

## CLASS ORDER

made pursuant to Section 22 of the Health Protection and Promotion Act,  
R.S.O. 1990, c.H.7

**THIS CLASS ORDER ISSUED AND EFFECTIVE September 18, 2020 AT 12:01 a.m.  
REPLACES AND SUPERCEDES THE ORDER ISSUED July 14, 2020 EFFECTIVE July 17,  
2020 AT 12:01 a.m.**

**DATE:** September 15, 2020

**TO:** All persons who own or operate a Commercial Establishment or other Establishment (hereinafter collectively referred to as an Establishment) or a vehicle providing private commercial transportation (hereinafter referred to as a Private Commercial Vehicle) in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit.

**I, Dr. Nicola Mercer, Medical Officer of Health for the Wellington-Dufferin-Guelph Health Unit, ORDER YOU TO TAKE THE FOLLOWING ACTIONS, effective 12:01 a.m. on September 18, 2020:**

- 1. Prohibit Persons from entering the premises of the Establishment or remaining in the premises or a Private Commercial Vehicle if the said Person is not wearing a Face Covering.** The Face Covering must be worn inside the Establishment at all times, unless it is reasonably required to temporarily remove the Face Covering for services provided by the Establishment.

A Person shall be exempt from wearing a Face Covering on the premises if:

- a. The Person is a child under the age of two (2) years; or a child under the age of five (5) 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. Wearing a Face Covering would inhibit the Person's ability to breathe in any way;
  - c. 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; or
  - d. The obligation to provide reasonable accommodation under the Ontario Human Rights Code requires exemption from this requirement.
- 2. Ensure the availability of alcohol-based hand rub at all entrances and exits for the use of all Persons entering or exiting the Establishment or Private Commercial Vehicle.**

**THE REASONS for this ORDER are that:**

1. COVID-19, a disease caused by a novel coronavirus, is designated as a disease of public health significance and a communicable disease pursuant to Ontario Regulation 135/18 under the Health Protection and Promotion Act.
2. COVID-19 can cause acute and severe respiratory illness and death in humans.
3. The spread of COVID-19 is of immediate and compelling public health importance in the jurisdiction of the Wellington-Dufferin Guelph Health Unit:
  - a. On March 11, 2020, the spread of COVID-19 was declared a pandemic by the World Health Organization;
  - b. On March 15, 2020 the first case of COVID-19 was reported in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit.
  - c. On March 17, 2020 the spread of COVID-19 was declared an emergency in Ontario pursuant to the Emergency Management and Civil Protection Act, R.S.O. 1990, c.E.9, as amended, on the basis that COVID-19 constitutes a danger of major proportions;
  - d. States of Emergency were subsequently declared by the City of Guelph and the Counties of Dufferin and Wellington in response to COVID-19; and
  - e. As of today, there is evidence of continued community transmission of COVID-19 in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit, as evidenced by newly identified cases not connected to facility outbreaks or travel.
4. COVID-19 is transmitted from person-to-person predominantly through respiratory droplets that are released from the nose and mouth, through contact with contaminated surfaces, and through poor hand hygiene.
5. COVID-19 may be transmitted from persons who have minimal or no signs or symptoms of illness.
6. Accumulating epidemiological evidence indicates that the widespread use of Face Coverings by all persons decreases spread of respiratory droplets, and expert opinion supports the widespread use of Face Coverings to decrease transmission of COVID-19.
7. Use of Face Coverings is recommended by the Chief Medical Officer of Health of Ontario and the Chief Public Health Officer of Canada in situations where physical distancing (spatial separation of individuals by at least two metres) is difficult to maintain.
8. Re-opening of further Establishments in Stage 3 has increased the frequency of contact and limit opportunities for physical distancing between persons in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit which, absent adequate preventative measures, will increase the number of cases of COVID-19 cases in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit.

9. An increase in the number of cases of COVID-19 will increase disease transmission, potential for outbreaks in congregate settings, and the morbidity and mortality of COVID-19 within the population of the jurisdiction of the Wellington-Dufferin-Guelph Health Unit.

**I am of the opinion, on reasonable and probable grounds, that:**

- a. A communicable disease exists or may exist or there is an immediate risk of an outbreak of a communicable disease in the health unit served by me;
- b. The communicable disease presents a risk to the health of persons in the health unit served by me; and
- c. The requirements specified in this Order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

**I am also of the opinion that** the delivery of notice of this Order to each and every member of the class to whom it is directed is likely to cause a delay that could significantly increase the risk to the health of any person residing in the jurisdiction of the Wellington-Dufferin-Guelph Health Unit, so notice shall be provided through the public media and the internet via posting at: [www.wdgpUBLICHEALTH.ca](http://www.wdgpUBLICHEALTH.ca).

## **DEFINITIONS AND SCOPE OF THE ORDER**

An Establishment falling within the scope of this Order is required to make best efforts in respect of the requirements above. In complying with the best efforts requirement, owners and operators shall not require employees or members of the public to provide proof that they qualify for any of the exemptions set out in Section 1.

The following definitions apply to this Order:

A **Person** means any customer, patron, employee or visitor, who enters the Establishment.

A **Face Covering** means a medical mask or a non-medical mask or other face coverings such as a bandana, a scarf or cloth that covers the mouth, nose and chin ensuring a barrier that limits the transmission of infectious respiratory droplets.

**Establishment** mean those portions of a fixed commercial premises or other premises that are openly accessible to members of the public and that are used for the purposes of offering goods or services (including religious services) to members of the public and include a mall or other structure containing a number of commercial premises, and, without limiting the generality of the forgoing, include the following:

- Retail stores;
- Convenience stores;
- Malls/plazas;
- Restaurants/bars/taverns;
- Banquet halls, convention centres and other event spaces;
- Personal service settings;
- Grocery stores and bakeries;
- Gas stations;
- Farmer's markets;

- Areas of Mechanics' shops/garages/repair shops, which are open to the public;
- Car dealerships;
- Indoor play zones/arcades/art studios or galleries;
- Cinemas/performing arts/theatres/museums;
- Indoor arenas/sporting venues as a spectator;
- Public indoor tours of facilities;
- Casinos/charitable gaming halls including horse racing;
- Fitness facilities/gyms/indoor sports facilities/studios;
- Common areas of hotels/motels/short term rentals; and
- Churches, mosques, synagogues, temples or other faith settings.

**Private Commercial Vehicle** means a vehicle used for provision of commercial transportation services to members of the general public (bus/taxi/limo/ride share) but does not include a vehicle that is owned or operated by a governmental authority.

Notwithstanding the foregoing, the following are not subject to this Order even if they would otherwise fall within the definition of an Establishment:

- Day camps;
- Day care centres;
- Schools;
- Libraries;
- Community centres;
- Offices that are not open to members of the public;
- Professional offices where clients receive purchased services (e.g. lawyer's/accountant's office) that are not open to members of the public;
- Public transportation (bus/train);
- Hospitals;
- Independent health facilities; and
- Offices of regulated health professionals.

The areas of an Establishment that are subject to the Face Covering requirements of this Order are:

- Any areas in which customers interact with one another or with staff members, OR
- Any areas that are open or accessible to members of the public,

Except where: The area is outside, whether or not the area is covered (e.g. a restaurant patio).

Persons must wear their Face Covering inside the Establishment at all times, unless it is reasonably required to temporarily remove the Face Covering for services provided by the Establishment. For greater clarity, and without limiting the generality of the foregoing, these instances include the following:

- While eating or drinking;
- While participating in a religious rite that involves eating or drinking or otherwise reasonably requires the removal of the mask;
- While exercising or participating in an activity that requires physical exertion; and
- While participating in an activity where a Face Covering may become wet.

For greater clarity, examples of areas that are or are not subject to the Face Covering requirements of this Order are as follows:

Example Establishment	Parts of the Establishment Covered by the Order (Examples)	Parts of the Establishment Not Covered by the Order (Examples)
Retail store	<ul style="list-style-type: none"> <li>• Retail floor/aisles</li> <li>• Cashier area/queues</li> <li>• Service desks/counters</li> <li>• Publicly accessible washrooms</li> </ul>	<ul style="list-style-type: none"> <li>• Staff lounge not accessible to the public</li> <li>• Stock/storage room not accessible to the public</li> <li>• Workshop/service room not accessible to the public</li> <li>• Private office (e.g. manager's office)</li> <li>• Shipping/receiving area not accessible to the public</li> <li>• Outdoor patios/display areas that form part of the retail store (e.g. outdoor garden centre)</li> </ul>
Gas station (self-serve)	<ul style="list-style-type: none"> <li>• Inside the gas station store/kiosk</li> </ul>	<ul style="list-style-type: none"> <li>• Pump area</li> </ul>
Restaurant/ Bar/ Tavern	<ul style="list-style-type: none"> <li>• Indoor take-out counters</li> <li>• Indoor dining area when indoor dining becomes permissible</li> <li>• Food preparation areas that are open to the public</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor drive-through windows</li> <li>• Outdoor dining area</li> <li>• Kitchen area that is physically separated from dining area and not accessible to the public</li> <li>• Staff lounge not accessible to the public</li> <li>• Stock/storage room not accessible to the public</li> <li>• Private office (e.g. manager's office)</li> <li>• Shipping/receiving area not accessible to the public</li> </ul>
Mall/ Plaza	<ul style="list-style-type: none"> <li>• Indoor areas accessible to members of the public</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor areas accessible to the public</li> <li>• Administrative offices, service areas, or other areas that are not accessible to the public</li> </ul>
Churches, mosques, synagogues, temples or other faith settings	<ul style="list-style-type: none"> <li>• Indoor areas accessible to members of the public</li> <li>• Public Washrooms</li> <li>• Meeting rooms</li> <li>• Lobby</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor areas accessible to the public</li> <li>• Administrative offices, services areas or other areas that are not accessible to the public</li> </ul>
Fitness facility/ Gym/	<ul style="list-style-type: none"> <li>• Reception area</li> <li>• Equipment room</li> </ul>	<ul style="list-style-type: none"> <li>• Pool/spa area</li> <li>• Showers/change room</li> </ul>

Example Establishment	Parts of the Establishment Covered by the Order (Examples)	Parts of the Establishment Not Covered by the Order (Examples)
Indoor sport facility or studio including pools	<ul style="list-style-type: none"> <li>• Exercise classroom</li> <li>• Common areas not used for activities</li> <li>• Other indoor areas accessible to the public</li> </ul>	
Amusement Park/Indoor Play Zone/ Arcade/Art Studio/Gallery	<ul style="list-style-type: none"> <li>• Indoor areas accessible to the public</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor areas</li> <li>• Areas not accessible to the public</li> </ul>
Theatre/ Performing Arts Show/ Cinema or Movie Theatre/ Indoor arena/ Sporting venue	<ul style="list-style-type: none"> <li>• Lobby</li> <li>• Concession stand</li> <li>• Theatre seating/stands/seating areas</li> <li>• Publicly accessible washrooms</li> <li>• Other indoor areas accessible to the public</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor areas</li> <li>• Areas not accessible to the public</li> </ul>
Indoor facility offering public tours	<ul style="list-style-type: none"> <li>• All indoor areas accessible as part of a guided (including self-guided) tour</li> <li>• Other indoor areas accessible to the public</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor areas</li> <li>• Areas not accessible to the public</li> </ul>
Private Commercial Vehicle (bus/taxi/limo/ride share)	<ul style="list-style-type: none"> <li>• Within the entire vehicle and for the duration of the ride</li> <li>• If there are multiple passengers in the vehicle, a face covering is mandatory</li> <li>• Hand sanitizer should be available in the vehicle for the use of the occupants</li> </ul>	<ul style="list-style-type: none"> <li>• If the private transportation provides a fixed separation between the driver and passenger(s) the wearing of a mask in each compartment is recommended</li> <li>• If there are multiple passengers in the passenger compartment, then a face covering is mandatory.</li> </ul>
Casino/Charitable Gaming Hall/Horse Racing	<ul style="list-style-type: none"> <li>• Lobby</li> <li>• Casino floor/gaming hall floor</li> <li>• Stands/seating areas</li> </ul>	<ul style="list-style-type: none"> <li>• Outdoor areas</li> <li>• Areas not accessible to the public</li> </ul>
Hotel/ Motel/ Short-term rental	<ul style="list-style-type: none"> <li>• Common areas of building</li> <li>• Shared indoor amenities (e.g. lounges, restaurants, parking garage)</li> </ul>	<ul style="list-style-type: none"> <li>• Personal room or suite</li> <li>• Pool/spa area</li> <li>• Outdoor areas</li> </ul>

## **NOTICE**

**TAKE NOTICE THAT** each member of the class to whom this Order is directed, is entitled to a hearing by the Health Services Appeal and Review Board if the member has delivered notice in writing to me and to the Health Services Appeal and Review Board (Health Boards Secretariat, 151 Bloor Street West, 9th Floor. Toronto, Ontario, M5S 2T5), requesting a hearing within 15 days after publication of this Order or otherwise in accordance with applicable law. In the context of the COVID-19 outbreak, all requests for appeals and reviews, submissions, materials, and inquiries must be sent by e-mail to [hsarb@ontario.ca](mailto:hsarb@ontario.ca) or faxed to the Health Services Appeal and Review Board at 416-327-8524.

**AND TAKE FURTHER NOTICE THAT** although a hearing may be requested, this Order takes effect when it is delivered to a member of the class or brought to the attention of a member of the class.

**FAILURE** to comply with this Order is an offence for which you may be liable, on conviction, to a fine of not more than \$5,000.00 for every day or part of each day on which the offence occurs or continues.

*Signed copy on file*

**Dr. Nicola Mercer  
Medical Officer of Health,  
Wellington-Dufferin-Guelph Public Health  
160 Chancellors Way, Guelph, ON N1G 0E1**

Questions about this Order can be directed to the Wellington-Dufferin-Guelph Public Health COVID-19 Call Centre at **519-822-2715 ext. 4020**