

GATHERING AND EVENTS
REGIONAL MEASURES (COVID-19) ORDER
for FRASER HEALTH AUTHORITY

SEPTEMBER 28, 2021

ORDER OF THE MEDICAL HEALTH OFFICER

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

The *Public Health Act* and Regulations are at:

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

TO: ALL PERSONS WHO ORGANIZE OR ATTEND EVENTS AND SOCIAL GATHERINGS
TO: OWNERS AND OCCUPANTS OF PRIVATE RESIDENCES
TO: OWNERS AND OCCUPANTS OF VACATION ACCOMMODATION
TO: OWNERS AND OPERATORS OF PLACES

**LOCATED IN: THE HEALTH SERVICE DELIVERY AREA OF THE FRASER HEALTH
AUTHORITY REGION KNOWN AS FRASER EAST, AND ENCOMPASSING
THE COMMUNITIES OF HOPE, CHILLIWACK, ABBOTSFORD, MISSION
AND AGASSIZ/HARRISON (collectively the “Affected Area” or “Fraser
East”)**

In the matter of an ORDER made pursuant to Part 4 Division 4 of the *Public Health Act*, I,
Dr. Elizabeth Brodtkin, Chief Medical Health Officer, Fraser Health Authority, am of the opinion that a
public health hazard exists in the Fraser Health Region 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 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. People spending time together indoors increases the risk of the transmission of SARS-CoV-2 in the population, thereby increasing the number of people who develop COVID-19 and become seriously ill;

- E. Gatherings and events in private residences, vacation accommodation and other places continue to pose a risk of promoting the transmission of SARS-CoV-2 and increasing the number of people who develop COVID-19 and become seriously ill;
- F. 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;
- G. There has been a recent increase in the number of persons infected with COVID-19, in the Affected Area;
- H. 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;
- I. Vaccines, which prevent or reduce the risk of infection with SARS-CoV-2, have been and continue to be made available in British Columbia, including in the Affected Area;
- J. While substantial progress has been made in vaccinating the population 12 years of age and older of British Columbia in general and of the Affected Area in particular, a significant portion of the public is unvaccinated, which is resulting in increases in cases, hospitalizations and intensive care admissions, primarily in unvaccinated people, although it is causing illness in vaccinated people. This situation has been exacerbated by the presence of the highly transmissible Delta variant of SARS-CoV-2 in British Columbia in general, and in the Affected Area in particular;
- K. Unvaccinated persons are at higher risk than vaccinated persons of being infected with SARS-CoV-2 and of transmitting SARS-CoV-2 to other persons;
- L. Evidence is emerging that even people who are vaccinated can be infected with SARS-CoV-2 and can transmit SARS-CoV-2, although this is much less likely than in the case of unvaccinated people;
- M. Various options for establishing vaccine status, including in paper and online format, are readily available to members of the public;
- N. Programs that require proof of vaccination to be provided have been shown to increase vaccination uptake in populations, thereby reducing the public health risk of COVID-19;
- O. Gatherings and events which involve large numbers of people continue to pose a risk of promoting the transmission of SARS-CoV-2, and increasing the number of people who develop COVID-19 and become seriously ill;
- P. I recognize the societal effects, including the hardships, which the measures which I have and continue to put in place to protect the health of the population have on many aspects of life, and, with this in mind, continually engage in a process of reconsideration of these measures, based upon the information and evidence available to me, including infection rates, sources of transmission, the presence of clusters and outbreaks, the number of people in hospital and in intensive care, deaths, the emergence of and risks posed by virus variants of concern, vaccine availability, immunization rates, the vulnerability of particular populations and reports from the rest of Canada and other

jurisdictions, with a view to balancing the interests of the public, including constitutionally protected interests, in gatherings and events, against the risk of harm created by gatherings and events and unvaccinated persons;

- Q. I further recognize that constitutionally-protected interests include the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*, including specifically freedom of religion and conscience, freedom of thought, belief, opinion and expression, freedom of peaceful assembly and freedom of association. These freedoms, and the other rights protected by the *Charter*, are not, however, absolute and are subject to reasonable limits, prescribed by law as can be demonstrably justified in a free and democratic society. These limits include proportionate, precautionary and evidence-based restrictions to prevent loss of life, serious illness and disruption of our health system and society. When exercising my powers to protect the health of the public from the risks posed by COVID-19, I am aware of my obligation to choose measures that limit the *Charter* rights and freedoms of residents of and visitors to the Fraser Health Region less intrusively, where this is consistent with public health principles. In consequence, I am not prohibiting outdoor assemblies for the purpose of communicating a position on a matter of public interest or controversy, subject to my expectation that persons organizing or attending such an assembly will take the steps and put in place the measures recommended in the guidelines posted on the Provincial Health Officer's website in order to limit the risk of transmission of COVID-19;
- R. This Order does not apply to the Executive Council; the Legislative Assembly; a council, board, or trust committee of a local authority as defined under the *Community Charter*, the *Local Government Act* or the *Islands Trust Act*, and school boards when holding a meeting or public hearing without members of the public attending in person; the distribution of food or other supplies to people in need; health or social services provided to people in need, such as warming or cooling centres; swimming pools, unless the location of an event; skating rinks when not being used for adult sport; fitness facilities which are part of a hotel or similar establishment; rehabilitation or exercise therapy programs; worship services; health care related events, including immunization clinics, COVID-19 testing centres and blood donation clinics; drug and alcohol support group meetings; court sittings wherever they occur; work camps; before or after school programs for students of public or independent schools (schools); educational activities for students of schools or post-secondary institutions; teachers or instructors at a school or a post-secondary educational institution when engaged in educational activities with their students in any location; language courses; employment related training; the use of any place for local, provincial or federal government purposes; services provided by or on behalf of any level of government; or outdoor temporary markets (Farmers Markets); and

I have reason to believe and do believe that:

- a. The continued presence of large numbers of unvaccinated people in the population, particularly in some age groups and some communities where vaccination rates continue to be low, continues to pose a risk to the health of the population, and constitutes a health hazard under the *Public Health Act*. This is because unvaccinated people can be a source of viral transmission to other unvaccinated people, and also to vaccinated people who are not completely immune consequent to their vaccination, either because of a reduced immune response or only having had one dose. These infections can result in serious illness, hospitalization, intensive care unit admission for care and death.
- 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, 39 and 54 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 PART F OF THE PROVINCIAL HEALTH OFFICER’S GATHERINGS AND EVENTS ORDER, DATED SEPTEMBER 10, 2021 AS AMENDED OR REPLACED FROM TIME TO TIME (THE “PROVINCIAL GATHERINGS AND EVENTS ORDER”), AND, ON PUBLICATION OF THIS ORDER ON THE PROVINCIAL HEALTH OFFICER’S WEBSITE, THIS ORDER IS INCORPORATED INTO THE PROVINCIAL GATHERINGS AND EVENTS ORDER.

A CONTRAVENTION OF THIS ORDER IS A CONTRAVENTION OF THE PROVINCIAL GATHERINGS AND EVENTS ORDER.

TO THE EXTENT THAT THE PROVISIONS OF THIS ORDER ARE INCONSISTENT WITH THE PROVISIONS OF THE PROVINCIAL GATHERINGS AND EVENTS ORDER, THE PROVISIONS OF THIS ORDER SUPERSEDE THE LESS RESTRICTIVE PROVISIONS OF THE PROVINCIAL GATHERINGS AND EVENTS ORDER FOR THE AFFECTED AREA.

THIS ORDER IS LIMITED IN APPLICATION TO THE AFFECTED AREA.

Definitions

In this order:

“event” means

- a. a gathering of more than 10 participants indoors or more than 50 participants outdoors for social, entertainment, dancing, choral, musical, theatrical, recreational, gambling, arts or crafts or business purposes, a wedding reception or a funeral not at a funeral home;
- b. a ticketed sports activity, concert, theatrical production, dance or symphony performance, festival, conference, convention, trade fair, home show, workshop, and a sponsored, ticketed party; and
- c. a gathering of any number of participants indoors or more than 50 participants outdoors for the purpose of an adult sports activity, or an exercise, fitness or dance activity or class;
- d. but does not include a program for children or youth, or workers at a workplace when engaged in their work activities.

“fully vaccinated” means to have received two doses of a vaccine;

“indoor” means inside a covered structure with one or more sides, or an uncovered structure with three or more sides;

“occupant” means an individual who occupies vacation accommodation or resides in a private residence;

“organizer” means the person responsible for organizing an event and the person who acts as host at an event and includes a person in charge of a place where an event is held;

“outdoor” means not indoor;

“owner” includes an occupier, operator or person otherwise responsible for a place;

“participant” means a person, including a child or youth, who attends an event, but does not include an organizer, event staff member, official, performer, player, athlete, officiant, or any other person who is acting in an official or service capacity;

“place” means a venue including a hotel ballroom or conference room, a banquet hall, conference hall, auditorium, recreation centre, theatre, movie theatre, multi-movie theatre complex, casino, work-out gym, exercise or dance facility or studio, recreational facility arena, stadium, private residence, vacation accommodation, tent, perimeter seating vehicle or bus or a premises as defined in the *Food and Liquor Serving Premises Order*;

“program for children or youth” means a structured educational program, including home education or distributed learning, music, art, drama, dance, recreational, sport, exercise, or social activity supervised by an adult and provided for persons under 22 years of age;

“social gathering” means a gathering of one or more individuals at a private residence or vacation accommodation for social or recreational purposes;

“vacation accommodation” means a house, townhouse, cottage, cabin, apartment, condominium, mobile home, recreational vehicle, hotel suite, tent, yurt, houseboat or any other type of living accommodation and associated deck, garden or yard, in which the owner, tenant, guest or any other person is residing, but which is not the person’s primary residence; and

“vaccine” means a World Health Organization approved vaccine for use against the infectious agent SARS-CoV-2.

A. SOCIAL GATHERINGS AT PRIVATE RESIDENCES AND VACATION ACCOMMODATION

1. A person must not organize, host or attend an indoor social gathering at a private residence or vacation accommodation unless:
 - a. all individuals in attendance age 12 and older are fully vaccinated; or
 - b. the social gathering is limited to the occupants of the private residence or vacation accommodation and:
 - i. the occupants of one other private residence or vacation accommodation, and any social gathering staff; or
 - ii. a maximum of five additional people, including any social gathering staff.
2. A person must not organize, host or attend an outdoor social gathering at a private residence or vacation accommodation unless:
 - a. all individuals in attendance age 12 and older are fully vaccinated; or
 - b. the social gathering is limited to the occupants of the private residence or vacation accommodation and a maximum of 10 additional people, including any social gathering staff, and no person who is attending the social gathering and who is not an occupant goes indoors, except for the purpose of using the washroom facilities, or the kitchen in the case of social gathering staff.
3. The owner of vacation accommodation must require any tenant, guest or other person using the vacation accommodation to comply with the requirements in this Part A.
4. Part B of this Order does not apply to social gatherings at private residences and vacation accommodation.

B. PROOF OF VACCINATION FOR EVENTS

1. Despite any lesser restrictions under the Provincial Gathering and Events Order, a person must not organize, host, attend, officiate at or permit a place to be used for an event unless all participants age 12 and older have been fully vaccinated, and the organizers and participants comply with their respective obligations for obtaining and providing proof in the form required under Part D (Proof of Vaccination) of the Provincial Gathering and Events Order that such participants are fully vaccinated.
2. Except where they are less restrictive than the requirements of Part B.1 above, the restrictions and requirements relating to events set out in the Provincial Gathering and Events Order continue to apply.
3. The owner of a place where an event is to be held must calculate the maximum number of participants who can be accommodated safely at the event, taking into consideration the requirements of this Order, and must document this number in a COVID-19 safety plan.
4. The organizer must monitor the number of participants present at an event and ensure that the number of participants does not exceed the maximum number documented in the COVID-19 safety plan.
5. The organizer must:
 - a. collect the first and last names and telephone number, or email address, of every participant at an event;
 - 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 the information must be provided to the medical health officer within 24 hours of request; and
 - c. destroy the information after thirty days.
6. The organizer must ensure that the COVID-19 safety plan is complied with and that the conditions and requirements in this Part are met.
7. If the organizer is not the owner of the place where an event is held, the owner must be satisfied that the organizer is aware of the conditions and requirements in this Part and Part D (Proof of Vaccination) of the Provincial Gathering and Events Order, and has the capacity to fulfill them.

C. ADDITIONAL REQUIREMENTS FOR WORKERS AND OPERATORS

1. In this Part, all terms have the same meaning as in the Provincial Health Officer's Face Coverings (COVID-19) Order of September 2, 2021, as amended or replaced from time to time (the "**Provincial Face Coverings Order**").
2. In addition to the requirements in section 4 of the Provincial Face Coverings Order, a worker or an operator must wear a face covering at all times while in an indoor public space or a working area, provided the use of the face covering does not interfere with the safe performance of their work duties, and subject to the existing exemptions set out in section 5 of the Provincial Face Coverings Order and the following additional exemptions:

- a. The worker or operator is behind a barrier separating them from other persons, for example, a divider or cubicle;
 - b. The worker or operator is in a room by themselves; or
 - c. The worker or operator is delivering a presentation and there is a distance of two metres or a physical barrier separating the worker or operator from others.
3. The operator of an indoor public space must prepare a written COVID-19 safety plan as part of the workplace's Communicable Disease plan, and must provide the COVID-19 safety plan to public health immediately upon request.

This Order remains in effect until repealed or replaced by myself or another Fraser Health medical health officer under section 46 of the *Public Health Act*.

Pursuant to section 54(1)(h) of the *Public Health Act*, and in accordance with the emergency powers set out in Part 5 of the *Public Health Act*, I will not be accepting requests for reconsideration of this Order. For clarity, requests for reconsideration from proof of vaccination requirements under Part D of the Provincial Gathering and Events Order may be made as specified in the Provincial Gathering and Events Order.

You are required under Section 42 of the *Public Health Act* to comply with this Order. Failure to comply with this Order is an offense under Section 99(1)(k) of the *Public Health Act*. 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*.

A failure to comply with this Order is a failure to comply with the Provincial Gathering and Events Order, and enforcement may be taken under the Protective Measures (COVID-19) Order No. 2 continued under the *COVID-19 Related Measures Act*.

Dated this September 28, 2021.

Signed:

Dr. Elizabeth Brodtkin, FRCPC
Chief Medical Health Officer
Fraser Health Authority

DELIVERY BY: Posting to the Provincial Health Officer's website and the Fraser Health Authority website

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** (1) A health officer must make an order in writing, and must describe all of the following in the order:
- (a) subject to subsection (5), who must comply with the order;
 - (b) what must be done or not done, and any conditions, including if applicable the date by which something must be done;
 - (c) the date on which, or the circumstances under which, the order is to expire, if the date or circumstances are known;
 - (d) subject to the regulations, information sufficient to enable a person to contact the health officer;
 - (e) how a person affected by the order may have the order reconsidered;
 - (f) any prescribed matter.
- (2) A health officer may combine 2 or more orders in a single written notice.
- (3) An order may be made in respect of a class of persons.
- (4) If a provision under this Act refers to a specified facility, place, person or procedure in respect of an order, a health officer must specify the facility, place, person or procedure
- (a) in accordance with an order made under section 63 [*power to establish directives and standards*], or
 - (b) if no order under section 63 applies, that the health officer reasonably believes to be appropriate in the circumstances.
- (5) If a medical health officer publishes an order respecting an infected person, the infected person's identity must not be disclosed unless disclosure is necessary for the protection of public health.
- (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.