

TOWN OF BANFF

BYLAW 436

Temporary Mandatory Mask and Face Coverings

Being a Bylaw of the Town of Banff to mandate the use of masks or other face coverings within enclosed public spaces and the pedestrian zone of the 100 and 200 Blocks of Banff Avenue and Caribou Street

WHEREAS the Section 7 (a) of *Municipal Government Act*, R.S.A. 2000, c. M-26 empowers Councils to pass Bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the Section 7(b) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 empowers Councils to pass Bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS Section 8(a) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 further states that Council may pass a bylaw to regulate an activity and Section 9(b) further empowers a Council to respond to present and future issues in their municipality;

AND WHEREAS the Novel Coronavirus is present within the Town of Banff, and it causes the disease COVID-19 that is readily communicable from person to person and carries a risk of serious complications such as pneumonia or respiratory failure, and may result in death;

AND WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization on 2020 March 11;

AND WHEREAS there exists a pressing need for establishments to implement appropriate measures and regulations to better prevent the spread of COVID-19 and protect the health, safety and well-being of the residents of, and visitors to, the town of Banff within both enclosed public spaces and the temporary Pedestrian zone for the 100 – 200 Blocks of Banff Avenue and Caribou Street where physical distancing is often difficult to maintain;

AND WHEREAS the mandatory requirement to wear masks in enclosed public spaces is further deemed to be a reasonable, practicable and effective method of limiting the spread of COVID-19 for the health, safety and well-being of residents of, and visitors to, the town of Banff;

AND WHEREAS the Government of Alberta and the Chief Medical Officer of Alberta have strongly recommended that Albertans wear masks or face coverings to limit the spread of COVID-19 where physical distancing cannot be maintained;

NOW THEREFORE the Council of the Town of Banff, in the Province of Alberta, duly assembled, **ENACTS AS FOLLOWS:**

1.0 CITATION

1.1 This Bylaw may be cited as the Temporary Mandatory Mask Bylaw.

2.0 DEFINITION

2.1 In this Bylaw, words have the meanings set out in the *Municipal Government Act*, R.S.A. 2000, c. M-26, except that:

- a) **Bylaw Services Officer** means an employee of the Town who has been appointed to the position of Bylaw Enforcement Officer or Bylaw Services Officer pursuant to the Bylaw Enforcement Officers Bylaw or Town of Banff Land Use Bylaw;
- b) **Cohort** means small groups of people whose members, who are always the same individuals, do not always keep two (2) metres apart, and who limit close interactions to those same people within their own cohort group rather than switching daily contacts or engaging in close interactions with others outside that circle;
- c) **Enclosed Public Space or Establishment** means the interior area of any building or structure to which the public is invited or permitted access, either expressly or by implication regardless of whether a fee is charged for entry, in order to receive or to provide goods or services, including but not limited to the public areas of the following:
 - i. Restaurants, cafés, cafeterias, and outdoor patios associated with these establishments;
 - ii. Retail establishments including exterior merchandise displays;
 - iii. Shopping malls or similar structures that contain multiple places of businesses;
 - iv. Grocery stores;
 - v. Churches, mosques, synagogues, temples, or other places of worship;
 - vi. Libraries, museums, art galleries, recreational facilities, cinemas, theatres, concert venues, special event venues, convention centers, or other similar entertainment, cultural, or leisure facilities;
 - vii. Common areas of sports facilities, sports clubs, gyms, yoga studios, or other similar Establishments, such as lobbies, elevators, and locker rooms/ changing rooms;
 - viii. Common areas of hotels, motels, and other short-term rentals, such as lobbies, elevators, meeting rooms or other common use facilities;
 - ix. Health and wellness facilities and personal services facilities;
 - x. Temporary facilities, such as construction trailers and temporary sales offices;
 - xi. Municipal facilities, including Town Hall, and any community centre, cultural, arts or leisure centre, recreational or sporting facility, parks building, client service centre or indoor parking facility; and,
 - xii. Other businesses, organizations and places that are permitted to operate in accordance with the Government of Alberta's Relaunch Strategy.

Provided that the following are not considered an Enclosed Public Space for the purposes of this Bylaw:

- xiii. Schools, as defined by the *School Act*, RSA 200 c S-3;
 - xiv. Day Care facilities, as defined in the Town of Banff Land Use Bylaw;
 - xv. Portions of buildings that are being used for the purpose of providing day camps;
 - xvi. Offices of professional service providers such as lawyers and accountants where clients receive services in areas not open to the general public;
 - xvii. Hospitals, independent health facilities, and offices of regulated health professionals; and
 - xviii. School Bus, as defined in the Town of Banff Traffic Bylaw.
- d) **Mask** means a cloth (non-medical) mask, medical mask, or other face covering such as a bandana or scarf, that securely covers the nose, mouth, and chin and is in contact with the surrounding face without gapping, and filters respiratory droplets;
- e) **Operator** means the person or organization who is the registered land owner as per the Town of Banff's Tax Roll or the person who controls, governs, directs, or is responsible for the activity carried on within the Enclosed Public Space or Establishment and can include the person who is actually in charge at any particular time;
- f) **Peace Officer** means the following persons while that person is in the exercise or discharge of their power or duties: a Community Peace Officer appointed under the *Peace Officer Act*, a member of the Royal Canadian Mounted Police, or a park warden appointed under the National Parks Act of Canada;
- g) **Pedestrian Zone** means the outdoor pedestrian amenity zone established by closing vehicular access to various streets in the downtown zone and includes the 100 and 200 blocks of Banff Avenue and Caribou Street, as depicted in Schedule A to this Bylaw;
- h) **Person** included a corporation and the heirs executors, administrators, or other legal representatives of a person;
- i) **Public Vehicle** means a bus, taxi, or other vehicle that is used to transport members of the public for a fee;
- j) **Town of Banff** or **Town** means the Corporation of the Town of Banff and, where the context requires, the land included within the boundaries of the Town of Banff;
- k) **Town of Banff Notice of Offence** means any ticket or tag, in a form approved by the Town or authorized under the *Provincial Offences Procedures Act*, issued for any offence in which a penalty may be paid out of court in lieu of appearing to answer a summons.

3.0 INTERPRETATION

- 3.1 No provisions of this Bylaw are intended to conflict with a Federal or Provincial statute, regulation, or order, including an order made under the *Emergency Management Act*. RSA 200, c E-6.8, as amended.

4.0 EXEMPTIONS

4.1 This Bylaw does not apply to:

- a) A child who is younger than two (2) years of age, or a child who is under five (5) years of age chronologically or developmentally and who refuses to wear a Mask and cannot be persuaded to do so by their caregiver;
- b) A Person with a medical condition, including breathing or cognitive difficulties, or a disability, that prevents them from safely wearing a Mask;
- c) A Person who is unable to put on or remove their Mask without the assistance of another Person;
- d) A Person who is hearing impaired, or communicating with a Person who is hearing impaired, where the ability to see the mouth is essential for communication;
- e) A Person who needs to temporarily remove their Mask, provided they are able to maintain a distance of at least six feet from any Persons who are not members of the same household or Cohort, for the purposes of:
 - i. Receiving services that require the removal of their Mask;
 - ii. Actively engaging in athletic or fitness activity in an Establishment such as a sports facility, sports club, gym, yoga studio, or other similar Establishments;
 - iii. Consuming food or drink; or
 - iv. An emergency or medical purpose.
- f) Those outdoor spaces not included in the Pedestrian Zone as depicted in Schedule A of this Bylaw.

4.2 A Person who is employed by, or is an agent of, the Operator of an Enclosed Public Space is not obligated to wear a Mask while:

- a) In an area of the premises that is not designated for public access; or
- b) When located either within or behind a physical barrier including but not limited to a Plexiglas barrier.

5.0 MANDATORY MASK IN ENCLOSED PUBLIC SPACES

5.1 Subject to Section 4, Exemptions, every Person who enters or remains in an Enclosed Public Space shall wear a Mask in a manner that covers their mouth, nose, and chin.

5.2 Persons who are in line to enter into an Enclosed Public Space shall wear a Mask in a manner that covers their mouth, nose, and chin.

5.3 The Operator of an Enclosed Public Space shall post, at every entrance to the Establishment used by the public, prominent and clearly visible signage that contains the following messages:

All persons entering or remaining in these premises must wear a mask or face covering that covers the nose, mouth, and chin as required pursuant to Town of Banff Bylaw 436.

5.4 The Operator of an Enclosed Public Space shall ensure the availability of hand sanitizing stations at all public entrances of the Establishment.

5.5 The Operator of an Enclosed Public Space shall ensure all employees are aware of the regulations as set out in this Bylaw and shall create a policy for their specific Establishment addressing it.

5.6 A Person must wear a Mask in a Public Vehicle, unless the Person is separated from other Persons by an installed screen, shield, or other barrier.

6.0 MANDATORY MASK IN THE PEDESTRIAN ZONE

6.1 Subject to Section 4, Exemptions, every Person who enters or remains in the Pedestrian Zone shall wear a Mask in a manner that covers their mouth, nose, and chin.

6.2 The Town of Banff shall post, at every entrance to the Pedestrian Zone used by the public, prominent and clearly visible signage that contains the following message:

All persons entering or remaining in this area must wear a mask or face covering that covers the nose, mouth, and chin as required pursuant to Town of Banff Bylaw 436.

6.3 The Town shall ensure, wherever possible:

- a) That every person who is not wearing a Mask when entering into the area is provided with a verbal reminder to do so and, if applicable, of the exemptions set out in Section 4; and
- b) That every person who is not wearing a Mask when entering into the area is provided with a Mask as well as educated on the proper way to wear it.

6.4 The Town shall provide hand sanitizing stations throughout the Pedestrian Zone.

6.5 Operators of Enclosed Public Spaces located in the Pedestrian Zone shall be subject to the regulations set out in Section 5, Enclosed Public Spaces.

6.6 Operators of Establishments which include outdoor restaurant/ café seating located within the Pedestrian Zone are subject to the regulations outlined in Sections 5, Enclosed Public Spaces, and 6, Pedestrian Zone for the 100-200 Blocks of Banff Avenue.

7.0 VIOLATIONS AND ENFORCEMENT

- 7.1 Enforcement of this Bylaw is the sole responsibility of the Town of Banff Bylaw Enforcement or a Peace Officer.
- 7.2 Any Person found to be violating any provision of this Bylaw is guilty of an offence and may be served by the Town of Banff Bylaw Enforcement, or a Peace Officer, with a verbal or written notice stating the nature of the violation and may be provided with a reasonable time limit for the satisfactory correction thereof.
- 7.3 Any person who hinders or obstructs a person lawfully carrying out the enforcement of this Bylaw is guilty of an offence.
- 7.4 When a Person is alleged to have contravened any provision of this Bylaw, a Bylaw Services Officer or Peace Officer may issue a Town of Banff Notice of Offence which shall state:
- a) The nature of the offence;
 - b) The penalty payable in connection with the offence; and
 - c) The time period within which the penalty must be paid.
- 7.5 A Town of Banff Notice of Offence shall be deemed to be sufficiently served for the purposes of this Bylaw if served personally on the accused.
- 7.6 In lieu of prosecution, the individual named in a Town of Banff Notice of Offence may elect to voluntarily make payment to the Town of the penalty amount specified in the Town of Banff Notice of Offence.
- 7.7 If the payment specified in the Town of Banff Notice of Offence is not paid in accordance with the terms of the Notice of Offence and in the time required by the Notice of Offence, a prosecution may be commenced for the alleged contravention of this Bylaw. Notwithstanding the foregoing, nothing in this Bylaw shall prevent any Bylaw Services Officer or Peace Officer from issuing a violation ticket pursuant to the provisions of the *Provincial Offences Procedure Act* or from laying an information in lieu of issuing a Town of Banff Notice of Offence.
- 7.8 A fine of \$150 is liable to:
- a) A Person who is convicted of an offence under this Bylaw; and
 - b) An Operator who fails to display the prescribed signage.

8.0 SEVERABILITY

8.1 If any clause in this Bylaw is found to be invalid, it shall be severed from the remainder of the Bylaw and shall not invalidate the whole Bylaw.

9.0 SCHEDULES

9.1 Schedule “A” forms part of this Bylaw.

10.0 ENACTMENT

10.1 This Bylaw comes into force at 12:00 p.m. noon on 2020 July 31.

READ A FIRST TIME this 27th day of July, 2020.

READ A SECOND TIME, as amended, this 27th day of July, 2020.

READ A THIRD TIME, as amended, this 27th day of July, 2020.

SIGNED AND PASSED this 27th day of July, 2020.

On Original
Karen Sorensen
Mayor

On Original
Kelly Gibson
Town Manager

SCHEDULE A

