

Supplementary Report on Further Extensions for Bylaws Necessary for COVID-19 Response

Date: January 25, 2021

To: City Council

From: Medical Officer of Health

Wards: All

SUMMARY

Toronto continues to be in the "Grey - Lockdown" level of the Province's *Keeping Ontario Safe and Open* Framework until at least February 10, 2021. COVID-19 infection remains a high risk to residents of Toronto as the virus continues to circulate throughout the city.

To respond to the significant level of community transmission across the province, on January 13, 2021 the Government of Ontario issued a Stay at Home Order effective January 14, 2021. The Province has also closed in-person learning in elementary and secondary schools in Toronto until at least February 10, 2021. It continues to be important to keep a two metre distance from others, wear a mask, and wash your hands frequently.

Given the continued significant spread of COVID-19, this report recommends extending the City of Toronto COVID-19 temporary bylaws aimed at controlling the spread of COVID-19 until the end of City Council's June 8 and 9, 2021 meeting. This includes extending the Physical Distancing in Public Spaces bylaws (322-2020 and 323-2020), the Mandatory Mask bylaws (541-2020 as amended by 664-2020) and the COVID-19 amendments to Chapter 354, Apartment Buildings and the COVID-19 amendments to Chapter 545, Licensing. These bylaws are currently set to expire at the end of the February 2 and 3, 2021 City Council meeting.

These bylaws are a temporary and necessary response to the ongoing pandemic. In addition to the recommended extension until June 2021, it is further recommended that the Medical Officer of Health continue to conduct a monthly assessment regarding the need to continue each bylaw. This assessment will be informed by Toronto Public Health's COVID-19 Monitoring Dashboard that tracks the spread and impacts of COVID-19 in the community. Based on this assessment, the Medical Officer of Health may report to City Council to recommend ending, extending or amending the bylaws before the expiry date. The City Solicitor was consulted in the preparation of this report.

RECOMMENDATIONS

The Medical Officer of Health recommends that:

1. City Council extend Bylaws 322-2020 and 323-2020 that regulate physical distancing in public spaces in Toronto, until 12:01 a.m. on the first day after the City Council meeting currently scheduled for June 8 and 9, 2021 or, if that City Council meeting does not take place as scheduled, until 12:01 a.m. on the first day after the first City Council meeting that next occurs.
2. City Council extend Bylaws 541-2020 as amended by 664-2020, that requires businesses, apartments and condominiums to have policies to ensure people wear masks or face coverings in common areas, until 12:01 a.m. on the first day after the City Council meeting currently scheduled for June 8 and 9, 2021 or, if that City Council meeting does not take place as scheduled, until 12:01 a.m. on the first day after the first City Council meeting that next occurs.
3. City Council extend the COVID-19 amendments to Toronto Municipal Code Chapter 354, Apartment Buildings (s.354-3.11), that require landlords to provide hand washing/sanitizing in common areas, close non-essential common areas consistent with Provincial orders, increase cleaning and post Toronto Public Health signage, until 12:01 a.m. on the first day after the City Council meeting currently scheduled for June 8 and 9, 2021 or, if that City Council meeting does not take place as scheduled, until 12:01 a.m. on the first day after the first City Council meeting that next occurs.
4. City Council extend the COVID-19 amendments to Toronto Municipal Code Chapter 545, Licensing (s.545-8.4.1) that requires establishments serving food and drink to implement enhanced measures to mitigate the spread of COVID-19, including: screening staff, limiting patrons, maintaining customer logs and limiting the number of people sitting at a table until 12:01 a.m. on the first day after the City Council meeting currently scheduled for June 8 and 9, 2021 or, if that City Council meeting does not take place as scheduled, until 12:01 a.m. on the first day after the first City Council meeting that next occurs.
5. City Council request the Medical Officer of Health review the necessity of each bylaw on a monthly basis, and report if any changes or extensions are required before or at City Council's June 8 and 9, 2021 meeting.
6. City Council authorize the City Solicitor to introduce the necessary Bills and apply set fines to give effect to City Council's decision; and, City Council authorize the City Solicitor to make any necessary clarifications, refinements, minor modifications, or technical amendments as may be identified by the City Solicitor, in consultation with the Medical Officer of Health, in order to give best effect to the Medical Officer of Health's recommendations for the protection of the public as described in this report.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendations in this report.

DECISION HISTORY

At its September 28, 29 and 30, 2020 meeting, City Council extended the temporary City of Toronto COVID-19 bylaws until the first meeting of City Council in 2021 (February 2, 2021).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.HL20.1>

On July 28, 2020, City Council adopted recommendations from the Medical Officer of Health and City Solicitor on additional measures necessary for the COVID-19 Pandemic Response, including mandatory masks or face coverings in common areas of apartment buildings and condominiums, additional public health measures for restaurants and bars and extending the physical distancing bylaw.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.HL16.2>

At its June 29 and 30, 2020 meeting, City Council adopted recommendations from the Medical Officer of Health to make masks or face coverings mandatory in enclosed public spaces.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC22>

At its May 28, 2020 Special meeting, City Council requested the City Manager, in consultation with the City Solicitor and the Medical Officer of Health to report to the June 29 and 30, 2020 meeting of City Council on the ability of the City to require the wearing of masks or face coverings by the public within permitted businesses, offices and public gathering places.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC21.1>

On April 30, 2020, City Council amended Physical Distancing Bylaws 322-2020 and 323-2020, authorizing an extension of the bylaws to provide that they remain in effect until the municipal emergency has been declared as terminated, or until Council rescinds these bylaws, whichever is first.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC20.3>

On April 2, 2020, the Mayor exercised authority delegated to him under s. 59-61(A) of City of Toronto Municipal Code Chapter 59, Emergency Management to enact City of Toronto Physical Distancing Bylaws 322-2020 and 323-2020.

<https://www.toronto.ca/legdocs/bylaws/2020/law0342.pdf>

COMMENTS

New daily cases of COVID-19 continue to surge in Toronto. The effective reproductive number ($R^{\text{effective}}$) has remained consistently above 1.0, and has only recently dipped to 0.86. The 7-day moving average for daily new COVID-19 cases sits currently at more than 700 and the most recent figure for percent positivity for COVID-19 tests is 8.6%. These data show that COVID-19 continues to spread in Toronto. Current public health measures, including a lockdown have not yet resulted in declining weekly case rates.

Residents need to act to help limit case count increases through a combination of self-protection steps including staying at home, practicing physical distancing, wearing a mask and hand washing. By taking steps for self-protection and acting with awareness to limit virus spread, it is possible to have a positive impact on the spread of COVID-19 in the city. This will require a determined effort by all residents to effectively reduce the spread of COVID-19, as has been shown in other jurisdictions around the world.

Reason for extending temporary COVID-19 bylaws

COVID-19 is a disease of public health significance and has been designated as a communicable disease under Ontario Regulation 135/18 as amended. Further, COVID-19 has been declared a pandemic by the World Health Organization, and it has given rise to declarations of emergency under the *Emergency Management and Civil Protection Act* by the Government of Ontario (which has declared a second provincial emergency as of January 12, 2021) and the City of Toronto.

COVID-19 is spread from an infected person to a close contact by direct contact or when respiratory secretions from the infected person enter the eyes, nose or mouth of another person.

Toronto's Medical Officer of Health has determined that SARS-CoV-2, the virus which causes COVID-19, is present and circulating to a significant extent in Toronto and therefore poses a risk to the health of the residents of the city. The *Health Protection and Promotion Act* provides the Medical Officer of Health the authority to mitigate risks to the health of the public through the application of public health measures.

Proposed bylaw extensions

There are five City bylaws that were enacted and amended as part of the City's response while COVID-19 circulates in the community. Each of these bylaws is set to expire at the end of the February 2 and 3, 2021 City Council meeting, unless extended by City Council. They include:

- Bylaws 322-2020 and 323-2020: Mayor John Tory exercised authority delegated to him under s. 59-61(A) of City of Toronto Municipal Code Chapter 59, Emergency Management to sign emergency order No. 1 on April 2, 2020 and emergency order No. 2 on April 3, 2020 regulating physical distancing in City of Toronto parks and public squares. At its meeting held on September 30 and October 1 and 2, 2020, City Council extended these bylaws.

- Bylaws 541-2020 as amended by 664-2020: These temporary bylaws mandated operators of certain premises to establish a policy on the wearing of a mask or face covering in all enclosed public spaces beginning July 7, 2020 and in enclosed common areas in apartment buildings and condominiums, beginning August 5, 2020.
- Chapter 354, Apartment Buildings: Chapter 354, Apartment Buildings regulates apartment building standards. In June 2020, City Council enacted temporary amendments to Chapter 354 to require COVID-19 specific measures. This included mandatory hand hygiene stations or alcohol-based hand sanitizer in common areas; closing non-essential common areas consistent with Provincial restrictions, increased cleaning and posting Toronto Public Health signage beginning July 15, 2020.
- Chapter 545, Licensing: Bylaw 665-2020 approved temporary amendments to Toronto Municipal Code, Chapter 545, Licensing. These amendments require establishments serving food and drink to implement appropriate and enhanced measures to mitigate the spread of COVID-19 and protect the health, safety and well-being of their customers and staff, beginning August 5, 2020. At its meeting held on September 30, and October 1 and 2, 2020, City Council adopted further amendments including: limiting patrons, maintaining customer logs and limiting the number of people sitting at a table.

COVID-19 continues to spread at a significant rate in Toronto. Due to this ongoing community spread, this report recommends that these bylaws be extended until City Council's June 8 and 9, 2021 meeting.

Continued need for physical distancing in Toronto's public spaces

On March 23, 2020, an emergency was declared by the City of Toronto due to the risk to the health of the residents of Toronto arising from the spread of COVID-19. Bylaws 322-2020 and 323-2020 were enacted to reduce the spread of COVID-19 by regulating a minimum distance of two meters between people in public spaces and parks.

These Bylaws were based on the advice of the Medical Officer of Health, who has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of one's own household.

In order to reduce the spread of COVID-19, people should continue to keep a physical distance from others who are not in their household. People should maintain a physical distance from others, in indoor and outdoor spaces, even if they are wearing masks, to further mitigate the risk of transmission.

Continued need for mandatory masking in enclosed public spaces and apartment/condominium common spaces

On May 28, 2020, City Council requested a report on the City's ability to require the wearing of masks or face coverings by the public in publicly accessible spaces. At its

June 2020 meeting, City Council adopted recommendations from the Medical Officer of Health to require businesses to create policies that mandate patrons to wear a mask or face covering in enclosed public settings. On July 29, 2020, Toronto City Council approved a bylaw amending the temporary mask bylaw to require masks or face coverings be worn in common areas in apartments and condominiums. Exemptions for those who cannot wear a mask for medical reasons, children under the age of two, and other reasonable accommodations are included in the bylaw.

The Medical Officer of Health's report acknowledged the growing body of evidence on the effectiveness of masks to act as a barrier to prevent the spread of COVID-19 and that the Medical Officer of Health, the Chief Medical Officer of Health for Ontario, Chief Public Health Officer for Canada and the World Health Organization strongly recommend the wearing of masks or face coverings where physical distancing cannot be maintained, in addition to other public health measures.

The Government of Ontario has mandatory masking requirements under the Reopening Ontario Act (ROA). Currently, the ROA requires individuals to wear masks in all indoor areas and outdoor lines of open businesses or organizations unless an exemption applies under the regulations.

Despite the Provincial requirements for masking, it remains prudent to maintain the City's mandatory masking bylaw. This bylaw does not conflict with the Provincial requirements, and may supplement them, in particular if the Province changes its masking requirements.

Continued need for increased protocols in apartment buildings

Toronto Municipal Code Chapter 354, Apartment Buildings regulates apartment building standards. In June 2020, City Council enacted temporary amendments to this bylaw to require COVID-19 specific measures under s. 354-3.11. These temporary amendments requires apartment building owners and operators to:

1. Provide hand hygiene stations or alcohol-based hand sanitizer in common areas like building entrances and laundry rooms;
2. Ensure non-essential common areas remain closed to be consistent with Provincial orders;
3. Clean frequently-touched surfaces in all open common areas, including: doorknobs, elevator buttons, light switches, toilet handles, counters, hand rails, touch screen surfaces, and keypads; and
4. Post Toronto Public Health signage.

As COVID-19 continues to spread in the community, it is important to maintain additional COVID-19 public health measures in apartment buildings.

Continued need for restaurants and bars to implement enhanced public health measures

Under the current Provincial Grey-Lockdown stage, restaurants and bars are closed for in-person dining across Ontario. Restaurants and bar environments involve close, prolonged, and oftentimes unmasked contact between several people in a closed environment, conditions which are known to be associated with a higher-risk of COVID-19 transmission.

In August 2020, the City made amendments to Chapter 545, Licensing, to increase public health measures at establishments serving food and drink, and then made further restrictions in September 2020 including:

- Ensuring all customers remain seated at all times except when entering or exiting, using the washroom, or paying;
- Maintaining customer logs that include the name(s) and contact information for each person;
- Keeping customer logs for 30 days and providing logs to Toronto Public Health upon request for contact tracing purposes;
- Posting signage at all entrances to the premises to provide notice to the public about the maintenance of customer logs for contact tracing purposes;
- Establishing staff screening protocols;
- Limiting indoor capacity in restaurants and bars to a maximum of 75 people (provided physical distancing can be maintained); and,
- Limiting the number of customers who may be seated at the same table, to a maximum of six customers per table.

After the City made amendments to Chapter 545 to increase public health measures, the Province included similar requirements in the ROA.

Despite the current Provincial requirements for restaurants and bars to remain closed, and the ROA public health requirements when they are permitted to open, it remains prudent to maintain the City's Chapter 545, licensing amendments. This bylaw does not conflict with the Provincial requirements, and may supplement them, in particular if the Province changes its requirements.

Next Steps

There continues to be a need to extend City of Toronto COVID-19 temporary bylaws, including requiring public physical distancing, enhanced public health measures in establishments and apartments, and required public masking.

These bylaws are a temporary response to the ongoing pandemic. In addition to the recommended extension until June 2021, the Medical Officer of Health will conduct a monthly assessment regarding the need to continue each bylaw. This assessment will be informed, in part, by Toronto Public Health's COVID-19 Monitoring Dashboard that tracks the spread of COVID-19 in the community. Based on this assessment, the

Medical Officer of Health may report to City Council before June 2021, to recommend either amending, ending or extending the bylaws.

CONTACT

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SIGNATURE



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