

The Corporation of the City of Burlington

City of Burlington By-law 66-2020

A by-law to amend the COVID-19 Mask By-law 62-2020, by imposing temporary regulations requiring the wearing of masks or other face coverings within enclosed common areas of apartment buildings and condominium buildings.

File: 110-04-1, BB-06-20

WHEREAS on March 11, 2020 the World Health Organization declared a worldwide pandemic regarding the Novel Coronavirus 19 ("COVID-19 Pandemic"); and

WHEREAS on March 21, 2020 an emergency was declared by the Mayor of the City of Burlington under the provisions of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c.E.9 (the "*Emergency Management Act*"), relating to the COVID-19 Pandemic; and

WHEREAS COVID-19 continues to be present within the City of Burlington and surrounding municipalities, and is a disease that is readily communicable from person to person, even with minimal or no signs of symptoms or illness, and carrying a risk of serious complications such as pneumonia or respiratory failure, multiple organ failure, kidney failure, liver failure, neurological complications, and may result in death; and Whereas there is a growing body of evidence on the effectiveness of masks and face coverings to act as a barrier to prevent the spread of COVID-19; and

WHEREAS the wearing of masks and face coverings may act as an ongoing visual clue and reminder that public health measures, including hand-washing and maintaining a safe physical distance from others, are still required, that the COVID-19 pandemic is ongoing and that a resurgence of local disease activity remains an ongoing threat; and

WHEREAS physical distancing can be difficult to maintain in enclosed common areas of apartment and condominium buildings, the Medical Officer of Health has advised that the following temporary regulations requiring owners of apartment buildings and condominium corporations responsible for condominium buildings with enclosed common areas adopt a policy to ensure that persons wear a mask or face covering as it is a necessary, recognized, practicable and effective method to limit the spread of COVID-19 and helping protect the health, safety and well-being of the residents of the City of Burlington;

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001* authorize the City of Burlington to pass by-laws necessary and desirable for municipal purposes, and in particular, paragraphs 5, 6, and 8 of subsection 11(2) authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of City, the health, safety and well-being of persons, the protection of persons and property;

WHEREAS on July 13, 2020, Council of The Corporation of the City of Burlington passed By-Law 62-2020, being a By-law to Regulate the Requirement of Wearing of Mask or Other Face Coverings Within Enclosed Spaces Open to the Public;

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. Section 1 of By-law 62-2020 is amended by adding the following new definitions:

“Apartment Building(s)” means a building consisting of two or more dwelling units, which units have a common entrance from the street level and where the occupants have the right to use Enclosed Common Area. The definition of Apartment Building excludes long-term care homes or licensed retirement homes.

“Condominium Building(s)” means a building, including without limitation a residential or non-residential building, that is the responsibility of a condominium corporation created or continued under the *Condominium Act 1998, S.O. 1998, c. 19*, where occupants have the right to use Enclosed Common Area.

"Enclosed Common Area" includes lobby, elevator, hallway, laundry room, meeting rooms or other common use facilities.

"Owner of an Apartment Building" means a person or organization which is responsible for or otherwise has control over an Apartment Building and includes an owner, superintendent or property manager.

2. Section 2 of By-law 62-2020 is amended by adding the words “and Apartment Buildings and Condominium Buildings” immediately after the word Establishments.
3. Section 3(2) of By-law 62-2020 is amended by adding the words “or an Apartment Building or Condominium Building” immediately after the word “Establishment”.
4. Section 4 of By-law 62-2020 is amended by adding the words “or an Apartment Building or a Condominium Building” immediately after the word “Establishment”.
5. Section 5 of By-law 62-2020 is amended by adding the words “or *Reopening Ontario Act, 2020* order” after both instances of “*Emergency Management Act* order”.
6. By-law 62-2020 is amended by adding the following heading in Part 3 of the By-law immediately before section 6.(1): ESTABLISHMENTS.
7. Section 9.(1) of By-law 62-2020 is amended by deleting the words “the policy and this By-law” and replacing it with the words “the policy required by section 6 of this By-law and provisions of this By-law that apply to Establishments”.
8. By-law 62-2020 is amended by adding the following new sections 10-13 immediately following section 9.(2) with the remainder of the sections renumbered accordingly:

#### APARTMENT BUILDINGS AND CONDOMINIUM BUILDINGS

- 10.(1) The Owner of an Apartment Building or a condominium corporation responsible for a Condominium Building shall adopt a policy as required under

this By-law to ensure that persons permitted entry to, or otherwise remaining within, any Enclosed Common Area within their Apartment Building or Condominium Building respectively are wearing a Mask or Face Covering, in a manner which covers their mouth, nose and chin; and

- (2) The Owner of the Apartment Building or the condominium corporation responsible for a Condominium Building shall, upon request, provide a copy of the policy required under subsection 10.(1) for inspection by any person authorized to enforce this By-law.
- 11.(1) The Owner of an Apartment Building or the condominium corporation responsible for a Condominium Building shall ensure that the policy contains the following exemptions from the requirement to wear a Mask or Face Covering:
  - (i) the person is under five years of age chronologically;
  - (ii) the person is under five years of age developmentally and they refuse to wear a Mask or Face Covering and cannot be persuaded to do so by their caregiver;
  - (iii) the person has an underlying medical condition where wearing a Mask or Face Covering would inhibit the person's ability to breathe in any way;
  - (iv) the person may experience a negative impact to their emotional well-being or mental health;
  - (v) the person has a developmental disability which inhibits their ability to wear a mask or face covering;
  - (vi) the person has a disability whereby the wearing of a Mask or Face Covering would limit their ability to reasonably communicate with others or otherwise present a hardship for a person or persons assisting the individual;
  - (vii) the person is unable to place or remove a Mask or Face Covering without assistance; or,
  - (viii) employees and agents of the person responsible for the Apartment Building or Condominium Building within an area designated for them and not for public access, or within or behind a physical barrier.
- (2) Every Owner of an Apartment Building or condominium corporation responsible for a Condominium Building, subject to the exemptions in section 11.(1), shall require that employees wear a Mask or Face Covering when working in an Enclosed Common Area.
- (3) Every Owner of an Apartment Building or condominium corporation responsible for a Condominium Building shall not require any person, including employees, to provide proof of any of the exemptions set out in subsection 11.(1).
12. The Owner of an Apartment Building or the condominium corporation responsible for a Condominium Building shall conspicuously post at all

entrances to the Apartment Building and Condominium Building clearly visible signage containing the following text:

All persons entering or remaining in Enclosed Common Areas on these premises shall wear a mask or face covering which covers the nose, mouth and chin as required under City of Burlington By-Law 62-2020, as amended

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

- (i) the person is under five years of age chronologically;
- (ii) the person is under five years of age developmentally and they refuse to wear a Mask or Face Covering and cannot be persuaded to do so by their caregiver;
- (iii) the person has an underlying medical condition where wearing a Mask or Face Covering would inhibit the person's ability to breathe in any way;
- (iv) the person may experience a negative impact to their emotional well-being or mental health;
- (v) the person has a developmental disability which inhibits their ability to wear a mask or face covering;
- (vi) the person has a disability whereby the wearing of a Mask or Face Covering would limit their ability to reasonably communicate with others or otherwise present a hardship for a person or persons assisting the individual;
- (vii) the person is unable to place or remove a Mask or Face Covering without assistance; or,
- (viii) employees and agents of the person responsible for the building within an area designated for them and not for public access, or within or behind a physical barrier.

Please be respectful of the rights of individuals who are exempt from wearing a mask in conformity with the exemptions provided in By-law 62-2020, as amended. To report an incident of noncompliance, contact the Halton Regional Police Service COVID19 Hotline: 905-825-4722.

For further information go to: [www.burlington.ca/coronavirus](http://www.burlington.ca/coronavirus) If you have any questions or concerns, please call 311.

- 13.(1) The Owner of Apartment Building or condominium corporation responsible for a Condominium Building shall ensure that all persons working at the Apartment Building or Condominium Building, respectively, are trained in the requirements of the policy required under section 10 of this By-law and all provisions of this By-law that apply to Apartment Buildings and Condominium Buildings, respectively, and shall maintain a record of all training required by this section.
- (2) The Owner of the Apartment Building or condominium corporation responsible for a Condominium Building shall, upon request, provide a copy of all training records for inspection by any person authorized to enforce this By-law.

9. That in all other aspects, By-law 62-2020 be and is hereby confirmed.
10. This By-law comes into force on August 20th, 2020 and shall remain in effect until 12:01 a.m. on January 31, 2021, unless extended or revoked by City Council.

Passed this 13<sup>th</sup> day of August 2020

Deputy Mayor Rory Nisan \_\_\_\_\_

Deputy Clerk Suzanne Gillies \_\_\_\_\_