

Fines	<u>Schedule 80.1</u> <u>Reopening Ontario (A Flexible Response to COVID-19) Act, 2020</u>	<u>OIC No 947-2020</u> \$400 to \$6000 (fine).	<u>Public Health Order or Emergency Order</u> Individuals \$1,296. Corporations \$5,000 (Updated on October 21. Previously individuals \$486 and corporations \$2542)	<u>\$298</u>
	Fail to comply with a continued section 7.0.2 order [10 (1) (a)] \$750.00			
	Obstruct any person exercising a power in accordance with a continued section 7.0.2 order [10(1)(a)] \$1,000			
	Obstruct any person performing a duty in accordance with a continued section 7.0.2 order [10(1)(a)] \$1,000]			

KEY POINTS
Face Coverings in Indoor Public Spaces (COVID-19) Order and OIC
Ministry of Public Safety and Solicitor General
November 24, 2020

Issue and Background: Order under s. 10

- On March 18, 2020, the Minister of Public Safety and Solicitor General declared a State of Provincial Emergency due to the COVID-19 pandemic.

Specifics of Proposed Face Coverings in Indoor Public Spaces (COVID-19) Order

- This order is made under section 10(1) of the Emergency Program Act and makes it mandatory for a person to wear a **face covering**, whether medical, or non-medical, that covers the nose and mouth while visiting an indoor public space, subject to exemptions. **Indoor public spaces** include:
 - Malls, shopping centres, coffee shops, and retail and grocery stores
 - Pharmacies
 - Liquor and cannabis stores
 - Service businesses (e.g. insurance broker's office, barbershop)
 - Airports, libraries, community and recreation centres
 - Restaurants, pubs and bars when not seated in a designated area
 - On public transportation, in a taxi or ride-sharing vehicle
 - Common areas of office buildings, post secondary institutions, court houses and hotels
 - Common areas of sport and fitness centres when not engaged in physical activity
- **Explicit exemptions** from the requirements are:
 - Children under the age of 12.
 - Persons who are unable to wear face coverings due to physical, mental or cognitive disabilities or medical conditions.
 - Persons who cannot put on or remove a face covering on their own
 - When removal of the face covering is necessary to receive a personal service or care from a health professional.
 - When a person's identity needs to be verified.
 - While a person is present in a court room.
 - While taking part in sport or fitness in a gym, arena, indoor studio or at a pool.
 - When consuming food or beverage in a café, restaurant or pub in a designated customer area
 - While inside a vehicle aboard a ferry
- While not explicitly exempted, the order does not mandate face coverings for K-12 schools, worker safety/workplace requirements or the common areas of an apartment or strata condominium property.

Order in Council Log # 4653

The attached Order in Council (OIC):

1. Enacts the Face Coverings in Indoor Public Spaces (COVID-19) Order, after it is made by the Minister of Public Safety and Solicitor General, as a provision of the COVID-19 Related Measures Act (CRMA).
 - Once a provision of the CRMA, the order can only be repealed in part or in full.
 - The date of repeal is set at 90 days on the end of the current state of provincial emergency.

2. Establishes new \$200 violation tickets for the following non compliances:
 - Failure to wear face covering in indoor public space
 - Failure to follow direction from an enforcement official
 - Abusive or belligerent behavior toward another visitor or toward an operator of a public space

Enforcement

- Police and other provincial compliance officers (conservation officers, liquor, cannabis and gaming officials) are authorized to issue violation tickets for non compliances related to mandatory face covering requirements in public spaces.

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
EMERGENCY MANAGEMENT BC
BRIEFING NOTE FOR DECISION**

TO: Lori Halls, Deputy Minister, Emergency Management BC

ISSUE:

Direction is required on the compliance and enforcement scheme for the impending *Emergency Program Act* (EPA) Order on Mandatory Masks in Public Indoor Places

BACKGROUND:

On November 19, 2020, the Provincial Health Officer announced that she had requested the Minister of Public Safety and Solicitor General to prepare an order under the EPA to require the use of face masks in public indoor places. For the compliance and enforcement aspects of the order, direction is needed on (a) to whom the requirement(s) in the order should apply and (b) the amount of the fines to be levied for contraventions.

EMBC staff have reviewed the mandatory mask orders issued by the governments of Saskatchewan (SK), Manitoba (MB), Ontario (ON) and Quebec (PQ). Attachment A summarizes their approaches to (a) to whom requirements apply and (b) fines for contraventions.

Direction has been sought separately on permissible or required exemptions/exceptions to the requirement to wear a mask.

DISCUSSION:

See Options section below.

INDIGENOUS PEOPLES CONSIDERATIONS:

EPA orders are laws of general application that apply on Indian reserves.

OPTIONS:

To whom the requirement should apply

Option 1: Individuals only, i.e., individuals are required to wear masks as directed in the order. Order would not put the onus on business owners and operators to prevent entry onto their premises by individuals not wearing masks.

- Simple and clear.
- Similar to SK approach.
- Straightforward from enforcement perspective.
- Does not put owners/operators in the position of having to enforce mandatory mask wearing on their premises, which could lead to confrontations and subject owners/operators to fines for not enforcing. Owners/operators can address

mask-wearing by patrons through their safe operating plans which businesses and workplaces are mandated to have in place. Employers are also subject to WorkSafeBC requirements. Owners/operators could still ask people to leave for not complying and would be able to point to the legal requirement to wear a mask.

- If owners/operators ask an individual not wearing a mask to leave and they do not, police can be called and may issue a violation ticket.

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Recommendation: **Option 1**

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OTHER MINISTRIES IMPACTED/CONSULTED:

- Trevor Hughes, Deputy Minister of Labour
- Policing and Security Branch, Ministry of Public Safety and Solicitor General
- EMBC Legal Counsel, Ministry of Attorney General

DECISION APPROVED / NOT APPROVED

DATE:

Lori Halls

PREPARED BY:

Heather Brazier
Executive Director,
Policy and Legislation
Emergency Management BC

REVIEWED BY:

	Initials	Date
DM		
ADM		
ED	HB	Nov 20/20
Pgm Dir/Mgr		

Attachment

Appendix 1 - Summary of Other Provincial Jurisdictions

Appendix 1 – Summary of Other Provincial Jurisdictions

Issue	Ontario	Quebec	Manitoba	Saskatchewan
Scope – to whom requirements apply	<p>No requirement directed to individuals</p> <p>Operators must ensure that individuals wear masks</p>	<p>Individuals must wear masks</p> <p>It is prohibited for operators to allow a person who is not wearing a face covering to enter their premises</p>	<p>Individuals must wear masks</p> <p>Operators must remind individuals to wear a mask</p>	<p>Appears to be directed to individuals only</p>
Fines	<p>\$750 for failure to comply with an order</p> <p>\$1000 for obstructing any person exercising a power in accordance with an order</p> <p>\$1000 for obstructing a person performing a duty in accordance with an order</p> <p>These fines apply broadly to contraventions of orders. They can be levied through tickets.</p>	<p>\$400 to \$6000</p> <p>PQ does not appear to have a ticketing scheme in place. The fines appear to be equivalent to s. 27 of the EPA offence provisions, which require that a charge be laid.</p>	<p>\$1296 for individuals</p> <p>\$5000 for corporations</p> <p>These fines apply broadly to contraventions of public health and emergency orders.</p>	<p>\$298 fines can be levied through tickets</p>

Mandatory Wearing of Masks v2

	Ontario	Quebec	Manitoba	Saskatchewan
Legislation	<p><i>Reopening Ontario (A flexible Response to COVID-19 Act.</i></p> <p>ON Regulation 546/20. (Mask or face covering).</p> <p>ON Regulation 546/20 amends O Reg. 364/20</p>	<p><i>Public Health Act</i></p> <p>OIC No 947-2020 (Face covering)</p>	<p><i>Public Health Act</i></p> <p>Order 14 – Use of masks</p>	<p>Public Health Order Masking</p>
Effective	October 3, 2020.	July 18, 2020	2020-Sept-28 Winnipeg Unknown for all of the Province	November 19, 2020
Location	The person responsible for a business or organization must ensure that any person in a the indoor area of the premises of the business or organization or in a vehicle that is operating as part of the business or organization wears a mask.	All indoor public spaces including common areas.	All indoor public places.	All indoor public places.
Face covering	A mask or face covering that covers the mouth, nose and chin.	Covers the mouth and nose. (Does not include face shields).	Covers mouth, nose, and chin without gapping.	"mask" includes a balaclava, bandana, scarf or other similar item. (« masque »)
Exemption	<p>The person is:</p> <ul style="list-style-type: none"> • A child who is younger than two years of age; • is attending a school or private school within the 	<ul style="list-style-type: none"> • A child under the age of 10 • People whose particular medical condition prevents them from wearing a 	<ul style="list-style-type: none"> • A child who is under five years of age; • A person with a medical condition that is unrelated to COVID-19, including 	

	<p>meeting of the <i>Education Act</i>.</p> <ul style="list-style-type: none"> • is attending a child care program at a place that is in compliance with the child care re-opening guidance issued by the Ministry of Education. • is receiving residential services and support. • Is performing or rehearsing in a film or television production or in a concert, artistic event, theatrical performance or other performance. • has a medical condition that inhibits their ability to wear a mask or face covering; • is unable to put on or remove their mask or face covering without the assistance of another person; • needs to temporarily remove their mask or face covering while in the indoor area: <ul style="list-style-type: none"> ○ to receive services that require the removal of their mask or face covering, 	<p>mask or face covering:</p> <ul style="list-style-type: none"> • People who are unable to put it on or take it off by themselves due to a physical disability, • People with facial deformities, • Peoples who, due to cognitive impairment, an intellectual disability, an autism spectrum disorder, an addiction problem or a severe mental health problem, are unable to understand the requirement or for whom wearing a mask or face covering causes significant disorganization or distress, • People who have a severe skin condition on the face or ears that is significantly aggravated by wearing a mask or face covering. 	<p>breathing or cognitive difficulties, or a disability, that prevents them from safely wearing a mask;</p> <ul style="list-style-type: none"> • A person who is unable to put on or remove a mask without the assistance of another person; • A person who needs to temporarily remove their mask while in the indoor public place for the purpose of <ul style="list-style-type: none"> ○ receiving a service that requires the removal of their mask, ○ consuming food or drink, ○ an emergency or medical purpose, or ○ establishing their identity. • An employee or agent of the operator of the indoor public place 	
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	<ul style="list-style-type: none"> ○ to engage in an athletic or fitness activity ○ to consume food or drink, or ○ as may be necessary for the purposes of health and safety; ● Is being accommodated in accordance with the <i>Accessibility for Ontarians with Disabilities Act, 2005</i>; ● Is being reasonably accommodated in accordance with the <i>Human Rights Code</i>. ● Performs work for the business or organization, in an area that is not accessible to members of the public and is able to maintain a physical distance of at least 2 m. <p>Does not apply to a dwelling if the person responsible for the business or organization ensures that persons wear a mask or face covering in any common area where physical distancing of two (2) meters cannot be maintained. It is not necessary for a person to present evidence that they</p>	<ul style="list-style-type: none"> ● People who are receiving treatment, receiving a service or engaging in a physical activity or other activity that requires it to be removed. ● People who removes their mask or face covering momentarily for identification purposes; ● People who work or practice their profession in a place accessible to the public as long as it is closed or partially covered and it is not an accommodation unit, except when they are in a lobby, reception area or elevator in an office building other than an apartment building.. ● People who are seated and respect distancing provided in the following places (they must put 	<p>while the employee or agent is</p> <ul style="list-style-type: none"> ○ in an area of the indoor public place to which members of the public do not normally have access; or ○ located behind a non-permeable physical barrier. ● A person in an indoor public place if <ul style="list-style-type: none"> ○ (a) they are seated, and the seating is arranged in accordance with the applicable requirements set out in these Orders; and ○ they wear a mask at all times while moving to or from their seated position within the indoor public place. 	
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	are entitled to any of the above-noted exemptions.	<p>their mask or face covering back on when moving around in these places):</p> <ul style="list-style-type: none"> ○ in the classrooms of an educational institution (except for students of secondary school in red zone), ○ in a place where activities or services of a cultural or entertainment nature are offered, ○ in a restaurant, a food court or a bar, ○ in another enclosed or partially enclosed place accessible to the public where people can be seated. 		
Fines	<u>Schedule 80.1 Reopening Ontario (A Flexible Response to COVID-19) Act, 2020</u>	<u>OIC No 947-2020</u> \$400 to \$6000 (fine).	<u>Public Health Order or Emergency Order</u> Individuals \$1,296. Corporations \$5,000	<u>\$298</u>

			(Updated on October 21. Previously individuals \$486 and corporations \$2542)	
	Fail to comply with a continued section 7.0.2 order [10 (1) (a)] \$750.00			
	Obstruct any person exercising a power in accordance with a continued section 7.0.2 order [10(1)(a)] \$1,000			
	Obstruct any person performing a duty in accordance with a continued section 7.0.2 order [10(1)(a)] \$1,000]			

QA – Face Coverings Order Enforcement
November 23, 2020

SCOPE OF THE REQUIREMENT

1. What exactly does this order do?

- Effective November 24, 2020, new measures enforceable under the COVID-19 Related Measures Act require all British Columbians to wear face coverings when using public transportation and when visiting indoor public spaces, including malls, grocery and retail stores, health and personal service locations, libraries, common areas of post-secondary institutions and community centres.
- BC is joining the provinces of Saskatchewan, Manitoba, Ontario and Quebec, along with international jurisdictions, in implementing mandatory face covering rules.

2. What type of face covering is compliant with the order?

- A medical mask or a non-medical mask that covers the nose and mouth.
- If the mask is non-medical, it must be made of a tightly woven fabric.
- Face shields and decorative open work (lace, macramé) face coverings alone are not adequate to cover the nose and mouth and are not compliant.

3. What is an “indoor public space”?

For the full definition, please read section 2 of the Use of Face Coverings in Indoor Public Spaces Order. Here are some common examples:

- Malls, shopping centres, coffee shops, and retail and grocery stores
- Liquor and drug stores
- Airports, City Halls, libraries, community and recreation centres
- Restaurant, pub, bar or other business that prepares and sells food or drink
- Places of public worship
- Professional service offices (e.g. barbershop, insurance broker)
- On public transportation, in a taxi or ride-sharing vehicle
- Common areas of office buildings, court houses, hospitals and hotels
- Common areas of sport and fitness centres when not engaged in physical activity
- Common areas of post-secondary institutions and non-profit organizations

4. What places are not covered by the order?

- This order is focused on places accessible to the public. Examples of places that are not included are:
 - K-12 schools, because school districts have the ability to manage access to common areas and set visitor policies.
 - Workplaces and areas in workplaces where the public is not present.

QA – Face Coverings Order Enforcement

November 23, 2020

- Common areas of an apartment or strata condominium property, because these are not public places.
- Courtrooms, where mask policies will be determined by the presiding judge, justice, master or registrar, in keeping with judicial independence.
- The Provincial Health Officer announced on November 19 that masks are required in common areas of workplaces where the public is not present. This will be included in an upcoming written order.
- Businesses are not required to deny service to a customer on the basis of not wearing a mask

5. What are the exemptions from mandatory face covering requirements in a public space?

- Children under the age of 12. Masks are not recommended for children under two; children between two and 12 may wear a mask at the discretion of their parent or guardian.
- Persons who are unable to wear face coverings due to physical, mental or cognitive disabilities or medical conditions.
- Persons who cannot put on or remove a face covering on their own
- When removal of the face covering is necessary to receive a personal service or care from a health professional.
- When a person's identify needs to be verified.
- While taking part in sport or fitness in a gym, arena, indoor studio or at a pool.
- When consuming food or beverage in a café, restaurant or pub in a designated customer area.
- While inside a vehicle aboard a ferry.

6. What about visitors who are invited to enter areas of a place not normally accessible to the public?

- A visitor needs to wear a mask regardless of what portions of the building or structure they are invited to, subject to the exemptions noted above.

7. What if someone can't wear a mask?

- This order recognizes that there are legitimate reasons that some people can't wear masks, and provides exemptions accordingly.
- Everyone should keep in mind that there are valid reasons for some people not to wear masks, and not take it upon themselves to comment or intervene.

ORDER ENFORCEMENT

8. What is the range of penalties covered by this order?

- Each of these violations is subject to a combined \$230 penalty, inclusive of surcharges.
 - Failure to wear face covering in indoor public space
 - Failure to follow direction from an enforcement official, including a direction to leave the premises
 - Abusive or belligerent behavior toward another visitor or toward an operator of a public space

9. What about when a business denies service to a customer for refusing to wear a mask?

- Businesses are not the enforcers of this order. They may set their own policies for the use of face coverings, but should be mindful that some people have legitimate reasons for not being able to wear a mask and may be exempt from the order.
- This order is directed at individuals entering into a public indoor place. It does not require business operators to prohibit entry or deny service to people who are not wearing masks. We do not want to set up a dynamic where business operators and individuals get into confrontations.

10. How will you enforce this order?

- This is an all-hands-on-deck approach.
- These measures are enacted immediately under the provincial state of emergency, using the extraordinary powers of the Emergency Program Act (EPA).
- In addition to action from police, the Province is allowing compliance and enforcement staff from provincial ministries to support enforcement and help issue tickets.
- This includes liquor, cannabis and gaming inspectors, community safety unit inspectors, and conservation officers.
- Violation tickets are just one part of the Province's comprehensive and integrated compliance and enforcement regime to support B.C.'s COVID-19 response.

11. Can additional penalties apply for egregious violations or repeat offenders?

- If violation tickets don't act as a deterrent, or in cases of particularly egregious contraventions, police have the power to recommend charges under the Offence Act.

12. How many tickets have been written related to COVID thus far?

QA – Face Coverings Order Enforcement

November 23, 2020

- Between August 21 and November 20, 2020 , 59 violation tickets were issued, including 25 \$2300 tickets to owners or organizers contravening the PHO's order on gatherings and events, nine \$2,300 violation tickets for contravention of the PHO Food and Liquor Serving Premises Order, and 25 \$230 tickets issued to individuals who refuse to comply with direction from law enforcement.
- Additionally, since the pandemic began, police agencies in British Columbia have issued 64 violation tickets to individuals who are in contravention of the Federal Quarantine Act, totalling \$70,000. The purpose of the Quarantine Act is to protect public health by taking comprehensive measures to prevent the introduction and spread of communicable diseases.

13. If I see someone violating the PHO's orders, how do I report them?

- To report concerns around order violations from event organizers, venues or individuals, contact your local government's bylaw office.
- Local bylaw officers can help follow up on concerns and engage police departments and WorkSafeBC as necessary.
- If unable to reach a local bylaw office, contact your local police department's non-emergency line.
- And of course, calls to 911 should be reserved for emergency situations only.

This is the administrative version of Order in Council No 947-2020 made on September 11, 2020. In the event of discrepancy, the version to be published in the Gazette officielle du Québec takes precedence.

Ordering of measures to protect the health of the
population amid the COVID-19 pandemic situation

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This is the administrative version of Order in Council No. 947-2020 made on September 11, 2020. In the event of discrepancy, the version to be published in the Gazette officielle du Québec takes precedence.

This is the administrative version of Order in Council No 810-2020 made on July 15 2020. In the event of discrepancy, the version to be published in the Gazette officielle du Québec takes precedence.

Ordering of measures to protect the health of the
population amid the COVID-19 pandemic situation

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This is the administrative version of Order in Council No.810-2020 made on July 15 2020. In the event of discrepancy, the version to be published in the Gazette officielle du Québec takes precedence.

THE PUBLIC HEALTH ACT
(C.C.S.M. c. P210)

Orders under *The Public Health Act*

LOI SUR LA SANTÉ PUBLIQUE
(c. P210 de la C.P.L.M.)

Ordres donnés en vertu de la *Loi sur la santé publique*

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November 19, 2020
19 novembre 2020

**Chief Provincial Public Health Officer/
Le médecin hygiéniste en chef,**

Dr. Brent Roussin/D^r Brent Roussin

COVID-19 PREVENTION ORDERS

ORDRES DE PRÉVENTION DE LA COVID-19

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SPECIFIC ORDER PREVAILS IN CASE OF CONFLICT

In the case of a conflict between these Orders and another Order made under *The Public Health Act* that applies to a specific community or area, the other Order prevails.

PRÉSÉANCE D'AUTRES ORDRES ET ORDONNANCES

Les ordres donnés et les ordonnances prises en vertu de la *Loi sur la santé publique* qui s'appliquent à une collectivité ou à une région donnée l'emportent sur les présents ordres.

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SCHEDULE A

ANNEXE A

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Indoor Mandatory Masking Requirements

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ONTARIO REGULATION 546/20

made under the

REOPENING ONTARIO (A FLEXIBLE RESPONSE TO COVID-19) ACT, 2020

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Filed: October 2, 2020

Published on e-Laws: October 5, 2020

Printed in The Ontario Gazette: October 17, 2020

AMENDING O. REG. 364/20

(RULES FOR AREAS IN STAGE 3)

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Potential Exemptions/Exceptions for Mandatory Masks in Public Indoor Spaces					
Note: Exemptions may be reflected in the way “indoor public places” is defined in the EPA order, or by creating specific exemptions. This will be determined during drafting of the order, on the advice of Legislative Counsel					
	SK	MB	ON	PQ	Recommendation for BC
Children	Under 2	Under 5	under 2	Under 12	Under 12
Individuals with medical conditions or cognitive impairments or disabilities that inhibit mask wearing	Exempt	Exempt	Exempt	Exempt	Exempt
Individual unable to don/doff masks w/o assistance	No exemption	Exempt	Exempt	No exemption	Exempt
Workplaces without public access or in areas not normally accessible to public – not dealt with in this order	Exempt	Exempt	Exempt	No exemption	No exemption; PHO states that masks are required in all workplaces for shared work areas and areas where physical distancing cannot be maintained. Dealt with through safe operating plan.
Private residences	Exempt	Exempt	Exempt	Implied exemption	Exempt. Not public indoor spaces.
Private areas of residential facilities, e.g., long-term care facilities, group homes, correctional institutes	Exempt for long-term care	No exemption	Exempt	No exemption	Exempt. Not public indoor spaces. On-site requirements dealt with through safe operating plans
Vacation accommodation including hotel, motel and B&B rooms	Exempt	Unclear	No exemption	No exemption	Exempt. Common areas are not exempt.

When seated in food or liquor serving premises and consuming food and/or beverages	Exempt	Exempt	Exempt	Exempt	Exempt. Note that Order is not intended to apply in outdoor spaces (e.g., restaurant patios)
When temporarily required to remove/lower mask for identification purposes	Exempt	Exempt	No exemption	Exempt	Exempt
In a courthouse or courtroom	Exempt	No exemption	No exemption	Exempt	Exempt
During permitted indoor physical activities	Exempt	No exemption	No exemption	Exempt	Still working through this one. Will be determined during drafting.
When receiving personal services that require mask removal, e.g., dentistry	No exemption	Exempt	Exempt	Exempt	Exempt
Childcare programs	No exemption	No exemption	Exempt	No exemption	Exempt; not public indoor spaces. On-site requirements dealt with through safe operating plans.
Performers who are rehearsing or performing, e.g., film production, plays, concerts	No exemption	No exemption	Exempt	No exemption	Patrons are required to wear masks. Performers are dealt with through safe operating plans.
Note: it is understood that schools (K-12) are not intended to be included.					
Note: while activities such as musical and theatre performances and certain high-intensity indoor physical activities are suspended as of Nov 19/20, the mask order should be prepared with a view to how it will apply when those activities are again allowed.					