

**MANDATORY FACE COVERINGS – CENTRAL OKANAGAN COVID-19 ORDER –**

**August 3, 2021**

**ORDER OF THE MEDICAL HEALTH OFFICER**

**(Pursuant to Sections 30, 31, 32, and 39 of the *Public Health Act*, S.B.C. 2008)**

The *Public Health Act* and Regulations are at:

<http://www.bclaws.ca/civix/content/complete/statreg/08028/?xsl=/templates/browse.xsl>

- TO: ALL RESIDENTS AND VISITORS OF THE CENTRAL OKANAGAN** (Including: District of Peachland, City of West Kelowna, City of Kelowna, District of Lake Country and the Regional District of Central Okanagan)
- TO: ALL OWNERS AND OPERATORS OF WORKPLACES LOCATED IN THE CENTRAL OKANAGAN**

In the matter of an ORDER made pursuant to Part 4 Division 4 of the *British Columbia Public Health Act*, I, **Dr. Sue Pollock**, Medical Health Officer, Interior Health Authority, **Kelowna, BC**, am of the opinion that a Public Health Hazard exists in the Central Okanagan for the following reasons:

- A. On March 17, 2020 the Provincial Health Officer, Dr. Bonnie Henry, provided notice under section 52 (2) of the *Public Health Act* that the transmission of the infectious agent SARS-CoV-2, which has caused cases, clusters and outbreaks of a serious communicable disease known as COVID-19 among the population of the Province of British Columbia, constitutes a regional event as defined in section 51 of the *Public Health Act*;
- B. The SARS-CoV-2 virus, an infectious agent, can cause outbreaks of COVID-19 and a person infected with SARS-CoV-2 can infect other people with whom the infected person is in direct contact through droplets in the air, or from fluid containing SARS-CoV-2 left on surfaces;
- C. Close contact resulting from the gathering of people including workers and patrons, in indoor spaces promotes and increases the risk of transmission of SARS-CoV-2 and increases the number of people who develop COVID-19 and become seriously ill;
- D. Virus variants of concern, which are more transmissible and have the potential to cause more serious illness, including among younger populations, are now present in Canada and the Province, and have heightened the risk to the population;
- E. Face coverings, when used in addition to other protective measures such as maintaining physical distance and using barriers, help to prevent, respond to or alleviate the effects of the COVID-19 pandemic;
- F. There has been a recent increase in the number of persons infected with COVID-19, particularly in the District of Peachland, the City of West Kelowna, the City of Kelowna, the District of Lake Country, and the Regional District of Central Okanagan (hereinafter collectively referred to as the “**Affected Area**” or the “**Central Okanagan**”);

- G. This increase has resulted in increased cases of COVID-19, clusters of people with COVID-19, outbreaks of COVID-19, the transmission of COVID-19 to surrounding communities, and in particular, an increase in populations who are not yet vaccinated, contracting more serious COVID-19 illness, all of which increases the risk of hospitalizations, intensive care admissions, and deaths;
- H. In view of the escalating number of COVID-19 cases arising due to transmission in the Affected Area, on July 28, 2021, I declared an Outbreak of COVID-19 in the Central Okanagan; and
- I. I have reason to believe and do believe that:
  - a. The risk of a sustained or further outbreak of COVID-19 constitutes a health hazard under the *Public Health Act*; and
  - b. There is an immediate and urgent need for focused action in the Affected Area to reduce the rate of transmission of COVID-19, and that it is in the public interest for me to exercise the powers in sections 30, 31, 32 and 39(3) of the *Public Health Act* **TO ORDER** as follows:

**RECOGNIZING THAT THERE IS CURRENTLY A HEIGHTENED LEVEL OF RISK OF TRANSMISSION OF COVID-19 IN THE AFFECTED AREA, THIS ORDER IS ISSUED FURTHER TO SECTION C.1 OF EACH OF THE PROVINCIAL HEALTH OFFICER'S GATHERINGS AND EVENTS ORDER, DATED JULY 7, 2021, AND FOOD AND LIQUOR SERVING PREMISES ORDER, DATED JUNE 30, 2021 (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "PHO ORDERS") AND, ON PUBLICATION OF THIS ORDER ON THE PROVINCIAL HEALTH OFFICER'S WEBSITE, THIS ORDER IS INCORPORATED INTO THE PHO ORDERS.**

**A CONTRAVENTION OF THIS ORDER IS A CONTRAVENTION OF THE PHO ORDERS.**

**TO THE EXTENT THAT THE PROVISIONS OF THIS ORDER ARE INCONSISTENT WITH THE PROVISIONS OF THE PHO ORDERS, THE PROVISIONS OF THIS ORDER SUPERSEDE THE INCONSISTENT PROVISIONS OF THE PHO ORDERS FOR THE AFFECTED AREA.**

**THIS ORDER IS LIMITED IN APPLICATION TO THE AFFECTED AREA.**

**THIS ORDER REPEALS AND REPLACES MY ORDER OF JULY 30, 2021.**

### **Definitions**

1 In this order:

**"enforcement officer"** has the same meaning as in the Violation Ticket Administration and Fines Regulation with respect to a person in a designated class of persons with the authority to issue a ticket in relation to the provisions of this order;

**"face covering"** means either of the following that covers the nose and mouth of a person:

- (a) a medical or non-medical mask;
- (b) a tightly woven fabric;

**"indoor public space"** has the meaning given in section 2 (2);

**"operator"**, in relation to an indoor public space, means

- (a) an owner or operator of the indoor public space, or
- (b) an employee, worker or person acting on behalf of an owner or operator of the indoor public space;

**"patron"** means a person who visits an indoor public space, but does not include the operator of the indoor public space;

**"personal service establishment"** means an establishment in which a person provides a service to or on the body of another person, and includes a barbershop, beauty parlour, health spa, massage parlour, tattoo shop, sauna and steam bath;

**"physical barrier"** means a barrier which is designed, installed and maintained in accordance with WorkSafeBC guidance at <https://www.worksafebc.com/en/resources/health-safety/information-sheets/covid-19-health-safety-designing-effective-barriers?lang=en>;

**"workplace"** does not include an operator's private residence.

## Interpretation - indoor public spaces

2 (1) In this section:

**"health profession"** has the same meaning as in the *Health Professions Act*;

**"health professional"** means a person who practises a health profession;

**"hotel"** includes a motel, inn, bed and breakfast, hostel or other place in which rooms are maintained for the accommodation of the public;

**"indoor common area"** means the indoor area of a building that is provided for the common use of all occupants and invitees of the building, or the inside area of a workplace that is in common use by operators of that workplace, other than a working area, including lobbies, hallways, public or operators' bathrooms, elevators, stairwells, breakrooms, staff kitchens, cafeterias, and a workplace vehicle (if there is more than one person in the vehicle);

**"perimeter seating"** has the same meaning as in the Passenger Transportation Regulation;

**"perimeter seating bus"** has the same meaning as in the Passenger Transportation Regulation;

**"personal service"** means a service provided by a person to or on the body of another person, and includes services provided at a barbershop, beauty parlour, health spa, massage parlour, nail salon, tattoo shop, sauna or steam bath;

**"post-secondary institution"** includes an entity that provides any of the following programs:

(a) an educational or training program provided under

(i) the *College and Institute Act*,

(ii) the *Royal Roads University Act*,

(iii) the *Thompson Rivers University Act*,

(iv) the *University Act*, or

(v) the *Private Training Act*;

(b) a program provided in accordance with a consent given under the *Degree Authorization Act*;

(c) a theological education or training program provided under an Act;

**"public transportation vehicle"** includes a bus, train or ferry;

**"retail business"** means a business that sells retail goods, including a grocery store, clothing store, liquor or cannabis store, or sporting goods store;

**"service business"** means a business that provides a service, including

- (a) dry cleaning or laundry services,
- (b) insurance services,
- (c) banking services,
- (d) funeral services,
- (e) personal services,
- (f) accounting, legal, engineering or other professional services, or
- (g) the services of a tradesperson;

**"sport or fitness facility"** means a place used for sport or fitness activities, including a gym, ice arena, pool, gymnastics facility, indoor field, fitness studio or dance studio.

(2) For the purposes of this order, an indoor public space is any of the following:

- (a) a building or structure that is used as
  - (i) a retail business,
  - (ii) a service business,
  - (iii) a restaurant, pub, bar, nightclub or other business that prepares and sells food or drink,
  - (iv) a mall or shopping centre,
  - (v) a pharmacy,
  - (vi) a health professional's office,
  - (vii) a place of public worship,
  - (viii) a sport or fitness facility,
  - (ix) a place in which a non-profit organization provides goods or services to the public,
  - (x) a place that provides cultural, entertainment or recreational services or activities, including a theatre, cinema, concert hall, arcade, billiard hall, museum, gallery or library, or
  - (xi) a conference centre, community hall or other place that hosts public events;
- (b) the indoor common area of
  - (i) an office building,
  - (ii) a hotel,
  - (iii) a hospital,
  - (iv) a courthouse, or
  - (v) a post-secondary institution;
- (c) a taxi, limousine, perimeter seating vehicle, perimeter seating bus, vehicle used for a commercial ride sharing service or other vehicle for hire;
- (d) a public transportation vehicle;

- (e) the indoor or sheltered portion or a terminal, station or other location at which persons
  - (i) load onto or unload from a public transportation vehicle, or
  - (ii) wait to load onto a public transportation vehicle;
- (f) an airport, heliport or seaplane terminal.

### **Face coverings required in indoor public spaces**

- 3** (1) Effective immediately, face coverings are mandatory in all indoor public spaces.
- (2) Except as provided under section 4, each patron and operator must wear a face covering, in accordance with subsection (3), while inside an indoor public space.
- (3) A face covering must be worn in a manner that covers the nose and mouth.

### **Exemption from use of face covering**

**4** Section 3 does not apply as follows:

- (a) to a person who is less than 12 years of age;
- (b) to a person who is unable to wear a face covering because of
  - (i) a psychological, behavioural or health condition, or
  - (ii) a physical, cognitive or mental impairment;
- (c) to a person who is unable to put on or remove a face covering without the assistance of another person;
- (d) if the face covering is removed temporarily for the purposes of identifying the person wearing it;
- (e) while inside a courtroom;
- (f) while consuming food or beverage at a location designated for those purposes by the operator of the indoor public space;
- (g) while receiving a personal service, or a service at a health professional 's office, if removing the face covering is necessary in order to receive the service;
- (h) while inside a vehicle on a ferry;
- (i) while communicating with a person who has a hearing impairment.

### **Physical barrier required for operators where face covering cannot be worn**

**5** An operator in a personal service establishment, or premises to which the *Food and Liquor Serving Premises Order* applies, or serving customers in a retail business, who is not wearing a face covering over their nose and mouth as required by section 3, due to the application of an exemption in section 4, must not provide services to a patron, or serve a patron, unless there is a physical barrier between the operator and the patron.

### **Order does not prevent further requirements**

6 Nothing in this order prevents an operator from having additional requirements in relation to face coverings.

### **General compliance matters**

7 (1) A direction given by an enforcement officer relating to a person's compliance with this order, including a direction to leave an indoor public space, must be complied with.

(2) A patron of an indoor public space must not engage in abusive or belligerent behaviour towards an enforcement officer, another visitor or the operator of the indoor public space in relation to the other person's efforts

(a) to comply with, or

(b) to respond to, prevent or correct contraventions of a face covering requirement.

Pursuant to Section 42 of the *Public Health Act*, you have a duty to comply with this order.

### **Right to Review or Reconsideration**

Pursuant to section 54 (1) (h) of the *Public Health Act*, and in accordance with the emergency powers set out in Part 5 of the *Public Health Act*, I will not be accepting requests for reconsideration of this Order.

### **General emergency powers**

54 (1) A health officer may, in an emergency, do one or more of the following:

(h) not reconsider an order under section 43 [*reconsideration of orders*], not review an order under section 44 [*review of orders*] or not reassess an order under section 45 [*mandatory reassessment of orders*];

### **Duration of the Order**

This ORDER remains in effect until rescinded by myself or another Interior Health Medical Health Officer under section 46 of the *Public Health Act*.

### **Consequences of Failure to Comply**

If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

Dated this 3<sup>rd</sup> day of August, 2021.



Signed:

Dr. Sue Pollock, FRCPC OIC#784  
Interim Chief Medical Health Officer  
Interior Health

DELIVERY BY: Posting to the BC Government, BC Centre for Disease Control and Interior Health Authority websites

Enclosure: Excerpts of the *Public Health Act* and the Protective Measures (COVID-19) Order No. 2 continued under the *COVID-19 Related Measures Act*

## ENCLOSURE

### Excerpts of the *Public Health Act* [SBC 2008] c. 28

#### *Definitions*

##### *1 In this Act:*

**"health hazard"** means

- (a) a condition, a thing or an activity that
  - (i) endangers, or is likely to endanger, public health, or
  - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents,or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
  - (i) is associated with injury or illness, or
  - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

#### **When orders respecting health hazards and contraventions may be made**

**30** (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

#### **General powers respecting health hazards and contraventions**

**31** (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;
- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
- (c) to bring the person into compliance with the Act or a regulation made under it;



(d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:

(a) a person whose action or omission

(i) is causing or has caused a health hazard, or

(ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;

(b) a person who has custody or control of a thing, or control of a condition, that

(i) is a health hazard or is causing or has caused a health hazard, or

(ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;

(c) the owner or occupier of a place where

(i) a health hazard is located, or

(ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

### **Specific powers respecting health hazards and contraventions**

**32** (1) An order may be made under this section only

(a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and

(b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

(2) Without limiting section 31, a health officer may order a person to do one or more of the following:

(a) have a thing examined, disinfected, decontaminated, altered or destroyed, including

(i) by a specified person, or under the supervision or instructions of a specified person,

(ii) moving the thing to a specified place, and

(iii) taking samples of the thing, or permitting samples of the thing to be taken;

(b) in respect of a place,

- (i) leave the place,
- (ii) not enter the place,
- (iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,
- (iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and
- (v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;

(c) stop operating, or not operate, a thing;

(d) keep a thing in a specified place or in accordance with a specified procedure;

(e) prevent persons from accessing a thing;

(f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;

(g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;

(h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;

(i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;

(j) provide evidence of complying with the order, including

- (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and

- (ii) providing to a health officer any relevant record;

(k) take a prescribed action.

(3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless

(a) the person consents in writing to the destruction of the thing, or

(b) Part 5 [*Emergency Powers*] applies.

### **Contents of orders**

**39** (3) An order may be made in respect of a class of persons.

(6) A health officer who makes an order may vary the order

(a) at any time on the health officer's own initiative, or

(b) on the request of a person affected by the order, following a reconsideration under section 43 [*reconsideration of orders*].

### **Duty to comply with orders**

**42** (1) A person named or described in an order made under this Part must comply with the order.

(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

### **General emergency powers**

**54** (1) A health officer may, in an emergency, do one or more of the following:

(h) not reconsider an order under section 43 [*reconsideration of orders*], not review an order under section 44 [*review of orders*] or not reassess an order under section 45 [*mandatory reassessment of orders*];

### **Offences**

**99** (1) A person who contravenes any of the following provisions commits an offence:

(k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];

## Excerpts of the PROTECTIVE MEASURES (COVID-19) ORDER NO. 2

### Definitions

**1** In this order:

“**enforcement officer**” has the same meaning as in the Violation Ticket Administration and Fines Regulation with respect to a person in a designated class of persons with the authority to issue a ticket in relation to the provisions of this order;

“**food and liquor serving premises**” has the same meaning as “premises” in the Food and Liquor Serving Premises Order;

“**Food and Liquor Serving Premises Order**” means the applicable written order in respect of food and liquor serving premises made under the Public Health Act by the provincial health officer;

“**Gatherings and Events Order**” means the applicable written order in respect of gatherings and events made under the Public Health Act by the provincial health officer;

### General compliance matters

**6 (1)** A person must comply with a direction given by an enforcement officer under this order, including a direction to disperse.

**(2)** A person must not engage in abusive or belligerent behaviour towards another person in relation to the other person’s efforts

(a) to comply with this order, the Food and Liquor Serving Premises Order or the Gatherings and Events Order, or

(b) to respond to, prevent or correct contraventions of this order, the Food and Liquor Serving Premises Order or the Gatherings and Events Order.