

The Regional Municipality of York

Regional Council
Transportation Services
December 17, 2020

Report of the Commissioner of Transportation Services

Creation of Set Fines for Mask and Face-Covering Offences under the Transit Bylaw

1. Recommendation

Council authorize staff to submit a request to the Ontario Court of Justice for a set fine order for mask and face-covering infractions on transit.

2. Summary

This report seeks Council authorization for staff to submit a request to the Ontario Court of Justice for a set fine order of \$150.00 for non-compliance with face mask requirements on York Region Transit under York Region Transit Bylaw 2007-17.

Key Points:

- To date, York Region Transit Enforcement's focus has been on education and more recently, issuing warnings of non-compliance to the mandatory mask requirement
- Face mask compliance on transit has been consistent at approximately 95%
- In support of Council's commitment to enforcement action related to COVID-19 public health restrictions, staff recommends set fines be established for travellers who do not follow the mandatory face-covering requirement
- Staff must submit a request to the Ontario Court of Justice for a set fine order that will allow an offence notice to be issued

3. Background

On [June 25, 2020](#), Council approved an amendment to Transit Bylaw 2017-7 making face-coverings mandatory for travellers on York Region Transit vehicles or property, subject to certain exceptions

Based on Council direction on June 25, 2020, to date, York Region Transit Enforcement's focus has been on education. Although a summons can be issued to those not complying

with the mandatory face-covering requirement, no set fines have yet been established. Currently, all offenders are required to attend court and any fine imposed would be at the discretion of the Justice of the Peace.

Face mask compliance on transit has been consistent at approximately 95%. The most frequent incident of non-compliance observed by staff is the incorrect wearing of face-coverings, with travellers not always covering their nose and/or mouth.

4. Analysis

Staff recommends set fines be established, giving York Region Transit Special Constables the ability to issue offence notices with set fines, when appropriate

Effective [November 26, 2020](#), Council committed to increased enforcement action related to COVID-19 public health restrictions and requirements.

In order to support Council's commitment, staff is now seeking Council authorization to submit a request to the Ontario Court of Justice for a set fine order that will allow an offence notice to be issued (rather than a summons for offences related to face-covering infractions on transit).

This will give staff the ability to issue an offence notice (i.e. ticket) with a set fine to travellers who do not follow the mandatory face-covering requirement. Staff do propose, however, to keep exercising discretion and focus firstly on education, verbal and written warnings. In the case of a ticket being issued, travellers would have three options:

- Pay the fine; or
- Appear before a Justice of the Peace to plead guilty and request a reduction in the fine and/or additional time to pay (a walk-in guilty plea); or
- Request a trial.

The bylaw short-form wording and recommended set fine has been developed in consultation with the Region's Director of Prosecutions

In order to issue offence notices under the bylaw, short-form wording needs to be created. Staff recommends the following short-form wording:

1. Failing to wear a face-covering while travelling on a transit vehicle - s. 3.40, Regional Municipality of York By-law 2017-7 as amended
2. Failing to wear a face-covering at a transit facility - s. 3.40, Regional Municipality of York By-law 2017-7 as amended)

The Ontario government currently has set fines in place for failing to comply with an Order under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, and fines are set between \$750 and \$1000. Given the demographics of the current York Region Transit

rider, a set fine of \$150, which is in line with other fines under the Transit Bylaw, is suggested to be appropriate.

Staff reached out to peer transit enforcement agencies on actions taken related to mask and face-covering offences

Staff reviewed the practices of other transit agencies, including Metrolinx, Toronto Transit Commission and Ottawa Transit, and all have been similarly enforcing offences related to mask and face-covering compliance. However, none of these agencies have set fines specific to the wearing of masks and face-coverings. Ottawa Transit noted that, after the introduction of concentrated charging efforts however, face mask compliance improved.

5. Financial

There are no financial implications.

6. Local Impact

The use of set fines to enforce mask and face-covering compliance is to protect the health and safety of all transit riders.

7. Conclusion

Staff recommends Council authorize staff to submit a request to the Ontario Court of Justice for a set fine order for mask and face-covering compliance offences on York Region Transit under York Region Transit Bylaw 2007-17, using the short-form wording included in this memorandum, and that the fine be set at \$150.

For more information on this report, please contact Ann-Marie Carroll, General Manager York Region Transit at 1-877-464-9675 ext. 75677. Accessible formats or communication supports are available upon request.

Recommended by: **Paul Jankowski**
Commissioner of Transportation Services

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Chief Administrative Officer

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