



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

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

### ***COVID-19 PREVENTION REGIONAL MEASURES***

The *Public Health Act* is at:

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

(excerpts enclosed)

**TO: RESIDENTS OF THE AFFECTED AREA**

**TO: PERSONS WHO PROVIDE OR PARTICIPATE IN INDOOR FITNESS ACTIVITIES IN A GROUP SETTING**

**TO: PERSONS WHO PROVIDE OR PARTICIPATE IN INDOOR SPORT**

**TO: EMPLOYERS**

**TO: PERSONS WHO TRAVEL FOR SPORT**

**WHEREAS:**

1. 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*;
2. The SARS-CoV-2 virus, an infectious agent, can cause outbreaks of COVID-19;
3. 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;
4. 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;

5. In the last two weeks, there has been a rapid increase in COVID-19 cases, hospitalizations and outbreaks in health-care facilities centred primarily in the Fraser and Vancouver Coastal health authority regions;
6. There are increasing and accelerating numbers of people being hospitalized and admitted to critical care and intensive care as a result being of infected with COVID-19;
7. Outbreaks of COVID-19 were declared in 7 facilities in the Fraser and Vancouver Coastal health authority regions in a period of 24 hours from November 5 to November 6;
8. For certainty, the Order does not apply to physical fitness and sport activities provided by schools operating under the *School Act* [ RSBC 1996] Ch. 412 or the *Independent School Act* [RSBC] Ch.216 or a First Nations School;
9. For certainty, Part A does not apply to the situation where a person is working at their private residence or vacation accommodation and it is necessary for them to have another person at the private residence or vacation accommodation for work related purposes, including providing services to the other person;
10. For certainty, Part A does not apply to a person who is present at the private residence or vacation accommodation of another person for the purpose of a visit by a child with a parent or guardian with whom the child does not reside on a regular basis, being provided with care, or providing assistance, care or services which can only be provided in-person including, health care, personal care, child care, educational programming or tutoring, music lessons, legal services, emergency services, housekeeping, repairs, maintenance, moving services and gardening;
11. For certainty, this order does not apply to rehabilitation or exercise therapy programs or to group outdoor fitness activities.
12. 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) there is an immediate and urgent need for focused action in the Fraser and Vancouver Coastal health authority regions to reduce the rate of the transmission of COVID-19 which extends beyond the authority of one or more medical health officers and coordinated action is needed to protect the public from the transmission of COVID-19 in the Fraser and Vancouver Coastal health authority regions and in other parts of the province as a result of travel to and from the affected area and between the Fraser and Vancouver Coastal health authority regions for the purpose of sport related activities, 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:

**THIS ORDER CONFIRMS MY ORAL ORDERS OF NOVEMBER 7, 2020 AND IS LIMITED IN APPLICATION TO THOSE AREAS OF BRITISH COLUMBIA THAT UNDER THE *HEALTH AUTHORITIES ACT* [RSBC 1996] CH.180 HAVE BEEN DESIGNATED AS THE REGIONS FOR THE FRASER HEALTH AUTHORITY AND THE VANCOUVER COASTAL HEALTH AUTHORITY, EXCEPT THOSE AREAS WHICH MAKE UP THE LOCAL HEALTH AREAS OF BELLA COOLA VALLEY AND CENTRAL COAST [HEREINAFTER REFERRED TO AS THE “AFFECTED AREA”]**

**TO THE EXTENT THAT THE PROVISIONS OF THIS ORDER ARE INCONSISTENT WITH THE PROVISIONS OF ANY OF MY OTHER ORDERS, THE PROVISIONS OF THIS ORDER SUPERSEDE THE INCONSISTENT PROVISIONS OF MY OTHER ORDERS IN THE AFFECTED AREA**

**Definitions in this Order:**

“**group indoor fitness activity**” means an organized activity that involves a number of people doing a physical activity together indoors, examples of which are spin, pilates, zumba, other group fitness, yoga and dance;

“**sport**” means an organized sports activity that involves a number of people doing a physical activity together in a structured way;

“**vacation accommodation**” has the same meaning as in the *Gatherings and Events Order*.

**A. PRIVATE RESIDENCES AND VACATION ACCOMMODATION**

1. No person may have present at a private residence or vacation accommodation, either inside or outside, a person who does not reside with them.
2. No person may be present at another person’s private residence or vacation accommodation, either inside or outside.
3. Despite sections 1 and 2, a person who lives on their own (hereinafter referred to as the “resident”) may have up to two other persons present at their private residence or vacation accommodation, if the other persons are individuals with whom the resident regularly interacts. If the other two persons regularly interact with one another, as well as with the resident, they may be present in residence at the same time.

**B. WEDDINGS AND FUNERALS**

1. Despite the provisions of the *Gatherings and Events Order*, no person may organize, host or attend a reception or informal gathering, including at a private residence or vacation accommodation, either inside or outside, before or after a wedding or funeral.

**C. GROUP INDOOR FITNESS ACTIVITY**

1. No person or municipality may provide or host and no person may participate in a group indoor fitness activity until the person or municipality who provides or hosts the activity has submitted a safety plan with respect to the activity to the Medical Health Officer and the safety plan has been approved. Once a safety plan has been approved, it must be posted in a place easily visible to participants.

**D. INDOOR SPORT**

1. No person or municipality may provide or host and no person may participate in an indoor sport unless the sport involves no physical contact between the participants.
2. No person may attend as a spectator at an indoor sport activity unless this is necessary to provide care to a participant.

**E. TRAVEL RELATED TO SPORT**

1. No person may travel to or from the affected area or between the regions of the Fraser Health Authority and the Vancouver Coastal Health Authority for any sport related activity, including practice, training, games or tournaments, unless they are an identified by Canadian Sports Institute Pacific as a high performance athlete affiliated with an accredited provincial or national sports organization and are already training in the affected area and subject to the safety guidelines of their provincial sports organization.

**F. WORKPLACE SAFETY**

1. Employers must review their COVID-19 Safety Plans to ensure that they adequately protect workers from the transmission of COVID-19 in the workplace and are consistent with WorkSafeBC requirements.
2. An employer of a worker who is working in a workplace other than the worker's private residence must ensure that the worker has done a daily health check for the symptoms of COVID-19.
3. If an employer is not satisfied that a worker has done a daily health check the employer must not permit the worker to work at the workplace.
4. Employers should encourage workers to work from their private residence if feasible, unless there is a preference on the part of the employer or the worker for the worker to work at the workplace.
5. Employers must ensure that their COVID-19 Safety Plan includes measures to prevent workers from crowding together or congregating in higher risk spaces, including elevators, lobbies, stairwells, corridors, bathrooms, break rooms and kitchens.

This Order takes effect on Saturday, November 7, 2020 at 10:00 P.M. and, unless earlier extended by me, expires on Monday, November 23, 2020 at 12:00 P.M., except PART C, which remains in effect until rescinded.

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*.

Under section 43 of the *Public Health Act*, you may request me to reconsider this Order if you:

1. Have additional relevant information that was not reasonably available to me when this Order was issued,
2. Have a proposal that was not presented to me when this Order was issued but, if implemented, would
  - (a) meet the objective of the order, and
  - (b) be suitable as the basis of a written agreement under section 38 [may make written agreements]
3. Require more time to comply with the order.


Under section 43 (6) an Order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

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  
 PO 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: 10<sup>th</sup> day of November 2020

SIGNED:   
 Bonnie Henry  
 MD, MPH, FRCPC  
 Provincial Health Officer

DELIVERY BY: Posting to the BC Government the BC Centre for Disease Control websites.

Enclosure: Excerpts of the *Public Health 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.

### **May make written agreements**

**38** (1) If the health officer reasonably believes that it would be sufficient for the protection of public health and, if applicable, would bring a person into compliance with this Act or the regulations made under it, or a term or condition of a licence or permit held by the person under this Act, a health officer may do one or both of the following:

- (a) instead of making an order under Division 1, 3 or 4, enter into a written agreement with a person, under which the person agrees to do one or more things;
- (b) order a person to do one or more things that a person has agreed under paragraph (a) to do, regardless of whether those things could otherwise have been the subject of an order under Division 1, 3 or 4.

(2) If, under the terms of an agreement under subsection (1), a health officer conducts one or more inspections, the health officer may use information resulting from the inspection as the basis of an order under this Act, but must not use the information as the basis on which to

- (a) levy an administrative penalty under this Act, or
- (b) charge a person with an offence under this Act.

### **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.

### **Reconsideration of orders**

- 43** (1) A person affected by an order, or the variance of an order, may request the health officer who issued the order or made the variance to reconsider the order or variance if the person
- (a) has additional relevant information that was not reasonably available to the health officer when the order was issued or varied,
  - (b) has a proposal that was not presented to the health officer when the order was issued or varied but, if implemented, would
    - (i) meet the objective of the order, and
    - (ii) be suitable as the basis of a written agreement under section 38 [*may make written agreements*], or
  - (c) requires more time to comply with the order.
- (2) A request for reconsideration must be made in the form required by the health officer.  
 (3) After considering a request for reconsideration, a health officer may do one or more of the following:
  - (a) reject the request on the basis that the information submitted in support of the request
    - (i) is not relevant, or
    - (ii) was reasonably available at the time the order was issued;
  - (b) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;
  - (c) confirm, rescind or vary the order.
- (4) A health officer must provide written reasons for a decision to reject the request under subsection (3) (a) or to confirm or vary the order under subsection (3) (c).  
 (5) Following a decision made under subsection (3) (a) or (c), no further request for reconsideration may be made.  
 (6) An order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.  
 (7) For the purposes of this section,
  - (a) if an order is made that affects a class of persons, a request for reconsideration may be made by one person on behalf of the class, and
  - (b) if multiple orders are made that affect a class of persons, or address related matters or issues, a health officer may reconsider the orders separately or together.
- (8) If a health officer is unable or unavailable to reconsider an order he or she made, a similarly designated health officer may act under this section in respect of the order as if the similarly designated health officer were reconsidering an order that he or she made.

## Review of orders

- 44** (1) A person affected by an order may request a review of the order under this section only after a reconsideration has been made under section 43 [*reconsideration of orders*].
- (2) A request for a review may be made,
- (a) in the case of an order made by a medical health officer, to the provincial health officer, or
  - (b) in the case of an order made by an environmental health officer, to a medical health officer having authority in the geographic area for which the environmental health officer is designated.
- (3) If a review is requested, the review is to be based on the record.
- (4) If a review is requested, the reviewer may do one or more of the following:
- (a) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;
  - (b) confirm, vary or rescind the order;
  - (c) refer the matter back to the person who made the order, with or without directions.
- (5) A reviewer must provide written reasons for an action taken under subsection (4) (b) or (c), and a person may not request further review of an order.

## 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*];