

**RECORD OF DECISION – CMOH Order 42-2020 which rescinds CMOH Orders 38-2020 and 39-2020**

**Re: 2020 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 38-2020 on November 24, 2020 setting out new measures in respect of private residences, private social gatherings, places of worship and requiring persons to wear masks in certain regions of Alberta.

Whereas I made Record of Decision – CMOH Order 39-2020 on November 27, 2020 setting out new measures for certain businesses and entities.

Whereas I made Record of Decision – CMOH Order 40-2020 on November 28, 2020 which modified CMOH Orders 38-2020 and 39-2020.

Whereas I made Record of Decision – CMOH Order 41-2020 on December 8, 2020 which modified CMOH Order 38-2020 and which set out further restrictive measures for private social gatherings and requires the majority of Albertans to wear masks.

Whereas having determined that the measures in Record of Decision - CMOH Orders 38-2020 and 39-2020 are insufficient to protect Albertans from exposure to COVID-19 and to prevent the spread of COVID-19, I hereby make the following Order which rescinds Record of Decision – CMOH Orders 38-2020 and 39-2020.

**Part 1 – Application**

1. This Order is effective December 13, 2020 and applies throughout the Province of Alberta.

2. If a section in Part 2, 3, 4, 6, 7 and 8 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 and 8 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.
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.

### **Part 3 – Private social gatherings**

8. For the purpose of Part 3 of this Order, a “public place” has the same meaning given to it in the *Public Health Act*.
9. For the purpose of Part 3 of this Order, a “private place” has the same meaning given to it in the *Public Health Act*.
10. 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.
11. All persons are prohibited from attending a private social gathering at an indoor public place, except in accordance with this Part of this Order.
12. All persons are prohibited from attending a private social gathering at an outdoor private place or public place, except in accordance with this Part of this Order.
13. 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 following purposes only:
  - (a) a funeral service; or
  - (b) a wedding ceremony.
14. For greater certainty, a private social gathering as described in section 13 of this Order does not permit a gathering for the purposes of a funeral or wedding reception.

### **Part 4 - Places of worship**

15. 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.
16. 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.
17. The prohibition in section 40 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**

18. 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.
19. 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.
20. 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.
21. 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.
22. 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, 14-2020 or 33-2020, the provisions in Record

of Decision – CMOH Order 10-2020, 13-2020, 14-2020 and 33-2020 prevail to the extent of the inconsistency or conflict.

23. Subject to section 24 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.

24. Section 23 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 concern or limitation;
- (d) is consuming food or drink;
- (e) is engaging in 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 2 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.

## **Part 6 – Businesses and entities**

25. A person may attend a location where any business or entity is operating, except a business or entity that is listed or described in sections 1, 2, 3, 4 and 5 of Appendix A.
26. For greater certainty, any business or entity other than a business or entity listed or described in sections 1, 2, 3, 4 and 5 of Appendix A is permitted to offer or provide goods and services to members of the public at a location that is accessible to the public.
27. Subject to section 28, an operator of a business or entity listed or described in sections 1, 2, 3, 4 and 5 of Appendix A must ensure that the place of business or entity is closed to the public.
28. Section 27 of this Order does not prevent a place of business or entity listed or described in section 1 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;
  - (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.
29. An operator of a business or entity listed or described in section 6 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.

30. An operator of a business or entity listed or described in sections 7 and 8 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.

31. Despite sections 25 and 27 of this Order,

(a) a member of the public may attend a food-serving business or entity that offers or provides dine-in services, including but not limited to a restaurant, café, bar or pub, only for the purposes of purchasing food or beverages to be consumed offsite; and

(b) an operator of a food-serving business or entity, including but not limited to a restaurant, café, bar or pub, may operate only to the extent necessary to offer and provide members of the public food or beverages by take-out, delivery or drive-thru.

32. Despite sections 25 and 27 of this Order,

(a) a person who resides in a health care facility as defined in section 2 of Part 1 of Record of Decision – CMOH Order 10-2020 may attend a hair salon or similar business or entity operating within the health care facility in which they reside only for the purposes of having their hair washed and dried; and

(b) an operator of a hair salon or similar business or entity operating within a health care facility as defined in section 2 of Part 1 of Record of Decision – CMOH Order 10-2020 may operate only to the extent necessary to offer and provide hair washing and drying services to persons who resides in the health care facility where they operate.

## **Part 7 – Group physical activity**

33. For the purposes of Part 7 and Part 8 of this Order,

(b) “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.

(c) “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

- (i) any parent or guardian directed program provided to a student (home education),  
or
  - (ii) any teacher directed education program provided in a home environment  
(temporary at-home learning) for immediate family members only.
- (d) "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.
34. Subject to section 36 and 37 of this Order, all persons are prohibited from participating in an indoor group physical activity with persons who are not members of their household.
35. For greater certainty, group physical activity includes team sports, fitness classes, and training sessions.
36. Section 34 of this Order does not prevent a person from participating in an indoor physical activity under the guidance or instruction of one other person who is the person's coach or trainer.
37. Section 34 of this Order does not prevent students from participating in an indoor group physical activity:
- (a) at a school as part of an education program where participation in the activity is limited to the students undertaking the education program at the school; or
  - (b) at a post-secondary institution as part of 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.
38. Subject to section 39 of this Order, all persons are prohibited from participating in an outdoor group physical activity of more than 10 persons.
39. Section 38 does not apply to a group physical activity in which all persons are members of the same household.

#### **Part 8 – Group performance activity**

40. Subject to section 42 and 43 of this Order, all persons are prohibited from participating in an indoor group performance activity with persons who are not members of their household.
41. For greater certainty, group performance activity includes singing, dancing, playing of wind instruments and performing live theatre.



42. Section 40 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 or teacher.
43. Section 40 of this Order does not prevent students from participating in an indoor group performance activity:
- (a) at a school as part of an education program where participation in the activity is limited to the students undertaking the education program at the school; or
  - (b) at a post-secondary institution as part of 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.
44. Subject to section 45 of this Order, all persons are prohibited from participating in an outdoor group performance activity of more than 10 persons.
45. Section 44 does not apply to a group performance activity in which all persons are members of the same household.

#### **Part 9 – Work from one's private residence**

46. 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 10 - General**

47. 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.
48. This Order remains in effect until rescinded by the Chief Medical Officer of Health.

Signed on this 11 day of December, 2020.

  
Deena Hinshaw, MD  
Chief Medical Officer of Health





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**Document:** Appendix A to Record of Decision – CMOH Order 42-2020

**Subject:** Businesses and Entities subject to CMOH Order 42-2020

**Effective Date:** December 13, 2020.

**Scope of Application:** As per Record of Decision – CMOH Order 42-2020

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### **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 42-2020 remains in effect.

### **Businesses or entities that must be closed to the public**

#### **1. Recreational or Entertainment Business or Entity**

- a business or entity 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;
  - Nightclubs;
  - Banquet halls and conference centres;
  - Hotel meeting rooms.

#### **2. Festival or Event Business or Entity**

- a business or entity offering or providing any of the following activities:
  - Festivals;
  - Concerts;
  - Exhibitions;
  - Tradeshows;
  - Sporting events or competitions.

#### **3. Food-serving, Recreational or Entertainment Business or Entity**

- a business or entity offering or providing access to the following types of recreational facilities or entertainment facilities:
  - Food-serving businesses and entities, including restaurants, cafes, bars and pubs that offer or provide dine-in services;
  - Movies theatres, libraries and science centres;

- Indoor gyms, fitness centres, recreation centres, indoor arenas, curling rinks, studios (e.g., dance, yoga, Pilates, cycling, rowing);
- Pools. For the purposes of this Appendix, a “pool” has the same meaning given to it in the *Public Swimming Pools Regulation*, AR 204/2014, under the *Public Health Act*;
- 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);
- Bingo halls, bowling alleys, pool 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.

**4. 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*.

**5. Wellness Service Business or Entity**

- a business or entity offering or providing a wellness service by a person other than a member of a college established under the *Health Professions Act*, including massage therapy services and reflexology services.

**Businesses and entities that must limit capacity**

**6. 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**

**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.

