

CLASS ORDER made pursuant to Section 22 of the Health Protection and Promotion Act, R.S.O. 1990, c.H.7

THIS CLASS ORDER ISSUED AND EFFECTIVE June 26, 2020 at 12:01am.

DATE: June 23, 2020

TO: All persons who own or operate a Commercial Establishment in Windsor and Essex County

I, Dr. Wajid Ahmed, Medical Officer of Health for the Windsor-Essex County Health Unit, ORDER YOU TO TAKE THE FOLLOWING ACTIONS, effective 12:01 a.m. on June 26, 2020:

1. Have a policy in place to prohibit persons from entering the premises of the Commercial Establishment or remaining in the premises if the said person is not wearing a Face Covering. The Face Covering must be worn inside the Establishment at all times, unless it is reasonably required to temporarily remove the Face Covering for services provided by the Establishment.

A Person shall be exempt from wearing a Face Covering on the premises if:

- a. The Person is a child under the age of two years; or a child under the age of 5 years either chronologically or developmentally and he or she refuses to wear a face covering and cannot be persuaded to do so by their caregiver;
 - b. Wearing a Face Covering would inhibit the Person's ability to breathe in any way;
 - c. For any other medical reason, the Person cannot safely wear a Face Covering such as, but not limited to, respiratory disease, cognitive difficulties or difficulties in hearing or processing information.
 - d. For any religious reason, the Person cannot wear a face covering, or cannot do a face covering in a manner that would properly control source.
2. The policy should be enacted and enforced in "good faith" and should be used as a means to educate people on mask use in commercial establishments where physical distancing can be a challenge.
 3. Ensure the availability of alcohol-based hand rub at all entrances and exits for the use of all Persons entering or exiting the Establishment.

THE REASONS for this ORDER are that:

1. COVID-19, a disease caused by a novel coronavirus, is designated as a disease of public health significance and a communicable disease pursuant to Ontario Regulation 135/18 under the Health Protection and Promotion Act.
2. COVID-19 can cause acute and severe respiratory illness and death in humans.

3. The spread of COVID-19 is of immediate and compelling public health importance in the jurisdiction of the Windsor-Essex County Health Unit:
 - a. On March 11, 2020, the spread of COVID-19 was declared a pandemic by the World Health Organization;
 - b. On March 20th, 2020, the first case of COVID-19 was reported in the jurisdiction of the Windsor-Essex County Health Unit.
 - c. At the time of issuing this order, the Windsor-Essex County Health Unit has the 4th largest rate of COVID-19 cases in the province of Ontario.
 - d. On March 17, 2020 the spread of COVID-19 was declared an emergency in Ontario pursuant to the Emergency Management and Civil Protection Act, R.S.O. 1990, c.E.9, as amended, on the basis that COVID-19 constitutes a danger of major proportions;
 - e. As of today, there is evidence of continued community transmission of COVID-19 in the jurisdiction of Windsor-Essex County Health Unit, as evidenced by newly identified cases not connected to facility outbreaks or travel.
4. COVID-19 is transmitted from person to person predominantly through respiratory droplets that are released from the nose and mouth, through contact with contaminated surfaces, and through poor hand hygiene.
5. COVID-19 may be transmitted from persons who have minimal or no signs or symptoms of illness.
6. Accumulating epidemiological evidence indicates that the widespread use of Face Coverings by all persons decreases spread of respiratory droplets, and expert opinion supports the widespread use of Face Coverings to decrease transmission of COVID-19.
7. Use of Face Coverings is recommended by the Chief Medical Officer of Health of Ontario and the Chief Public Health Officer of Canada in situations where physical distancing (spatial separation of individuals by at least two metres) is difficult to maintain.

I am of the opinion, on reasonable and probable grounds that:

- a. A communicable disease exists or may exist or there is an immediate risk of an outbreak of a communicable disease in the health unit served by me;
- b. The communicable disease presents a risk to the health of persons in the health unit served by me; and
- c. The requirements specified in this order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

I am also of the opinion that the delivery of notice of this Order to each and every member of the class to whom it is directed is likely to cause a delay that could significantly increase the risk to the health of any person residing in the jurisdiction of the Windsor-Essex County Health Unit, so notice shall be provided through the public media and the internet via posting at www.wechu.org

DEFINITIONS AND SCOPE OF THE ORDER

The following definitions apply to this Order:

A **Person** means any customer, patron, employee or visitor, who enters the Establishment.

Best Efforts when restricting entry to customers wearing Face Coverings are defined as follows:

- That establishment are required to post appropriate visible signage indicating that Face Coverings are required inside the establishment. Sample [signage](#) can be found on the workplace section of wechu.org in multiple languages.
- Where an establishment has a person restricting occupancy into the commercial establishment, a verbal reminder of that the customer should be wearing a Face Covering as a result of this order shall be given to any customer entering the premises without one. For greater clarity, there is not a need for a business to turn away the customer to achieve the best effort standard.
- For customers in store seen removing their Face Covering for extended periods of time, a verbal reminder to that customer of the requirement to wear Face Coverings under this order.

A **Face Covering** means a medical mask or a non-medical mask or other face coverings such as a bandana, a scarf or cloth (including hijab and niqab) that covers the mouth, and nose ensuring a barrier that limits the community transmission. Face shields can also be used in situations when an individual is unable to use any other type of face covering. Face shields are not acceptable forms of a face covering for the purpose of this order.

Commercial Establishment and Establishment mean those portions of a fixed commercial premises that are openly accessible to members of the public and that are used for the purposes of offering goods or services for sale to members of the public and include a mall or other structure containing a number of commercial premises, and, without limiting the generality of the forgoing, include the following:

- Retail stores
- Convenience stores
- Malls/plazas
- Restaurants
- Personal service settings
- Grocery stores and bakeries
- Gas stations
- Farmer's markets
- Areas of Mechanics' shops/garages / repair shops which are open to the public
- Car dealerships

Notwithstanding the foregoing, the following are not subject to this Order even if they would otherwise fall within the definition of a Commercial Establishment:

- Churches or faith settings
- Day camps
- Day care centres
- Schools
- Libraries
- Community centres
- Offices that are not open to members of the public

- Professional offices where clients receive purchased services (e.g. lawyer’s/accountant’s office) that are not open to members of the public
- Private transportation (bus/taxi/limo)
- Hospitals
- Independent health facilities
- Offices of regulated health professionals
- Golf courses
- Fitness facilities/gyms

The areas of a Commercial Establishment that are subject to the Face Covering requirements of this Order are:

- Any areas in which customers interact with one another or with staff members, OR
- Any areas that are open or accessible to members of the public
- Except where:
 - The area is outside, whether or not the area is covered (e.g. a restaurant patio)

For greater clarity, examples of areas that are or are not subject to the Face Covering requirements of this Order are as follows:

Example Establishment	Parts of the Establishment Covered by the Order (Examples)	Parts of the Establishment Not Covered by the Order (Examples)
Retail Store	<ul style="list-style-type: none"> • Retail floor/aisles • Cashier area/queues • Service desks/counters • Publicly accessible washrooms 	<ul style="list-style-type: none"> • Staff lounge not accessible to the public • Stock/storage room not accessible to the public • Workshop/service room not accessible to the public • Private office (e.g. manager’s office) • Shipping/receiving area not accessible to the public • Outdoor patios/display areas that form part of the retail store (e.g. outdoor garden centre) • Line-ups to enter commercial establishment

Gas Station (self serve)	<ul style="list-style-type: none"> • Inside the gas station store/kiosk 	<ul style="list-style-type: none"> • Pump area
Restaurant	<ul style="list-style-type: none"> • Indoor take-out counters • Indoor dining area when indoor dining becomes permissible • Food preparation areas that are open to the public 	<ul style="list-style-type: none"> • Outdoor drive-through windows • Outdoor dining area • Kitchen area that is physically separated from dining area and not accessible to the public • Staff lounge not accessible to the public • Stock/storage room not accessible to the public • Private office (e.g. manager's office) • Shipping/receiving area not accessible to the public
Mall/Plaza	<ul style="list-style-type: none"> • Indoor areas accessible to members of the public 	<ul style="list-style-type: none"> • Outdoor areas accessible to the public • Administrative offices, service areas, or other areas that are not accessible to the public
Farmer's Market	<ul style="list-style-type: none"> • Indoor areas accessible to the public 	<ul style="list-style-type: none"> • Outdoor areas • Areas not accessible to the public

NOTICE

TAKE NOTICE THAT each member of the class to whom this Order is directed is entitled to a hearing by the Health Services Appeal and Review Board if the member has delivered notice in writing to me and to the Health Services Appeal and Review Board (Health Boards Secretariat, 151 Bloor Street West, 9th Floor, Toronto, Ontario, M5S 2T5, requesting a hearing within 15 days after publication of this Order or otherwise in accordance with applicable law. In the context of the COVID-19 outbreak, all requests for appeals and reviews, submissions, materials, and inquiries must be sent by e-mail to hsarb@ontario.ca or faxed to the Health Services Appeal and Review Board at 416-327-8524.

AND TAKE FURTHER NOTICE THAT although a hearing may be requested this Order takes effect when it is delivered to a member of the class or brought to the attention of a member of the class.