RECORD OF DECISION – CMOH Order 08-2022

Re: 2022 COVID-19 Response – Step 1 Easing Measures

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 more Albertans are now eligible for COVID-19 vaccination including five to eleven year olds and more Albertans are eligible for COVID-19 booster vaccinations.

Whereas rapid testing for COVID-19 is widely available.

Whereas having determined that certain measures are necessary to protect Albertans from exposure to COVID-19 and to prevent the spread of COVID-19, I hereby make the following order:

Table of Contents

Part 1 Application
Part 2 Definitions
Part 3 Masking
   A. Indoor masking requirements
   B. General exceptions to indoor masking
   C. Exceptions for health conditions
   D. Exception for childcare programs
   E. Exceptions for farming or ranching operations

Part 4 Work from one’s private residence
Part 5 Private residences
Part 6 Private social gatherings
   A. Private social gatherings for protests
Part 7 Capacity restrictions
Part 1 - Application

1.1 This Order applies throughout the province of Alberta.

1.2 Unless otherwise stated herein, this Order comes into force on February 8, 2022 at 11:59 p.m..

1.3 If a section of this Order is inconsistent or in conflict with a provision in Record of Decision - CMOH Order 02-2022, CMOH Order 06-2022 or CMOH Order 07-2022, the sections in those Orders prevail to the extent of the inconsistency or conflict.

1.4 This Order rescinds Record of Decision - CMOH Order 54-2021 and Record of Decision - CMOH Order 55-2021.

Part 2 - Definitions

2.1 In this Order, the following terms have the following meanings:

(a) "adult" means a person who has attained the age of eighteen years.

(b) "authorizing health professional" means one of the following regulated members under the Health Professions Act who holds a practice permit:
   i. nurse practitioners;
   ii. physicians;
   iii. psychologists.

(c) "child care program" means any of the following:
   i. a facility-based program providing day care, out of school care or preschool care;
   ii. a family day home program;
   iii. a group family child care program;
   iv. an innovative child care program.

(d) "Class A, B or C liquor licence" has the same meaning given to it under the Gaming,
(e) "cohort", as the context of this Order requires, means:

i. for a person who resides on their own, one or two other persons with whom the person who resides on their own regularly interacts with during the period of this Order;

ii. for a household, the persons who regularly reside at the home of that household;

iii. for a school, the group of students and staff who primarily remain together for the purposes of instruction as a COVID-19 safety strategy.

(f) "commercial vehicle" means a vehicle operated on a highway by or on behalf of a person for the purpose of providing transportation, but does not include a private passenger vehicle.

(g) "day care" has the same meaning given to it in the Early Learning and Child Care Regulation.

(h) "face mask" means a medical or non-medical mask or other face covering that covers a person's nose, mouth and chin.

(i) "facility-based program" has the same meaning given to it in the Early Learning and Child Care Act.

(j) "Facility Licence" has the same meaning given to it in the Gaming, Liquor and Cannabis Regulation, under the Gaming, Liquor and Cannabis Act.

(k) "family day home program" has the same meaning given to it in the Early Learning and Child Care Act.

(l) "farming or ranching operation" means 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, an operation that produces cultured fish within the meaning of the Fisheries (Alberta) Act, and any other primary agricultural operation specified in the regulations, but does not include the operation of a greenhouse, mushroom farm, nursery or sod farm.

(m) "fitness activity" means a physical activity that occurs at a gym, fitness studio, dance studio, rink, ski hill, pool, hot tub or sauna, arena or recreation centre and includes dance classes, bobsled, pole dancing, rowing, spin, yoga, boxing, boot camp, Pilates and other activities of a similar nature.

(n) "food-serving business or entity" means a restaurant, café, bar, pub or similar business or entity.

(o) "Gaming Licence" has the same meaning given to it in the Gaming, Liquor and Cannabis Regulation, under the Gaming, Liquor and Cannabis Act.

(p) "gaming terminal" means a computer, video device or machine that is used, or could be used, to play a lottery scheme as defined in the Criminal Code (Canada) where, on
insertion of money or a token or on payment of any consideration a person may receive or be entitled to receive money, either directly from the computer, video device or machine or in another manner.

(q) "group family child care program" has the same meaning given to it in the former Child Care Licensing Regulation.

(r) "health condition" means the following mental or physical limitations:
   i. sensory processing disorders;
   ii. developmental delays;
   iii. mental illnesses including: anxiety disorders; psychotic disorders; dissociative identity disorder; and depressive disorders;
   iv. facial trauma or recent oral maxillofacial surgery;
   v. contact dermatitis or allergic reactions to face mask components; or
   vi. clinically significant acute respiratory distress.

(s) "highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes:
   i. a sidewalk, including a boulevard adjacent to the sidewalk;
   ii. if a ditch lies adjacent to and parallel with the roadway, the ditch; and
   iii. if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be,
   but does not include a place declared by regulation not to be a highway.

(t) "innovative child care program" has the same meaning given to it in the former Child Care Licensing Regulation.

(u) "interactive activities" means the following activities engaged in by a person:
   i. dancing;
   ii. billiards;
   iii. arcades;
   iv. photo booths;
   v. darts;
   vi. other substantially similar multi-person or interactive activities, but for greater certainty, does not include a live performance activity observed by a person or gaming terminals where the person who games at the gaming terminal is masked and stationary.

(v) "masking directive or guidance" means, as the context of this Order requires, either:
   i. a directive or guidance document made by a regional health authority, or a
contracted service provider of a regional health authority, which sets out directions or guidance respecting the use of face masks in facilities or settings operated by the regional health authority or the contracted service provider; or

ii. a directive or guidance document made by Alberta Health and posted on the Government of Alberta website.

(w) "medical exception letter" means written confirmation provided to a person by an authorizing health professional which verifies that the person has a health condition that prevents the person from wearing a face mask while attending an indoor public place and

i. clearly sets out the information required by section 3.6 of this Order; and

ii. is valid for a period of one year from the date on which it is made.

(x) "out of school care" has the same meaning given to it in the Early Learning and Child Care Regulation.

(y) "performance activity" means singing, playing a musical instrument, dancing, acting or other activities of a similar nature and includes, but is not limited to, a rehearsal, concert, theatre, dance, choral, festival, musical and symphony events but excludes:

i. congregational singing or dancing;

ii. singing or dancing in a nightclub;

iii. singing along or dancing at a concert; or

iv. any substantially similar activity.

(z) "person who resides on their own" means a person living on their own or a person living on their own who has one or more youth living with them and under their care.

(aa) "physical activity" means a fitness activity or sport activity.

(bb) "post-secondary institution" means:

i. a public or private post-secondary institution operating under the Post-Secondary Learning Act; and

ii. private colleges which are those institutions that have been accredited by Alberta’s Ministry of Advanced Education;

iii. private faith-based institutions that have been accredited either by Alberta’s Ministry of Advanced Education or the Association for Biblical Higher Education or the Association of Theological schools;

iv. Maskwacis Cultural College;

v. Old Sun Community College;

vi. Red Crow Community College;

vii. University nuhelot'ine thayots'i nistameyimakanak Blue Quills; and

viii. Yellowhead Tribal College.
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.

(cc) "preschool care", has the same meaning given to it in the *Early Learning and Child Care Regulation*.

(dd) "private place" means a private place as defined under the *Public Health Act*.

(ee) "private social gathering" means 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 cohort consisting of persons referred to in section 2.1(e) of this Order or persons referred to in section 5.3 of this Order.

(ff) "public place" has the same meaning given to it in the *Public Health Act*, and for greater certainty does not include a rental accommodation used solely for the purposes of a private residence.

(gg) "recreational activity" means any structured or organized activity or program where the purpose of the activity or program is intended to develop a skill, including but not limited to, Girl Guides, Scouts, arts and crafts, pottery or other substantially similar activities.

(hh) "school" has the same meaning given to it in the *Education Act*.

(ii) "school building" has the same meaning given to it in the *Education Act*.

(jj) "Special Event Licence" has the same meaning given to it under *Gaming, Liquor and Cannabis Regulation*, under the *Gaming, Liquor and Cannabis Act*.

(kk) "sport activity" means sports training, practices, events, games, scrimmages, competitions, gameplay, league play, and other activities of a similar nature.

(ll) "stadium seating" means the designated space in an indoor arena, movie theatre or other similar indoor settings where a person sits to observe a physical activity, performance activity or recreational activity.

(mm) "staff member" means any person who is employed by, or provides services under a contract with, an operator of a school.

(nn) "student" has the same meaning given to it in the *Education Act*.

(oo) "visitor" means any person who attends a school, but who is not a student or staff member.

(pp) "youth" means a person who has not attained eighteen years of age.
Part 3 – Masking

A. Indoor masking requirements

3.1 Except as set out in this Order and subject to Part 10, a person must wear a face mask at all times while attending an indoor public place.

3.2 For greater certainty, indoor public places include, but are not limited to:
   (a) a school building;
   (b) commercial vehicles transporting the driver and one or more other persons who are not members of that person’s household, or if the person is a person living alone, then the person’s cohort;
   (c) the common areas of a day camp or overnight camp; and
   (d) all indoor spaces under the control of a business or entity, including all areas where the public or employees of the business or entity may attend.

3.3 For greater certainty, except as otherwise set out in this Order:
   (a) face masks must be worn at a wedding ceremony or funeral service that is held in an indoor public place; and
   (b) a person must comply with all masking directives or guidance while attending at a facility operated by a regional health authority under the Regional Health Authorities Act or a facility operated by a contracted service provider of a regional health authority.

B. General exceptions to indoor masking

3.4 Despite this Part of this Order, a person is not required to wear a face mask at all times while attending an indoor public place if the person is:
   (a) a youth under two years of age;
   (b) effective February 13, 2022 at 11:59 p.m., a youth under thirteen years of age;
   (c) effective February 13, 2022 at 11:59 p.m., a student enrolled in kindergarten through grade 12 while attending at a school and participating in curriculum related or extracurricular school activities;
   (d) a youth or adult participating in an indoor performance activity in circumstances where it is not possible for the youth or adult to wear a face mask while participating in the indoor performance activity;
   (e) a youth or adult participating in an indoor physical activity;
   (f) a person marrying another person during a wedding ceremony, and the persons in their wedding party;
   (g) unable to place, use or remove a face mask without assistance;
   (h) seated at a table while consuming food or drink or, if standing at a standing table while consuming food or drink, as long as the person remains at the standing table at all times while consuming the food or drink;
(i) consuming food or drink while remaining seated where there is no table, including in stadium seating, at table games or a gaming terminal;

(ii) providing or receiving care or assistance where a face mask would hinder that caregiving or assistance;

(k) alone at a workstation and separated by at least two metres distance from all other persons;

(l) 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 face mask while working;

(m) separated from every other person by a physical barrier that prevents droplet transmission;

(n) 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.

C. Exceptions for health conditions

3.5 Despite this Part of this Order, a person who is unable to wear a face mask due to a health condition as determined by an authorizing health professional is excepted from wearing a face mask while attending an indoor public place.

3.6 For the purposes of section 3.5, the health condition must be verified by a medical exception letter that includes the following:

   (a) the name of the person to whom the exception applies;

   (b) the name, phone number, email address, professional registration number, and signature of the authorizing health professional; and

   (c) the date on which the written confirmation was provided.

3.7 For greater certainty, although the medical exception letter must verify that a health condition applies, the medical exception letter must not include specific information about the health condition.

D. Exception for child care programs

3.8 Despite this Part of this Order, a youth attending at a child care program is not required to wear a face mask except in accordance with any masking directive or guidance made by Alberta Health and posted on the Government of Alberta website.

E. Exceptions for farming or ranching operations

3.9 Despite this Part 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.
Part 4 – Work from one’s private residence

4.1 An employer must require a worker to work from the worker’s own private residence unless the employer determines that the worker’s physical presence is required at the workplace to effectively operate the workplace.

Part 5 – Private Residences

5.1 Subject to sections 5.3 and 5.4 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.

5.2 Section 5.1 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 related to a program of study;
   (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) to provide or receive personal or wellness services;
   (l) to provide physical activity or performance instruction; or
   (m) to undertake a municipal property assessment.

5.3 A maximum of ten persons may visit at each other’s private residences.

5.4 For greater certainty, the maximum number of persons set out in section 5.3 does not include youth when the youth is attending with their parent or guardian.

Part 6 – Private social gatherings

6.1 All persons are prohibited from attending a private social gathering at an outdoor public or private place when there are more than twenty persons in attendance, unless the private social gathering is for the purpose of a wedding ceremony, wedding reception, funeral service, or funeral reception.
A. Private social gatherings for protests

6.2 Despite this Part of this Order, a person may attend at an outdoor public place to exercise their right to peacefully demonstrate for a protest or political purpose without limit to the number of persons in attendance if the person:

(a) remains outdoors except where necessary to use the washroom;
(b) wears a face mask at all times;
(c) maintains a minimum physical distance of two metres from any other person in attendance, except where:
   i. either the person or the other person is, or both persons are, eleven years of age or younger; and
   ii. both persons are members of the same household;
(d) does not offer food or beverages to any other person in attendance, regardless of whether the food or beverage is provided for sale or not; and
(e) immediately disperses in a coordinated fashion at the conclusion of the gathering, while at all times adhering to the requirements in this section.

6.3 For greater certainty, a protest or political purpose as described in section 6.2 means for the purpose of expressing a position on a matter of public interest.

Part 7 – Capacity restrictions

7.1 An operator of a business or entity with a total operational occupant load, as determined in accordance with the Alberta Fire Code and the fire authority having jurisdiction, of:

(a) 1,000 or more persons, must limit the number of members of the public that may attend the location where the business or entity is operating to a maximum of fifty percent capacity;
(b) 500 to 999 persons, must limit the number of members of the public that may attend the location where the business or entity is operating to a maximum of 500 persons; and
(c) up to 499 persons, must limit the number of members of the public that may attend the location to the total operational occupant load.

7.2 Despite this Part of this Order, a business or entity operating exclusively outdoors, excepting washrooms, is not subject to any capacity limits.

7.3 Despite this Part of this Order, a post-secondary institution’s physical location or place is not subject to any capacity limits when the location or place is being used for educational purposes.

7.4 Despite this Part of this Order, a place of worship is not subject to any capacity limits.
Part 8 – Food and Beverage Service, Operating Hours and Interactive Activities

8.1 An operator of a food-serving business or entity must:

(a) limit the number of persons seated at the same table to a maximum of ten persons; and

(b) require persons to remain seated at their assigned table while consuming food or drink or, if standing, at their assigned standing table while consuming food or drink, and must prohibit persons mingling with persons at a different seated or standing table.

8.2 An operator of a business or entity or an event with a Special Event Licence is prohibited from allowing persons to participate in interactive activities at the business or entity or event.

8.3 For greater certainty, section 8.2 does not apply to a business or entity that provides interactive activities provided:

(a) the primary purpose of the business or entity is to provide interactive activities;

(b) any food and beverage service is physically separated from where interactive activities are offered;

(c) the interactive activities do not include dancing;

(d) where the business or entity has a Class A, B, or C liquor licence or a Special Event Licence, the business or entity does not serve liquor after 11 p.m.;

(e) where the business or entity has a Class A or C liquor licence or a Special Event Licence, the business or entity must close the premises by 12:30 a.m.; and

(f) where the business or entity has a Class B liquor licence, the business or entity must end liquor consumption by 12:30 a.m..

8.4 Despite sections 8.2 and 8.3, an event that is specifically for the purposes of a wedding reception may permit dancing but must restrict any other interactive activities at the event.

8.5 An operator of a food-serving business or entity with a Class A or C liquor licence, including but not limited to a food-serving business or entity, legion or private club, is prohibited from serving liquor after 11 p.m. and must close the business or entity by 12:30 a.m..

8.6 An operator of a food-serving business or entity with a Gaming Licence or Facility Licence or a Class B liquor licence, including but not limited to a bowling alley, casino, bingo hall, pool hall or indoor recreation entertainment center, is prohibited from serving liquor after 11 p.m. and must end liquor consumption by 12:30 a.m..

8.7 An operator of a food-serving business or entity who holds a Special Event Licence is prohibited from serving liquor after 11 p.m. and must close the premises by 12:30 a.m..
8.8 For greater certainty, an operator of a food-serving business or entity may, subject to applicable laws, provide food or beverages, including liquor, by take-out, delivery or drive-thru at any time.

Part 9 – Youth activities

9.1 A parent or guardian of a youth must screen a youth for symptoms of COVID-19 prior to the youth participating in indoor youth activities in accordance with the COVID-19, Alberta Health Daily Checklist (for children under the age of eighteen).

Part 10 – Schools

A. Physical distancing in schools

10.1 An operator of a school must assign each youth enrolled in kindergarten to grade six to a cohort as in accordance with the guidance on the Government of Alberta website.

10.2 Students, staff and visitors at a school building must maintain a physical distance of two metres from any other person who is not a member of their cohort as referenced in section 2.1(e) in accordance with the guidance on the Government of Alberta website.

10.3 Despite this Part and in accordance with the guidance on the Government of Alberta website, students and staff at a school building are not required to maintain two metres physical distance if doing so inhibits the guidance or instruction being provided or where it is not possible to maintain two metres physical distance.

B. Masking requirements in schools

10.4 An adult who is not a student attending kindergarten through grade 12 must wear a face mask while attending at a school building.

10.5 An operator of a school must ensure that an adult referred to in section 10.4 wears a face mask while attending at a school building.

C. Exceptions to masking in schools

10.6 Section 10.7 expires February 13, 2022 at 11:59 p.m.

10.7 Despite Part 3 and this Part of this Order, students, staff or visitors are not required to wear a face mask at all times while attending at a school building if the student, staff or visitor:
   (a) is unable to place, use or remove a face mask without assistance;
   (b) is unable to wear a face mask due to a health condition;
   (c) is consuming food or drink in a designated area;
   (d) is engaging in a physical activity;
   (e) is seated at a desk or table
i. within a classroom or place where the instruction, course or program of study is
taking place, and

ii. where the desks, tables and chairs are arranged in a manner
(A) to prevent persons who are seated from facing each other, and
(B) to allow the greatest possible distance between seated persons;

(f) is providing or receiving care or assistance where a non-medical face mask would
hinder that caregiving or assistance; or

(g) is separated from every other person by a physical barrier.

10.8 Section 10.9 is effective February 14, 2022 at 12:01 a.m..

10.9 Despite Part 3, an adult who is not a student attending kindergarten through grade 12 is
not required to wear a face mask at all times while attending at a school building if the
adult:
(a) is unable to place, use or remove a face mask without assistance;
(b) is unable to wear a face mask due to a health condition;
(c) is consuming food or drink in a designated area;
(d) is providing or receiving care or assistance where a non-medical face mask would
hinder that caregiving or assistance; or
(e) is separated from every other person by a physical barrier.

10.10 An operator of a school must use its best efforts to ensure that any adult referred to in
section 10.9 who is not required to wear a face mask:
(a) as permitted by section 10.9(a) or (b) of this Order maintains a minimum of two metres
distance from every other person;
(b) as permitted by section 10.9(c) of this Order maintains a minimum of two metres
distance from every other person, if the designated area is not within a classroom or
place where the instruction, course or program of study is taking place.

D. School buses

10.11 Part D expires February 13, 2022 at 11:59 p.m.

10.12 Subject to Part 3 of this Order, an operator of a school must ensure that the following
persons wear a face mask while being transported on a school bus:
(a) all students attending kindergarten through grade 12;
(b) all staff members;
(c) all visitors.

10.13 For greater certainty, section 10.12(b) applies in respect of any person who transports
students attending kindergarten through grade 12 on a school bus to a school, regardless
of whether that person is a staff member.
All students attending kindergarten through grade 12, staff members and visitors must wear a face mask that covers their mouth and nose while being transported on a school bus, unless the student, staff member or visitor:

(a) is unable to place, use or remove a face mask without assistance;
(b) is unable to wear a face mask due to a mental or physical concern or limitation;
(c) is providing or receiving care or assistance where a face mask would hinder that caregiving or assistance; or
(d) is separated from every other person by a physical barrier.

E. School buses (effective February 14, 2022)

Part E is effective February 14, 2022.

Subject to Part 3 of this Order, an operator of a school must ensure that all adults who are not students attending kindergarten through grade 12 wear a face mask while on a school bus.

All adults referred to in section 10.16 must wear a face mask that covers their mouth and nose while being transported on a school bus, unless the adult:

(a) is unable to place, use or remove a face mask without assistance;
(b) is unable to wear a face mask due to a mental or physical concern or limitation;
(c) is providing or receiving care or assistance where a face mask would hinder that caregiving or assistance; or
(d) is separated from every other person by a physical barrier.

F. Exception to masking where physical distancing can be maintained

Subject to section 10.19 of this Order, sections 10.4 to 10.17 of this of Order do not apply in respect of an operator of a school who is able to ensure that all students, staff members and visitors maintain a minimum of two metres distance from every other person while attending an indoor location within a school or while being transported on a school bus.

An operator of a school must:

(a) create a written plan that sets out how physical distancing will be maintained;
(b) provide the plan upon request from the Chief Medical Officer of Health, Medical Officer of Health or Alberta Education; and
(c) receive an exemption from the Chief Medical Officer of Health.

Despite section 10.18 of this Order, an operator of a school does not need to ensure that students, staff members and visitors are able to maintain a minimum of two metres distance from every other person when a student, staff member or visitor is seated at desk or table:

(a) within a classroom or place where the instruction, course or program of study is taking place, and
(b) where the desks, tables and chairs are arranged in a manner
   i. to prevent persons who are seated from facing each other, and
   ii. to allow the greatest possible distance between seated persons.

Part 11 – General
11.1 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.

11.2 This Order provides the minimum standards for public health measures in Alberta for
     those matters addressed by this Order.

11.3 For greater certainty, nothing in this Order relieves a person from complying with any
     provision of any federal, provincial or municipal law or regulation or any requirement of any
     lawful permit, order or licence covering those matters which are addressed in this Order.

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

Signed on this 10th day of February, 2022.

Deena Hinshaw, MD
Chief Medical Officer of Health