



**Joseph A. Gaetan, BGS**

# Masks

## Introduction:

Condominium Corporations come in many flavours and colours. At one end of the spectrum, we have two-unit condo corporations which may be self-managed and may not have amenities or common areas. These corporations may find it easy to safely distance with no mask requirements. At the other end of the spectrum, we have tall building condos. In the extreme, these condos could have multiple towers with 40 or more stories, over 800 residents, six elevators, an indoor pool, a gym, party and game rooms, etc. These condos face different challenges when it comes to safety, sanitizing, social distancing, and mask use.

As the three levels of government have rolled out various initiatives and safety protocols, each of the over 600,000 condominium corporations in Ontario have one thing in common: they all had to figure out how to work with or comply with the guidance.

## Roles and Responsibilities of the Board of Directors of a Condominium Corporation:

As a reminder, the following sections of the Condominium Act (1998) apply to all Condominium Corporations and therefore their Boards and Property Managers, regardless of what is happening in the world, but especially when it comes to COVID-19:

*Section 37(1): Every director and every officer of a corporation in exercising the powers and discharging the duties of office shall: (a) act honestly and in good faith; and (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.*

*Section 58: Condo corporations have the ability to make, amend or repeal rules that: promote the safety, security or welfare of owners or property; and prevent unreasonable interference with the use and enjoyment of the units and common elements.*

*Section 117: Prohibits a person from allowing a condition to exist or to carry on activity in a unit or in the common elements if it is likely to damage the property or injure someone.*

*continued...*

**PLEASE WEAR  
A MASK AND  
SOCIAL DISTANCE  
IN COMMON  
AREAS**



## Rules and Tools:

Condominium Corporations have a few statutory tools to work with to seek resident compliance, whether it be for nuisances or the wearing of masks. In order of difficulty to implement, and keeping in mind their respective weight to achieve compliance, a Condominium Corporation may:

- (a) Make changes to the Declaration. This option is not very practical in that doing so is a lengthy process that requires the agreement of 80 to 90% of owners.
- (b) The next option would be for a Condominium Corporation to pass a By-Law. This approach can take one to three months, requires communication beforehand to owners, and requires at least 51% of the owners to agree to the By-Law.
- (c) The next tool would be to pass a Rule. This usually takes a minimum of 30 days, also requires pre-communication, and is subject to owners being able to overturn or reject an unreasonable Rule.
- (d) Finally, the easiest: A Board can implement a Policy. Policies, however, are not enforceable unless backed up by a Rule. Policies are useful tools that can set out protocols or standard operating procedures or that can be used to clarify an approach to an issue such as the wearing of masks. The intent of a policy is to seek voluntary compliance.

In the case of having to follow and/or to convey directives from other levels of government, owners are statutorily required to follow a By-Law issued by their community or an Order from the Federal or Provincial governments.

Given that we are operating in times where a sense of urgency is required, some jurisdictions have enacted Mask By-Laws (e.g. Toronto, Hamilton, Burlington). In this case, simply posting the city By-Law or conveying the information by way of a Policy may be the best approach.

If, however, the Corporation wanted to go beyond the By-Law to enact the mandatory wearing of masks (for example, while riding in an elevator), a condominium could pass a Rule to cover just that instance, while also limiting the number of people that could occupy an elevator at the same time.

## Masks and the Experts:

Whether and when to wear a mask or not to wear one are some of the questions people of all stripes are asking themselves. Some even question the efficacy of wearing masks. So, what do the experts and the Canadian Federal Government have to say about wearing masks, and do they agree? The Centers for Disease Control and Prevention (CDC), the World Health Organization (WHO), and Health Canada now recommend masks for the public. Experts also say the evidence is clear, that

masks can help prevent the spread of COVID-19, and that the more people wearing masks, the better. When worn properly, a person wearing a non-medical mask or face covering can reduce the spread of his or her own infectious respiratory droplets.

## A summary of the Guidance from the Province of Ontario for Phase 3:

### Physical Distancing Conditions:

In all cases, individuals are required to continue to maintain physical distancing of at least two metres with people from outside their households or social circles.

### Masks:

The wearing of face masks in indoor and outdoor public spaces is recommended where physical distancing is a challenge.

### Hand Washing:

Washing your hands frequently with soap and water is highly recommended.

### Indoor Gathering Limits – Stage 3:

The inside numbers have been temporarily limited to 10. Physical distancing is to be maintained at all time unless you are with members of your household or your social circle.

### Outdoor Gathering Limits – Stage 3:

The outside numbers are currently reduced to 25. Physical distancing is to be maintained at all time unless you are with members of your household or your social circle.

### Social Circles:

Social circles of up to 10 people of the same group of people who can interact with one another without physical distancing, regardless of which stage of reopening their region is in, is permitted under Phase 3.

### Social or Public Gatherings:

Such gatherings may include different social circles but are subject to gathering limits and physical distancing of at least two metres.

### Province of Ontario Phase 3 Framework Link:

<https://www.ontario.ca/page/framework-reopening-our-province-stage-3>

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Joe has been a condominium owner and Board member of HSCC608 since 2013. He is also a Board member of CCI-GHC, and he is member of the CCI-GHC External Relations Committee and the CCI Ontario Legislative Committee. 