

CLASS ORDER

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

February 18, 2021

TO: All owners/operators of shopping malls and businesses that engage in retail sales to the public, including stores situated within a shopping mall, within the Niagara Regional Area

I, Dr. M. Mustafa Hirji, Medical Officer of Health (Acting) for the Niagara Regional Area, order you under section 22 of the *Health Protection and Promotion Act* to take the following action(s) effective 00:01 February 22, 2021 until further notice:

1. Actively monitor compliance with the required capacity limits set in the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c.17* (the “*Reopening Ontario Act*”) and applicable regulations for the shopping mall, business, place, facility, or premise under your control, and ensure that physical distancing of two metres is maintained by patrons, store staff and mall staff in all common areas, stores, washrooms, hallways, entrances, etc., at all times.

For greater certainty, nothing in this Order is intended to require persons who are members of the same household to maintain a physical distance of at least two metres from each other while in a place of business or facility.
2. Actively manage all line-ups or groups of patrons congregating and ensure all patrons waiting in line-ups inside or outside the shopping mall or retail store under your control maintain physical distancing of at least two metres.
3. Actively monitor compliance and ensure that all patrons, store staff and mall staff, whether inside the mall or retail store under your control, or in the vicinity of a line-up outside the mall or retail store under your control, wear a mask or face covering in a manner that covers their mouth, nose and chin unless entitled to an exception from this requirement in the *Reopening Ontario Act*.
4. Conduct daily interactive screening of all employees for symptoms of COVID-19, using the Ministry of Health’s “COVID-19 Screening Tool for Workplaces”, or another tool with the same minimum set of questions, such as the “COVID-19 Screening Tool” developed by Niagara Region Public Health. Answers to daily screens must be collected and retained for at least one month.
5. Ensure the workplace is arranged (e.g. spacing of stations, visual cues) to facilitate the likelihood that employees will keep two metres distance from each other and from patrons at all times. For emphasis, employees on breaks should be facilitated to keep 2 metres distance from each other.
6. Provide sufficient alcohol-based hand rub (minimum alcohol concentration of 70%) at every entrance and exit of the establishment, with prompting to use it upon entry and exit.

7. In order to encourage honest and forthright reporting of COVID-19 symptoms and/or contact amongst employees, ensure that all employees are aware of any benefits and/or pay to which they may be entitled in the event that they must isolate due to having symptoms of COVID-19, being tested for COVID-19, or being a contact of COVID-19.
8. Comply with all other requirements that apply to your business, place, facility, or establishment as set out under the *Reopening Ontario Act* and the applicable regulations.
9. Follow all further instructions from Niagara Region Public Health pertaining to COVID-19 that apply to your premise.

If an owner/operator of a shopping mall, additionally

10. Ensure all stores within the shopping mall set a maximum capacity limit, such capacity limit to be consistent with any required capacity limits set in the *Reopening Ontario Act*, and its regulations, and monitor the capacity limit to ensure physical distancing of at least two meters is maintained by patrons, store staff and mall staff at all times.

For greater certainty, nothing in this Order is intended to require persons who are members of the same household to maintain a physical distance of at least two metres from each other while in a place of business or facility.

THE REASONS for this ORDER are that

1. COVID-19 is a potentially fatal infectious disease, currently constituting a worldwide pandemic.
2. COVID-19 is a communicable disease that can spread readily to others through respiratory droplets that are released from the nose and mouth, contact with contaminated surfaces, and poor hand hygiene.
3. COVID-19 may be transmitted from persons who have minimal or no signs or symptoms of illness.
4. The risk of transmission of COVID-19 is greater in close contact environments where persons are within two metres and/or without face coverings.
5. The socializing or close interaction of persons in public spaces such as malls and retail stores, employee-only social spaces, and workplaces is associated with the spread of COVID- amongst non-household members.
6. Inspections conducted at retail premises by Niagara Region, Niagara Region Public Health, and the Ontario government have found inadequate compliance in the retail sector with provincial regulations to prevent the spread of COVID-19.
7. Employees of retail premises in Niagara have in some circumstances continued to work while COVID-19 symptomatic and infectious, putting others at risk in the workplace.
8. Ongoing widespread disease transmission of COVID-19 will lead to outbreaks in congregate settings with vulnerable residents, and to increased morbidity and mortality of COVID-19 within the population of Niagara.

I am therefore of the opinion on reasonable and probable grounds that

1. 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;
2. The communicable disease presents a risk to the health of persons in the health unit served by me;
3. The requirements specified in this Order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

NOTICE

TAKE NOTICE THAT you are entitled to a hearing by the Health Services Appeal and Review Board if you deliver to me and to the Health Services Appeal and Review Board, Health Boards Secretariat, 151 Bloor Street West, 9th Floor, Toronto, Ontario, M5S 2T5, notice in writing, requesting a hearing within 15 days after service of this Order.

AND TAKE FURTHER NOTICE THAT although a hearing may be requested this Order takes effect when it is served upon you.

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.

A handwritten signature in dark ink, appearing to read 'M. Hirji', with a long horizontal flourish extending to the right.

Dr. M. Mustafa Hirji, MD MPH FRCPC
Medical Officer of Health (Acting)
Niagara Region Public Health
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Thorold, Ontario, L2V 4T7