



## ORDER OF THE PROVINCIAL HEALTH OFFICER

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

### *Food Service Establishments and Liquor Services*

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 PREMISES, INCLUDING LICENSED PREMISES, IN WHICH FOOD OR DRINK IS SERVED**

#### **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 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. You belong to the class of persons to whom this notice is addressed;
- F. 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 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 MAY 22, 2020****Definitions:****In this Order:**

“**event**” refers to an occurrence which gathers people together, whether on a one-time, regular or irregular basis, including a ceremony or celebration of any type, reception, musical entertainment or performance, other than as background music, theatrical or dance performance, art show, magic show, puppet show, fashion show, book signing, reading, recitation, display, movie, film, dancing, meeting, lecture, talk, educational session, auction, fund raising benefit, contest, quiz, game, rally, festival, presentation, demonstration, or sporting or other physical display;

“**premises**” includes both inside and outside areas in which food or drink services are provided to patrons.

**OWNERS AND OPERATORS OF PREMISES, INCLUDING LICENSED PREMISES, AT WHICH FOOD OR DRINK IS SERVED**

You may provide food or drink services, including standing and seated service, subject to the conditions which follow.

1. You must determine the maximum number of patrons and staff that your premises can accommodate if they are standing or sitting two metres apart and must document this maximum number in your safety plan.
2. You must monitor the number of patrons and staff present on your premises and ensure that the number present does not exceed the maximum number in your safety plan.
3. You must assess your premises for places where patrons may congregate or stand in line, and in those places, you must use physical devices, install markers or use other methods to guide and assist patrons in maintaining a distance of two metres from one another.
4. You must monitor places where patrons congregate or stand in line and remind patrons to maintain a distance of two metres from one another, unless they are in the same party.
5. If there is a self- service station on your premises you must
  - a. provide hand washing facilities or alcohol-based sanitizers within easy reach of the station;
  - b. post signs reminding patrons to wash or sanitize their hands before touching self-service food or other items and to maintain a two metre distance from one another; and
  - c. frequently clean and sanitize high touch surfaces at the station and utensils that are used for self- service.

6. If there are tables and chairs on your premises, patrons must be seated in such a way that
  - a. there are two metres between the patrons seated at the same table, unless they are in the same party, and
  - b. there are two metres between the patrons seated at one table and the patrons seated at another table, unless
    - i. they are in the same party, or
    - ii. the tables are separated by a washable, rigid, impermeable partition that
      - A. extends from the table-top to at least 1.20 metres above the tabletop, if it is attached to the table, floor or another structure at floor level, or
      - B. hangs to the tabletop and is at least 1.20 metres above the tabletop in height, if it is hung from the ceiling or another structure.
7. If there are booths on your premises
  - a. there must be a washable, rigid, impermeable partition which extends at least 1.20 metres above the tabletop between each set of booths, and
  - b. patrons must be seated in such a way that there are two metres between the patrons seated at the same booth, unless they are in the same party.
8. There must be no more than six patrons seated at a table or a booth.
9. Patrons seated at a counter must be seated so that they can maintain a distance of two metres from other patrons, unless
  - a. they are in the same party, or
  - b. they are separated by a washable, rigid, impermeable partition that
    - i. extends from the counter to at least 1.20 metres above the counter, if it is attached to the counter, floor or another structure at floor level, or
    - ii. hangs to the countertop and is at least 1.20 metres above the countertop in height, if it is hung from the ceiling or another structure.
10. Patrons standing at a counter or table must be able to maintain a distance of two metres from other patrons, unless
  - a. they are in the same party or
  - b. they are separated by a washable, rigid, impermeable partition that
    - i. extends to at least 1.20 metres above the counter or table-top, if it is attached to the counter, table floor or another structure at floor level, or

- ii. hangs to the tabletop or countertop and is at least 1.20 metres above the tabletop or countertop in height, if it is hung from the ceiling or another structure.
11. If staff at a food service or payment counter cannot maintain a distance of two metres from patrons, staff and patrons must be separated by a washable, rigid, impermeable partition that
- a. extends from the counter to at least 1.20 metres above the food service or payment counter, if it is attached to the counter, floor or another structure at floor level, or
  - b. hangs to the countertop and is at least 1.20 metres above the food service or payment counter, if it is hung from the ceiling or another structure.
12. If there is an event held on the premises, during the event
- a. patrons must be able to maintain a distance of two metres from other patrons,
  - b. subject to c., there must be no more than 50 patrons present in total on the premises, even if this number is less than the maximum number of patrons who would be permitted to be present under the safety plan,
  - c. 50 patrons may only be present if this is not more than the number permitted under the safety plan, and
  - d. patrons who leave the premises during the event must not be replaced by other patrons.
13. Despite paragraph 12, if the event is taking place in an area completely separated from the rest of the premises, during the event
- a. there may be additional patrons present in other parts of the premises, 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, and
  - b. patrons who leave the area in which the event is being held must not be replaced by other patrons.
14. 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 one member of every party of patrons, and
  - b. you must retain this information for thirty days, in the event that there is a need for contact tracing on the part of the medical health officer.

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

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*.

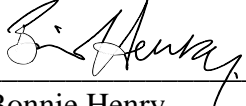
Under section 43 of the *Public Health Act*, you may request me to reconsider this Order if you:

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, 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*.

DATED THIS: 10<sup>th</sup> day of June 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*];