



SUBJECT: Mask and Physical Distancing By-laws

TO: Mayor and Members of Council

FROM: City Manager's Office

Report Number: CM-12-22

Wards Affected: All

File Numbers: 155-03-01

Date to Committee: March 22, 2022

Date to Council: March 22, 2022

Recommendation:

Approve by-law 29-2022, as attached in CM-12-22 Appendix A, to repeal the City of Burlington Mask By-law, By-law 62-2020 as amended, as the Province has repealed its mask mandated effective March 21, 2022; and

Approve by-law 30-2022, as attached in CM-12-22 Appendix B, to repeal the City of Burlington Physical Distancing By-law 17-2020, as amended.

PURPOSE:

This report provides the background, current information and situation to Council to aid in their decision-making regarding the existing mask and physical distancing by-laws.

Background and Discussion:

Province of Ontario - Masks and Physical Distancing

Then

As the pandemic continued into the fall of 2020, the Government of Ontario amended O. Reg 364/20 to require the wearing of masks and face coverings in many Ontario workplaces. This provincial regulation also included requirements for physical distancing. Over the last two years, this provincial regulation has been updated to reflect the decisions and pronouncements of the Provincial Government in managing their response to the pandemic (refer <https://www.ontario.ca/laws/regulation/200364>).

Now

Effective January 31, 2022, Ontario began the process of gradually easing restrictions under their Roadmap to Reopen.

The latest of this easing occurred on March 1, 2022, when capacity limits were lifted in all indoor public settings (essentially eliminating the physical distancing requirements) and proof of vaccination requirements were lifted (with a provision for businesses and organizations, including municipalities, to continue to choose to require proof of vaccination upon entry). The remaining protective measures, such as mask/face covering requirements and passive screening of patrons continue to be in place. In addition, businesses and organizations that are open must continue to have safety plans in place.

As of March 21, 2022, the provincial mask mandate is removed from the protective measures for locations and sectors **except public transit, health care settings, long term care facilities and other high risk vulnerable settings**. It is possible masking requirements may need to be reinstated if there is another spike in COVID-19 cases. The Province is also encouraging people to conduct their own individual risk assessment including suggesting vulnerable people should continue to take precautions despite the easing of restrictions.

The City of Burlington continues to have obligations under workplace safety law (OHSA) to take every precaution reasonable to protect the worker. Reasonable precautions are detailed in Ministry of Labour COVID-19 Guidelines and web resources. The Ministry of Labour, Training and Skills Development has maintained requirements for workers for physical distancing, masking and personal protective equipment, despite these measures being lifted in the Re-opening of Ontario Act.

City of Burlington Bylaws

Mask By-law

The City of Burlington enacted its mask by-law (062-2020, amended by 064-2020, 066-2020, 006-2021, and 063-2021) on July 13, 2020. The current by-law is in force until 12:01 a.m. on June 30, 2022, or within 5 business days of when the Province of Ontario repeals their mask mandate, whichever comes first, OR unless extended or revoked by City Council.

Physical Distancing By-law

The City of Burlington enacted its physical distancing by-law (017-2020, as amended by 067-2020, 007-2021 and 064-2021) on April 6, 2020. The current by-law is in force until 12:01 a.m. on June 30, 2022, unless extended or revoked by City Council. It is

important to note, the City's physical distancing by-law is applicable to the City's public properties excluding community centres, recreation centres, and multi-purpose facilities.

Region of Halton Bylaws

Mandatory Mask By-law

Region of Halton enacted its by-law 47-2020, as amended, on July 15, 2020 and will be deemed to no longer be in effect, and revoked at 11:59pm on April 30, 2022, unless extended by Regional Council. On March 19, 2022, Halton Regional Chair and Members of Regional Council will consider a report to approve the amendment of the expiration date of By-law No. 47-20 to 11:59pm on March 23, 2022.

Oakville, Milton and Halton Hills did not enact their own mask by-laws.

Physical Distancing By-law

The Town of Oakville enacted their physical distancing by-law 2020-054 (as amended by 2020-55 and 2020-56) on April 3, 2020 and repealed this by-law on June 11, 2020.

Halton Region, Milton and Halton Hills did not enact a physical distancing by-law.

Strategy/process

Mask By-law

With the expiration of the City's mask by-law tied to the repeal of the Province's mask mandate, now defined as March 21, 2022, it is important for the City to consider its options.

Throughout the pandemic, the Regional Medical Officer of Health has not only aligned with provincial measures, often they have implemented more restrictive measures or requirements, in making their pronouncements regarding health and safety measures within the Region of Halton. Throughout this pandemic, the City's decision-making with respect to health and safety measures has been guided and aligned with the directions and guidance of the Province and the Regional Medical Officer of Health.

Therefore, it is recommended the City continue to align with the province and repeal the City's mask by-law 062-2020, as amended, immediately as the Province of Ontario's repeal of its mask mandate came into effect on March 21, 2022. In addition, the City will explore creating a public awareness campaign for our community addressing the need for tolerance and patience as individuals within our community may self-select to wear a mask, particularly in situations requiring close contact. Such a campaign could include passive signage in and throughout City facilities and messaging through City social media channels.

Physical Distancing By-law

With easing of restriction on March 1st lifting capacity limits in all indoor public settings, the Province has effectively eliminated physical distancing requirements at these indoor public settings. With the City’s by-law applying to all other public property, except community centres, recreation centres, and multi-purpose facilities, the City’s by-law is now out of alignment with the Province’s direction.

Therefore, it is recommended the City continue to align with the province and repeal the City’s physical distancing by-law 17-2020, as amended, immediately.

As with any decision, there are advantages and disadvantages for both the mask and physical distancing by-law.

Advantages of Repealing	Disadvantages of Repealing
Eliminates confusion with the residents, visitors, and City customers and patrons as to where masks are required to be worn and when physical distancing is needed	May create confusion with staff as City as an employer is directed by requirements under workplace safety law (OHSA) which are currently different than provincial requirements for masking and physical distancing
Likely to minimize (if not eliminate potential for) confrontation between public and/or staff	May have negative impact on our reputation as it may be interpreted we are diminishing our commitment to protect the health and safety of community and staff and limit spread of COVID
Releases by-law enforcement resources from mask- and physical distancing-related matters and enables re-focusing on pre-pandemic enforcement matters	
Maintains our consistent approach to aligning with the Province in Public Health matters	

Options Considered

Mask and Physical Distancing By-laws

The other options considered are for the City to:

- maintain and extend its mask by-law when Ontario repeals its mask mandate; and/or
- establish as new masking by-law specific to public transit and including transit terminals and transit shelters to come into force on the date of its passing and remain in effect until 12:01 a.m. on April 28, 2022, or within 5 business days of when the Province of Ontario repeals their transit mask mandate, whichever

comes first, OR unless extended or revoked by City Council (as described in Appendix C); and/or

- maintain its physical distancing by-law until June 30, 2022 or unless repealed earlier.

These options are not recommended as the disadvantages outweigh the advantages.

Advantages of Maintaining/Extending	Disadvantages of Maintaining/Extending
May have positive impact on our reputation as it may be interpreted we are continuing with our commitment to protect health & safety of community and staff and limit spread of COVID	Creates confusion for residents, visitors, and City customers and patrons as Burlington’s measures are different than surrounding municipalities and potentially the Region and the Province
Aligns to staff requirements (until Ministry of Labour health and safety requirements change)	Out of step with neighbouring municipalities who have not enacted mask by-laws
	High likelihood of infractions occurring with limited or no ability to enforce the by-law as insufficient capacity within By-law Enforcement team
	Diverts from our previous position of aligning with the Province on health and safety directions and guidance
	Likely to create confrontation between public and staff trying to enforce the masking and physical distancing requirements

Financial Matters:

There are no financial impacts of repealing the by-law. There may be minor costs associated with the implementation of a public awareness campaign; e.g. signage, media posts, etc.

Total Financial Impact

Minimal

Source of Funding

Applicable costs would be absorbed through existing operating budgets

Other Resource Impacts

Not applicable

Climate Implications

Not applicable.

Engagement Matters:

A work team of representative services and areas across the organization were involved in the discussions including Customer Experience; Health, Safety & Wellness; Recreation, Community & Culture; Halton Court Services; Corporate Communications & Public Engagement, Building and By-law, Legal, and Emergency Management. In addition, the Burlington Leadership Team and the Emergency Control Group provided input into the recommendations.

Conclusion:

With the recommendation to repeal both the mask by-law and the physical distancing by-law, the City is continuing to follow the direction and guidance of the Province and the Regional Medical Officer of Health in making its decisions regarding the measures to protect our community and our staff and limit the spread of COVID-19. As a world, a province and a community, we have evolved as a society in managing our health and safety. Our new reality includes having a heightened state of awareness of illness and its effects; yet more importantly, we know the steps we each need to take, individually and collectively, to maintain our vigilance.

Respectfully submitted,

Sheila M. Jones
Executive Director, Strategy,
Risk & Accountability
ext. 7872

Laura Boyd
Executive Director
Human Resources
ext. 7631

Nick Anastasopoulos
Director, Building &
By-Law
ext. 7619

Appendices:

- A. CM-12-22 Appendix A - A by-law to repeal By-law 62-2020 being a by-law to Impose Regulations Requiring the Wearing of Masks or Other Face Coverings Within Enclosed Spaces Open to the Public
- B. CM-12-22 Appendix B - A by-law to repeal By-law 17-2020 being a by-law to Promote and Regulate Physical Distancing During the COVID-19 Pandemic State of Emergency
- C. CM-12-22 Appendix C – A by-law to Regulate the Requirement of Wearing of Masks or Other Face Coverings on Public Transit Services, including Vehicles, Transit Terminals and Transit Shelters

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.