

MANDATORY MASK UPDATE:

Effective Thursday, November 19th, wearing a non-medical mask is required in all [indoor public spaces](#) in Saskatchewan.



SASKATCHEWAN
HUMAN RIGHTS
COMMISSION

COVID-19, Public Services, and Nonmedical Masks or Face Coverings*

Businesses and service providers are governed by the latest Public Health Order and the details of the Re-Open Saskatchewan Plan, which provides specific sector/industry rules and requirements for operation during the current public health emergency. Businesses and service providers may need to consider new or different ways to accommodate clients who have pre-existing disabilities and who may be unable to wear a face mask.

Due to the spread of COVID-19, a provincial state of emergency was declared on March 18, 2020, and the state of emergency is ongoing.

As well, [Public Health Orders](#) have been issued by the Chief Medical Health Officer implementing new restrictions on all persons in Saskatchewan.

As of November 19, 2020, the maximum gathering size at home or in other buildings located on indoor private property will decrease to five people.

Should your immediate family include five or more people, you cannot have additional visitors.

Outdoor private and public gatherings are limited to a 30-person maximum if a physical distance of two metres can be maintained.

COVID-19, Disability, and the Code

During this time, [The Saskatchewan Human Rights Code, 2018](#) (“the Code”) remains in full effect – businesses and service providers must not discriminate against clients, which includes denial of service.

Persons who have contracted, or are perceived to have contracted, COVID-19 could be considered to have a disability, as defined by [The Saskatchewan Human Rights Code, 2018](#).

As such, negative treatment, including denial of service or harassment, towards persons who have, or are perceived to have, COVID-19 may be prohibited under the *Code*.

Businesses and service providers must seek to accommodate persons unable to comply with mask policies due to a reason protected by the *Code* up to the point of undue hardship.

*This document alerts businesses and service providers to potential human rights issues that may arise, and is for information only. The information herein is subject to change, and does not constitute legal advice. Further changes to this document should be expected.

*The SHRC does not issue cards or exemptions to authorize individuals to not wear a mask.



Q&A

Q1. How do the Public Health Orders affect businesses and service providers?

Businesses and other services providers have an obligation to protect their employees and customers. Reasonable public health and safety measures taken to prevent and reduce the spread of COVID-19, especially in accordance with directives from Saskatchewan Public Health authorities, are unlikely to violate *The Saskatchewan Human Rights Code, 2018*.

Q2. How are face masks mandated in the Public Health Order and the Re-Open Saskatchewan Plan?

Effective Thursday, November 19, 2020, wearing a non-medical mask will now be required in all [indoor public spaces](#) in Saskatchewan, in accordance with the Public Health Order.

Q3. What kinds of people should not have to wear a mask?

Masks are **not required** for the following individuals or in the following circumstances:

- Children under 2 years of age
- Anyone who is unconscious, incapacitated or otherwise unable to remove the mask without assistance
- People whose medical condition prevents them from wearing a mask (as determined by a health professional)
- People who, due to cognitive impairment, an intellectual disability, or

- a severe mental health condition are unable to understand the requirement
- While participating in fitness, aquatic, or sports activities for the duration of the activity only
- The short-term removal of the mask is necessary for the purposes of identifying the individual
- It is necessary for the individual to uncover their nose, mouth, or chin for the purposes of receiving a health or personal service, for the duration of the treatment or service only.
- When providing personal support services to an individual with a disability when wearing a mask could hinder the ability of that individual to receive the service, such as hindering the individual's ability to lip read.
- While in an area of the enclosed setting to which members of the public do not normally have access, and the individual is alone.
- In a courthouse or courtroom, where wearing a mask poses a security risk.
- In a proceeding before an administrative tribunal established by legislation or a court where the decision maker determines that removing the mask is essential to ensure the integrity of the proceeding.
- The following individuals while speaking during a television or other media news interview or conference:
 - Municipal, Provincial, or Federal Government officials.
 - Media broadcasters.
- Clergy members or religious leaders who are leading a service or ceremony while speaking from a podium, lectern,

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platform, stage, desk or other standing or seating area dedicated to speaking.

Q4. How can a business or service provider accommodate a person unable to wear a mask, while also protecting the health and safety of employees and other patrons?

An individual who cannot wear a mask as a result of a recognized medical condition is entitled to accommodation.

The particular accommodation should fit the person's need(s) and the circumstances of the business or service to the point of undue hardship. As such, suitable accommodations will likely differ on a case-by-case basis.

In some circumstances, the suitable accommodation may be to allow the person to receive services without a mask. However, a reasonable accommodation might instead take other forms, including:

- 1) Curbside pickup
- 2) Delivery options
- 3) Alternative hours of service
- 4) Personal shopper
- 5) Remote delivery of services, through telephone, email or videoconferencing
- 6) Other options.

In assessing an accommodation request, employers and service providers must balance the duty to accommodate with any resulting health and safety risks.

Q5. I am a service provider. I understand that each situation is unique, but I need to advise my employees how to respond to a person who either claims to have a medical reason for not wearing a mask or just refuses to wear a mask.

Given the significant potential health and safety concerns associated with Covid-19, and the apparent breach of Public Health Orders by individuals who do not fall within the exemptions, it is reasonable for a business to require a medical note confirming that the bearer is unable to wear a mask for medical reasons. The medical note is not required to include specific information or details, only that you require accommodation.

This issue should be addressed on a case by case basis. In many cases the business may be reasonably satisfied of the veracity of the individual's accommodation request without a medical note.

In many cases, it will be obvious that a customer is unable to wear a mask, such as with infants and with some types of disabilities. In cases that are not obvious, you may wish to have a manager or supervisor respond to the customer.

You may also want to prominently display your "mandatory mask" policy, along with options for accommodation for persons unable to comply with the mask policy. You will want to make sure your employees are informed about the policy, how to implement it, and what to do when a person wants to enter without a mask.

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If you determine that a customer without a mask cannot be admitted to your business or service, you will want to provide the service in an alternate way – unless doing so creates an undue hardship.

Q6. I have been denied service at a business or service provider because I'm unable to wear a mask, what can I do?

The Commission is aware that some individuals are refusing to wear masks in public spaces without any medical justification. The Code does not provide someone with a general right to refuse to wear a mask.

The Commission will not accept a complaint from someone who is refused service for breaching Public Health Orders.

However, persons who believe they have been subject to discrimination on the basis of disability, or other prohibited grounds, may contact the SHRC.

For further information, visit:

saskatchewan.ca/covid19.

The Saskatchewan Human Rights
Commission maintains a Business Help
Line: 1-800-667-9249.

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