

**FOOD AND LIQUOR SERVING PREMISES—
CENTRAL OKANAGAN COVID-19 ORDER – August 10, 2021**

ORDER OF THE MEDICAL HEALTH OFFICER

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

The *Public Health Act* and Regulations are at:

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

- 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 IN THE CENTRAL OKANAGAN** (Including: District of Peachland, City of West Kelowna, City of Kelowna, District of Lake Country and the Regional District of Central Okanagan)
- 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 IN THE CENTRAL OKANAGAN**

In the matter of an ORDER made pursuant to Part 4 Division 4 of the *British Columbia Public Health Act*, I, **Dr. Sue Pollock**, Chief Medical Health Officer (Interim), Interior Health Authority, **Kelowna, BC**, am of the opinion that a Public Health Hazard exists in the Central Okanagan for the following reasons:

- A. On March 17, 2020 the Provincial Health Officer, Dr. Bonnie Henry, 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, clusters 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. The SARS-CoV-2 virus, an infectious agent, can cause outbreaks of COVID-19 and 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;
- C. Social interactions and close contact between people – in particular social mingling coupled with the consumption of alcohol which increases risky behavior – are associated with increases in the transmission of SARS-CoV-2, and increases in the number of people who develop COVID-19 and become seriously ill;
- D. 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;

- E. There has been a recent increase in the number of persons infected with COVID-19, particularly in the District of Peachland, the City of West Kelowna, the City of Kelowna, the District of Lake Country, and the Regional District of Central Okanagan (hereinafter collectively referred to as the “**Affected Area**” or the “**Central Okanagan**”);
- F. This increase has resulted in increased cases of COVID-19, clusters of people with COVID-19, outbreaks of COVID-19, the transmission of COVID-19 to surrounding communities, and in particular, in populations who are not yet vaccinated, an increase in contracting more serious COVID-19 illness, all of which increases the risk of hospitalizations, intensive care admissions, and deaths;
- G. In view of the escalating number of COVID-19 cases arising due to transmission in the Affected Area, on July 28, 2021, I declared an Outbreak of COVID-19 in the Central Okanagan;
- H. 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. 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 cafeterias that primarily serve the general public;
- I. You belong to the class of persons to whom this order is addressed; and
- J. I have reason to believe and do believe that:
 - a. The risk of a sustained or further outbreak of COVID-19 constitutes a health hazard under the *Public Health Act*, and
 - b. There is an immediate and urgent need for focused action in the Affected Area to reduce the rate of transmission of COVID-19, 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:

RECOGNIZING THAT THERE IS CURRENTLY A HEIGHTENED LEVEL OF RISK OF TRANSMISSION OF COVID-19 IN THE AFFECTED AREA, THIS ORDER IS ISSUED FURTHER TO SECTION C.1 OF THE PROVINCIAL HEALTH OFFICER’S FOOD AND LIQUOR SERVING PREMISES ORDER, DATED JUNE 30, 2021 (THE “PROVINCIAL FOOD AND LIQUOR SERVING PREMISES ORDER”), AND, ON PUBLICATION OF THIS ORDER ON THE PROVINCIAL HEALTH OFFICER’S WEBSITE, THIS ORDER IS INCORPORATED INTO THE PROVINCIAL FOOD AND LIQUOR SERVING PREMISES ORDER.

A CONTRAVENTION OF THIS ORDER IS A CONTRAVENTION OF THE PROVINCIAL FOOD AND LIQUOR SERVING PREMISES ORDER.

TO THE EXTENT THAT THE PROVISIONS OF THIS ORDER ARE INCONSISTENT WITH THE PROVISIONS OF THE PROVINCIAL FOOD AND LIQUOR SERVING PREMISES ORDER, THE PROVISIONS OF THIS ORDER SUPERSEDE THE INCONSISTENT PROVISIONS OF THE PROVINCIAL FOOD AND LIQUOR SERVING PREMISES ORDER FOR THE AFFECTED AREA.

THIS ORDER IS LIMITED IN APPLICATION TO THE AFFECTED AREA.

THIS ORDER REPEALS AND REPLACES THE ORAL ORDER OF AUGUST 6, 2021.

Definitions

1 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;

“**operator**” in relation to a premises, means

(a) an owner or operator of the premises, or

(b) an employee, worker or person acting on behalf of an owner or operator of the premises;

“**patron**” means anyone being provided with food or liquor services in a restaurant, coffee shop, cafe, cafeteria or food primary or liquor primary establishment, including a pub, bar, lounge, nightclub, liquor manufacturing facility with a tasting room or private club, 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>; and “**premises**” includes areas both inside and outside.

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 must not provide food or drink services on your premises, except in compliance with the provisions of this Order.

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 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:
 - a. to use a self-serve food or non-alcoholic drink station;
 - b. to use a juke box, a self-serve lottery ticket dispenser, or pay at a pay station;
 - c. to use washroom facilities;
 - d. to leave the premises; or
 - e. for the purpose of doing any of the following with a maximum of five other persons who are in the same party as the patron and who are seated with the patron:
 - i. play pool, billiards, snooker, or darts; or
 - ii. bowl, if there is a bowling alley on 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 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.
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 premises 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 premises 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. If 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.
 24. No person may sell liquor between 10:00 pm and 9:00 am on the following day.
 25. 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).
26. Unless a full meal service is provided, premises which are licensed to serve liquor must close between 12:00 am and 9:00 am and all patrons must vacate the premises.
 27. Despite section 26, if a full meal service is provided, premises may stay open, but liquor service must not resume until 9:00 am the following day.
 28. No person, including a patron, owner, operator or staff member may consume liquor on the premises after 12:00 am.
 29. The [Gatherings and Events – Central Okanagan COVID-19 Order](#) applies to events which are held on your premises.
 30. 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 to which the [Gathering and Events – Central Okanagan COVID-19 Order](#) applies.
 31. You must not promote, engage in or permit an event that is prohibited under the [Gathering and Events – Central Okanagan COVID-19 Order](#) with respect to or on your premises.

C. PATRONS

1. You must not be present on premises operating as a nightclub, or on premises in which an event is taking place contrary to the provisions of the [Gatherings and Events – Central Okanagan COVID-19 Order](#).
2. You must comply with the distancing and other requirements in sections 4, 5, 8, 9 to 12, 22, 26, 28 and 29 of Part B, and with measures, and guidance and directions from owners, operators or staff, intended to avoid the congregation of patrons.

D. GENERAL COMPLIANCE MATTERS

Duty to Comply

Pursuant to Section 42 of the *Public Health Act*, you have a duty to comply with this order.

Right to Review or Reconsideration

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.

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*];

Duration of the Order

This ORDER remains in effect until rescinded by myself or another Interior Health Medical Health Officer under section 46 of the *Public Health Act*.

Consequences of Failure to Comply

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 10th day of August, 2021.



Signed:

Dr. Sue Pollock, FRCPC OIC#784
Interim Chief Medical Health Officer
Interior Health

DELIVERY BY: Posting to the BC Government, BC Centre for Disease Control and Interior Health Authority websites

Enclosure: Excerpts of the *Public Health Act* and the Protective Measures (COVID-19) Order No. 2 continued under the *COVID-19 Related Measures 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.

(6) A health officer who makes an order may vary the order

(a) at any time on the health officer's own initiative, or

(b) on the request of a person affected by the order, following a reconsideration under section 43 [*reconsideration of orders*].

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*];

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 PROTECTIVE MEASURES (COVID-19) ORDER NO. 2

Definitions

1 In this order:

“**enforcement officer**” has the same meaning as in the Violation Ticket Administration and Fines Regulation with respect to a person in a designated class of persons with the authority to issue a ticket in relation to the provisions of this order;

“**food and liquor serving premises**” has the same meaning as “premises” in the Food and Liquor Serving Premises Order;

“**Food and Liquor Serving Premises Order**” means the applicable written order in respect of food and liquor serving premises made under the Public Health Act by the provincial health officer;

“**Gatherings and Events Order**” means the applicable written order in respect of gatherings and events made under the Public Health Act by the provincial health officer;

General compliance matters

6 (1) A person must comply with a direction given by an enforcement officer under this order, including a direction to disperse.

(2) A person must not engage in abusive or belligerent behaviour towards another person in relation to the other person’s efforts

(a) to comply with this order, the Food and Liquor Serving Premises Order or the Gatherings and Events Order, or

(b) to respond to, prevent or correct contraventions of this order, the Food and Liquor Serving Premises Order or the Gatherings and Events Order.