveillance

As of July 17th, 2020:

- Over 13.8 million COVID-19 cases and over 590,000 deaths have been reported worldwide.
- 39,043 cases of this illness confirmed in Ontario, including 2,784 deaths
- Local:

Case status

The data are based on information extracted from the Middlesex-London Health Unit's *Case and Contact Management System*. The data reflect the status of cases as of the end of the previous day.

642

Total number of confirmed cases

1

New cases since the previous day

571

Total recovered cases

57

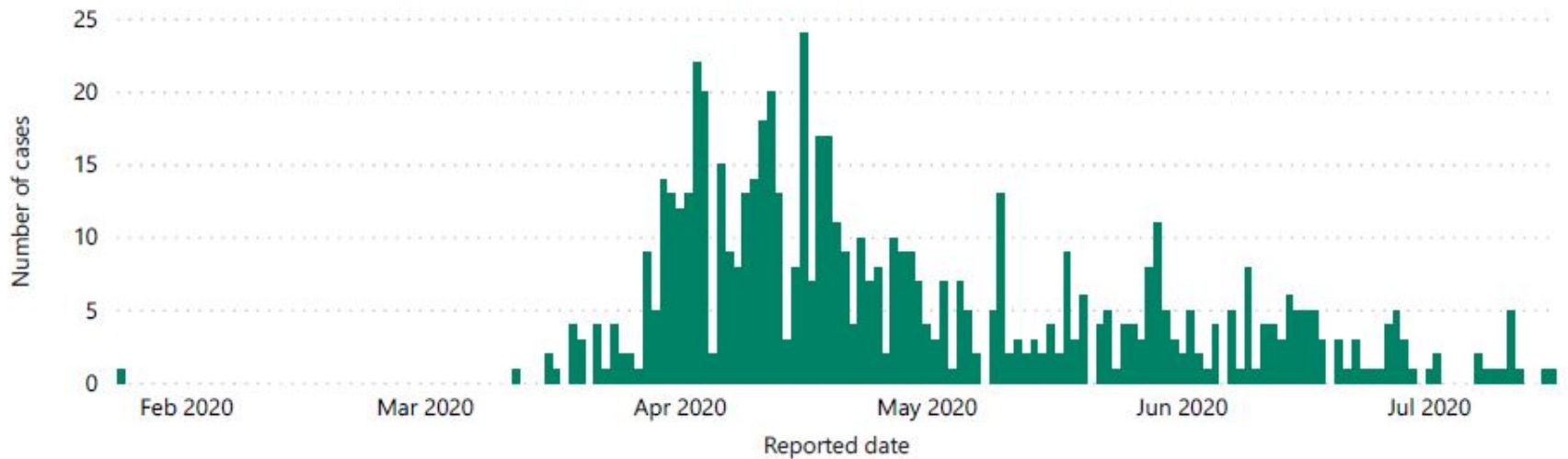
Total deaths

0

New deaths since the previous day

Cases by Reported Date

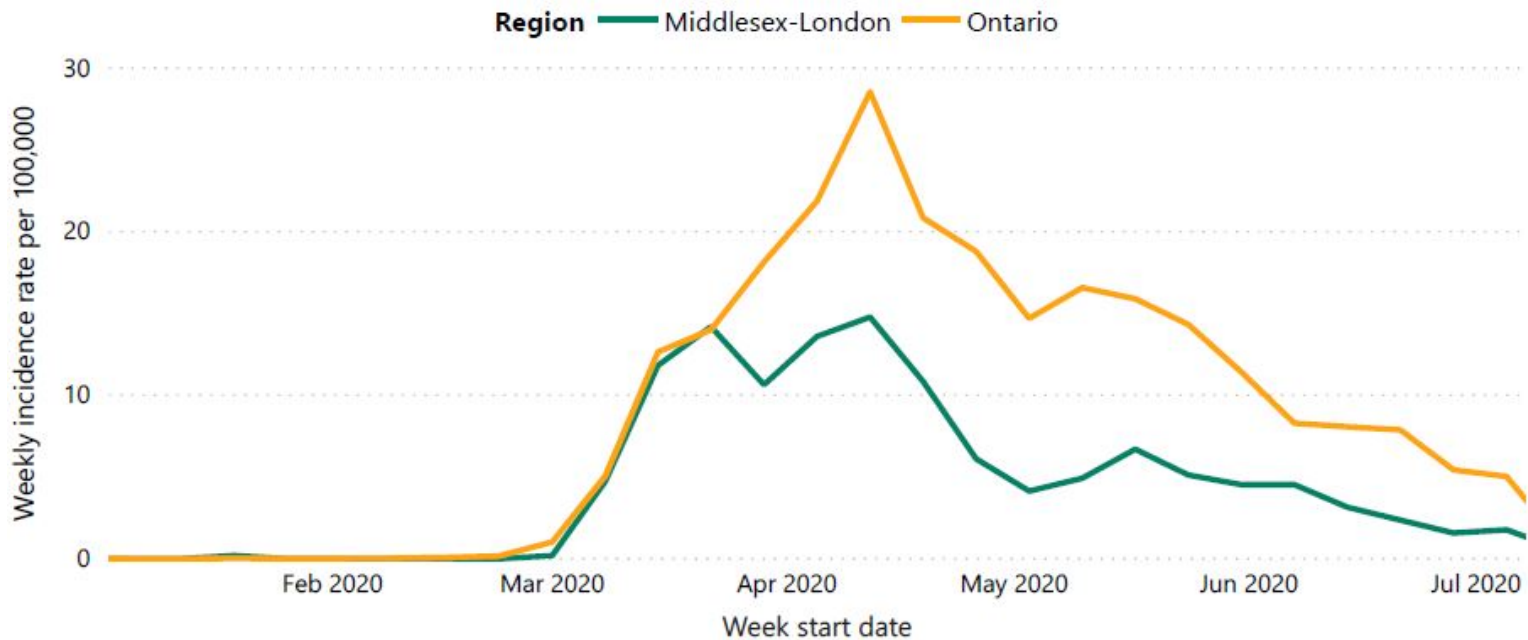
Cases by COVID-19 by reported date, Middlesex-London, 2020



Data source: MLHU COVID-19 Case and Contact Management System, extracted 2020-07-17 at 08:30 EDT. Data current as of the end of day 2020-07-16

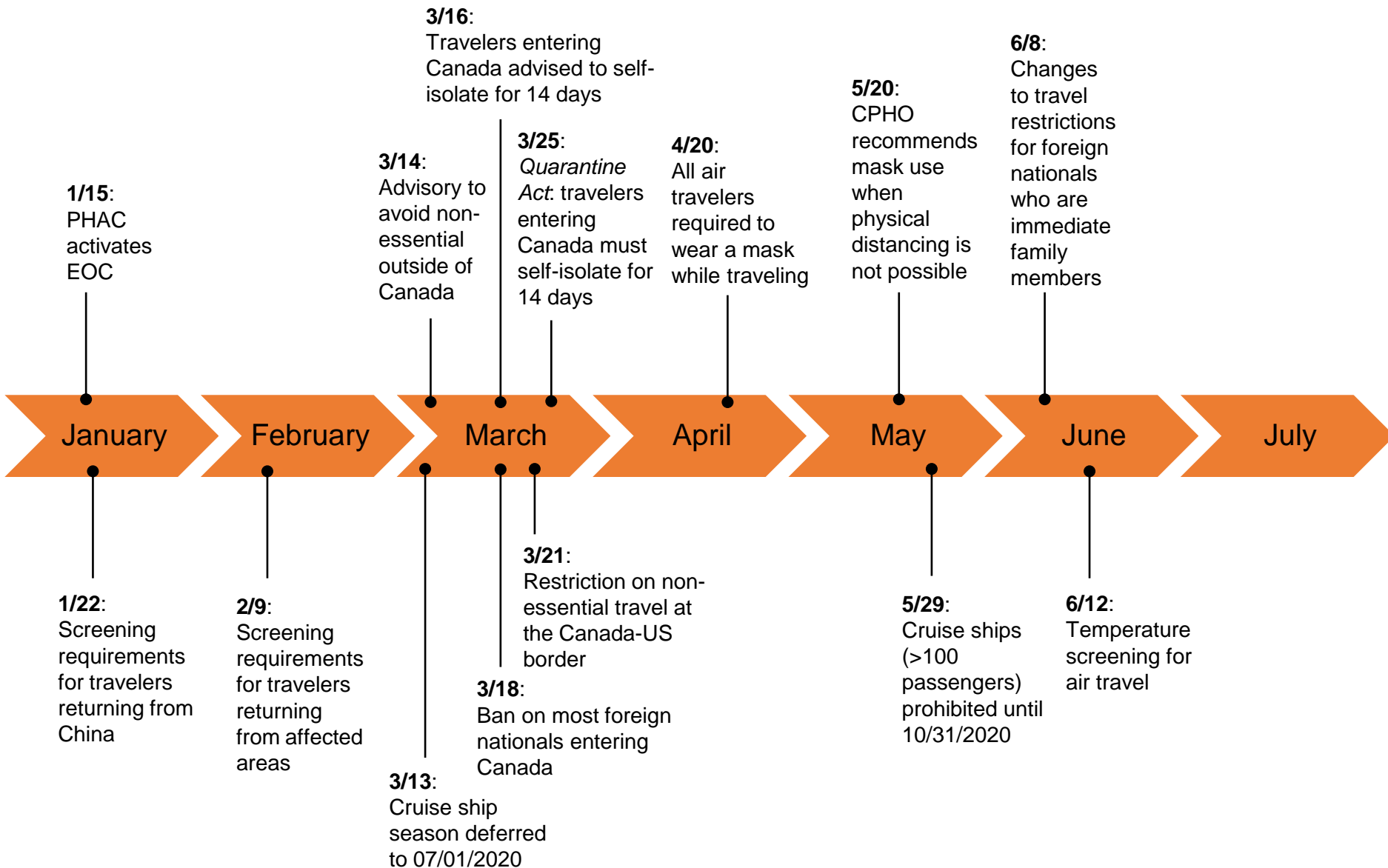
Weekly Incidence Rates

Weekly incidence rates for Middlesex-London and Ontario

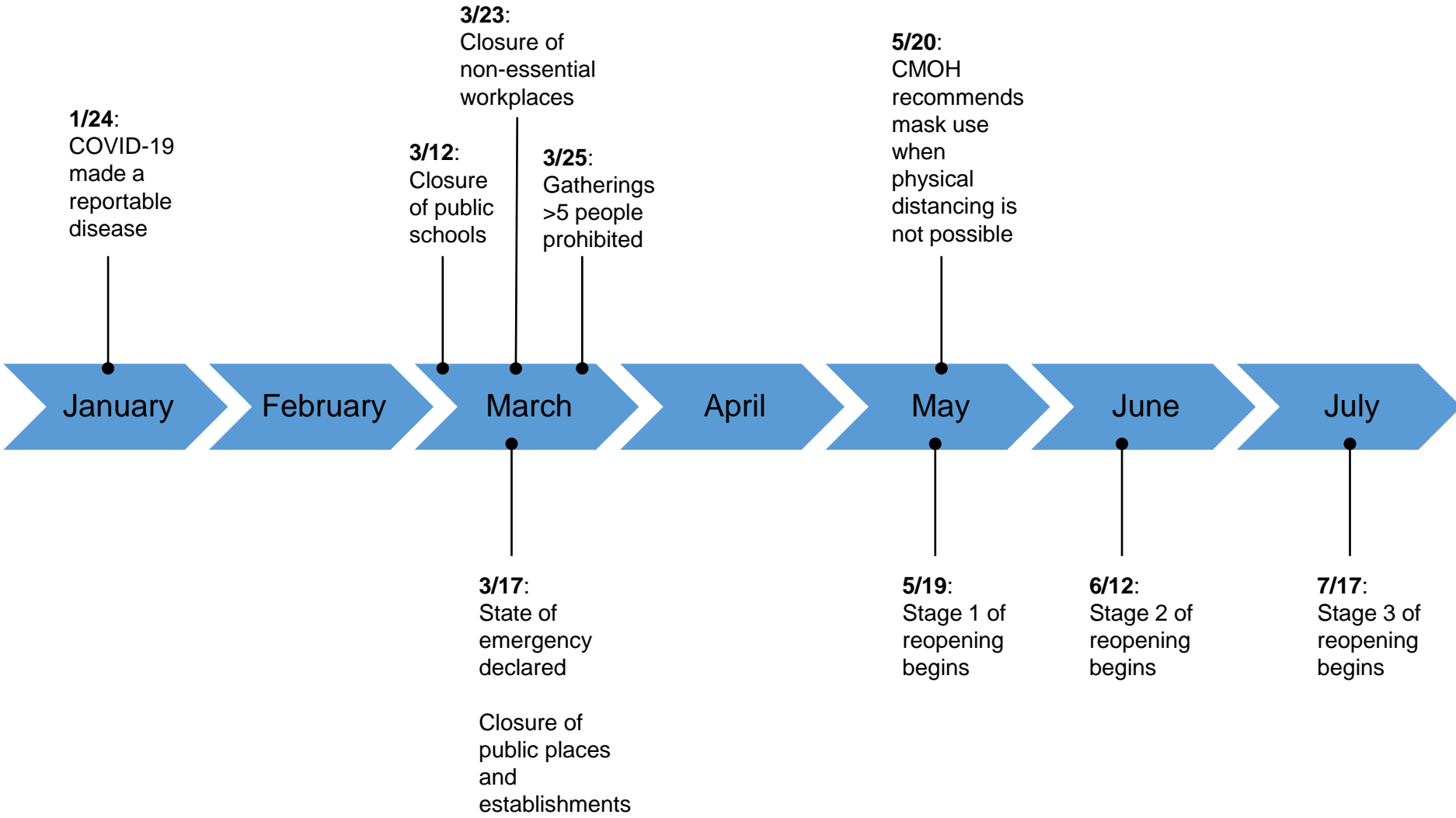


Data source: MLHU COVID-19 Case and Contact Management System, extracted 2020-07-17 at 08:30 EDT. Data current as of the end of day 2020-07-16

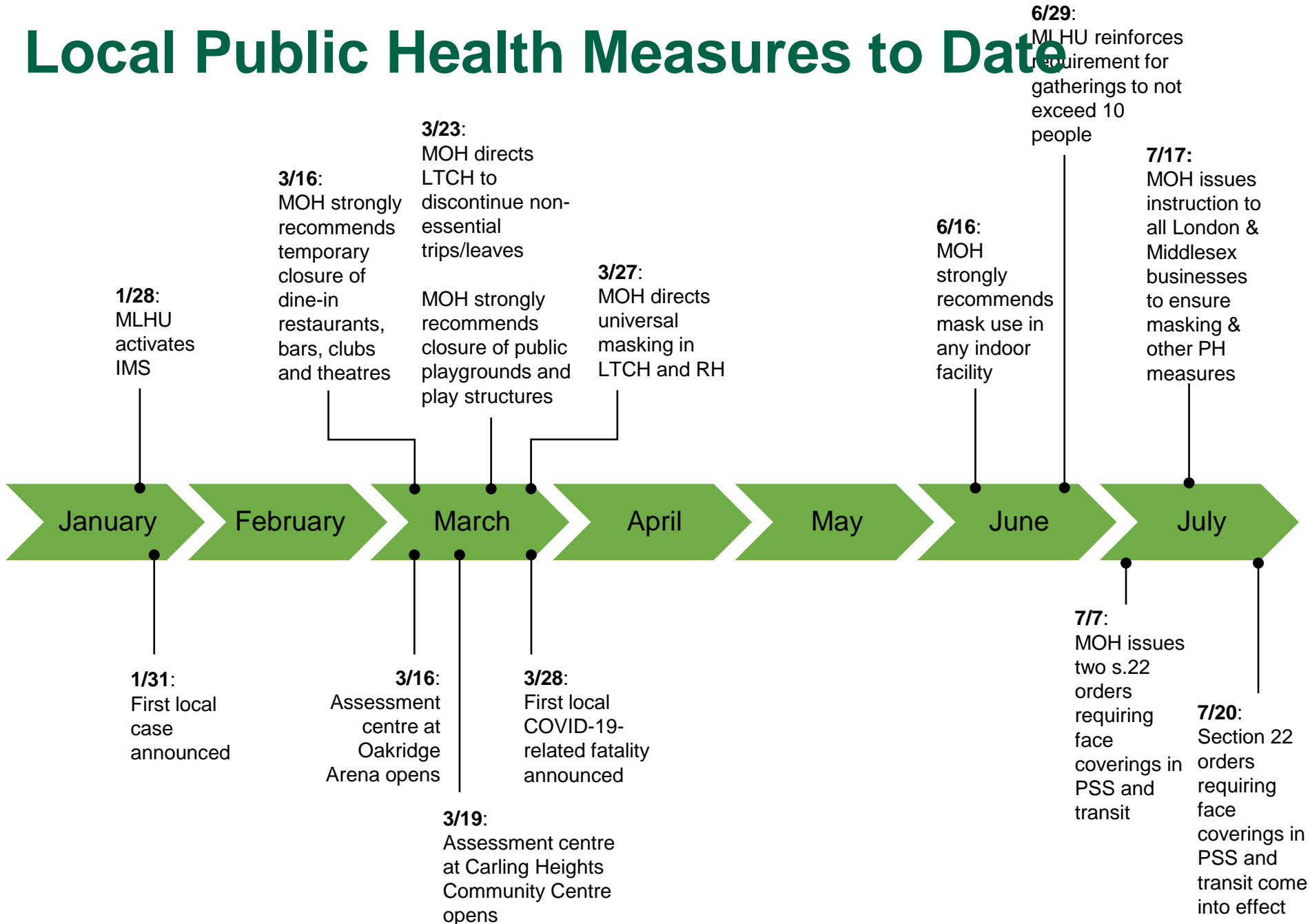
Federal Public Health Measures to Date



Provincial Public Health Measures to Date



Local Public Health Measures to Date



Medical Officer of Health Strongly Recommends Use of Face Coverings in Indoor Public Settings

June 16, 2020



Section 22 Class Orders - HPPA

- Two orders issued on July 7th
 1. Personal care service establishments
 2. Transit vehicles, taxis and ride share vehicles



Section 22 Class Order Personal Care Service Establishments

- Staff, clients, customers and visitors to higher risk businesses must wear a mask at all times within the establishment
- Includes:
 - Hair Salons and barber shops
 - Manicure, pedicure and aesthetician services
 - Piercing services
 - Tanning salons
 - Spas
 - Tattoo studios

Section 22 Class Order Transit

- Covers staff, riders, passengers, clients of public transit and commercial vehicles (including taxis and ride shares)
- Masks and postcard resources for transit riders distributed to customers at high-traffic bus route hubs today

Section 22 Orders Requiring Masks **Effective July 20, 2020**



First Order



The first Section 22 Order applies to personal care service establishments in London and Middlesex County, including services relating to the hair or body, such as hair salons and barbershops, manicure and pedicure and aesthetician services, piercing services, tanning salons, spas and tattoo studios. Under the Order, all customers, clients, employees and visitors will be required to wear a face covering for the entire time they are inside the business.



Second Order



The second Section 22 Order will require everyone who rides on public transit vehicles, in taxis or other commercial vehicles for hire, including ride shares and shuttlebuses, to wear a face covering the entire time they are in the vehicle.

The face covering **must cover** the mouth, nose and chin, for the entire time you are inside the business or vehicle.



A face covering consists of:

- Medical or non-medical mask
- Bandana
- Scarf or cloth

Who is exempt?

- Those under 12
- Those that cannot wear a mask because of medical conditions or have difficulty breathing

FOR MORE INFORMATION ON CORONA VIRUS:
<https://www.healthunit.com/novel-coronavirus>

COVID-19 Transmission: What We Know

- Droplet/Contact Transmission (<2 metres)
 - contact with infected saliva/respiratory secretions
 - emitted when a person talks, sneezes, coughs
- Close contact
 - being within <2 metres of an infected person, especially for greater than 15 minutes

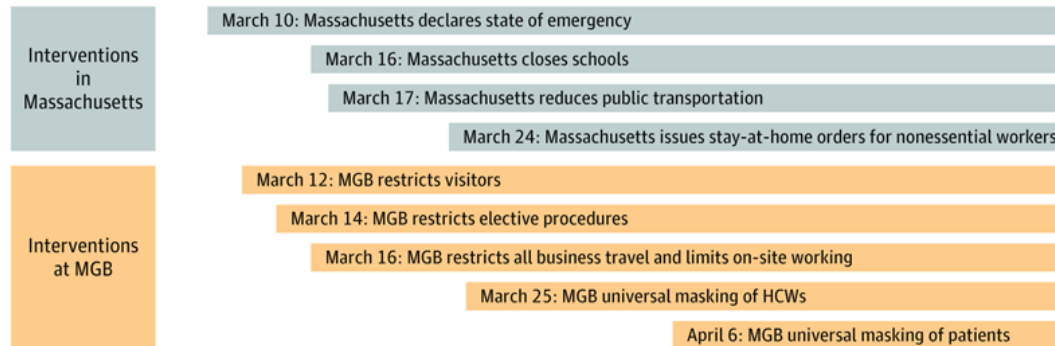
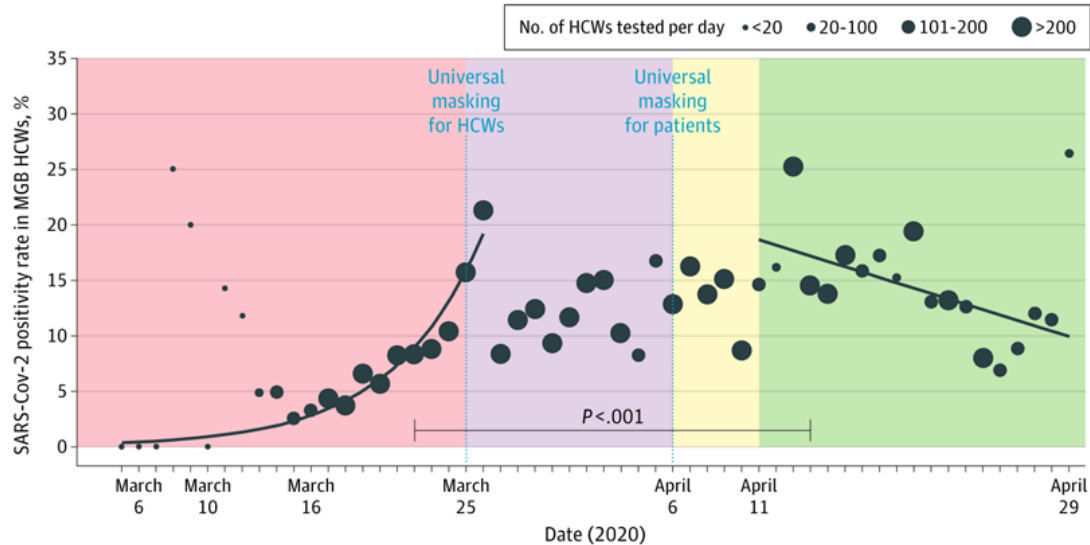
Routine precautions work!

- Maintain two metres distance
- Frequent Hand Hygiene
- Wear a mask

Considerations to Date

- Assessment of local data
- Research on the effectiveness of masks and other interventions
 - Rapid Review of Literature: Universal Masking to Protect and Prevent the Spread of COVID-19

Temporal Trend in Percent Positivity of SARS-CoV-2 Testing Among workers in the Mass General Brigham health care system (Massachusetts)



Advantages to Mandatory Masking

- Substantially increases mask use
- Potential to reduce spread of COVID-19
- Reduces anxiety and increases mental wellbeing
- Contributes to improving economic wellbeing

Risks to Mandating Masks

- Conflict with people who choose not to mask
- Inequity and stigma against those who cannot afford to mask
- Diverting attention from physical distancing, which is more effective and more solidly grounded in evidence
- Should not be worn by those under aged 2

Options for Mandatory Masking

By-law	Section 22 Order	Instruction under <i>Emergency Management and Civil Protection Act</i>
Enacted by Council under the <i>Municipal Act</i>	Issued by Medical Officer of Health under the <i>Health Protection and Promotion Act</i>	Issued by public health official under the <i>Emergency Management and Civil Protection Act</i>
Enforced by Municipal Law enforcement	Enforced by Health Unit	Enforceable by public health staff, Municipal Law enforcement, and police.
Applies to jurisdiction of Council [City of London]	Applies to Health Unit jurisdiction [London and Middlesex County]	Applies to any individual business or subset of businesses within the Health Unit jurisdiction

Limitations to the “Instruction” Approach

- Cumbersome enforcement provisions
- Risk of being automatically revoked
 - If provincial emergency regulations changed
 - If provincial State of Emergency lapses

Recommendation

- **Municipal by-law requiring people to wear masks, and requiring businesses to take actions to ensure masks are worn, in all indoor public spaces**
- **Communication campaign to promote by-law *and* highlight the continuing need for physical distancing**

From: Mel Sheehan

Date: July 15, 2020 at 6:16:45 PM EDT

To: "City of London, Mayor" <mayor@london.ca>, "van Holst, Michael" <mvanholst@london.ca>, "Lewis, Shawn" <slewis@london.ca>, "Salih, Mo Mohamed" <msalih@london.ca>, "Helmer, Jesse" <jhelmer@london.ca>, "Squire, Phil" <psquire@london.ca>, "Cassidy, Maureen" <mcassidy@london.ca>, "Morgan, Josh" <joshmorgan@london.ca>, "Lehman, Steve" <slehman@london.ca>, "Van Meerbergen, Paul" <pvanmeerbergen@london.ca>, "Turner, Stephen" <sturner@london.ca>, "Peloza, Elizabeth" <epeloza@london.ca>, "Kayabaga, Arielle" <akayabaga@london.ca>, "Hillier, Steven" <shillier@london.ca>, "Hopkins, Anna" <ahopkins@london.ca>, "Mackie, Dr. Christopher" <christopher.mackie@mlhu.on.ca>, "Saunders, Cathy" <csaunder@london.ca>, "citycouncillors@london.ca" <citycouncillors@london.ca>

Subject: [EXTERNAL] Regarding Maskwearing By-Law Implementation

Dear Dr. Macke, City Council, Mayor Holder, & others trying to determine a course of action for mandating masks....

As Bill Nye would say.... "Please.... consider the following"....

All these anti-maskers & elected officials in our own city & Health Unit are seemingly losing their minds & claiming a human rights violation b/c they'd be denied or denying access to a physical public space once masks are mandated.... some questions & reflections for you & them by extension.....

- 1) What on Earth did you do to survive when public spaces were closed due to COVID-19 precautionary measures? Seems y'all managed just fine considering no human rights were violated then b/c alternative accomodations existed. (& still do)
- 2) Where exactly in any legislation does it say you or anyone (regardless of condition or ability) are exempt from following laws, rules, & policies like everyone else? Oh right, nowhere. Accomodations exist as alternatives, but you're still not exempt. Period.
- 3) What about the rights of those employers & employees to keep themselves & their colleagues safe from COVID-19 by adopting & mandating maskwearing policies? Oh right, THEIR rights aren't being infringed on, right? Well, you not wearing a mask is a human rights concern to them.
- 4) Haven't most doctors advised strongly against anyone with an underlying medical condition putting themselves in public spaces that may impact their health negatively for years prior to this? And offered accomodations as a result? Yes, otherwise, malpractice suit for sure.
- 5) Would you risk your health going out at all in public during a heat alert? No. Why? Because alternative accomodations exist to ensure you get what you need safely & without injury. So what's the difference with a mask policy exactly?!

Conclusions:

- 1) COVID-19 precautions changed from public spaces being closed to a mask policy. The reasons & justification remain the same.
- 2) Public spaces being closed wasn't a human rights violation, nor is it if they deny you access to them if you can't/won't wear a mask.
- 3) The only time a human rights issue could arise is if the stores DIDN'T offer alternative accomodations (aka exemptions) to their mask policy. Since most if not all do in fact offer those accomodations to EVERYONE, your claims of human rights infringements are unjustified.
- 4) If you're going to complain about how you shouldn't have to prove your accomodation need with documentation upon request of the business or space owner, then you really need to consider that they're only doing so to protect you & them from possible liability suits.

5) Businesses need & have every right to ask for documented proof of a need for accomodation in order to determine how best they can accomodate & help you get the service or goods you seek. They do still don't have to grant you access to the space in order to do that either.

6) If you're upset because you can't go into a space to get what you want, but still can get the things you seek from that company by other means, that isn't a human rights violation. It's an inconvenience at best. And doesn't mean you're being discriminated against/oppressed.

7) No one, even with the most accomodations or most severe medical conditions, is exempt from being responsible for adhering to any rules, laws, or policies. Nor is anyone guaranteed access to a public space regardless of those things either. Welcome to the reality of life.

8) Your right to privacy, & your right to health, life, & well-being doesn't exempt you from the responsibility of working together with others to ensure theirs. Nor does anyone else's rights to privacy, etc. exempt them from that same responsibility.

9) It's baffling to me that mandating masks is somehow a human rights concern. When not doing so presents way more possible human rights concerns, not to mention liability for the legal & health systems, than mandating them ever would.

Thank you for your time & attention to this email. I do wish it is included in the agenda for the special meeting this coming Monday if at all possible.

Sincerely,

Melissa Sheehan

P.S. Full disclosure, I am myself a lifelong severe asthmatic, who has been wearing masks by choice since the onset began of COVID-19. I also have experience wearing hospital masks at some times of asthma attacks in the past as a child and can attest to the majorly more inconvenient hospital masks & being on a machine than the minor inconvenience of wearing a cloth mask or other face covering for my outings.

I am one who has always seeked to inform myself on both sides of an issue and seeked to challenge my own biases and opinions on things. In this case my support of masks was not waived after the thorough unbiased investigative research on both sides of the equation, though I do understand & empathize with those who are concerned about the inconveniences to their life that wearing a mask would or has caused.

I also have family & friends who are PSW's, healthcare, education, & service workers, & some members who live in long term care homes who have been more negatively impacted by COVID-19 than the minor inconveniences caused to other people by needing to wear masks. I've had several family & friends pass away from COVID-19, & some are still in hospital throughout North America. Some are actually recovered due to masks being mandated in long term care homes and hospices. Some of my friends and family have also had friends pass away or be otherwise negatively impacted. I have to constantly consider & think of them, and how different things could have went if we mandated masks from the get go across the board.

But even with my implied bias based on my own experience or narrative, I'm still able to see both sides & understand that although even for me a mask is an inconvenience & not something I want to be doing, I'm not selfish or self-centered enough to think that my comfort & convenience somehow overrides the good of the overall community when it comes to slowing the spread of the virus.

I would hope that I, our essential workers across the city & community, and our community as a whole can count on those we voted to represent not only us but the entire city, to do what's best for everyone, and not be at all discriminatory or biased in any way about who, when or how we implement proactive safety precautions.

Some further suggestions:

If you're going to mandate masks, make it clear that those who would need alternative accommodations are still not permitted to enter the spaces due to the mask policy. Just like the curbside pickup policy at various stores stated long before reopening (with no claims of discrimination or human rights violations I might add). And make it clear that we are not in a position to ultimately exempt anyone from adhering to a mandated proactive safety measure in the midst of a pandemic of a virus that in itself doesn't discriminate in who it infects, however accommodations in lieu of access to a public space will be available for anyone who needs it. Meaning even people who can't travel are still able to access those goods and services just as easily as those not permitted to enter them due to the mask bylaw/policy/mandate. And make it clear those accommodations being available are the reason why there is no plausible human rights concern for anyone.

I would look at long term care homes as an example of how to go about this. Masks are mandatory and visits are still not permitted in the traditional sense, but accommodations are & have been offered. And no further cases or outbreaks have happened, nor has any resident launched an OHRC complaint for having to wear a mask at times.

Thank you again for your time.

From: Debbie Pietsch
Sent: Monday, July 13, 2020 11:22 PM
To: ASKCITY <ASKCITY@london.ca>
Subject: [EXTERNAL] Masks

Not sure if this is the right area to put my complaint or opinion on wearing a mask I think people should have the right to wear one if they want and those of us that don't want to shouldn't be made to I have worked with no time off since this virus hit washing hands and hygiene should be the number one thing being pushed. All my little one have learned how to wash their hands properly and we have all been healthy forcing people to wear masks in stores and other places is taking our rights away. I don't and won't wear one I limit where I go if people want to where they wear but there are alot that don't and to make it mandatory is wrong I'm not afraid of this virus it is a new flu and I believe I already had in late February. The mayor and City council shouldn't have the right to make masks mandatory. FYI I just saw what the Mayor said on the News about masks that's his opinion not everyone has that opinion If he feels he needs to wear one fine but don't talk down about people who don't it's our right and our choose. I too am an essential worker.