

OFFICE CONSOLIDATION

BYLAW NUMBER 65M2021

**BEING A BYLAW OF THE CITY OF CALGARY
TO REQUIRE PARTICIPATION IN THE
PROVINCIAL RESTRICTIONS EXEMPTION
PROGRAM**

* * * * *

(Amended by 73M2021, 2M2022)

WHEREAS on March 11, 2020 the World Health Organization declared a global pandemic related to the spread of the COVID-19 virus and the COVID-19 pandemic remains a health risk;

AND WHEREAS the spread of COVID-19 in the city of Calgary continues and the number of active cases is currently increasing;

AND WHEREAS a state of public health emergency was declared in the province of Alberta on September 15, 2021;

AND WHEREAS the Chief Medical Officer of Health for Alberta has issued CMOH Order 42-2021 and Order 43-2021 which (1) impose certain restrictions on various businesses and entities and (2) establish the Restrictions Exemption Program (REP) whereby certain businesses and entities can choose to participate the REP in which case the restrictions do not apply;

AND WHEREAS Council believes the fourth wave COVID-19 situation that has arisen in Calgary over the last two weeks has created dire circumstances that require immediate measures to protect the health and wellness of the City's citizens and therefore Council requires businesses within the City to participate in the proof of vaccination program created by the Province;

AND WHEREAS pursuant to section 7 of the Municipal Government Act, R.S.A. 2000, c. M-16 a council of a municipality may pass bylaws respecting;

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public; and
- (c) businesses, business activities and persons engaged in business;

AND WHEREAS Council considers that in order to combat the 4th wave of COVID-19, all eligible businesses must enter the Province's Restrictions Exemption Program;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS
FOLLOWS:**

SHORT TITLE

1. This Bylaw may be cited as the “Vaccine Passport Bylaw”.

DEFINITIONS AND INTERPRETATION

2. (1) In this Bylaw:

- (a.01) “*counter sale or quick service restaurant*” means a quick service restaurant or a counter sale retail business that provides food or beverage services and requires all dine-in patrons to order or select their food or drink at a counter, food bar or cafeteria line and to pay before being seated but does not include bars, nightclubs, or other similar establishments;

(73M2021, 2021 November 15)

- (a) “*COVID-19 test*” means a Health Canada approved rapid screening test or a lab based PCR test approved by Health Canada or the lab accreditation body of the jurisdiction in which the test is performed which:

- (i) a person has taken with the last 72 hours;
- (ii) clearly outlines the laboratory that completed the test, the type of test, time of sample collection and a clear indication of a negative result;
- (iii) is not sourced from the Alberta Health Services public COVID-19 testing system;

- (b) “*eligible business*” means any business, entity or location that is designated as “In Scope” in CMOH Order 54-2021 or any subsequent order of the Chief Medical Officer of Health for Alberta in respect of the provincial Restrictions Exemption Program except that, despite CMOH Order 54-2021 or any other subsequent order, for the purposes of this Bylaw an “*eligible business*” also includes a youth physical activity, youth performance activity or youth recreational activity;

(2M2022, 2022 January 11)

- (b.1) “*eligible person*” means a person who is:

- (i) eligible to receive the COVID-19 vaccine; and
- (ii) visiting, living, working or going to school in Alberta;

(2M2022, 2022 January 11)

- (c) “*officer*” means a Bylaw Enforcement Officer appointed pursuant to Bylaw 60M86, a peace officer appointed pursuant to the Peace Officer Act, S.A. 2006, c. P-3.5, or a police officer appointed pursuant to the Police Act, R.S.A. 2000, c. P-17;

- (d) “*operator*” includes the person responsible for the day to day operations of an *eligible business*;
- (e) “*personal identification*” means a type of personal identification set out in section 2.1(p) of CMOH Order 54-2021 or any subsequent order of the Chief Medical Officer of Health for Alberta that designates identification required for proof of vaccination under the provincial Restrictions Exemption Program;
(2M2022, 2022 January 11)
- (f) “*proof of vaccination*” means a form of documentation set out in section 5.4 of CMOH Order 54-2021 or any subsequent order of the Chief Medical Officer of Health for Alberta that designates documentation required for proof of vaccination under the provincial Restrictions Exemption Program;
(73M2021, 2021 November 15)
(2M2022, 2022 January 11)
- (g) “*proprietor*” means the person who ultimately controls, governs or directs the activity carried on within any *eligible business* referred to in this Bylaw and includes the person usually in charge thereof;
- (h) “*vaccine medical exception letter*” means written confirmation provided to a person by a health professional which:
 - (i) verifies there is a medical contraindication to vaccination that prevents the person from being vaccinated; and
 - (ii) complies with the requirements of sections 5.6 and 5.7 of CMOH Order 54-2021 or any subsequent order of the Chief Medical Officer of Health for Alberta that sets out requirements for a medical exemption letter.
(2M2022, 2022 January 11)

- (2) All schedules attached to this Bylaw form part of this Bylaw.
- (3) Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
- (4) Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference is to the act, regulation, code or other bylaw as amended, whether amended before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
- (5) Each provision of this Bylaw is independent of all other provisions and if any provision is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.

- (6) Nothing in this Bylaw 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.

PROOF OF VACCINATION

3. (1) An *eligible person* must not enter or remain in the premises of an *eligible business*, unless the person provides *personal identification* and one of the following:
- (a) *proof of vaccination*;
 - (b) proof of a negative *COVID-19 test* result from a sample that is taken within the prior 72 hours; or
 - (c) an original *vaccine medical exception letter*;
- to the *operator* or *proprietor* of the *eligible business*.
(2M2022, 2022 January 11)
- (2) Subsection (1) does not apply to a:
- (a) a person under the age of 12 years and 10 weeks;
 - (b) an *employee* of an *eligible business*;
 - (c) a person:
 - (i) under the age of 18 participating in a school curriculum based activity;
 - (ii) participating in a faith service at a place of worship;
 - (iii) receiving health services;
 - (iv) receiving wellness services; or
 - (v) receiving personal services;located at an *eligible business*.
(2M2022, 2022 January 11)
- (3) Despite subsection (1), a person under the age of 18 is not required to provide *personal identification*.
(2M2022, 2022 January 11)
4. (1) An *operator* or *proprietor* of an *eligible business* must not permit a person to enter or remain in the premises of the *eligible business* without having obtained *personal identification* for the person and:

- (a) *proof of vaccination*;
 - (b) proof of a negative *COVID-19 test* result from a sample that is taken within the prior 72 hours; or
 - (c) an original *vaccine medical exception letter*;from the person.
- (2) An *operator* or *proprietor* of an *eligible business* is not required to obtain the things set out in subsection (1) from:
 - (a) a person under the age of 12 years and 10 weeks;
 - (b) an *employee* of the *eligible business*;
 - (c) a person:
 - (i) under the age of 18 participating in a school curriculum based activity;
 - (ii) participating in a faith service at a place of worship;
 - (iii) receiving health services;
 - (iv) receiving wellness services; or
 - (v) receiving personal services;located at an *eligible business*.

(2M2022, 2022 January 11)
- (3) Despite subsection (1), an *operator* or *proprietor* of an *eligible business* is not required to obtain *personal identification* from a person under the age of 18.

(2M2022, 2022 January 11)

SIGNAGE

5. An *operator* or *proprietor* of an *eligible business* must prominently display a sign
- (a) in the form and containing the content; or
 - (b) with substantially the same form and content;
- as set out in Schedule A, in a location that is visible to a person immediately upon entering the *eligible business*.

ELECTIONS

6. For clarity, this Bylaw does not apply to a location used as a voting station for an election held pursuant to the Local Authorities Elections Act (RSA 2000, c. L-21) or the Elections Act (RSA 2000, c. E-21).

TAKE-OUT, DELIVERY AND DRIVE-THROUGH RESTAURANTS

7. This Bylaw does not apply to a restaurant that only offers take-out, delivery or drive-through services.

- 7.1 Sections 3 and 4 do not apply to a person who enters a restaurant for the sole purpose of picking up food for take-out or delivery.

(73M2021, 2021 November 15)

COUNTER SERVICE AND QUICK SERVICE RESTAURANTS

- 7.2 For clarity, an operator or *proprietor* of an *eligible business* that is a *counter sale or quick service restaurant* may screen a person for the information set out in section 4 at the counter.

(73M2021, 2021 November 15)

OFFENCES

8. Any person who contravenes any provision of this Bylaw by doing any act or thing which the person is prohibited from doing, or by failing to do any act or thing the person is required to do, is guilty of an offence pursuant to this Bylaw.

ENFORCEMENT

9. (1) Where an *officer* believes that a person has contravened any provision of this Bylaw, the *officer* may commence proceedings against the person by issuing a violation ticket in accordance with the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34.
- (2) This section shall not prevent an *officer* from issuing a violation ticket requiring a court appearance of the defendant pursuant to the Provincial Offences Procedures Act or from laying an information instead of issuing a violation ticket.

PENALTY

10. (1) Where there is a specified penalty listed for an offence in Schedule B to this Bylaw, that amount is the specified penalty for the offence.
- (2) Upon conviction, if the totality of the circumstances surrounding any contravention of this bylaw indicate a marked endangerment or increased risk of endangering public health the Justice may deviate from the specified penalty when determining the appropriate fine amount.

- (3) In this section, “specified penalty” means an amount that can be paid by a person who is issued a violation ticket and is authorized to make a voluntary payment without a Court appearance.
- (4) Despite subsection (1):
 - (a) where any person has been convicted of a contravention of the same provision of this Bylaw twice within one twelve month period, the specified penalty payable in respect of the second conviction is double the amount shown in Schedule B of this Bylaw in respect of that provision, and
 - (b) where any person has been convicted of a contravention of the same provision of this Bylaw three or more times within one twelve month period, the specified penalty payable in respect of the third or subsequent conviction is triple the amount shown in Schedule B of this Bylaw in respect of that provision.

COMING INTO FORCE

- 11. This Bylaw comes into force on September 23, 2021.

REPEAL

- 12. This Bylaw ceases to have effect when the Restrictions Exemption Program is ended by the Chief Medical Officer of Health.

READ A FIRST TIME ON SEPTEMBER 22, 2021



READ A SECOND TIME ON SEPTEMBER 22, 2021

READ A THIRD TIME ON SEPTEMBER 22, 2021

(Sgd.) N. Nenshi
MAYOR


(Sgd.) K. Martin
CITY CLERK

SCHEDULE A




Required under Bylaw 65M2021

We welcome all patrons age 12 and up who can provide the following:



Proof of COVID-19 vaccination

OR



Negative COVID-19 test (within 72 hours)

Or show a vaccine medical exemption letter.

Have your ID and proof of vaccination ready.

Please
Be kind to all staff and business owners
as they help ensure our safety.

21-0016218 AD24-11913

(73M2021, 2021 November 15)

SCHEDULE B

PENALTIES

| Section | Description of Offence | Specified Penalty |
|----------------|--|--------------------------|
| 3 | Fail to provide <i>proof of vaccination</i> , negative COVID-19 test or <i>vaccine medical exception letter</i> | \$500 |
| 4 | Permit person to enter or remain without <i>proof of vaccination</i> , negative COVID-19 test or <i>vaccine medical exception letter</i> | \$500 |
| 5 | Fail to display prescribed signage | \$200 |