MUNICIPALITY OF NORTH MIDDLESEX
By-law No. 053 OF 2020

A By-law to temporarily require the use of face coverings within enclosed publicly-accessible spaces in the Municipality of North Middlesex

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 17, 2020 an emergency was declared by the Municipality’s Head of Council of the Corporation of the Municipality of North Middlesex ("Municipality") 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 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 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 Municipality;

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 Municipality of North Middlesex 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 Municipality of North Middlesex enacts as follows:

MANDATORY FACE COVERINGS BY-LAW

Definitions

1. In this by-law:

"By-law" means this By-law;

"Council" means the Municipal Council of the Municipality of North Middlesex;

"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;

“Establishment” means premises or any portion thereof of which is indoors and are used as a place of business for the sale or offering for the sale of goods or services, including restaurants or the sale of any food or beverage, and includes a plaza or similar structure which contains multiple places of business; and

Where the public is ordinarily invited or permitted access to, whether or not a fee or membership is charged for entry, and includes the following:

(a) Places of worship
(b) Community centres, fitness centres, arena or any indoor recreational facilities
(c) Libraries, art galleries, museum or other similar facilities
(d) Community service agencies providing services to the public
(e) Premises utilized as an open house, presentation centre or other facility for real estate purposes
(f) Common areas of motels, bed and breakfast establishments and other short term rentals or with common use facilities
(g) Municipal buildings
(h) Other business, organizations and places that are permitted to operate in accordance with the Emergency Orders.

“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, faceshields 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;

“Municipality” means the Corporation of the Municipality of North Middlesex
“Officer” means a police officer; a person appointed by Council as a municipal law enforcement officer; an officer, employee or agent of the Municipality 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 Municipality of North Middlesex.

3. Notwithstanding the generality of section 1, Establishments shall not include the following:

   (a) day cares, schools, post-secondary institutions, and other facilities used solely for educational purposes;

   (b) Medical Centre 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) professional offices that are not open to the public and are open by appointment only (such as a lawyer or accountant office);

   (g) indoor areas of buildings that are accessible to employees only.
4. Notwithstanding section 2, this By-law does not apply to any Officer, Municipal employee, or a person hired or engaged by the Municipality 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.

5. 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

6. Subject to the exemptions in section 3, 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.

7. 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 MUNICIPAL BY-LAW 053 OF 2020

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

a) children under the 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 operator of an Enclosed Public Space within an Establishment in 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 R.S.O, 1990 c.19 as amended or in accordance the Accessibility for Ontarians with Disabilities Act (AODA);

f) persons in an Establishment, while receiving services involving the face and requiring the temporary removal of the Face Covering, including but not limited to eating or drinking, or while actively engaging in an athletic or fitness activity or for an emergency or medical purpose.

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 you may submit your concern through the Municipality of North Middlesex’s Covid 19 Reporting email at covid19@northmiddlesex.on.ca

General Obligations and Prohibitions – All Persons

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

9. Every Person shall ensure that any Person under their care, including children, comply with section 8 of this By-law.

10. Notwithstanding sections 8 and 9 of this By-law, the following Persons shall be exempt from wearing a 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, or any emergency or medical purpose.

11. No Person shall be required to provide proof of any of the exemptions set out in section 10.

**Administration, Inspection, and Enforcement**

12. The Municipal Law Enforcement Unit is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to Municipal employees for those purposes.

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

14. An Officer may enter on land 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.

15. 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.

16. 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 20.

17. 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.

18. Upon conviction of an offence under this By-law pursuant to Part III of the Provincial Offences Act, R.S.O. 1990, c.P.33; every person or operator shall be liable to a fine not exceeding ($500.00), exclusive of cost recoverable, in accordance with section 429 of the Municipal Act, 2001, as follows:

19. 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.

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

General

21. 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.

22. 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.
23. This by-law comes into force and effect on the day it is passed and shall remain in effect until December 31, 2020.

READ A FIRST, SECOND AND THIRD TIME THIS 22ND DAY OF JULY, 2020

[Signature]
Brian Ropp, Mayor

[Signature]
Jackie Tiedeman, Clerk
Municipality of North Middlesex

Part III Provincial Offences Act

By-law 053 of 2020: Temporary Use of Face Coverings

Recoverable under the Provincial Offences Act. R.S.O. 1990, c. p 33

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<th>COLUMN 2 Provision Creating or Defining Offence</th>
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<td>Failure to Wear Mandatory Face Covering</td>
<td>Section 18</td>
<td>$500.00</td>
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NOTE: The penalty provision for the offences indicated above is Section 18 of By-law 053 of 2020, a certified copy of which has been filed.