

# VISOA Webinar: Strata Meetings, Vaccination Passports and Other Stuff



**November 13, 2021**

**This information reflects BC Provincial Health Officer orders up to October 29, 2021.**

**Disclaimer:** These answers are intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is lawyer whose practice focuses on strata property law. He frequently writes and lectures for strata associations. He is a partner with the law firm of Cleveland Doan LLP and can be reached at (604)536-5002 or shawn@clevelanddoan.com. He can be followed on Twitter @stratashawn.

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Question	Answer
Can I watch a video of the webinar?	Yes. Watch the video on YouTube: <a href="https://youtu.be/V9LjbyR5HTM">https://youtu.be/V9LjbyR5HTM</a>
What BC Provincial Health Officer (PHO) orders does the webinar and Q&A questions refer to?	Gatherings and Events (Oct 25, 2021, reposted November 16, 2021): <a href="https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-gatherings-events.pdf">https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-gatherings-events.pdf</a>  Face Coverings (COVID-19) Oct 29, 2021: <a href="https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-face-coverings.pdf">https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-face-coverings.pdf</a>
Are there different orders for different regions of BC?	Yes. Some health authorities have additional restrictions in place for regions with lower vaccination rates. Orders are made by a region's Medical Health Officer. As of October 29, these include: Fraser Health (Fraser East Region), Interior Health (every community), Northern Health (all communities east of Gitwagak (Kitwanga)). Check the website to see the specific restrictions for each area: <a href="https://www2.gov.bc.ca/gov/content/covid-19/info/restrictions#regional">https://www2.gov.bc.ca/gov/content/covid-19/info/restrictions#regional</a>

Question	Answer
Where can I see all of the up-to-date Orders?	See all of the orders and notices from the BC Provincial Health Officer that are related to COVID-19 here: <a href="https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus">https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus</a>
<b>Indoor Events such as AGMs and SGMs</b>	
We usually get about 60 people attending our AGM and about 20 by proxy. Are these owners required to show their passports?	Yes. Under the Provincial Health Officer (PHO) order, any owner or organizer of the event (in the case of an AGM, this is the strata corporation) must check the vaccination passport and identification of each attendee for an indoor gathering of over 50 people. They must refuse entry to anyone who does not comply unless that person has a government exemption.
What happens if they refuse to show proof of vaccination?	If the person refuses they cannot be allowed in and must assign a proxy to vote on their behalf. If the meeting is also being held electronically, they could attend using that method.
If someone isn't vaccinated or won't show their vaccination passport due to a health or religious exemption, what can the strata ask for in the way of proof?	There are currently no exemptions (religious or medical) for the Provincial Health Officer (PHO) Order. Such considerations arise only with respect to strata imposed mandates.
I thought I heard recently that the religious exemption was revoked?	See above.
So are you saying that a strata corporation can legally force an individual to supply personal medical information?	If they want to attend a meeting or social gathering of over 50 people, then, yes. As there is a Provincial Health Officer (PHO) order, the person attending is legally required to prove they are permitted to attend. If the person refuses they can attend the general meeting electronically or assign a proxy to vote on their behalf.  There are a few other situations when the strata could reasonably request medical information such as when an owner requests an accommodation due to a disability under the Human Rights Code.

Question	Answer
I thought Bonnie Henry said that no doctor's letter is ever required for proof of a medical exemption.	If an owner requests an exemption from something under the Human Rights Code on medical grounds, they are required to provide proof of their medical condition and how it applies to their exemption request.
Is social distancing still required?	In the case of holding a seated event such as a general meeting, the current order says that each person must have their own seat and you must use the full capacity of room. So spread out the seats as much as possible. The order does not specifically say that you must keep everyone 6 feet apart.
We like doing our AGMs electronically. Can we keep doing that?	If your strata does not have a bylaw allowing general meetings to be held electronically, then you are only allowed to use this method until December 31, 2021. <i>(That date might be extended. See below.)</i>
What is the likelihood that the BC government will extend the date that stratas can hold AGMs and SGMs electronically (virtual meetings) without a bylaw?	<p>This provision was made possible by the "COVID-19 Related Measures Act". On October 21, 2021 the BC government issued a news release saying that the Province intends to introduce amendments to the <i>COVID-19 Related Measures Act</i> to extend it beyond the repeal date of Dec. 31, 2021. <a href="https://news.gov.bc.ca/releases/2021AG0157-002002">https://news.gov.bc.ca/releases/2021AG0157-002002</a></p> <p>There is no guarantee that the proposed amendments will be passed or that it will continue to apply to allow these meetings to continue electronically without a bylaw. Join VISOA's mailing list for updates. <a href="http://visoa.bc.ca">visoa.bc.ca</a></p>
Does the order about requiring vaccination passports for gatherings/events apply when there are less than 50 people?	No. The organizer of the event (for an AGM the strata corporation is the organizer), is not required to check proof of vaccination for groups of less than 50 people.
Do the organizers of the event such as a property manager and council members count in the 50?	No. The number can exceed 50 to allow for these extra persons without triggering the requirement to check each attendee for proof of vaccination.

Question	Answer
<p>For indoor social events are children of all ages counted in the 50?</p>	<p>Yes, all persons, regardless of age are counted when determining whether there are more than 50 persons in attendance, thereby requiring proof of vaccination. However only persons aged 12 and over must provide proof of vaccination. Only persons aged 5 and over are required to comply with the order about masks in public spaces.</p>
<p>Could council conduct a poll of owners in advance of an AGM to determine how many intend to attend the meeting in person and how many intend to vote by proxy?</p>	<p>Council could do a poll but should ask for the minimal amount of information. For example you could ask if they intend to attend the meeting in person, or whether they prefer to attend electronically or in-person, but it would not be appropriate to ask them if they intend to vote by proxy.</p>
<p>If the AGM notice told owners that the AGM would be held electronically by Zoom, can the meeting be changed to an in-person meeting after the notice has been given?</p>	<p>The same principle applies as when a physical location is changed after a notice has been provided. Every owner must be notified of the change so that everyone knows where the meeting will take place. You cannot inform some owners and not others. Nor can you simply post a notice in the lobby. Each owner must be given proper notice of the change. The best practice would be to only change venues (whether physical or electronic) in rare circumstances and only when absolutely necessary.</p>
<p>Can owners request a hybrid meeting to make everyone feel comfortable at an AGM? Even though we are a small strata of less than 50 units, our property manager says it has to be by Zoom only. I think this is restricting as some owners are technically challenged or don't have access to computers.</p>	<p>Your strata council makes the decisions and directs the property manager. Most bylaws require the president to chair the AGM. So council could hold the AGM in person and allow owners to attend in person. The manager and other owners could attend by Zoom if they wish. Make sure the Notice includes instructions for both methods of attendance. You should also ensure that you have the audio/visual equipment that makes it possible for people attending in person and by Zoom to hear each other. Test this before sending out the Notice of the meeting to ensure that this will work for you.</p>
<p><b>Bylaws and Rules</b></p>	
<p>Can council create a rule requiring that masks be worn in the common areas such as hallways and elevators, or is that considered a significant change of use that requires a 3/4 vote at a general meeting?</p>	<p>The strata corporation may make rules governing the use, safety and condition of the common property and common assets. Rules are created by council. Must be ratified by majority vote at the next AGM.</p>

Question	Answer
<p>Can our strata pass a COVID-related bylaw requiring vaccine passports to be shown before entering a general meeting? Typically, approx 150 out of 235 owners attend in-person. The room has a capacity of 105.</p>	<p>Since you are expecting about 150 people to attend in-person, you don't require a bylaw. The Provincial Health Officer (PHO) order already requires that the organizer of the event only permit vaccinated persons with proof of vaccination into the meeting. If you want to pass a bylaw that requires residents to provide proof of vaccination for other circumstances, contact a strata lawyer.</p> <p>In this case, as the number of persons exceeds the capacity of the room, you could hold your AGM electronically or as a hybrid meeting (a combination of in-person and electronic attendance).</p>
<p>There will only be 30 people attending our AGM but we are putting protocols in place to require masks, distance 6 feet, and show vaccination passports. As this isn't required for groups under 50, can we require these?</p>	<p>As these protocols go further than the Provincial Health Officer (PHO) order, the strata would have to have bylaws permitting the council to impose these requirements. Contact a strata lawyer as there are numerous legal issues including privacy, human rights and significant unfairness.</p>
<p><b>Gyms, clubhouses and guest suites</b></p>	
<p>Do the mask and vaccine mandates apply to guest suites that are rented to friends and relatives of owners?</p>	<p>Renting guest suites in a strata is not normally considered a commercial use. Mask and vaccine passport requirements do not apply to this situation since the rental of a guest suite is not an indoor event and does not create a gathering of over 50 people.</p>
<p>Our gym and clubhouse are in two separate, stand-alone buildings. Does the vaccination passport requirement apply even though it's used only by owners, occupants and guests?</p>	<p>If the gym was used commercially then the passport requirement would apply. If it is used only by residents and occasional guests, then it is exempt.</p> <p>For the clubhouse, it depends on how many users there are. If there is a gathering of 50 or more people then the owner (the strata) and the organizer (which might be the strata or an owner) must comply with the Orders.</p>

Question	Answer
<p>Do the requirements that restaurants have to follow apply to stratas that use a common room for meals? Restaurants require that a mask be worn when not at the table, and everyone be double vaccinated with a passport.</p>	<p>The Provincial Health Officer (PHO) order that applies to restaurants is called "Food and Liquor Serving Premises" and only applies to commercial restaurants. It would not apply to the use of the common room for a private event. The social gatherings order applies for over 50 people. Consult a strata lawyer if your owners want rules or bylaws that go further than the orders.</p>
<p>In the case of a strata owner who hosts a party in a common room, could an indemnity agreement make them responsible for any injury or if anyone gets COVID from a non-resident attending the party?</p>	<p>Yes, that's exactly what an indemnity agreement is for. It requires the owner to "make good" by paying any costs incurred by the strata corporation.</p>
<p>If we follow all the Provincial Health Officer (PHO) orders and don't add any additional rules or bylaws, will the strata corporation's liability be limited?</p>	<p>The duty of the the strata corporation under the Occupier's Liability Act is to take reasonable steps to make the premies safe. Government recommended protocols should be considered reasonable steps.</p>
<p><b>Masks</b></p>	
<p>The Provincial Health Officer (PHO) order says that masks are required in all public indoor settings for all people born in 2016 or earlier. Are common property rooms such as laundry rooms considered public spaces?</p>	<p>In the context of the mask mandate, common areas of a residential strata such as lobbies, hallways, elevators, laundry rooms are not public spaces. However in a commercial or mixed use strata, areas such as retail stores, restaurants, hotels and offices that provide services to the public are considered public spaces and the Face Coverings Order would apply.</p>
<p>Are masks required for a stand-alone clubhouse?</p>	<p>If the common room is within the main building then it is not a public space and is exempt. If it is in a stand-alone building the mask mandate applies.</p>
<p>Can people remove their masks once inside the room/facility, even if they provided proof of vaccination ?</p>	<p>Masks are not required unless it is a public indoor setting. Find examples of public indoor settings here: <a href="https://www2.gov.bc.ca/gov/content/covid-19/info/restrictions#masks">https://www2.gov.bc.ca/gov/content/covid-19/info/restrictions#masks</a></p>