



ORDER OF THE PROVINCIAL HEALTH OFFICER

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

FOOD AND LIQUOR SERVING PREMISES - May 24, 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: OWNERS AND OPERATORS OF RETAIL ESTABLISHMENTS WHICH SELL LIQUOR**
- 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. The Province continues to experience high levels of transmission of SARS-CoV-2, and to be at risk of rapid exponential growth in cases of COVID-19 which can result in high levels of cases and increased clusters and outbreaks which, in turn, can increase the incidences of serious disease leading to hospitalizations, intensive care admissions and deaths, thereby putting undue 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.
- E. 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 if people gather together.
- F. 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. It 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 attending educational institutions or other cafeterias that serve food or liquor to residents rather than to the general public.
- G. 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;
- H. You belong to the class of persons to whom this notice is addressed;
- I. I have reason to believe and do believe that
- a. the risk of an outbreak of COVID-19 among the public constitutes a health hazard under the *Public Health Act*;
 - b. because the risk of 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 ORDER MADE ON APRIL 21, 2021

Definitions in this Order:

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

“**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

You must cease 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”)

You may provide food or drink services, subject to the conditions which follow.

1. Patrons must be able to maintain a distance of two metres from other patrons unless they are separated by physical barriers.
2. If patrons remain on the premises, other than tasting rooms with a liquor manufacturer licence, after being served or serving themselves, there must be sufficient seating for them, whether at tables, booths or counters, and patrons must be seated.
3. In licensed premises, other than cafeterias, private clubs or tasting rooms with a liquor manufacturer licence, patrons must be assigned to a table, booth or counter and shown to their seats. 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.
4. Liquor may only be served to patrons who are seated, other than in cafeterias, private clubs or tasting rooms with a liquor manufacturer licence.
5. Patrons must be seated in all premises, other than cafeterias or tasting rooms with a liquor manufacturer’s licence, except to use a self-serve food or non-alcoholic drink station, use a self-serve lottery ticket dispenser, pay at a pay station, use washroom facilities or when leaving the premises.
6. There must be a sufficient number of staff at premises, other than cafeterias, private clubs or tasting rooms with a liquor manufacturer’s licence, to ensure that patrons remain seated.
7. There must be a sufficient number of staff at premises, other than cafeterias, private clubs or tasting rooms with a liquor manufacturer’s licence, to ensure that patrons do not congregate in areas of the premises.
8. 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.

9. There must be no more than six patrons seated at a table or booth, even if they belong to the same party.
10. There must be a distance of two metres between the backs of the seats of patrons while seated and occupied at adjacent tables or booths, even if members of the same party are seated at adjacent tables or booths, unless the adjacent tables or booths are separated by physical barriers.
11. There must be two metres between patrons seated at a counter, unless the patrons are in the same party or they are separated by physical barriers.
12. If a party of patrons is seated at a counter, there must be no more than six members of the party seated less than two metres apart from one another, unless they are separated by a physical barrier from other members of the party who are seated adjacent to them at the counter.
13. If there is a self-serve food or non-alcoholic drink station on the premises,
 - 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.
14. You must determine the maximum number of patrons who can be accommodated safely on your premises, taking into consideration the requirements set out in the sections above, and must document this maximum number in your safety plan.
15. You must monitor the number of patrons present on your premises and ensure that the number present does not exceed the maximum number in your safety plan.
16. You must take steps to prevent the congregation of patrons outside your premises, 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 on the premises.
17. You must assess your premises for places where patrons may congregate and take steps to avoid congregation.
18. You 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.
19. You must monitor your premises and remind patrons to maintain a distance of two metres from one another.

20. If there are physical barriers between tables or booths or seats at a counter, 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, booths or seats at a counter.
21. Dance floors must be closed with physical barriers or occupied with tables.
22. Patrons must not sing, engage in Karaoke or dance on the premises.
23. Jam and open mic sessions must not be held on the premises.
24. 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.
25. 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.
26. No person may sell liquor between 10:00 pm and 9:00 am on the following day.
27. 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](#))
28. Unless a full meal service is provided, premises which are licensed to serve liquor must close between 11:00 pm and 9:00 am the following day, and all patrons must vacate the premises. If a full meal service is provided, premises may stay open, but liquor service must not resume until 9:00 am the following day.
29. No person, including a patron, owner, operator or staff member may consume liquor on the premises after 11:00 pm.
30. The *Gatherings and Events* Order applies to the holding of events on your premises.
31. 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.
32. 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*.
33. You must not engage in, permit or promote any of the following with respect to or on your premises:
- 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.

C. PATRONS

- 1. You must not be present in premises operating as a nightclub, or in which an event is taking place contrary to the provisions of the *Gatherings and Events Order*.
- 2. You must comply with the distancing and other requirements in sections 3, 5, 8 to 12, 22, 28 and 29 of Part B, and with measures, and guidance and directions from owners, operators or staff, designed to avoid the congregation of patrons.

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

certainly, 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 does not have an expiration date.

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*.

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.

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
4th Floor, 1515 Blanshard Street
P O Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
Fax: (250) 952-1570
Email: ProvHlthOffice@gov.bc.ca

DATED THIS: 24th day of May 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.

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,