



ORDER OF THE PROVINCIAL HEALTH OFFICER

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

RESTAURANTS, COFFEE SHOPS, CAFES, CAFETERIAS AND LICENSED PREMISES, INCLUDING PUBS, BARS, LOUNGES, NIGHTCLUBS AND TASTING ROOMS

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, AS WELL AS
MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS AND LOUNGES**

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;
- D. For certainty, this Order is directed at restaurants, coffee shops, cafes, cafeterias and licensed premises, including pubs, bars, lounges, nightclubs and tasting rooms. It is not directed at hospitals, licensed care facilities, assisted living residences, independent living facilities, correctional facilities, industrial camps, cafeterias for boarders or residents attending educational institutions, or other places where food or liquor is served primarily to persons who are residents or the like rather than to the general public;
- E. For further certainty, this Order does not apply to events which are not held in restaurants, coffee shops, cafes, cafeterias or licensed premises, including pubs, bars, lounges, nightclubs and tasting rooms, nor does it apply to meetings or conferences held in hotels or anywhere else;
- F. You belong to the class of persons to whom this notice is addressed;
- G. 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 or attend an event in restaurants, coffee shops, cafes, cafeterias and licensed premises, including pubs, bars, lounges, nightclubs and tasting rooms, 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 JULY 23, 2020

Definitions in this Order:

“**event**” refers to anything which gathers people together whether on a one-time, regular or irregular basis, including a ceremony or celebration of any type, reception, musical, theatrical or dance entertainment or performance, live band performance, disc jockey performance, strip dancing, comedic act, art show, magic show, puppet show, fashion show, book signing, reading, recitation, display, movie, film, lecture, talk, educational session, auction, fund raising benefit, contest, quiz, game, rally, festival, presentation, demonstration, or sporting or other physical display, but does not include music provided by live performers or a disc jockey for the sole purpose of providing background music while patrons are eating or drinking;

“**physical barrier**” means a barrier which is designed, installed and maintained in accordance with WorksafeBC guidelines;

“**premises**” includes both inside and outside areas of restaurants, coffee shops, cafes, cafeterias and licensed premises, including pubs, bars, lounges, nightclubs and tasting rooms, in which food services or drink services are provided to patrons.

OWNERS AND OPERATORS OF RESTAURANTS, COFFEE SHOPS, CAFES, CAFETERIAS AND FOOD PRIMARY AND LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, AS WELL AS MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS AND LOUNGES,

You may provide food services 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 premises with a 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 premises with a manufacturer licence, patrons must be assigned to a table, booth or counter and shown to their seats.
4. Patrons must remain seated in all premises, other than cafeterias, private clubs or premises with a manufacturer’s licence, except to use a self-serve station, use washroom facilities or leave the premises.

5. There must be a sufficient number of staff at licensed premises, other than cafeterias, private clubs or premises with a manufacturer's licence, to ensure that patrons remain seated.
6. There must be a sufficient number of staff at licensed premises, other than cafeterias, private clubs or premises with a manufacturer's licence, to ensure that patrons do not congregate in areas of the premises.
7. 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.
8. There must be no more than six patrons seated at a table or booth, even if they belong to the same party.
9. There must be a distance of two metres between the backs of the seats of patrons seated 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.
10. 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.
11. 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.
12. Liquor may only be served to patrons who are seated, other than in cafeterias, private clubs or premises subject to a manufacturer licence.
13. If there is a self- service food or 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- service food, drink or other items, and to maintain a two metre distance from other patrons, must be posted at the self-service station; and
 - c. high touch surfaces at the station, and utensils that are used for self- service, 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 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 or room in the case of premises subject to a manufacturer licence.

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 premises.
24. 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 performers or disc jockey, or there must be at least a three metre separation between performers and patrons.
25. 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 you may collect this information from other members of a party or from other patrons who wish to provide it; and
 - b. 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

THE FOLLOWING CONDITIONS APPLY TO THE HOSTING OF EVENTS ON PREMISES, IN ADDITION TO THE CONDITIONS SET OUT ABOVE

1. If there is an event on the premises, you must
 - a. collect the first and last name and telephone number, or email address, of every patron; and
 - b. 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

2. During an event
 - a. subject to subparagraph (b), there must be no more than fifty patrons present in total on the premises, even if this number is less than the maximum number of patrons permitted on the premises under the safety plan,
 - b. fifty patrons may only be present if this is not more than the total number of patrons permitted on the premises under the safety plan.
3. Despite section 2, if an event is taking place in an area of the premises which is completely separated from the rest of the premises, and which has its own entrance and washrooms, there may be additional patrons present in other parts of the premises who are not attending the event, if the total number of patrons present on the premises does not exceed the maximum number of patrons permitted on the premises under the safety plan. Patrons attending an event in an area of a premises must not have contact with patrons on the premises who are not attending the event.
4. If there are one or more premises in a building, there may be an event in each of the premises as long as
 - a. patrons attending an event do not have contact with patrons attending another event or with other persons in the building;
 - b. there is a separate entrance to each of the premises in which an event is being held; and
 - c. there are separate washrooms for each of the premises.
5. During an event, patrons who leave the premises, or the area of the premises in which an event is being held, must not be replaced by other patrons.
6. An event may only be hosted between 5:30 A.M. and 11:00 P.M. on the same day. No more than four events may be hosted in one day on the same premises or in an area of the premises.
7. All events must end no later than 11:00 P.M and there must be no further events until 5:30 AM the next day
8. There must be at least one hour between events during which there are no patrons present on the premises or the area of the premises to permit cleaning and sanitizing, and the premises or area of the premises must be cleaned and sanitized once no patrons are present and before patrons are permitted to enter the premises or area of the premises for another event.
9. After an event, and before the premises or the area of the premises may be re-opened for regular business, the premises or the area of the premises must be closed for at least one hour and cleaned and sanitized.
10. Measures, such as selling tickets for an event in advance, or letting patrons know by way of a telephone call or an App that a table is ready, must be implemented in order to prevent the occurrence of line-ups and the congregation of patrons outside the premises.
11. If live performance is provided during an event a physical barrier must be installed between the performers and the patrons which blocks the transmission of droplets produced by performers, or there must be at least a three metre separation between performers and patrons.

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*.

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,
 - (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.

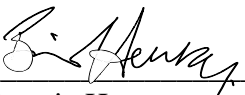
If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer
4th Floor, 1515 Blanshard Street
P O Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
Fax: (250) 952-1570

DATED THIS: 31 day of July 2020

SIGNED:



Bonnie Henry
MD, MPH, FRCPC
Provincial Health Officer

Delivery By: Posting on the BC Government website, posting on the BC Centre for Disease Control website and by email.

Enclosure: Excerpts of *Public Health Act*

ENCLOSURE**Excerpts of the *PUBLIC HEALTH ACT*****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.

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*];