

Update on Temporary COVID-19 Face Coverings Bylaw

RECOMMENDATIONS:

That Council:

1. Endorse that the Temporary COVID-19 Face Coverings Bylaw remain in force; and
2. Give three readings to bylaw 51M2020 to amend the Temporary COVID-19 Face Coverings Bylaw 26M2020 increasing the fine amounts for contraventions.

HIGHLIGHTS

- The Temporary COVID-19 Face Coverings Bylaw has significantly increased face covering usage and supports limiting the spread of the virus. On 2020 November 24 the Government of Alberta announced mandatory mask requirements for all indoor workplaces in the Calgary area. The order complements the measures established in the bylaw. At this time moderate increases to fines for non-compliance are recommended to strengthen deterrence and enforcement efforts.
- What does this mean to Calgarians? While the provincial order provides additional scope beyond the face coverings bylaw it does not replace the need for it. Administration recommends that the bylaw remain in effect and Calgarians continue to be provided quarterly updates. Calgarians can continue to be assured that the bylaw will be updated or repealed when appropriate. Fines increase from \$50 to \$100 for a first offence, and provisions are included to further increase fines for subsequent contraventions.
- Why does it matter? The Temporary COVID-19 Face Coverings Bylaw is an important tool for mitigating the spread of the virus and increases consumer confidence in accessing goods and services from Calgary businesses. Continued monitoring enables Administration to adjust as-needed based on potential changes to the state of the pandemic in Calgary. Fine increases strike a balance between deterrence and undue hardship.
- Since the bylaw came into effect, there has been a significant increase in the use of face coverings. Support for the bylaw remains strong and the majority of Calgarians surveyed agree that it has made them more willing to frequent public spaces. The most recent Citizen Perspectives COVID-19 Snapshot survey of 500 Calgarians conducted between 2020 November 9-15, indicates:
 - 93 per cent of respondents reported always wearing a face covering in public such as grocery stores, shopping malls and public transit, a marked improvement from the 34 per cent from June, prior to the temporary bylaw coming into effect,
 - 88 per cent support the Temporary COVID-19 Face Coverings Bylaw,
 - 87 per cent support extending the duration of the bylaw, and

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- 80 per cent are more willing or confident to go shopping, visit restaurants, ride transit or do other activities in public as a result of mandatory face coverings.
- On 2020 September 14, Council directed Administration to report to the Combined Council Meeting on 2020 December 14 with a status update and any recommended amendments to the temporary bylaw or a repeal if necessary. Council also directed Administration to provide quarterly updates on the bylaw. Additionally, on 2020 December 7, Council directed Administration to prepare potential amendments to the bylaw, including but not limited to increasing penalties.
- Strategic Alignment to Council's Citizen Priorities: A prosperous city
- Background and Previous Council Direction is included as Attachment 1.

DISCUSSION

On 2020 July 21, Council passed the Temporary COVID-19 Face Coverings Bylaw, based on recommendations from the Chief Medical Officer of Health for Alberta, Chief Public Health Officer for Canada and the World Health Organization, to wear face coverings to limit the spread of COVID-19 where physical distancing cannot be maintained. The bylaw was passed in the absence of a provincial mask mandate. On 2020 November 24, the Government of Alberta announced mandatory mask requirements in indoor workplaces and facilities outside the home for Calgary and surrounding areas. On 2020 December 8, the mandatory indoor public masking requirement was extended provincewide. The preponderance of evidence continues to support the use of face coverings as one of a number of measures to help limit the spread of COVID-19.

Administration has reviewed and compared the Chief Medical Officer of Health Order with the bylaw; the provincial mask requirement complements the measures already established in Calgary. The provincial mask requirement reinforces the Temporary COVID-19 Face Coverings Bylaw by expanding reach to include all workplaces, including those that are not publicly accessible, where the municipal bylaw does not have jurisdiction. The provincial mask requirement will also expand the number of enforcement agencies capable of taking enforcement action against individuals not wearing a face covering when required; the bylaw is currently enforced by local peace and police officers, while the provincial order can also be enforced by provincial peace officers.

On 2020 November 27 the Minister of Justice and Solicitor General announced that Community Peace Officers Level One would temporarily be granted the ability to enforce the *Public Health Act* and relevant orders issued by the Chief Medical Officer of Health. On 2020 December 7 this same ability was extended to Community Peace Officers Level Two. Expanding this authority for all municipal peace officers helps ease

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some of the operational demands of the Calgary Police Service and allows municipal peace officers to support existing and future provincial measures.

The provincial health order does not eliminate the need for a municipal bylaw. Violating a health order may result in a \$1,000 minimum penalty. A municipal bylaw enables local enforcement agencies to use discretion and sound judgement when determining the best course of action to arrive at a desired outcome, beyond the minimum penalty outlined in the provincial regulations. Additionally a municipal bylaw allows for a faster response and real time adjustments to local circumstances. The pandemic continues to rapidly evolve and maintaining a temporary bylaw is the best way to ensure that any required response is informed by the local context and can be made as quickly as possible.

The emphasis to date has been on voluntary compliance through education over enforcement which has had demonstrated success with 93 per cent of respondents in the most recent COVID-19 Snapshot survey indicating they always wear a face covering in enclosed public spaces. However, the increasing rate of transmission and changing social environment has identified a need for increased enforcement efforts. The time for education has passed. On 2020 November 24, the Minister of Justice and Solicitor General encouraged a more robust enforcement effort and integrated enforcement approach. As of 2020 December 7, Administration has received over 1900 face covering concerns and issued 23 violations. More than half of the violation tickets were issued in the weeks following the Justice and Solicitor General direction. Administration continues to collaborate with the Calgary Police Service on strategic enforcement efforts to address these concerns and bring about desired outcomes.

To further strengthen deterrence and enforcement efforts, Administration is recommending a moderate increase to the fine amount for those demonstrating willful and repeated non-compliance with the Temporary COVID-19 Face Coverings Bylaw from a specified penalty of \$50 to \$100 for the first offence of failure to wear a face covering where required. The specified penalty for failure to display the prescribed sign remains unchanged at \$200. For a contravention of the same provision of this bylaw twice within a twelve month period, the specified penalty is doubled. The third and subsequent contraventions will result in a \$300 and \$600 fine for failure to wear a face covering where required and failure to display the prescribed sign respectively. If the totality of the circumstances surrounding any contravention of the bylaw indicate a marked endangerment or increased risk of endangering health, the courts may deviate from the specified penalty when determining the fine amount. These increases strike the balance between deterrence and undue hardship, and align with comparable municipalities' fine structures and specified penalties in existing City bylaws. Bylaw 51M2020 to amend the Temporary COVID-19 Face Coverings Bylaw 26M2020 increasing the fine amounts for contraventions is included as Attachment 2.

Calgary's Current COVID-19 Indicators

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The indicators informing the necessity of the Temporary COVID-19 Face Coverings Bylaw include Calgary's new and active COVID-19 cases, reproductive value, and regional indicators. The Fall season has been marked by a sharp increase in the number of COVID-19 cases. On 2020 November 16 Alberta's Chief Medical Officer of Health confirmed that Alberta has entered a *second wave* of COVID-19. Calgary's current COVID-19 indicators are detailed in Attachment 3.

The face coverings bylaw has demonstrated success in increasing the usage of face coverings in Calgary's public spaces and in contributing to keeping Calgary open as evidenced in a Citizen Perspectives COVID-19 Snapshot survey. Four in five Calgarians indicated greater confidence in going out in public as a result of the bylaw.

Next Steps

Administration will continue to monitor local indicators, including transmission rates, infections, hospitalizations, patients in intensive care, and deaths. Administration anticipates that the bylaw will most likely be repealed when these indicators are at a sufficiently low level and the uptake of a safe and effective vaccine is sufficient, or a safe and effective treatment has been identified such that medical experts agree that face coverings are no longer recommended in mitigating the spread of COVID-19.

Through feedback from citizens and extensive engagement with stakeholders, Administration has identified additional communication opportunities focused on addressing pandemic fatigue as well as raising awareness and reducing stigma for Calgarians who are exempt from the requirements in the bylaw.

Administration will continue to work with internal and external partners to support the hardest hit areas and most vulnerable population. This includes making masks more accessible through community and service organizations, targeted communications translated to the most commonly spoken languages and a collaborative initiative with the province to deliver COVID-19 information and support materials to areas of the city with the highest case numbers.

Administration will provide future quarterly updates to Council for as long as the temporary bylaw remains in force, or more frequent updates if information changes significantly.

STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL)

- Public Engagement was undertaken
- Public Communication or Engagement was not required
- Public/Stakeholders were informed
- Stakeholder dialogue/relations were undertaken

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The most recent Citizen Perspectives COVID-19 Snapshot survey of 500 Calgarians was conducted between 2020 November 9-15 via phone using random digit numbers from both landlines and cellphones to obtain random and statistically representative samples. The survey results indicated that 93 per cent of respondents always wear a face covering in public such as grocery stores, shopping malls and public transit, 88 per cent of respondents support the Temporary COVID-19 Face Coverings Bylaw, 87 per cent support extending the duration of the face coverings bylaw, and 80 per cent are more willing or confident to go shopping, visit restaurants, ride transit or do other activities in public as a result of mandatory face coverings. A report from the most recent Citizens Perspectives COVID-19 Snapshot Survey is included in Attachment 4. Administration will continue to engage Calgarians for future updates.

IMPLICATIONS

Social, Environmental, Economic

Regular reporting on the bylaw enables Administration the opportunity to monitor its social, environmental and economic implications by advancing the Social Wellbeing Principle of prevention. Administration contacted local agencies and the Alberta Human Rights Commission through the Advisory Committee on Accessibility to better understand the impact of the bylaw on those who are unable to wear a face covering.

Future updates on the bylaw affords Administration time to further engage with Calgary's business community to better understand the economic impact of the bylaw.

Service and Financial Implications

No anticipated financial impact

There are no operating budget requests associated with this report. Administration continues to educate Calgarians on the importance of wearing face coverings in indoor and public spaces and public vehicles and will use enforcement in situations where education is unsuccessful. Enforcement activities are covered within the current operating budget.

RISK

Risks that are associated with evolving medical evidence, negative social implications, or concerns regarding a lack of certainty of a specific repeal date will be mitigated by continued monitoring, bylaw amendments and regular reporting to Council. There is potential for a legal challenge that, although mitigated by the prohibitions within the bylaw, cannot be fully avoided.

ATTACHMENT(S)

1. Background and Previous Council Direction
2. Bylaw 51M2020
3. Calgary's Current COVID-19 Indicators
4. Citizen Perspectives COVID-19 Snapshot Survey

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5. Public Submissions

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