

ORDER OF THE KFL&A PUBLIC HEALTH MEDICAL OFFICER OF HEALTH
(Made pursuant to section 22 of the *Ontario Health Protection and Promotion Act, 1990*)

DATE: Original JUNE 27, 2020 REVISED DATE: JULY 17, 2020

TO: All persons who own or operate a Commercial and Municipal Establishment in the Kingston, Frontenac and Lennox & Addington Public Health area.

WHEREAS the Province of Ontario declared a public health emergency as a result of the 2019 Novel Coronavirus (COVID-19) pandemic, pursuant to the *Emergency Management and Civil Protection Act, 1990*;

AND WHEREAS the World Health Organization has determined COVID-19 to be a highly contagious disease that presents a risk to human health and communities due to its rapid communicability;

AND WHEREAS The Province of Ontario has enacted stage 3 of *A Framework for Reopening our Province*;

AND WHEREAS under section 22 of the *Ontario Health Protection and Promotion Act* a medical officer of health may make an order requiring a person who is in charge of any thing or who is engaged in or administers an enterprise or activity in the health unit served by the medical officer of health, to take any actions specified in the order if the medical officer of health is of the opinion, upon reasonable and probable grounds, that an outbreak of a communicable disease exists or may exist, or if there is a risk of an outbreak of a communicable disease in the health unit, that presents a risk to the health of persons in the health unit, and that the order is required to decrease or eliminate the health risks;

AND WHEREAS the KFL&A Public Health Medical Officer of Health has reasonable and probable grounds to believe that one or more persons residing or working at, or providing services to the community is infected or has been exposed to infection, or has potentially been infected or exposed to infection, with the COVID-19 virus;

I, Dr. Kieran Moore, Medical Officer of Health for the KFL&A Health Unit, ORDER YOU TO TAKE THE FOLLOWING ACTIONS, effective 12:01 a.m. on July 17, 2020:

1. Prohibit Persons from entering the premises of the Commercial Establishment or remaining in the premises 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 required to 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 years; or a child under the age of 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 Person is unable to apply or remove a Face Covering without assistance, including those who are accommodated under the *Accessibility for Ontarians with Disabilities Act* (AODA) or who have protections under the Ontario *Human Rights Code*, R.S.O. 1990, c.H.19, as amended

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.

3. Ensure proper social distancing is practised where possible at all times.

4. No person shall be required to provide proof of any of the exemptions set out in Section 1.

REASONS FOR THE 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 KFL&A Health Unit:

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. Stage 3 of re-opening of Commercial Establishments on July 17, 2020 will increase the frequency of contact and limited the opportunities for physical distancing between persons in the jurisdiction of the KFL&A Health Unit, which, absent of adequate preventative measures, may increase the number of cases of COVID-19 cases in the jurisdiction of the KFL&A Health Unit.

9. An increase in the number of cases of COVID-19 may increase disease transmission, potential for outbreaks in congregate settings, and the morbidity and mortality of COVID19 within the population of the jurisdiction of the KFL&A 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 KFL&A Health Unit, so notice shall be provided through the public media and the internet via posting at: www.kflaph.ca.

DEFINITIONS AND SCOPE OF THE ORDER:

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.

Commercial Establishment and Establishment mean those portions of a fixed commercial premises that are openly accessible to members of the public and that are used for the purposes of offering goods or services for sale 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 foregoing, include the following:

- Retail stores
- Convenience stores
- Malls/plazas
- Food premises and bars
- Personal service settings
- Grocery stores and bakeries
- Churches, synagogues, mosques, temples, or other places of worship and faith settings
- Farmer's markets
- Areas of mechanics' shops/garages / repair shops which are open to the public
- Libraries, art galleries, and museums
- Common areas of hotels, motels and other short-term rentals, such as lobbies, elevators, meeting rooms or other common use facilities
- Concert venues, theatres, cinemas, and other entertainment facilities
- Banquet halls, convention centres, arenas, stadiums, and other event spaces
- Premises utilized as an open house, presentation centre, or other facility for real estate purposes
- Community centres including indoor recreational facilities
- Private transportation (bus/taxi/limo/rideshare services)
- Public transportation (bus/train)
- Business offices open to the public

Notwithstanding the foregoing the following are **NOT** subject to this Order even if they would otherwise fall within the definition of a Commercial Establishment:

- Schools
- Day Camps
- Childcare facilities
- Business offices not open to members of the public
- Hospitals
- Independent health facilities
- Offices of regulated health professionals

The areas of a Commercial 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);**
 - **The area is within or behind a physical barrier (e.g., Plexiglass); or**
 - **A public area prior to opening of or following closing of the establishment**

where members of the public are no longer allowed to access

This order shall permit the temporary removal of a Face Covering where necessary for the purpose of:

- Actively engaging in athletic or physical activity including water-based activities;
- Actively consuming food or drink;
- For an emergency medical procedure; or
- Religious leaders providing sermons or speeches in places of worship

Implementation of this order will be enforced in 'good faith' and will be primarily used as a means to educate people on Face Covering use in commercial spaces.

NOTICE:

Each member of the class to whom the order is directed is entitled to a hearing on this matter before the Health Services Appeal and Review Board and may apply for such a hearing upon request to me and to the Health Services Appeal and Review Board, at:

151 Bloor Street West, 9th Floor
Toronto, ON M5S 1S4

This Order takes effect immediately upon delivery and shall continue in effect until either rescinded by the Medical Officer of Health or a decision of the Health Services Appeal and Review Board rescinds or amends the Order.

Failure to comply with this Order is an offence for which you may be liable, on conviction, to a fine of note more than \$5,000.00 for every day or part of day on which the offence occurs or continues.



Dr Kieran Moore, MD, CCFP (EM), FCFP, MPH, DTM&H, FRCPC

Medical Officer of Health

KFL&A Public Health

c/o KFL&A Public Health

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