

July 7, 2020

To the Councils and the CAOs of the municipalities in the County of Simcoe, the District of Muskoka, and the Cities of Orillia and Barrie:

Re: Instruction from the Medical Officer of Health regarding mandatory face coverings in indoor public settings

Please be advised that today I am providing instruction to the businesses and organizations within the municipalities serviced by the Simcoe Muskoka District Health Unit (SMDHU), requiring persons within publicly accessible indoor locations, including public transit systems, to wear a face covering (i.e. a non-medical mask). Appended you will find a copy of my letter to them on this matter, which is being distributed by email today, located on our website, and communicated via the media and by social media. In doing so, I am drawing upon regulation O. Reg 263/20 s.4(2) of the Emergency Management and Civil Protection Act R.S.O. 1990, as follows:

The person responsible for a business or organization that is open shall operate the business or organization in compliance with the advice, recommendations and instructions of public health officials, including any advice, recommendations or instructions on physical distancing, cleaning or disinfecting.

In order to more successfully reach all businesses and organizations, I request that you also forward the appended letter to those that you know of in your community. We are happy to take all enquiries on this matter at our [Health Connection](#) service.

With this approach, enforcement may be conducted by police officers as well as provincial offences officers (which includes municipal bylaw officers and public health enforcement personnel); I appreciate from communication with the Chief Administrative Officers (CAOs) of the municipalities that resources to conduct such enforcement will be very limited. As such, it will be incumbent on SMDHU in partnership with our municipalities and other stakeholders to educate and support these businesses and organizations, as well as the general public in order to achieve a high degree of compliance.

My rationale for proceeding with this course of action at this time is as follows: As we proceed through the stages of the province's plan to open the economy there is an increasing risk of resurgence of COVID-19 transmission in our communities. There have been very worrisome examples of resurgence internationally, and we have had some experiences of limited resurgence in Ontario (including in recent weeks in Simcoe Muskoka). With the summer upon us, Simcoe Muskoka is experiencing the arrival of a large and increasing number of visitors from parts of the province with a much higher incidence of COVID-19, and with resultant crowding in public spaces. There is emerging evidence, primarily based on ecological studies and modelling, suggesting that COVID-19 transmission rates can be reduced with a high level of population

❑ **Barrie:**
15 Sperling Drive
Barrie, ON
L4M 6K9
705-721-7520
FAX: 705-721-1495

❑ **Collingwood:**
280 Pretty River Pkwy.
Collingwood, ON
L9Y 4J5
705-445-0804
FAX: 705-445-6498

❑ **Cookstown:**
2-25 King Street S.
Cookstown, ON
L0L 1L0
705-458-1103
FAX: 705-458-0105

❑ **Gravenhurst:**
2-5 Pineridge Gate
Gravenhurst, ON
P1P 1Z3
705-684-9090
FAX: 705-684-9887

❑ **Huntsville:**
34 Chaffey St.
Huntsville, ON
P1H 1K1
705-789-8813
FAX: 705-789-7245

❑ **Midland:**
A-925 Hugel Ave.
Midland, ON
L4R 1X8
705-526-9324
FAX: 705-526-1513

❑ **Orillia:**
120-169 Front St. S.
Orillia, ON
L3V 4S8
705-325-9565
FAX: 705-325-2091

compliance of face covering/non-medical mask use in conjunction with physical distancing, hand sanitation, and self-isolation and testing when ill. Voluntary compliance with mask use in indoor public places appears to be suboptimal at this time in Simcoe Muskoka. There has also been a high degree of support expressed from community partners, physicians, hospital leadership, some in the business community, and municipal CAOs and politicians for leadership from SMDHU to require face coverings/non-medical masks in indoor public places.

It has been noted that with 26 local municipal councils it would be very hard to achieve a timely, consistent and comprehensive approach to this end through bylaws alone; thus I am proceeding with my instruction using this regulation. However bylaws in support of my instruction could be helpful, given that my instruction is only binding until the provincial emergency declaration is discontinued (at which point further action on my part would be needed, depending on the situation at that time). If your council is interested in pursuing a bylaw, and if SMDHU could provide assistance in any way please do not hesitate to contact me.

Thank you for the support that I have received related to this very important and challenging public health matter. COVID-19 is the pandemic of our lifetime, and it takes the collective efforts of us all to protect our communities from it.

Sincerely,

ORIGINAL Signed By:

Charles Gardner, MD, CCFP, MHSc, FRCPC
Medical Officer of Health and Chief Executive Officer

CG:sh

Encl. (1)

First issued: July 7, 2020

Revised: July 15, 2020

To employers of businesses and organizations (including public transit providers) in Simcoe County, the District of Muskoka, and the Cities of Barrie and Orillia:

Re: Simcoe Muskoka District Health Unit (SMDHU) Instructions to Persons Responsible for a Business or Organization Permitted to Open under the *Emergency Management and Civil Protection Act, R.S.O. 1990 and associated Regulations*

I am writing to all persons responsible for a business or an organization that is permitted to open per emergency orders issued under the subsection 7.0.2 (4) *Emergency Management and Civil Protection Act (EMCPA), R.S.O. 1990 and associated Regulations*. I want to thank you for your efforts thus far and to reinforce that it is essential to keep vigilant in our fight against COVID-19. This is the key to ensuring continued successful reopening and to safeguard against novel coronavirus (SARS-CoV-2) circulation now, into the fall and beyond.

Please be reminded of your responsibilities for **general compliance** per orders issued during a declared emergency under EMCPA and associated Regulations:

2. (1) The person responsible for a business or organization that is open shall ensure that the business or organization operates in accordance with all applicable laws, including the *Occupational Health and Safety Act* and the regulations made under it.

(2) The person responsible for a business or organization that is open shall operate the business or organization in **compliance** with the advice, recommendations and **instructions of public health officials**, including any advice, recommendations or instructions on physical distancing, cleaning or disinfecting.

Further, under capacity limits for businesses or facilities open to the public:

3. (1) The person responsible for a place of business or facility that is open to the public shall limit the number of persons in the place of business or facility so that every member of the public is able to maintain a physical distance of at least two metres from every other person in the business or facility, except where Schedule 2 allows persons to be closer together.

(2) For greater certainty, subsection (1) does not require persons who are in compliance with public health guidance on households and social circles to maintain a physical distance of at least two metres from each other while in a place of business or facility.

As Medical Officer of Health (MOH), the following are my instructions, pursuant to *EMCPA, R.S.O. 1990 and associated Regulations* (or as current), to **all employers/persons responsible for businesses or organizations** within the SMDHU service area:

1. To the fullest extent possible, ensure effective measures are in place to maintain physical distancing amongst all employees and clients.

Barrie:
15 Sperling Drive
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FAX: 705-721-1495

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FAX: 705-325-2091

2. Unless the nature of work requires the use of a medical mask, to the fullest extent possible, ensure all individuals wear a non-medical mask (for example, a face covering or a homemade cloth mask) when physical distancing is challenging or not possible.
3. Implement screening practices for employees and members of the public, including requiring those who are ill to stay home and be advised to be tested for COVID-19.
4. Promote excellent hygiene practices including hand hygiene, and cough and sneeze etiquette.

There is a growing body of scientific evidence that indicates the widespread use of face coverings by all persons decreases the spread of respiratory droplets. Public health experts also support the widespread use of face coverings to decrease transmission of COVID-19.

Furthermore, the following are my additional instructions **to owners or operators of all businesses or organizationsⁱ and of all public transit services** in the SMDHU service area, effective 12:01 a.m. July 13, 2020:

1. Have a policy in place to restrict **personsⁱⁱ** from entering or remaining in the **indoor public spaceⁱⁱⁱ** of the business or organization or public transit vehicle if the said person is not wearing a **face covering^{iv}**. **Best efforts^v** shall be made to only allow entry to customers wearing a face covering. The face covering must be worn inside the business or organization at all times, unless it is reasonably required to temporarily remove the face covering for services provided by the business or organization (such as eating or drinking).

A person shall be exempt from wearing a face covering in the business or organization if:

- a. The person is a child under the age of two years; or is a child under the age of five 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. The person is incapacitated and unable to remove their face covering without assistance;
 - c. Wearing a face covering would inhibit the person's ability to breathe such as, but not limited to, during moderate to intense physical activity (such as running) or activity that would preclude its use (such as swimming);
 - d. 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.
 - e. For any religious reason, the person cannot wear a face covering.
 - f. There is an emergency or other situation where putting on a face covering would jeopardize safety of an individual or the public.
2. The policy should be enacted and enforced in "**good faith**"^{vi} and should be used as a means to educate people on mask use in premises where physical distancing can be a challenge.
 3. Post appropriate visible signage indicating that face coverings are required inside the business or organization. Sample signage can be found on the COVID-19 workplace section of the SMDHU website [here](#).
 4. Ensure that all employees are aware of the policy and are trained on the expectations of your business or organization.

5. Where **sufficient barriers**^{vii} are provided for employees/volunteers that protect the persons from close contact from a member of the public, a face covering or non-medical mask is not required.

It is also important to ensure the availability of alcohol-based hand sanitizer at all entrances and exits for the use of all persons entering or exiting the business or organization.

It is important to know that while we will commence with an educational and supportive approach, as per the EMCPA, those who do not comply with the above noted requirements may be fined. Individuals may be liable for a fine of \$750 - \$1,000 up to a maximum of \$100,000, while corporations may be liable for a fine of up to \$10,000,000 for each day or part of each day on which the offence occurs or continues.

With the right to reopen businesses and public settings in our communities, comes the critical responsibility to do so in a *COVID-safe* way. Much of the responsibility and opportunity for a successful reopening in our region lies in your hands. The decisions you take as you reopen will determine the course of the pandemic in our area and the public health actions necessary to control its spread.

A number of workplace resources are available on SMDHU's COVID-19 website including a variety of sector specific guidelines: <http://www.simcoemuskokahealth.org/Topics/COVID-19>

Should you require additional information, please contact SMDHU: <http://www.simcoemuskokahealth.org/HealthUnit/About/Contact.aspx> or 705-721-7520 (1-877-721-7520).

Sincerely,

ORIGINAL Signed By:

Charles Gardner, MD, CCFP, MHSc, FRCPC
Medical Officer of Health

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ⁱA **business or organization** includes a mall or other structure containing a number of businesses or organizations, and may include but is not limited to the following:

- Places of worship
- Community centres
- Convenience stores
- Farmers' markets
- Grocery stores and bakeries
- Gas stations
- Hospitals
- Independent health facilities
- Libraries
- Malls and plazas
- Mechanics shops, garages and repair shops
- Offices of regulated health professionals
- Personal service settings
- Retail stores
- Restaurants, pubs and bars

These requirements do not apply to the following as they are provincially regulated:

- Schools under the *Education Act*, R.S.O. 1990, c. E.2, as amended;
- Child care centres and providers governed by the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, as amended;
- Day camps.

ⁱⁱA **person** means any customer, patron, employee or visitor, who enters the business or organization.

ⁱⁱⁱ**indoor public space** of a business or organization that is subject to the mandatory face covering requirements of these instructions is defined as:

- Any areas within the business or organization that are open or accessible to members of the public and not exclusively to employees/employers only.
- Examples may include, but are not limited to, indoor dining areas of a restaurant, an indoor farmers' market, indoor food court areas of a mall, and indoor areas of a mechanic's shop which are open to the public.

Indoor areas of a building accessible only to employees, and areas that are outside, whether or not covered (such as restaurant patios) are exempt from these requirements.

^{iv} A **face covering** means a medical mask or a non-medical mask or other face covering such as a bandana, a scarf or cloth (including hijab and niqab) that covers the nose, mouth and chin that provides a barrier that limits community transmission.

Face shields (clear plastic coverings to protect the eyes and possibly the lower part of the face) are not an acceptable alternative to a face covering for the purpose of these instructions (as they are less

supported by research regarding their effectiveness). However, they may be used by individuals in addition to a face covering for added protection; in addition, anyone exempted in this instruction from using a face covering may, but are not required to, use a face shield for added protection.

^v **Best efforts** when restricting entry to customers wearing face coverings are defined as follows:

- A verbal reminder that the customer should be wearing a face covering as a result of these instructions shall be given to any customer entering businesses or organizations 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 a premises seen removing their face covering for extended periods of time, a verbal reminder to the customer of the requirement to wear face coverings under these instructions is recommended.

^{vi} **Good faith:** Although a business, organization or public transit service has the right to deny entry to their premises, the policy regarding the use of face coverings indoors should be enacted and enforced in “good faith” and used as a means to educate people on face covering use. Under “good faith”, there is no need for a business to turn away the customer to achieve the best effort standard—this is the decision of the business, understanding that COVID-19 resurgence will impact the health of individuals and our economy.

^{vii} **Sufficient Barriers** consist of solid surfaces such as glass or Plexiglas that forms a complete barrier between employees/volunteers and members of the public. Barriers that allow for potential exposure and transmission because they do not provide complete separation will not be considered sufficient; in such situations face coverings will be required by staff providing service to the public.

An example of an insufficient barrier would be Plexiglas arrangements that allow members of the public to be within unobstructed reach of employees.