
September 15, 2021

BULLETIN

NEW EVENTS AND GATHERINGS ORDER INCLUDES VACCINE CARD REQUIREMENTS

On September 10, the Provincial Health Officer issued a new Order under the Public Health Act of BC concerning Gatherings and Events (the “Order”).

The Order states that it does not apply to a council, board or trust committee of a local authority as defined in the *Community Charter*, the *Local Government Act* or the *Island Trusts Act* when holding a meeting without members of the public present.

The Order also does not apply to workers at a workplace when engaged in work activities, including staff meetings. In other words, the Order does not impose any requirement for employee vaccination or proof of vaccination even where a member of the public has to be vaccinated in order to receive a service. There are currently no requirements in BC for any employer outside the health sector to implement a vaccine program for its employees. Local governments should consider obtaining legal advice before implementing any vaccine programs.

Note that the Face Coverings Order is still in place, and there are Regional Orders still in place for Northern and Interior Health. The Regional Orders do impose requirements on local government events where the public is present. Regional Orders remain in place until specifically repealed; where their requirements are more restrictive than the Order, the more restrictive requirements should be followed by local governments in those regions. The BC government has said it is reviewing the Regional Orders in light of the new Order, and may revise them.

The Order is divided into three parts:

- Outside Events
- Inside Events
- Proof of Vaccination

For the purpose of the first two parts, an “event” is a seated in-person gathering in a place with seating, which would include Council meetings and public hearings. A “place” is a venue other than a private residence, and includes a conference room, recreation center, theater, auditorium, casino, gym, recreation facility arena, exercise or dance facility or studio, tent, vacation accommodation or premises defined in the *Food and Liquor Serving Premises Order*.

The Order sets certain requirements for events, including capacity limits; controlled access; toilets with hand washing facilities; staff to enforce seating; and the designation of an

“organizer”, that is, a person who is responsible for organizing the event and enforcing the requirements of the Order. In most cases, a public body would be the owner and the organizer; in some cases, for example facility rentals, the organizer may be a third party. In those cases, a public body must ensure the organizer is aware of the requirements in the Order and can fulfill them. This should be done in writing.

The most significant difference between the requirements for indoor and outdoor events is the capacity limit: 5000 people outdoors, or 50 people indoors (or 50% of seating capacity, whichever is greater). Capacity limits exclude staff.

For the purpose of Proof of Vaccination, which concerns the implementation of the BC Vaccine Card, an “event” is an indoor gathering of more than 50 people for specific purposes including social, entertainment, choral, dancing, musical, gambling, recreational, arts and crafts, or business. It also includes a gathering of participants indoors for the purpose of an adult sports activity or an exercise, fitness or dance activity or class. It does not include any program for children or youth. Children under 12 are exempt from the Proof of Vaccination requirements.

For the purpose of Proof of Vaccination, an “event” does not include local government council meetings where the public attend in person. It also does not include formal local government business such as attending city hall to apply for permits, make a payment, etc.. That means the public will be able to access city halls to obtain local government services without having to show proof of vaccination. It is important to note that the PHO Order regarding masks still apply to those areas of city halls and other local government buildings where the public has access. The most likely scenarios where a local government body would have to obtain proof of vaccination is upon entry to a recreation facility or community hall.

Starting September 13, 2021, an organizer must not permit any participant to enter an event (as defined in any part of the Order) unless they obtain proof the participant has obtained at least one dose of a Health Canada approved vaccine.

Starting October 24, 2021, an organizer must not permit any participant to enter an event unless they obtain proof the participant has received two doses of a Health Canada approved vaccine.

Proof of vaccination will be obtained in the following ways:

- Until September 26, 2021, a participant may provide a paper record of vaccination;
- After September 26, 2021, a participant must show a vaccine card.

“Vaccine card” is defined as a photo identification and also a QR code issued by the government, in either printed or electronic form. “Photo identification” is defined as one of a driver’s licence of a province of Canada; a BC Services Card; a certificate of Indian status; a Metis Nation BC citizenship card; a passport; or any other government identification that has a photo. There is no requirement for photo ID for children under 19 years old.

An organizer must not scan a QR code on a vaccine card except with the BC Vaccine Card Verifier App (available via download to mobile devices through the Apple App store or Google Play store).

An organizer must not retain proof of vaccination or identification. If a participant gives written consent, an organizer can record vaccination status to allow future entry to the same place. Privacy requirements apply to recording this information and we recommend obtaining legal advice if a local government is considering recording the vaccine status of members of the public.

The Order is enforced by public health officers, with the support of police if necessary, as with past public health orders. Violations of the Order can result in fines of \$230 to \$2300, depending on the offense. Fines can be imposed by police, or by provincial compliance officers, including liquor and cannabis inspectors; gaming investigators; and conservation officers. Municipal by-law officers cannot issue fines but they can provide warnings or advice. Fines can be issued to event participants for a refusal to provide a vaccine card, and also for abusive behavior.

Carolyn MacEachern & Pam Costanzo