

This is the 2nd Affidavit of
Vanessa Lever in this case and
was made on 02 February 2021

No. S-210209
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

ALAIN BEAUDOIN, BRENT SMITH, JOHN KOOPMAN, JOHN VAN MUYEN,
RIVERSIDE CALVARY CHAPEL, IMMANUEL COVENANT
REFORMED CHURCH and FREE REFORMED CHURCH OF
CHILLIWACK, B.C.

Plaintiffs

And

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH
COLUMBIA and DR. BONNIE HENRY IN HER CAPACITY AS
PROVINCIAL HEALTH OFFICER
FOR THE PROVINCE OF BRITISH COLUMBIA

Defendants

AFFIDAVIT

I, Vanessa Lever, Legal Assistant for the Legal Services Branch, Ministry of Attorney
General, 1301 – 865 Hornby St., Vancouver, B.C., AFFIRM THAT:

1. I provide legal administrative support to Jacqueline Hughes, QC, counsel for the
respondents Her Majesty the Queen in right of the Province of British Columbia and Dr.
Bonnie Henry, in her capacity as Provincial Health Officer, and as such have personal
knowledge of the facts and matters hereinafter deposed except where stated to be made
on information and belief, and where so stated, I believe the same to be true.
2. Attached as **Exhibit "A"** is a true copy of the Public Health Officer Gatherings &
Events Order, dated January 8, 2021.

AFFIRMED BEFORE ME at
Vancouver, British Columbia on
2/February/2021.


A commissioner for taking
affidavits for British Columbia


VANESSA LEVER



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Vancouver, British Columbia on
2/February/2021.

Emily Kapp
A commissioner for taking
affidavits for British Columbia

Vanessa Lever
VANESSA LEVER

This is Exhibit " A " referred to in the
 affidavit of Vanessa Lever
 affirmed before me at Vancouver
 in the Province of British Columbia
 this 2nd day of Feb, 2021
Emily Lippert
 A Commissioner for taking Affidavits
 Within the Province of British Columbia



ORDER OF THE PROVINCIAL HEALTH OFFICER

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

GATHERINGS AND EVENTS – January 8, 2021

The *Public Health Act* is at:

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

(excerpts enclosed)

- TO: RESIDENTS OF BRITISH COLUMBIA**
- TO: OPERATORS AND OCCUPANTS OF VACATION ACCOMMODATION**
- TO: OWNERS AND OCCUPANTS OF PRIVATE RESIDENCES**
- TO: OWNERS AND OPERATORS OF PLACES**
- TO: PERSONS WHO ORGANIZE EVENTS**
- TO: PERSONS WHO ATTEND EVENTS**
- TO: PERSONS WHO OWN, OPERATE OR ARE PASSENGERS IN PERIMETER SEATING VEHICLES OR PERIMETER SEATING BUSES**
- TO: MEDICAL HEALTH OFFICERS**

WHEREAS:

1. On March 17, 2020 I provided notice under section 52 (2) of the *Public Health Act* that the transmission of the infectious agent SARS-CoV-2, which has caused cases and outbreaks of a serious communicable disease known as COVID-19 among the population of the Province of British Columbia, constitutes a regional event as defined in section 51 of the *Public Health Act*;
2. The SARS-CoV-2 virus, an infectious agent, can cause outbreaks of COVID-19;
3. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in direct contact through droplets in the air, or from fluid containing SARS-CoV-2 left on surfaces;

4. Social interactions and close contact between people are associated with significant increases in the transmission of SARS-CoV-2, and increases in the number of people who develop COVID-19 and become seriously ill;
5. Social interactions and close contact resulting from the gathering of people and events promotes the transmission of SARS-CoV-2 and increases the number of people who develop COVID-19 and become seriously ill;
6. With schools and post-secondary institutions operating and the change of seasons bringing cooler weather, people are interacting more and spending more time indoors which increases the risk of the transmission of SARS-CoV-2 in the population and the number of people who develop COVID-19 and become seriously ill;
7. Seasonal and other celebrations and social gatherings in private residences and other places have resulted in the transmission of SARS-CoV-2 and increases in the number of people who develop COVID-19 and become seriously ill;
8. There has been a rapid increase in COVID-19 cases throughout the province which has resulted in increasing and accelerating numbers of people being hospitalized and admitted to critical care, outbreaks in health-care facilities and deaths;
9. For certainty, 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*, 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 centres; individual attendance at a place of worship for the purpose of prayer or quiet reflection; health care related events such as immunization clinics, COVID-19 testing centres and blood donation clinics; court sittings wherever they occur; workers at a workplace when engaged in their work activities; workers living at a work camp; students, teachers or instructors at a school operating under the *School Act* [RSBC 1996] Ch. 412, the *Independent School Act* [RSBC 1996] Ch. 216 or a First Nations School, or a post-secondary educational institution when engaged in educational activities; public pools and public skating rinks when not associated with an event; customers in a service business; a volunteer work party engaged in gardening, vegetation removal, trail building or a similar outside activity; the use of any place for local government, provincial or federal election purpose; or a rehabilitation or an exercise therapy program.

10. For further certainty, this Order applies to private residences, vacation accommodation and private clubs and organizations;

11. I have reason to believe and do believe that

- (i) the risk of an outbreak of COVID-19 among the public constitutes a health hazard under the *Public Health Act*;
- (ii) there is an immediate and urgent need for focused action to reduce the rate of the transmission of COVID-19 which extends beyond the authority of one or more medical health officers;
- (iii) coordinated action is needed to protect the public from the transmission of COVID-19
- (iv) and that it is in the public interest for me to exercise the powers in sections 30, 31, 32 and 39 (3) of the *Public Health Act* **TO ORDER** as follows:

THIS ORDER

REPEALS AND REPLACES MY ORDER OF DECEMBER 24, 2020 WITH RESPECT TO GATHERINGS AND EVENTS

TABLE OF CONTENTS

DEFINITIONS.....	5
PART A: PRIVATE RESIDENCES AND VACATION ACCOMMODATION.....	8
PART B: EVENTS.....	9
PART C: SUPPORT GROUP MEETINGS, CRITICAL SERVICE MEETINGS, MEALS PROVIDED FOR PEOPLE IN NEED, WEDDINGS, BAPTISMS AND FUNERALS, PROGRAMS FOR CHILDREN AND YOUTH, OCCUPATIONAL TRAINING.....	10
PART D: SPORT FOR CHILDREN OR YOUTH.....	14
PART E: VARSITY SPORT.....	14
PART F: GROUP SPORT.....	15
PART G: TRAVEL FOR SPORT.....	15
PART H: HIGH- PERFORMANCE ATHLETES.....	15
PART I: EXERCISE.....	16
PART J: DRIVE-THROUGH AND DRIVE-IN EVENTS.....	18
PART K: PERIMETER SEATING VEHICLES AND PERIMETER SEATING BUSES.....	20
PART L: RETAIL BUSINESSES.....	20
PART M: EPISODIC MARKETS.....	21
PART N: RELATED MEDICAL HEALTH OFFICERS ORDERS.....	24
ENCLOSURE: Excerpts of the <i>Public Health Act</i>	27

DEFINITIONS:

“affected area” means British Columbia:

“banquet hall” means a stand-alone premises built for the purpose of holding large social events, including banquets, generally involving many hundreds of people. It does not include the premises associated with a private club, hotel, house of worship, recreation centre, sports organization or other non-profit organization with a community, educational, historical, sports or similar purpose, or owned or operated or otherwise controlled by a government;

“critical service” means critical to preserving, life, health, public safety and basic societal functioning and includes health services, social services, police services, fire services, ambulance services, first responders, emergency responders and critical infrastructure service providers;

“episodic market” includes farmers’ markets and community markets;

“event” refers to an in-person gathering of people in any place whether private or public, inside or outside, organized or not, on a one-time, regular or irregular basis, including drive-ins and drive-throughs, such as to see a display or to drop off items; events; meetings and conferences; a gathering in vacation accommodation, a private residence, banquet hall or other place; a gathering of passengers; a party; a worship or other religious service, ceremony or celebration; a ceremony; a reception; a wedding; a baptism; a funeral; a celebration of life; a musical, theatrical or dance entertainment or performance; a live solo or band musical performance; a disc jockey performance; strip dancing; comedic act; art show; magic show; puppet show; fashion show; book signing; reading; recitation; display, including a seasonal light display; a movie; film; lecture; talk; educational presentation (except in a school or post-secondary educational institution); auction; fund raising benefit; contest; competition; quiz; game; rally; festival; presentation; demonstration; group sport; indoor group high intensity exercise; indoor group low intensity exercise; exhibition; market or fair, including a trade fair, agricultural fair, episodic market selling food for human consumption, seasonal fair or episodic indoor event that has as its primary purpose the sale of merchandise or services such as Christmas craft market, home show, antique fair and similar activities; and, for certainty, includes a gathering preceding or following another event;

“face covering” means either of the following that covers the nose and mouth of a person:

- (a) a medical or non-medical mask;
- (b) a tightly woven fabric;

“group high intensity exercise” means two or more individuals from different residences exercising together in a communal space at an intensity that results in significantly increased respiration rates following a set exercise routine, often with an instructor or facilitator, including

hot yoga, spin, cardio classes, high intensity interval training, bootcamp, dance classes and dance fitness;

“group low intensity exercise” means two or more individuals from different residences exercising together in a communal space at an intensity that does not result in significantly increased respiration rates following a set exercise routine, often with an instructor or facilitator, including low intensity Barre classes, stretching, Tai-Chi, Pilates and, yoga;

“group sport” means a sporting activity involving more than one person and includes training and practice for an individual or a team sport, but does not include sport for children or youth, varsity sport or high-performance athlete sport;

“high- performance athlete” means a person who is identified by the Canadian Sport Institute Pacific as a high-performance athlete affiliated with an accredited provincial or national sports organization;

“home club” means the sport organization, club or facility with, or at which, a person is registered for ongoing sport programming;

“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;

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

“passenger” means a person in a perimeter seating vehicle or a perimeter seating bus, other than the driver or a mechanic;

“patron” means a person who attends or is a participant in an event, including a passenger, an occupant, a person other than an occupant who is present in a private residence or vacation accommodation, a leader or presenter at a meeting, an officiant at a wedding, baptism or funeral, customers of a retail business, members of the public present at a market, participants in sport or exercise, spectators at programs for children and youth, spectators at sport or exercise, volunteers at an event, vendors, exhibitors, performers and presenters, but does not include a person who organizes or hosts a gathering, event staff or staff in a place subject to the *Food and Liquor Serving Premises* order;

“perimeter seating” and **“perimeter seating bus”** have the same meaning as in the Passenger Transportation Regulation made under the *Passenger Transportation Act* [SBC2004] Ch. 39;

“physical barrier” means a barrier which is designed, installed and maintained in accordance with WorkSafeBC guidelines at <https://www.worksafebc.com/en/resources/health-safety/information-sheets/covid-19-health-safety-designing-effective-barriers?lang=en>;

“a place” includes areas both inside and outside, an area open to the public and an area not open to the public, a banquet hall, private residence, vacation accommodation, a perimeter seating vehicle or a perimeter seating bus;

“private residence” includes areas both inside and outside;

“program for children or youth” means a structured educational, music, art, drama, dance, recreational, exercise, or social activity supervised by an adult and provided for persons under 22 years of age but does not include a performance, recital or demonstration;

“post-secondary institution” includes an entity that provides any of the following programs:

- (a) an educational or training program provided under
 - (i) the *College and Institute Act*,
 - (ii) the *Royal Roads University Act*,
 - (iii) the *Thompson Rivers University Act*,
 - (iv) the *University Act*, or
 - (v) the *Private Training Act*;
- (b) a program provided in accordance with a consent given under the *Degree Authorization Act*;
- (c) a theological education or training program provided under an Act;

“retail business” means a business that sells retail goods, including a grocery store, clothing store, sporting good store or liquor or cannabis store and includes a department store and the common areas in a mall;

“sport for children or youth” means an activity which is delivered by a provincial sport organization or a local sport organization and may include participants who are under 22 years of age, but does not include varsity sports;

“support group” means a group of people who provide support to one another with respect to grief, disability, substance use, addiction or another psychological, mental or physical health condition;

“transport” means for the purpose of conveying a passenger, but does not include conveying a passenger:

- a. to and from an event, except conveying a worker for the purpose of working at an event;

- b. for the purpose of social interaction or another type of event in a perimeter seating vehicle or a perimeter seating bus; or
- c. from a place which is subject to the *Food and Liquor Serving Premises Order*;

“unencumbered space” means an area without items in it such as display units, tables, cabinets, shelves, counters, fridges or freezers;

“unencumbered and usable space” means an area suitable for exercising in without anything in it other than exercise equipment, exercise mats or other exercise related objects;

“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 any associated deck, garden or yard, that is not the occupant’s primary residence;

“varsity sport” means a sport for which the eligibility requirements for participation are established by a national association for the regulation of intercollegiate athletics, or which is designated as a varsity sport program by a post-secondary institution, and includes fitness training, sport training, practice and competition;

“vehicle” means a motorized fully enclosed means of transportation designed to hold a driver and passengers and meant to be driven on the highway;

“vendor” means a person who sells a product or service at an episodic market and includes the staff of a vendor.

A. PRIVATE RESIDENCES AND VACATION ACCOMMODATION

1. No person may host an event at a private residence or vacation accommodation where there is a person present who is not an occupant, except as provided for in sections 2, 5, 6 and 7.
2. A person who is not an occupant may be present at a private residence or vacation accommodation for the purpose of
 - a. an occupant’s work,
 - b. being provided with care by an occupant,
 - c. a visit by a minor child of an occupant with whom the minor child does not reside on a regular basis,
 - d. providing assistance, care or services, including care to a child who is an occupant or an adult who is an occupant who requires care, health care, personal care or grooming services,
 - e. providing educational programming or tutoring to an occupant,

- f. providing music lessons to an occupant,
 - g. providing religious services to an occupant
 - h. providing legal or financial services to an occupant,
 - i. emergency services,
 - j. housekeeping and window washing,
 - k. gardening and landscape services,
 - l. maintenance,
 - m. repairs,
 - n. renovations,
 - o. moving services,
 - p. or another purpose that is not social in nature.
3. No person who is not an occupant may be present at a private residence or vacation accommodation, except as provided for in sections 2, 5, 6 and 7.
 4. No occupant may be present at an event in a private residence or vacation accommodation if there is any person present who is not an occupant, except as provided for in sections 2, 5, 6 and 7.
 5. Despite sections 1, 3, and 4 an occupant who lives on their own may have up to two other persons who are not occupants present at the occupant's private residence or vacation accommodation for a social purpose, if the other persons are individuals with whom the occupant regularly interacts.
 6. Despite sections 1, 3 and 4, if the two persons referred to in section 5 regularly interact with one another, as well as with the occupant, they may be present for social purposes at the same time in the private residence or vacation accommodation of the occupant.
 7. Despite sections 1, 3 and 4, a person who lives on their own may be present for social purposes at one private residence or vacation accommodation with more than one occupant, if the person regularly interacts with the occupants of the private residence or vacation accommodation.

B. EVENTS

1. No person may permit a place to be used for an event except as provided for in this Order.
2. For certainty, no person may permit a place that is subject to the *Food and Liquor Serving Premises Order* to be used for an event, including private events, except as provided for in this Order.

3. No person may organize or host an event except as provided for in this Order.
4. No person may be present at an event except as provided for in this Order.

C. SUPPORT GROUP MEETINGS, CRITICAL SERVICE MEETINGS, MEALS PROVIDED FOR PEOPLE IN NEED, WEDDINGS, BAPTISMS AND FUNERALS, PROGRAMS FOR CHILDREN AND YOUTH, OCCUPATIONAL TRAINING

1. Subject to the provisions of this Part, a person may permit a place, other than a private residence or vacation accommodation, to be used for, or may organize or host:
 - a. a support group meeting;
 - b. a critical service meeting which cannot be held at the workplace or provided virtually;
 - c. a meal provided without charge to people in need;
 - d. a wedding, baptism or funeral;
 - e. a program for children or youth;
 - f. occupational training which cannot be provided virtually.
2. An owner or organizer must not permit more than fifty patrons to be present at a support group meeting, a critical service meeting, a meal provided without charge to people in need, a program for children or youth or occupational training, or more than ten patrons to be present at a wedding, baptism or funeral.
3. A patron must not be present at a support group meeting, a critical service meeting, a program for children or youth or occupational training at which there are more than fifty patrons, or at a wedding, baptism or funeral at which there are more than ten patrons.
4. **In this and the following sections up to and including section 15**

"event" means a support group meeting, a critical service meeting, a meal provided without charge to people in need, a wedding, a baptism, a funeral, a program for children or youth or occupational training;

An event may only proceed if the following conditions are met:

- a. there is a COVID-19 safety plan;

- b. there is an organizer;
- c. access to the event is controlled;
- d. there is sufficient space available to permit the patrons to maintain a distance of two metres from one another;
- e. the patrons maintain a distance of two metres from one another when standing or sitting, unless they reside together;
- f. measures are put in place to prevent the congregation of patrons outside the place,
- g. the place is assessed for areas where patrons may congregate, and measures are put in place to avoid congregation;
- h. physical devices, markers or other methods are used to guide and assist patrons in maintaining a distance of two metres from other patrons, if they are not seated;
- i. if there are tables provided for the use of patrons, no more than six patrons are seated at a table, even if they reside together, and there are at least two metres between the backs of the chairs at one table and the backs of the chairs at another table, unless the chairs are separated by a physical barrier;
- j. if there is a leader, presenter, officiant, reader or musician, there is a physical barrier between them and other patrons which blocks the transmission of droplets, or there is at least a three metre separation between them and the patrons;
- k. if there is a self-serve food or drink station,
 - i. hand washing facilities or alcohol-based sanitizers are within easy reach of the station;
 - ii. 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, are posted at the self-serve station; and
 - iii. high touch surfaces at the station, and utensils that are used for self-serve, are frequently cleaned and sanitized;
- l. hand sanitation supplies are readily available to patrons;
- m. washroom facilities with running water, soap and paper towels for hand washing and drying purposes, or hand sanitation supplies, are available;

- n. no person is present as a spectator at a program for children or youth, unless the presence of the person is necessary in order to provide care to a child or youth who is a participant in the program for children or youth.
- 5. No person may be present as a spectator at a program for children or youth, unless the presence of the person is necessary in order to provide care to a child or youth who is a participant in the program for children or youth.
- 6. Subject to the maximum numbers in section 2, the owner of a place in which an event is to be held must calculate the maximum number of patrons who can be accommodated safely during the event taking into consideration the requirements of this Part, and must document this number in the COVID-19 safety plan.
- 7. The organizer must monitor the number of patrons present and ensure that the number of patrons present does not exceed the maximum number documented in the COVID-19 safety plan.
- 8. If an event is in a part of a place which is completely separated from the rest of the place, and which has its own entrance and washrooms, there may be additional patrons present in other parts of the place who are not attending the event, if the total number of patrons present in the place does not exceed the maximum number of patrons permitted to be present in the place under the COVID-19 safety plan. Patrons attending an event in part of a place must not have contact with patrons in another part of the place who are not attending the event.
- 9. If there are one or more separate premises in a place, 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 an event in other premises in the place, or with individuals who are in the place but not in the premises in which the event is being held;
 - 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.
- 10. During an event, a patron who leaves the place in which an event is being held must not be replaced by another patron.
- 11. Following an event, and during an appropriate interval of time before another event commences, an owner must ensure that:
 - a. the place is cleaned, sanitized and ventilated while there are no patrons present;
 - b. there is a sufficient period of time between events to permit a place to be cleaned, sanitized and ventilated without any patrons being present, and

patrons leaving one event, do not have contact with patrons arriving for a subsequent event.

12. Patrons must disperse immediately after an event and must not congregate with patrons who are leaving the event or arriving for a subsequent event.
13. The organizer must ensure that the COVID-19 safety plan is complied with and that the conditions and requirements in sections 2, 4, 7, 8, 9, 10, 12, 14, 16 and 17 are met.
14. The organizer must
 - a. collect the first and last names and telephone number, or email address, of every patron who attends 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; and
 - c. destroy the information after thirty days.
15. If the organizer is not the owner of the place in which the event is held, the owner must be satisfied that the organizer is aware of the conditions and requirements in sections 2, 4, 7, 8, 9, 10, 12, 14, 16 and 17 and has the capacity to fulfill them.
16. Patrons must not congregate and must comply with
 - a. the limitation on the number of patrons permitted in a place at the event which they are attending;
 - b. the distancing and other requirements in sections 4 (e) and (i), and section 12; and
 - c. a request to provide the information required in section 14.
17. For certainty, no person may permit a place to be used for, or organize or host, a reception or gathering, before or after a wedding, baptism or funeral, unless the people present all reside in the same private residence.
18. For certainty, no person may attend a reception or informal gathering at any place, either before or after a wedding, baptism or funeral, unless the people present all reside in the same private residence.

D. SPORT FOR CHILDREN OR YOUTH

1. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, or may participate in sport for children or youth, if the following conditions are met:
 - a. participants maintain a physical distance of three metres from one another and do not engage in handshaking, high fives, hugging or similar behaviour;
 - b. the focus is on activities that have a low risk of COVID-19 virus transmission;
 - c. no person is present as a spectator, unless the presence of the person is necessary in order to provide care to a child or youth who is a participant.
2. No person may permit a place to be used for, may provide, or may participate in sport for children or youth, unless the conditions in section 1 are met.
3. No person may be present as a spectator at sport for children or youth, unless the presence of the person is necessary in order to provide care to a participant.

E. VARSITY SPORT

1. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, or may participate in varsity sport, if the following conditions are met:
 - a. the participants are members of a varsity sport team;
 - b. participants maintain a physical distance of three metres from one another when engaged in sport and do not engage in handshaking, high fives, hugging or similar behaviour;
 - c. the focus is on activities that have a low risk of COVID-19 virus transmission;
 - d. no person is present as a spectator, unless the presence of the person is necessary in order to provide care to a participant;
 - e. a participant only trains or practices with
 - i. the post-secondary institution with which the participant is enrolled, or

- ii. with respect to which the participant is a confirmed recruit, as permitted by and in accordance with the requirements of the body which governs the varsity sport.
- 2. No person may permit a place be used for, or may provide, or may participate in varsity sport, unless the conditions in section 1 are met.
- 3. No person may be present as a spectator at varsity sport, unless the presence of the person is necessary in order to provide care to a participant.

F. GROUP SPORT

- 1. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, or may participate in group sport, if the following conditions are met:
 - a. if the group sport is indoors, only two persons participate;
 - b. if the group sport is outdoors, only four persons participate;
 - c. the participants maintain a distance of three metres from one another while engaged in the group sport, unless the participants reside in the same private residence;
 - d. there are no spectators, unless the presence of a spectator is necessary in order to provide care to a participant
- 2. No person may permit a place be used for, or may provide, or may participate in group sport, unless the conditions in section 1 are met.
- 3. No person may be present as a spectator at group sport, unless the presence of the person is necessary in order to provide care to a participant.

G. TRAVEL FOR SPORT

- 1. No person may travel for children and youth sport or group sport, including for training, practice, games or tournaments.
- 2. Section 1 does not apply to travel by a person to the person's home club sports facility at which the person regularly trains or practices.

H. HIGH- PERFORMANCE ATHLETES

- 1. Parts D, E, F and G do not apply to high- performance athletes.

2. A person who is a high-performance athlete who is already training in British Columbia may train, practice, compete and travel for that purpose if the person follows the COVID-19 safety protocols of the provincial or national sports organization with which the person is affiliated.

I. EXERCISE

1. No person may permit a place to be used for, or may provide, or participate in indoor group high intensity exercise.
2. No person may participate in indoor group high intensity exercise in any place.
3. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, or may participate in indoor group low intensity exercise, if the following conditions are met:
 - a. the provider has developed a COVID-19 safety plan in accordance with the guidelines for group low intensity exercise at <https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-public-health-guidelines-low-intensity-exercise.pdf>
 - b. the COVID-19 safety plan has been posted in a place easily visible to participants;
 - c. the owner of the place in which the indoor group low intensity exercise is to take place, or the provider of the indoor group low intensity exercise, has determined how many participants may be accommodated safely in the space where the indoor low intensity exercise is to be provided, based on 7 square metres of unencumbered usable floor space being available for each participant and staff person who will be present, and this number has been recorded in the COVID-19 safety plan;
 - d. despite subsection c., no more than 25 participants and staff members are present in any exercise class or room where indoor group low intensity exercise is provided;
 - e. a participant must register to participate in advance;
 - f. a provider must not permit participants who have not registered in advance to participate;

- g. a participant must maintain a distance of 2.5 metres from every other participant when exercising;
 - h. a participant must maintain a distance of 2 metres from every other participant and staff member while not exercising;
 - i. the provider must ensure that there are at least 10 minutes between indoor group low intensity exercise sessions when there are no participants in the place;
 - j. a participant must leave the facility as soon as the participant has finished exercising;
 - k. participants must not congregate inside or outside the place;
 - l. the provider, or the provider's staff, supervises participants to ensure that the participants
 - i. comply with distancing requirements;
 - ii. do not congregate inside or outside the place; and
 - iii. leave as soon as they have finished exercising;
 - m. no person is present as a spectator, unless the presence of the person is necessary in order to provide care to a participant
4. No person may permit a place to be used for, or may provide or participate in indoor group low intensity exercise, unless the conditions in section 3 are met.
 5. No person may be present as a spectator at indoor group low intensity exercise, unless the presence of the person is necessary in order to provide care to a participant.
 6. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, or may participate in outdoor group exercise, if the following conditions are met:
 - a. the participants maintain a distance of 2 metres from other participants when exercising, and
 - b. the participants do not congregate with other participants either before or after exercising.

- c. no person is present as a spectator, unless the presence of the person is necessary in order to provide care to a participant.
7. A person who participates in outdoor group exercise must
- a. maintain a distance of 2 metres from other participants, and
 - b. not congregate with other participants before or after exercising.
8. No person may permit a place to be used for, may provide or may participate in outdoor group exercise, unless the conditions in sections 6 or 7 are met.
9. No person may be present as a spectator at outdoor group exercise, unless the presence of the person is necessary in order to provide care to a participant.

J. DRIVE-THROUGH AND DRIVE-IN EVENTS

1. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, a drive-through event to view a seasonal light or similar display or to drop off or pick up items such as food, toys or books, if the following conditions are met:
- a. traffic moves in one direction;
 - b. the entrance and exit are clearly marked and controlled;
 - c. patrons stay in their vehicles except to drop off or pick up items and return to their vehicles without delay;
 - d. patrons, staff and volunteers maintain a two metre distance from one another or physical barriers are in place;
 - e. patrons do not congregate together in one spot;
 - f. the organizer monitors the actions of patrons to ensure that
 - i. they only leave their vehicles to drop off items;
 - ii. they return to their vehicles immediately after dropping off items; and

- iii. they comply with the physical distancing requirement when out of their vehicles.
- 2. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may provide, a drive-in event, if the following conditions are met:
 - a. patrons only attend in a vehicle;
 - b. no more than fifty vehicles are present at the drive in;
 - c. patrons remain in their vehicles except to use washroom facilities, and when outside their vehicles for this purpose they maintain a distance of two metres from other patrons and staff;
 - d. the entrance and exit to the drive-in are clearly marked and controlled and traffic moves in only one direction;
 - e. no food or drink is sold;
 - f. the organizer monitors the actions of patrons to ensure that
 - i. they remain in their vehicles except to use washroom facilities; and
 - ii. comply with the physical distancing requirement if outside their vehicle;
 - g. the organizer
 - i. collects the first and last name and telephone number or email address of every driver of a vehicle who attends an event;
 - ii. retains 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; and
 - iii. destroys the information after thirty days.

3. No person may permit a place to be used for, or provide, or be a patron at a drive-through or drive -in event unless the conditions in this Part are met.

K. PERIMETER SEATING VEHICLES AND PERIMETER SEATING BUSES

In this Part

“accommodated safely” means that each passenger is seated at least two metres away from every other passenger, except another passenger with whom the passenger resides in the same private residence.

1. No person may operate, or permit to be operated, a perimeter seating vehicle or a perimeter seating bus in the affected area between the hours of 11:00 PM and 6:00 AM, except for the purpose of maintenance, fueling or a related purpose.
2. No person may operate, or permit to be operated, a perimeter seating vehicle or a perimeter seating bus in the affected area between the hours of 6:00 AM and 11:00 PM
 - a. for a purpose other than
 - i. maintenance, fueling or a related purpose; or
 - ii. transport; or
 - b. with more passengers than can be accommodated safely
3. No person may be a passenger between the hours of 11:00 PM and 6:00 AM.
4. No person may be a passenger between the hours of 6:00 AM and 11:00 PM
 - a. for a purpose other than transport; or
 - b. if there are more passengers than can be accommodated safely.

L. RETAIL BUSINESSES

1. A person may permit a place other than a residence or vacation accommodation to be used for a retail business to which the public has access, and a person may be present in a retail business, if the following conditions are met:
 - a. The owner must calculate the maximum number of patrons who can be accommodated safely in the part of the place to which the public has access, based on allowing five square metres of unencumbered space for each person, including

patrons and staff members, and must document this number in the COVID-19 safety plan;

- b. Despite section 1. a., if the part of the place to which the public has access consists of less than five square metres of unencumbered space, the maximum number of patrons who can be accommodated safely is one, and the owner must document this number in the COVID-19 safety plan;
 - c. The owner must ensure that the number of patrons present does not exceed the maximum number who can be accommodated safely in the part of the place to which the public has access, as documented in the COVID-19 safety plan;
 - d. A person must not enter a retail business if advised by the owner or a staff member that the person cannot be safely accommodated;
 - e. A patron must leave a retail business if requested to do so by the owner or a staff member, on the basis that the person cannot be safely accommodated;
 - f. An owner must take measures, where practical, such as the placement of two metre distance indicators and the posting or erection of signs, to guide patrons who are waiting to enter a retail business, or waiting for any other purpose inside a retail business, in maintaining a two metre distance from other patrons in order to prevent the congregation of patrons in one spot;
 - g. Where practical, an owner must clearly mark entrances and exits and use one- way signage or arrows on the floor to guide patrons in moving in one direction;
 - h. Where practical, an owner must post or erect signs advising patrons to move in one direction, keep moving, maintain a distance of two metres from other patrons, avoid congregation, and avoid congestion at the end of aisles; and
 - i. An owner must make hand sanitation options readily available for patrons.
2. A person must not permit a place to be used, or use a place for, a retail business unless the conditions in this Part are met.
 3. No person may be present as a patron in a retail business, unless the conditions in this Part are met.

M. EPISODIC MARKETS

1. A person may permit a place, other than a private residence or vacation accommodation, to be used for, or may manage, an episodic market, subject to the conditions in this part.

2. The owner of a place at which an indoor episodic market is to be held must calculate the maximum number of patrons who can be accommodated safely, based upon allowing five square metres of unencumbered space for each patron and vendor, and must document this number in the COVID-19 safety plan.
3. A person must not enter an indoor episodic market if advised by the owner, manager or a staff member that the person cannot be accommodated safely.
4. A person must leave an indoor episodic market if advised by the owner, manager or a staff member that the person cannot be accommodated safely.
5. A manager must
 - a. monitor the number of patrons present at an indoor episodic market and ensure that the number of patrons present does not exceed the maximum number documented in the COVID-19 safety plan;
 - b. take measures, such as the placement of two metre distance indicators and the posting or erection of signs, or the use of arrows or markers on the floor, to guide patrons who are waiting to enter an episodic market in maintaining a two metre distance from other patrons, in order to prevent the congregation of patrons in one spot;
 - c. arrange the placement of vendors at an episodic market in such a way as to facilitate the movement of patrons in one direction;
 - d. post or erect signs advising patrons to move in one direction, keep moving, maintain a distance of two metres from other patrons and not congregate in one spot;
 - e. either ensure that there is a distance of two metres between vendors and patrons, or install physical barriers between vendors and patrons which block the transmission of droplets, or, if neither of the foregoing is practical, require vendors to wear a face covering;
 - f. take measures, such as the placement of two metre distance indicators or the posting or erection of signs, or the use of arrows or markers on the floor, to guide patrons in maintaining a two metre distance from other patrons in places where line-ups may occur, such as washrooms.

- g. place hand sanitation supplies in spots that are readily available to patrons and post or erect signs reminding patrons to regularly wash their hands or use hand sanitizer;
 - h. provide washroom facilities with running water, soap and paper towels for hand washing and drying purposes, or hand sanitation supplies;
 - i. if there are picnic tables, or tables with chairs, arrange the picnic tables, or the tables and chairs, so that there are two metres between the patrons seated at one table and the patrons seated at another table;
 - j. post or erect signs advising that there must be no more than six patrons seated at a table;
 - k. ensure that each day a vendor participates in an episodic market the vendor has carried out a health check and confirmed with the manager that the vendor has passed the health check;
 - l. if a manager is not satisfied that a vendor has carried out and passed the daily health check, the manager must not permit the vendor to be present at the episodic market;
 - m. not permit a product other than food for human consumption to be sold at an episodic market;
 - n. not permit a service to be sold at an episodic market.
6. If the manager is not the owner of the place at which an episodic market is held, the owner must be satisfied that the manager is aware of the requirements in the COVID-19 safety plan and section 5 and has the capacity to fulfill them.
 7. A vendor must not sell a product that is not food for human consumption.
 8. A vendor must not sell a service.
 9. A vendor must do a health check before being present at an episodic market and must confirm with the manager that the vendor has passed the daily health check.
 10. A vendor who has not done a health check, or not confirmed with the manager that the vendor has passed a health check, or who has not passed a health check, must not be present at an episodic market.

11. A vendor must either ensure that there is a distance of two metres between the vendor and patrons, or that there is a physical barrier between the vendor and patrons which blocks the transmission of droplets, or, if this is not practical, wear a face covering.
12. A vendor who sells food for human consumption must comply with the following requirements:
 - a. not provide samples of food for tasting; and
 - b. only sell food prepared at an episodic market in single-use, closed, take-out containers.
13. A vendor who is a manufacturer of liquor with an on-site retail endorsement on their liquor licence, must comply with the following requirements:
 - a. not provide samples of products for tasting; and
 - b. only sell products in sealed retail containers, such as bottles, cartons, boxes and cans.
14. Despite section 5 (e) and section 11, a vendor is not required to wear a face covering if any of the following applies:
 - a. the vendor is unable to put on or remove a face covering without the assistance of another person;
 - b. the vendor is unable to wear a face covering because of
 - i. a psychological, behavioural or health condition, or
 - ii. a physical, cognitive or mental impairment;
 - c. the face covering is removed temporarily for the purpose of identifying the vendor;
 - d. the face covering is removed temporarily to communicate with a person who is hearing impaired;
 - e. the vendor is eating or drinking and is not involved in a transaction with a patron.
15. A patron must

- a. comply with signs, directions or measures intended to promote physical distancing and to prevent congregation;
 - b. not sit at a table with more than 5 other patrons.
16. No person may permit a place to be used for, or use a place for, or be a patron at, an episodic market unless the conditions in this Part are met.

N. RELATED MEDICAL HEALTH OFFICERS ORDERS

Recognizing that the risk differs in different regions of the province and that medical health officers are in the best position to assess local circumstances and to determine whether additional or more restrictive steps need to be taken to reduce the risk of the transmission of COVID-19, **I FURTHER ORDER:**

1. A medical health officer may issue an order further to this Order for the purpose of having the provisions of the order incorporated into this Order. Such an order may add further prohibitions, or impose more restrictive limitations or conditions in the whole or part of the geographic area of the province for which the medical health officer is designated and, subject to section 2, the provisions of the order are incorporated into this Order when posted on my website. For certainty, a contravention of an order of a medical health officer issued further to this Order and posted on my website is a contravention of this Order.
2. While it is in force, a provision in an order made by a medical health officer further to this Order and posted on my website, which adds further prohibitions or imposes more restrictive limitations or requirements than this Order, applies in the whole or part of the geographic area of the province for which the medical health officer is designated, despite the provisions of this Order.

Parts A, B and C expire at midnight (24:00 hours) on February 5, 2021 unless extended by me; Parts D to N do 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.

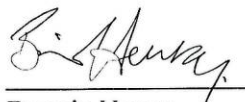
If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer
 4th Floor, 1515 Blanshard Street
 PO Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
 Fax: (250) 952-1570
 Email: ProvHlthOffice@gov.bc.ca

DATED THIS: 8th day of January 2021

SIGNED:


 Bonnie Henry
 MD, MPH, FRCPC
 Provincial Health Officer

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

Enclosure: Excerpts of the *Public Health Act*.

ENCLOSURE

Excerpts of the *Public Health Act* [SBC 2008] c. 28

Definitions

1 In this Act:

"health hazard" means

- (a) a condition, a thing or an activity that
 - (i) endangers, or is likely to endanger, public health, or
 - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
 - (i) is associated with injury or illness, or
 - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting health hazards and contraventions

31 (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;
- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
- (c) to bring the person into compliance with the Act or a regulation made under it;
- (d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:

- (a) a person whose action or omission
 - (i) is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (b) a person who has custody or control of a thing, or control of a condition, that
 - (i) is a health hazard or is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (c) the owner or occupier of a place where
 - (i) a health hazard is located, or
 - (ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

Specific powers respecting health hazards and contraventions

32 (1) An order may be made under this section only

- (a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and
- (b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

(2) Without limiting section 31, a health officer may order a person to do one or more of the following:

- (a) have a thing examined, disinfected, decontaminated, altered or destroyed, including
 - (i) by a specified person, or under the supervision or instructions of a specified person,
 - (ii) moving the thing to a specified place, and
 - (iii) taking samples of the thing, or permitting samples of the thing to be taken;
- (b) in respect of a place,
 - (i) leave the place,
 - (ii) not enter the place,
 - (iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,
 - (iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and
 - (v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;
- (c) stop operating, or not operate, a thing;
- (d) keep a thing in a specified place or in accordance with a specified procedure;
- (e) prevent persons from accessing a thing;
- (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
- (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
- (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;

(i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;

(j) provide evidence of complying with the order, including

(i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and

(ii) providing to a health officer any relevant record;

(k) take a prescribed action.

(3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless

(a) the person consents in writing to the destruction of the thing, or

(b) Part 5 [*Emergency Powers*] applies.

May make written agreements

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

(a) instead of making an order under Division 1, 3 or 4, enter into a written agreement with a person, under which the person agrees to do one or more things;

(b) order a person to do one or more things that a person has agreed under paragraph (a) to do, regardless of whether those things could otherwise have been the subject of an order under Division 1, 3 or 4.

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

(a) levy an administrative penalty under this Act, or

(b) charge a person with an offence under this Act.

Contents of orders

39 (3) An order may be made in respect of a class of persons.

Duty to comply with orders

42 (1) A person named or described in an order made under this Part must comply with the order.

(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

Reconsideration of orders

43 (1) A person affected by an order, or the variance of an order, may request the health officer who issued the order or made the variance to reconsider the order or variance if the person

(a) has additional relevant information that was not reasonably available to the health officer when the order was issued or varied,

(b) has a proposal that was not presented to the health officer when the order was issued or varied but, if implemented, would

(i) meet the objective of the order, and

(ii) be suitable as the basis of a written agreement under section 38 [*may make written agreements*], or

(c) requires more time to comply with the order.

(2) A request for reconsideration must be made in the form required by the health officer.

(3) After considering a request for reconsideration, a health officer may do one or more of the following:

(a) reject the request on the basis that the information submitted in support of the request

(i) is not relevant, or

(ii) was reasonably available at the time the order was issued;

(b) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;

(c) confirm, rescind or vary the order.

- (4) A health officer must provide written reasons for a decision to reject the request under subsection (3) (a) or to confirm or vary the order under subsection (3) (c).
- (5) Following a decision made under subsection (3) (a) or (c), no further request for reconsideration may be made.
- (6) An order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.
- (7) For the purposes of this section,
 - (a) if an order is made that affects a class of persons, a request for reconsideration may be made by one person on behalf of the class, and
 - (b) if multiple orders are made that affect a class of persons, or address related matters or issues, a health officer may reconsider the orders separately or together.
- (8) If a health officer is unable or unavailable to reconsider an order he or she made, a similarly designated health officer may act under this section in respect of the order as if the similarly designated health officer were reconsidering an order that he or she made.

Review of orders

- 44** (1) A person affected by an order may request a review of the order under this section only after a reconsideration has been made under section 43 [*reconsideration of orders*].
- (2) A request for a review may be made,
 - (a) in the case of an order made by a medical health officer, to the provincial health officer, or
 - (b) in the case of an order made by an environmental health officer, to a medical health officer having authority in the geographic area for which the environmental health officer is designated.
 - (3) If a review is requested, the review is to be based on the record.
 - (4) If a review is requested, the reviewer may do one or more of the following:
 - (a) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;
 - (b) confirm, vary or rescind the order;

(c) refer the matter back to the person who made the order, with or without directions.

(5) A reviewer must provide written reasons for an action taken under subsection (4) (b) or (c), and a person may not request further review of an order.

Offences

99 (1) A person who contravenes any of the following provisions commits an offence:

...

(k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];