

RECORD OF DECISION – CMOH Order 02-2021 which rescinds CMOH Order 42-2020

Re: 2021 COVID-19 Response

Whereas I, Dr. Deena Hinshaw, Chief Medical Officer of Health (CMOH) have initiated an investigation into the existence of COVID-19 within the Province of Alberta.

Whereas the investigation has confirmed that COVID-19 is present in Alberta and constitutes a public health emergency as a novel or highly infectious agent that poses a significant risk to public health.

Whereas under section 29(2.1) of the *Public Health Act* (the Act), I have the authority by order to prohibit a person from attending a location for any period and subject to any conditions that I consider appropriate, where I have determined that the person engaging in that activity could transmit an infectious agent. I also have the authority to take whatever other steps that are, in my opinion, necessary in order to lessen the impact of the public health emergency.

Whereas I made Record of Decision – CMOH Order 42-2020 on December 11, 2020 setting out measures in respect of private residences, private social gatherings, places of worship, masks, businesses and entities, group physical activity, group performance activity and working from one's private residence.

Whereas I made Record of Decision – CMOH Order 43-2020 on December 22, 2020 which amended CMOH Order 42-2020.

Whereas I made Record of Decision – CMOH Order 44-2020 on December 23, 2020 which rescinded CMOH Order 43-2020 and amended CMOH Order 42-2020.

Whereas I made Record of Decision – CMOH Order 01-2021 on January 18, 2021 which amended CMOH Order 42-2020.

Whereas having determined that some of the measures in Record of Decision – CMOH Order 42-2020 can be modified to permit Albertans to attend certain locations and engage in certain activities where the risk of COVID-19 transmission can be mitigated if persons adhere to public health measures and guidelines, I hereby make the following Order which rescinds Record of Decision – CMOH Order 42-2020:

Part 1 – Application

1. This Order is effective February 8, 2021 and applies throughout the Province of Alberta.
2. If a section in Part 2, 3, 4, 6, 7, 8 and 9 of this Order is inconsistent or in conflict with a provision in Record of Decision – CMOH Order 25-2020 or 26-2020, the section in Part 2, 3, 4, 6, 7, 8 and 9 of this Order prevails to the extent of the inconsistency or conflict.

Part 2 – Private residences

3. Subject to sections 4 and 5 of this Order, a person who resides in a private residence must not permit a person who does not normally reside in that residence to enter or remain in the residence.
4. Section 3 of this Order does not prevent a person from entering the private residence of another person for any of the following purposes:
 - (a) to provide health care, personal care or housekeeping services;
 - (b) for a visit between a child and a parent or guardian who does not normally reside with that child;
 - (c) to receive or provide child care;
 - (d) to provide tutoring or other educational instruction;
 - (e) to perform construction, renovations, repairs or maintenance;
 - (f) to deliver items;
 - (g) to provide real estate or moving services;
 - (h) to provide social or protective services;
 - (i) to respond to an emergency;
 - (j) to provide counselling services;
 - (k) for a visit between a person who is at the end of their life (last four to six weeks, as determined by that person's primary health care provider) and a family member, friend, faith leader or other person as long as no more than three visitors enter the private residence of the dying person at one time;
 - (l) to provide personal or wellness services.
5. A person who resides on their own may
 - (a) have two other persons with whom they regularly interact attend at their private residence; and
 - (b) attend at the private residence of a person with whom they regularly interact.
6. For the purposes of this Order, a single adult who only lives with one or more minors is deemed to be a person who resides on their own.

7. For greater certainty, a person who resides on their own may only have the same two other persons attend at their private residence for the period of time this Part of this Order is in effect.
8. A person who resides on their own may attend at the private residence of a person with whom they regularly interact only if the person with whom they regularly interact also lives on their own.

Part 3 – Private social gatherings

9. For the purpose of Part 3 of this Order, a “public place” has the same meaning given to it in the *Public Health Act*.
10. For the purpose of Part 3 of this Order, a “private place” has the same meaning given to it in the *Public Health Act*.
11. For the purposes of this Order, a “private social gathering” is defined as any type of private social function or gathering at which a group of persons come together and move freely around to associate, mix or interact with each other for social purposes rather than remaining seated or stationary for the duration of the function or gathering, but does not include
 - (a) a gathering in which all persons are members of the same household; and
 - (b) a gathering in which a person who resides on their own interacts with the two other persons referred to in section 5 of this Order.
12. All persons are prohibited from attending a private social gathering at an indoor public place, except in accordance with this Part of this Order.
13. Subject to section 15 of this Order, all persons are prohibited from attending a private social gathering at an outdoor private place or public place where 11 or more persons are in attendance at the private social gathering.
14. Despite anything in Part 2 of this Order, a private social gathering of 10 persons or less may occur at an indoor or outdoor public or private place for the purposes of a wedding ceremony.
15. Despite anything in Part 2 of this Order and section 13 of this Order, a private social gathering of 20 persons or less may occur at an indoor or outdoor public or private place for the purposes of a funeral service.

16. For greater certainty, a private social gathering as described in sections 14 and 15 of this Order does not permit a gathering for the purposes of a funeral or wedding reception.

Part 4 - Places of worship

17. A faith leader may conduct an outdoor drive-in worship service and any person may attend an outdoor drive-in worship service, if the persons who attend the drive-in worship service, other than the faith leader, remain within a motor vehicle that is designed to be closed to the elements while attending the worship service.
18. A faith leader may conduct a worship service at a place of worship, if the number of persons who attend the worship service at the place of worship is limited to 15% of the total operational occupant load as determined in accordance with the Alberta Fire Code and the fire authority having jurisdiction.
19. The prohibition in section 65 of this Order does not apply to an indoor group performance activity that occurs during a worship service conducted by a faith leader at a place of worship.

Part 5 – Masks

20. Despite anything in Part 5 of this Order, a person does not need to wear a face mask while working at a farming or ranching operation, unless the person is interacting with a member of the public.
21. For the purposes of Part 5 of this Order, a farming or ranching operation means
- (a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, poultry or bees,
 - (b) an operation that produces cultured fish within the meaning of the *Fisheries (Alberta) Act*, and
 - (c) any other primary agricultural operation specified in the regulations,
- but does not include the operation of a greenhouse, mushroom farm, nursery or sod farm.

22. For the purpose of Part 5 of this Order, a “public place” has the same meaning given to it in the *Public Health Act*, but does not include a rental accommodation used solely for the purposes of a private residence.
23. For the purpose of Part 5 of this Order, a “face mask” means a medical or non-medical mask or other face covering that covers a person’s nose, mouth and chin.
24. If a section in Part 5 of this Order is inconsistent or in conflict with a provision in Record of Decision – CMOH Orders 10-2020, 13-2020, 29-2020 or 33-2020, the provisions in Record of Decision – CMOH Order 10-2020, 13-2020, 29-2020 and 33-2020 prevail to the extent of the inconsistency or conflict.
25. Subject to section 26 of this Order, a person must wear a face mask at all times while attending an indoor public place. For greater certainty, an indoor public place includes any indoor location where a business or entity is operating.
26. Section 25 does not apply to a person attending an indoor public place if the person
- (a) is a child under two years of age;
 - (b) is unable to place, use or remove a face mask without assistance;
 - (c) is unable to wear a face mask due to a mental or physical limitation;
 - (d) is consuming food or drink;
 - (e) is engaging in high intensity physical exercise;
 - (f) is providing or receiving care or assistance where a face mask would hinder that caregiving or assistance;
 - (g) is alone at a workstation and separated by at least two metres distance from all other persons;
 - (h) is the subject of a workplace hazard assessment in which it is determined that the person's safety will be at risk if the person wears a mask while working;
 - (i) is separated from every other person by a physical barrier that prevents droplet transmission; or
 - (j) is a person who needs to temporarily remove their face mask while in the public place for the purposes of

- i. receiving a service that requires the temporary removal of their face mask,
- ii. an emergency or medical purpose, or
- iii. establishing their identity.

27. Despite anything in Part 5 of this Order, a student, including a student that attends a home schooling co-op, does not need to wear a face mask while attending:

- (a) an early childhood services program;
- (b) grades 1 through 3 at an indoor location within a school; or
- (c) the home schooling equivalent to an early childhood services program, grades 1, 2 and 3 at a home schooling co-op.

28. For the purposes of Part 5 of this Order, “student” and “school” have the same meaning given to each term respectively in Record of Decision – CMOH Order 33-2020.

29. Despite anything in Part 5 of this Order, a child does not need to wear a face mask while attending any of the following child care programs:

- (a) a “facility-based program” providing day care, out of school care or pre-school care;
- (b) a “family day home program”;
- (c) a “group family child care program”; and
- (d) an “innovative child care program”.

30. For the purposes of Part 5 of this Order,

- (a) “facility-based program” and “family day home program” have the same meaning given to each term respectively in the *Early Learning and Child Care Act*;
- (b) “group family child care program” and “innovative child care program” have the same meaning given to each term respectively in the former *Child Care Licensing Regulation*;
- (c) “day care”, “out of school care”, “pre school care”, have the same meaning given to each term respectively in the *Early Learning and Child Care Regulation*; and

(d) "early childhood services program" has the meaning given to it in the *Education Act*.

Part 6 - Restaurants, cafes, bars and pubs

31. For the purposes of Part 6 of this Order:

(a) "Class A, B or C liquor licence" has the same meaning given to it under the *Gaming, Liquor and Cannabis Regulation*, AR 143/96, under the *Gaming, Liquor and Cannabis Act*.

(b) "Gaming Licence" has the same meaning given to it under the *Gaming, Liquor and Cannabis Regulation*, AR 143/96, under the *Gaming, Liquor and Cannabis Act*.

(c) "Facility Licence" has the same meaning given to it under the *Gaming, Liquor and Cannabis Regulation*, AR 143/96, under the *Gaming, Liquor and Cannabis Act*.

32. Subject to section 33 of this Order, a person who attends a food-serving business or entity that offers or provides dine-in services, including but not limited to a restaurant, café, bar or pub, may eat or drink alone or with other persons who are members of their household.

33. A person who resides on their own and who attends a food-serving business or entity that offers or provides dine-in services, including but not limited to a restaurant, café, bar or pub, may eat or drink alone or with one or both of the two other persons with whom they regularly interact and who may attend at their private residence in accordance with section 5 of this Order.

34. An operator of a food-serving business or entity that offers or provides dine-in services, including but not limited to a restaurant, café, bar or pub must limit the number of persons seated at the same table to a maximum of six persons.

35. A person who attends a food-serving business or entity that offers or provides dine-in services, including but not limited to a restaurant, café, bar or pub, where a person is served food and beverages while seated must provide the following contact information to the operator or a designate prior to receiving any dine-in food or beverage services:

(a) their first and last name;

(b) their phone number; and

(c) the date and time the person attended the food serving business or entity.

36. An operator of a food-serving business or entity described in section 35 of this Order must retain the contact information provided by a person under section 35 of this Order for 28 days following the person's attendance at the food serving business or entity.
37. An operator of a food-serving business or entity that offers or provides dine-in services, including but not limited to a restaurant, café, bar or pub is prohibited from offering or providing any of the following entertainment or activities to persons who attend the food-serving business or entity:
- (a) live performances of any kind including musical, comedic and theatrical performances;
 - (b) billiard, arcade, video or dart games;
 - (c) access to video lottery terminals.
38. An operator of a business or entity with a Class A or C liquor licence, including but not limited to restaurants, bars, lounges, pubs, cafes, legions or private clubs is prohibited from
- (a) serving liquor after 10 p.m., and
 - (b) providing dine-in food or beverage services or allowing persons to remain seated to consume food or beverages after 11p.m..
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39. An operator of a business or entity with a Gaming Licence or Facility Licence or a Class B liquor licence, including but not limited to bowling alleys, casinos, bingo halls, pool halls and indoor recreation entertainment centers is prohibited from
- (a) serving liquor after 10 p.m., and
 - (b) providing dine-in food or beverage services or allowing persons to remain seated to consume food or beverages after 11p.m..
40. Despite anything in Part 7 of this Order, an operator of a business or entity listed or described in section 3 of Appendix A that offers or provides dine-in food or beverage services may operate to the extent necessary to offer or provide dine-in food or beverage services.
41. For greater certainty, an operator of a food-serving business or entity, including but not limited to a restaurant, café, bar or pub, may provide food or beverages by take-out, delivery or drive-thru after 11 p.m..

Part 7 – Businesses and entities

42. Subject to section 43, an operator of a business or entity listed or described in sections 1, 2 and 3 of Appendix A must ensure that the place of business or entity is closed to the public.
43. Section 42 of this Order does not prevent a place of business or entity listed or described in sections 1, 2 and 3 of Appendix A from being used:
- (a) to provide health care services;
 - (b) to provide child care services;
 - (c) for elections purposes and related activities;
 - (d) to undertake jury selections and jury trials;
 - (e) as a shelter for vulnerable persons;
 - (f) as a place of worship;
 - (g) as an indoor market;
 - (h) as a location for blood donation and collection activities;
 - (i) as a location for mutual support meetings;
 - (j) as a location for charitable activities including but not limited to food, clothing and toy collection and distribution;
 - (k) to provide counselling services;
 - (l) to provide consular services;
 - (m) to provide Federal Mediation and Conciliation services;
 - (n) as a location for professional or other certification activities, including but not limited to recertification training or exams;
 - (o) to provide a location for group physical activity to occur;
 - (p) as a location for the exclusive use of a person and any member of their household.

44. An operator of a business or entity listed or described in section 4 of Appendix A must limit the number of members of the public that may attend the location where the business or entity is operating to the greater of
- (a) 15% of the total operational occupant load as determined in accordance with the Alberta Fire Code and the fire authority having jurisdiction; or
 - (b) five persons.
45. An operator of a business or entity listed or described in sections 5, 6, 7, 8 and 9 of Appendix A must schedule an appointment with a person prior to the person attending the location where the business or entity is operating in order to provide the person with services.

Part 8 – Group physical activity

46. An operator of a business or entity described in section 9 of Appendix A must ensure that any indoor physical activity that occurs at the place of business or entity complies with the requirements in Part 8 of this Order.
47. All persons are prohibited from engaging in solo physical activity at a business or entity that is described in section 9 of Appendix A.
48. Except in accordance with this Part of this Order, all persons are prohibited from participating in an indoor group physical activity with persons who are not members of their household at a business or entity that is described in section 9 of Appendix A.
49. For greater certainty, group physical activity includes team sports, fitness classes, and training sessions.
50. Section 48 of this Order does not prevent a person from participating in an indoor group physical activity under the guidance or instruction of one other person who is the person's coach, instructor or trainer.
51. The participation of a second coach, instructor or trainer for the purposes of providing safety and security to a minor participating in indoor group physical activity is not prohibited by section 50 of this Order.
52. A coach, instructor or trainer described in section 50 of this Order must:
- (a) be a professional or certified coach, instructor or trainer; or

- (b) be paid by the person who is receiving the guidance or instruction for the guidance or instruction.

53. A coach, instructor or trainer described in section 50 of this Order must

- (a) wear a face mask at all times while providing guidance or instruction; and
- (b) maintain at least three metres physical distance from the person being guided or instructed unless doing so inhibits the guidance or instruction being provided.

54. An operator of a business or entity described in section 9 of Appendix A must ensure:

- (a) there is at least three metres distance between any groups of persons who are participating in physical activity as described in section 50 of this Order from any other groups of persons who are also participating in physical activity at the place of business or entity; and
- (b) any groups of persons who are participating in physical activity as described in section 50 of this Order do not interact with any other groups of persons who are also participating in physical activity at the place of business or entity.

55. For the purposes of Part 8 and Part 9 of this Order,

- (a) "Post-secondary institution" means a public or private post-secondary institution operating under the *Post-Secondary Learning Act* and includes the physical location or place where the post-secondary institution provides a structured learning environment through which a program of study is offered.
- (b) "School" is defined as a school operating under the *Education Act* and includes the physical location or place where the school provides a structured learning environment through which an education program is offered or provided but does not include any teacher directed education program provided in a home environment (temporary at-home learning) for immediate family members only.
- (c) "Student" has the same meaning given to it in the *Education Act* or the *Post-Secondary Learning Act* depending on the context in which "student" is used.

56. Sections 47 and 48 of this Order do not prevent students from participating in an indoor physical activity as part of:

- (a) an education program where participation in the activity is limited to the students undertaking the education program at the school; or

- (b) a post-secondary institution's program of study where participation in the activity is limited to the students undertaking the program of study at the post-secondary institution.

Outdoor group physical activity

57. Subject to section 59 and 60 of this Order, all persons are prohibited from participating in an outdoor group physical activity, including but not limited to games of hockey, where:

- (a) maintaining a minimum physical distance of two metres between all participants at all times is not possible;
- (b) the outdoor group physical activity includes more than 10 persons.

58. For greater certainty, a person may participate in an outdoor group physical activity consisting of less than 11 persons if a minimum physical distance of two metres between all participants is maintained at all times.

59. Section 57 of this Order does not apply to a group physical activity in which all persons are members of the same household.

60. Section 57 of this Order does not prevent students from participating in an outdoor group physical activity as part of:

- (a) an education program where participation in the activity is limited to the students undertaking the education program at the school; or
- (b) a post-secondary institution's program of study where participation in the activity is limited to the students undertaking the program of study at the post-secondary institution.

Further exceptions to allow persons 18 years of age or younger to participate in group physical activity

61. Despite anything in this Part, a person 18 years of age or younger may participate in a group physical activity of up to 10 persons where all participants must:

- (a) be 18 years of age or younger, except any coach, trainer or instructor; and

- (b) maintain a minimum physical distance of three metres while engaging in indoor group physical activity or two metres while engaging in outdoor group physical activity.

62. Any coach, trainer or instructor who participates in a group physical activity as described in section 61 of this Order must

- (a) be counted towards the maximum number of persons participating in the group physical activity; and
- (b) wear a face mask at all times while providing guidance or instruction.

63. Despite section 61(b) of this Order, a coach, trainer or instructor is not required to maintain physical distance if doing so inhibits the guidance or instruction being provided.

64. For the purposes of sections 61 to 63 of this Order, dance is deemed to be a group physical activity.

Part 9 – Group performance activity

65. Subject to section 67 and 68 of this Order, all persons are prohibited from participating in an indoor group performance activity with persons who are not members of their household.

66. For greater certainty, group performance activity includes singing, dancing, playing of wind instruments and performing live theatre.

67. Section 65 of this Order does not prevent a person from participating in an indoor performance activity under the guidance or instruction of one other person who is the person's coach, instructor or teacher.

68. Section 65 of this Order does not prevent students from participating in an indoor group performance activity as part of:

- (a) an education program where participation in the activity is limited to the students undertaking the education program at the school; or
- (b) a post-secondary institution's program of study where participation in the activity is limited to the students undertaking the program of study at the post-secondary institution.

69. Subject to section 70 and 71 of this Order, all persons are prohibited from participating in an outdoor group performance activity of more than 10 persons.

70. Section 69 of this Order does not apply to a group performance activity in which all persons are members of the same household.
71. Section 69 of this Order does not prevent students from participating in an outdoor group performance activity as part of:
- (a) an education program where participation in the activity is limited to the students undertaking the education program at the school; or
 - (b) a post-secondary institution's program of study where participation in the activity is limited to the students undertaking the program of study at the post-secondary institution.
72. Despite anything in Part 7 of this Order, an operator of a business or entity listed or described in sections 1, 2 and 3 of Appendix A may operate to the extent necessary to offer or provide a location for a group performance activity to occur where participation in the activity is limited to the students undertaking the education program or the post-secondary institution's program of study, as applicable

Part 10 – Work from one's private residence

73. An employer shall require a worker to work from their private residence unless the employer determines the worker's physical presence at the workplace is required to effectively operate the workplace.

Part 11 - General

74. Notwithstanding anything in this Order, the Chief Medical Officer of Health may exempt a person or a class of persons from the application of this Order.
75. This Order remains in effect until rescinded by the Chief Medical Officer of Health.

Signed on this 8 day of February, 2021.


Deena Hinshaw, MD
Chief Medical Officer of Health



Document: Appendix A to Record of Decision – CMOH Order 02-2021

Subject: Businesses and Entities subject to CMOH Order 02-2021

Effective Date: February 8, 2021.

Scope of Application: As per Record of Decision – CMOH Order 02-2021

Overview

This document sets out the businesses and entities that must be closed to the public, limit their capacity or must schedule an appointment in order to provide services while Record of Decision - CMOH Order 02-2021 remains in effect.

Businesses or entities that must be closed to the public

1. Recreational or Entertainment Business or Entity

- a business or entity, or a business or entity that is similar in nature to those described in this section, offering or providing access to the following types of recreational facilities or entertainment facilities:
 - Community halls and centres;
 - Theatres, auditoriums, concert halls, and community theatres;
 - Banquet halls and conference centres;
 - Hotel meeting rooms.

2. Festival or Event Business or Entity

- a business or entity, or a business or entity that is similar in nature to those described in this section, offering or providing any of the following activities:
 - Festivals;
 - Concerts;
 - Exhibitions;
 - Tradeshows;
 - Sporting events or competitions.

3. Recreational or Entertainment Business or Entity

- a business or entity offering, or a business or entity that is similar in nature to those described in this section, or providing access to the following types of recreational facilities or entertainment facilities:

- Movies theatres, libraries and science centres;
- Day camps and overnight camps;
- Indoor children’s play centres and indoor playgrounds;
- Museums and galleries;
- Casinos;
- Gaming Entertainment Centre (as defined by the Alberta Gaming, Liquor and Cannabis);
- Nightclubs;
- Bingo halls, bowling alleys and pools halls;
- Racing Entertainment Centres;
- Indoor Recreation and Entertainment Centres;
- Amusement parks and water parks;
- Any indoor portion of an interpretative centre, excluding public washrooms;
- Any indoor portion of a zoo, excluding public washrooms.

Businesses and entities that must limit capacity

4. Retail Business or Entity

- a business or entity offering or providing any retail goods directly to the public, including but not limited to, a business or entity that falls within one of the categories described below:
 - Alcohol or cannabis stores;
 - Clothing stores;
 - Retail businesses and entities operating within a shopping centre or mall;
 - Shopping centres and malls;
 - Grocery stores;
 - Pet supply stores;
 - Pharmacies;
 - Hardware stores;
 - Automotive parts stores;
 - Computer/technology stores;
 - Gift shops;
 - Sporting goods stores;
 - Indoor markets.

Businesses and entities that must schedule an appointment in order to provide services

5. Personal Service Business or Entity

- a business or entity offering or providing a personal service. For the purposes of this Appendix, a “personal service” has the same meaning given to it in the *Personal Services Regulation*, AR 1/2020, under the *Public Health Act*.

6. Wellness Service Business or Entity

- a business or entity offering or providing a wellness service, including massage therapy services and reflexology services.

7. Lodging Business or Entity

- a business or entity offering or providing accommodations, including hotels, motels, hunting and fishing lodges, and bed and breakfasts.

8. Professional Service Business or Entity

- a business or entity offering or providing the following professional services, including but not limited to:
 - Legal services;
 - Tax services;
 - Financial advisory services;
 - Accountant or bookkeeping services;
 - Photography services;
 - Mediation services;
 - Instructional services provided to an individual;
 - Counselling services.

9. Group Physical Activity Business or Entity:

- any business or entity operating to the extent necessary to offer or provide a location for a group physical activity to occur.