



## **ORDER OF THE PROVINCIAL HEALTH OFFICER**

(Pursuant to Sections 30, 31, 32, 39 (3) and 54 (1) (h) and (2), *Public Health Act*, S.B.C. 2008)

### ***FOOD AND LIQUOR SERVING PREMISES - April 21, 2021***

The *Public Health Act* is at:

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

- TO: OWNERS AND OPERATORS OF RESTAURANTS, COFFEE SHOPS, CAFES, CAFETERIAS AND FOOD PRIMARY AND LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS AND PRIVATE CLUBS**
- TO: PATRONS OF RESTAURANTS, COFFEE SHOPS, CAFES, CAFETERIAS AND FOOD PRIMARY AND LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS AND PRIVATE CLUBS**

**WHEREAS:**

- A. On March 17, 2020 I 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 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. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in contact;
- C. The gathering of people in close contact with one another can promote the transmission of SARS-CoV-2 and increase the number of people who develop COVID-19 and become seriously ill; in particular, social mingling coupled with the consumption of alcohol which increases risky behavior, and/or the presence of loud background sound which causes people to move closer together to be heard or to speak more forcefully, is associated with significant increases in the transmission of SARS-CoV-2 and increases in the number of people who develop COVID-19 and become seriously ill;
- D. People spending time together indoors significantly increases the risk of the transmission of SARS-CoV-2 in the population, thereby increasing the number of people who develop COVID-19 and become seriously ill;

- E. The Province is experiencing a substantial increase in the transmission of COVID-19, raising the risk of rapid exponential growth in cases and resulting in persisting high levels of cases and increased clusters and outbreaks which, in turn, is producing increasing incidences of serious disease leading to elevations in hospitalizations, intensive care admissions and deaths. This is resulting in increasing pressure on the health care system to care for people, and on the public health system to carry out contact tracing for the purpose of preventing further transmission and is putting at risk the continued operation of schools, which is critical to the physical, mental and emotional health of children and youth;
- F. The increase in cases of infection, and the resulting strain on the public health and health care systems, is due in part to the increasingly widespread transmission of virus variants of concern, which are more transmissible, leading to more rapid spread of disease, and which have the potential to cause more serious illness;
- G. For certainty, this Order is directed at restaurants, coffee shops, cafes, cafeterias and food primary and liquor primary establishments, including pubs, bars, lounges and nightclubs, manufacturing facilities that have tasting rooms and private clubs and retail establishments which sell liquor;
- H. For certainty, this Order is not directed at hospitals, licensed care facilities, assisted living residences, independent living facilities, correctional facilities, industrial camps, school and workplace cafeterias, cafeterias for residents, students, staff and faculty attending or working at educational institutions, cafeterias on ferries operated by BC Ferries or at BC Ferries' shore terminals or cafeterias, or food services in post-security areas in airports;
- I. For further certainty, this Order does not apply to events as defined in the *Gatherings and Events Order*, or to meetings or conferences held in hotels or anywhere else;
- J. You belong to the class of persons to whom this notice is addressed;
- K. I have reason to believe and do believe that
  - i. the risk of an outbreak of COVID-19 among the public constitutes a health hazard under the *Public Health Act*;
  - ii. because the risk of clusters and outbreaks arising from people gathering to eat or drink in restaurants, coffee shops, cafes, cafeterias and food primary and liquor primary establishments, including pubs, bars, lounges and nightclubs, manufacturing facilities that have tasting rooms and private clubs extends beyond the authority of one or more medical health officers, and coordinated action is needed to protect the public from contracting COVID-19, 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:

**THIS ORDER REPEALS AND REPLACES MY FOOD AND LIQUOR SERVING PREMISES ORDER MADE ON MARCH 31, 2021 AND CONFIRMS MY ORAL ORDER OF APRIL 19, 2021.**

**Definitions in this Order:**

**“completely open to outside air”** means there is no impediment to the free flow of air from the outside and to the weather;

**“roof”** means any type of covering, whether permanent or temporary, including an awning or umbrella, which covers more than 25% of the surface area of a patio;

**“full meal service”** includes food provided by a caterer to the premises or available from a food truck located beside or on the premises, but does not include snacks, appetizers or tapas on their own;

**“nightclub”** means a liquor primary establishment at which the main activities are selling liquor and providing music to which patrons can dance;

**“patio”** means

- a. an area without a roof in which
  - i. any structure around the perimeter does not occupy more than 75% of the vertical space between the floor or ground and a point 2.4 metres above the floor or ground;
  - ii. the remaining 25% of the vertical space between the floor or ground and a point 2.4 metres above the floor or ground is completely open to outside air and has no structures in it, including between 1.2 metres to 1.8 metres above the floor or ground, other than lattice work or insect screens, and if this space is framed by a window or a door, the window or door is completely open while the premises are in operation;
  - iii. there are no structures or objects, other than physical barriers which block the transmission of droplets between patrons, which block the free flow of air in the interior of the area. or
- b. an area with a roof that is at least 2.4 metres above the floor or ground, in which
  - i. any structure around the perimeter does not occupy more than 50% of the vertical space between the floor or ground and a point 2.4 m above the floor or ground,
  - ii. the remaining 50% of the vertical space between the floor or ground and a point 2.4 metres above the floor or ground is completely open to outside air and has no structures in it, including between 1.2 metres to 1.8 metres above the floor or ground, other than lattice work or insect screens, and if this space is framed by a window or a door, the window or door is completely open while the premises are in operation;
  - iii. there are no structures or objects, other than physical barriers which block the transmission of droplets between patrons, which block the free flow of air in the interior of the area;

**“patron”** means anyone being provided with food or liquor services in a restaurant, coffee shop, café, cafeteria or food primary or liquor primary establishment, including a pub, bar, lounge, nightclub, liquor

manufacturing facility with a tasting room or private club, or who purchases liquor at a retail establishment, but does not include staff;

**“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>;

**“premises”** includes both inside and outside areas.

**A. OWNERS AND OPERATORS OF LIQUOR PRIMARIES OPERATING AS NIGHTCLUBS**

1. No person may operate a premises as a nightclub.
2. No person may be a patron at a premises operating as a nightclub.

**B. OWNERS AND OPERATORS OF RESTAURANTS, COFFEE SHOPS, CAFES, CAFETERIAS AND FOOD PRIMARY AND LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS AND PRIVATE CLUBS (HEREINAFTER REFERRED TO AS “PREMISES”)**

1. No person may provide food or drink services inside.
2. A person may provide food or drink takeout or delivery services, subject to the following conditions:
  - a. A patron may only be inside the premises for the purposes of ordering, purchasing or collecting food or drink for takeout or delivery.
  - b. A patron and staff member must be able to maintain a distance of two metres from one another, unless there is a physical barrier between them which blocks the transmission of droplets.
  - c. A patron must maintain a distance of two metres from other patrons and from staff members, unless there is a physical barrier between them which blocks the transmission of droplets.
3. Premises which are licensed to serve liquor, and which do not have full meal service, must be closed, if they do not have a patio or other outside area in which to serve patrons.
4. No person may permit a place to be used for, operate or be a patron at a place to which section 3 applies.
5. A person may provide food or drink services outside, including on a patio, subject to the conditions which follow.
6. Patrons must be able to maintain a distance of two metres from other patrons, unless they are separated by physical barriers.

7. Patrons must be assigned to a table and shown to their seats.
8. Patrons must stay in the seat to which they are assigned, or at which they seat themselves, and must not move from table to table.
9. Liquor may only be served to patrons who are seated.
10. A patron must remain seated, except to use a self-serve food or drink station, use a self-serve lottery ticket dispenser, pay at a pay station, use washroom facilities or when leaving the premises. A patron may use washroom facilities inside the premises and may walk through a premises in order to reach an outside place or a patio.
11. There must be a sufficient number of staff at premises, to ensure that patrons remain seated.
12. There must be a sufficient number of staff at premises, to ensure that patrons do not congregate in areas of the premises.
13. Patrons who are not in the same party must be seated two metres apart from one another, unless they are separated by a physical barrier.
14. There must be no more than six patrons seated at a table, even if they belong to the same party.
15. There must be a distance of two metres between the backs of the seats of patrons seated at adjacent tables, even if members of the same party are seated at adjacent tables, unless the adjacent tables are separated by physical barriers.
16. If there is a self-serve food or drink station,
  - a. hand washing facilities or alcohol-based sanitizers must be within easy reach of the station;
  - b. signs reminding patrons to wash or sanitize their hands before touching self-serve food, drink or other items, and to maintain a two metre distance from other patrons, must be posted at the self-serve station; and
  - c. high touch surfaces at the station, and utensils that are used for self-serve, must be frequently cleaned and sanitized.
17. The operator must determine the maximum number of patrons who can be accommodated outside, taking into consideration the requirements set out in the sections above, and must document this maximum number in the safety plan.
18. The operator must monitor the number of patrons present and ensure that the number present does not exceed the maximum number in the safety plan.
19. The operator must take steps to prevent the congregation of patrons waiting to be seated, such as by taking reservations and requesting patrons to remain in their cars or elsewhere until notified by telephone or an App that there is seating available for them.

20. The operator must assess the premises for places where patrons may congregate and take steps to avoid congregation, including outside washroom facilities.
21. The operator must use physical devices, install markers or use other methods to guide and assist patrons in maintaining a distance of two metres from other patrons if they are not seated.
22. The operator must monitor the premises and remind patrons to maintain a distance of two metres from one another.
23. If there are physical barriers between tables, the tops and bottoms of the physical barriers must be positioned so that the physical barriers block the transmission of droplets produced by breathing, talking, coughing or sneezing between patrons who are seated at adjacent tables.
24. Dance floors must be closed with physical barriers or occupied with tables.
25. Patrons must not sing, engage in Karaoke or dance on the premises.
26. Jam and open mic sessions must not be held on the premises.
27. Background music, including live solo and live group or band music, and any other background sounds, including from televisions and electronic sound producing devices, must not be amplified and must be no louder than the volume of normal conversation.
28. If background music is provided by a live performer or performers, or a disc jockey, a physical barrier must be installed between the performers or disc jockey and the patrons which blocks the transmission of droplets produced by the performers or the disc jockey, or there must be at least a three metre separation between performers and patrons.
29. If liquor is served
  - a. the obligations under sections 61 (2) of the *Liquor Control and Licensing Act* must be complied with,
  - b. the directives and guidance provided by the Liquor and Cannabis Regulation Branch to ensure that patrons do not over order, overconsume or binge drink must be followed, and
  - c. the authority under section 61 (3) of the *Liquor Control and Licensing Act* must be exercised when appropriate. (see [Liquor and Cannabis Regulation Branch website](#))
30. No person may sell liquor between 10:00 pm and 9:00 am on the following day.
31. No person, including a patron, owner, operator or staff member may consume liquor on the premises after 11:00 pm.
32. If, in the ordinary course of business, you collect information from patrons for the purpose of making reservations or seating patrons,
  - a. you must collect the first and last name and telephone number, or email address, of at least one member of every party of patrons, and

- b. you may collect this information from other members of a party or from other patrons who wish to provide it; and
- c. you must retain this information for thirty days, in case there is a need for contact tracing on the part of the medical health officer, in which case you must provide the information to the medical health officer.

33. In this section,

**“accommodated safely”** means that there are five square metres of unencumbered space available for each person present, including patrons and staff members.

A tasting room with a liquor manufacturer licence may have patrons inside for the purpose of tasting, subject to the following conditions:

- a. the operator must calculate the maximum number of patrons who can be accommodated safely inside and must document this number in the COVID-19 safety plan;
- b. the operator must ensure that the number of patrons present does not exceed the maximum number who can be accommodated safely, as documented in the COVID-19 safety plan;
- c. no indoor seating is permitted, except on the request of or for a patron who is unable to stand while tasting;
- d. patrons in one party must not congregate with patrons in another party;
- e. a patron and staff member must be able to maintain a distance of two metres from one another, unless there is a physical barrier between them which blocks the transmission of droplets.
- f. a patron must maintain a distance of two metres from other patrons who are not in the same party and from staff members, unless there is a physical barrier between them which blocks the transmission of droplets.
- g. hand sanitation supplies are provided and readily available to patrons,

34. Sections 1, 7, 8, 9, and 11 do not apply to a tasting room with a liquor manufacturer licence.

35. The *Gatherings and Events* Order applies to events on premises to which this Order applies.

36. For certainly, anything that is promoted for the purpose of encouraging patrons to attend at a premises to which this Order applies, such as a movie, film, televised sport or other televised event, a live or virtual musical, theatrical or dance performance, a live solo, group or band musical performance, a disc jockey performance or strip dancing, constitutes an event for the purposes of the application of the *Gathering and Events* Order.

37. No person may engage in, permit or promote any of the following with respect to or on premises to which this Order applies:

- a. an event that is prohibited under the *Gathering and Events Order*;
  - b. the sale of advance tickets;
  - c. an entrance cover charge;
  - d. door prizes or give aways;
  - e. raffles;
  - f. 50/50 draws;
  - g. decorations which are associated with an event;
  - h. staff in costumes which are associated with an event;
  - i. promotion of the sale of food or drink associated with an event.
38. No person may add a wall to a patio which is being used to provide food or drink services.
39. No person may permit a place to be used for or may operate premises which provide food or drink services, unless the conditions in this Part are met.
40. No person may be a patron at premises which provides food or drink services, unless the conditions in this Part are met.
- ## C. PATRONS
- 1. A patron must not be present in premises operating as a nightclub, in which an event is taking place contrary to the provisions of the *Gatherings and Events Order*, or which is required to be closed under Part B.
  - 2. A patron must comply with the distancing and other requirements in Part B, and with guidance and directions from owners, operators or staff members designed to avoid the congregation of patrons, and must not enter or remain in a place if advised by an operator or staff member that there is not sufficient room inside to accommodate them

## D. RELATED MEDICAL HEALTH OFFICERS ORDERS

Recognizing that the risk differs in different regions of the province, and that medical health officers are in the best position to assess local circumstances and to determine whether additional or more restrictive steps need to be taken to reduce the risk of the transmission of COVID-19,  
**I FURTHER ORDER:**

- 1. A medical health officer may issue an order further to this Order for the purpose of having the provisions of the order incorporated into this Order. Such an order may add further prohibitions, or impose more restrictive limitations or conditions in the whole or part of the geographic area

of the province for which the medical health officer is designated and, subject to section 2, the provisions of the order are incorporated into this Order when posted on my website. For certainty, a contravention of an order of a medical health officer issued further to this Order and posted on my website is a contravention of this Order.

2. While it is in force, a provision in an order made by a medical health officer further to this Order and posted on my website, which adds further prohibitions or imposes more restrictive limitations or requirements than this Order, applies in the whole or part of the geographic area of the province for which the medical health officer is designated, despite the provisions of this Order.

This Order expires at midnight (24:00 hours) on May 24, 2021.

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.

You are required under section 42 of the *Public Health Act* to comply with this Order. Failure to comply with this Order is an offence under section 99 (1) (k) of the *Public Health Act*.

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*.

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer  
4<sup>th</sup> Floor, 1515 Blanshard Street  
P O Box 9648 STN PROV GOVT, Victoria BC V8W 9P4  
Fax: (250) 952-1570  
Email: [ProvHlthOffice@gov.bc.ca](mailto:ProvHlthOffice@gov.bc.ca)

DATED THIS: 21<sup>st</sup> day of April 2021

SIGNED:



Bonnie Henry  
MD, MPH, FRCPC  
Provincial Health Officer

Delivery By: Posting on the BC Government and the BC Centre for Disease Control websites.

Enclosure: Excerpts of the *Public Health Act* and the *Liquor Control and Licensing 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.

## **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*];

(2) An order that may be made under this Part may be made in respect of a class of persons or things, and may make different requirements for different persons or things or classes of persons or things or for different geographic areas.

## **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 Liquor Control and Licensing Act [SBC 2015] Chapter 19****Conduct at event site or in establishment, service area or liquor store**

- 61** (2) A licensee or permittee or an employee of either must not
- (a) sell or serve liquor to an intoxicated person or a person showing signs of intoxication, or
  - (b) allow
    - (i) a person in a service area to become intoxicated,
    - (ii) an intoxicated person to enter or remain in a service area,
- (3) A licensee or permittee or an employee of either may,
- (a) if he or she believes a person is intoxicated,
    - (i) request that the person leave a service area, or
    - (ii) forbid the person from entering a service area,