



**TEMPORARY ORDER REQUIRING COVID-19 VACCINATION FOR INDOOR ENTERTAINMENT, RECREATION, DINING, AND FITNESS SETTINGS IN THE CITY OF BOSTON**

DATE OF ORDER: DECEMBER 20, 2021

**The Boston Public Health Commission, acting through its duly appointed and authorized agent, Dr. Bisola Ojikutu, pursuant to M.G.L. c. 111, § 30, the Boston Public Health Act of 1995, M.G.L. c. 111 App §§ 2-6, M.G.L. c. 111 §§ 6, 7, 31, 95, 104, 122, 310 CMR 11.05, 105 CMR 300.200 and all other authorizing statutes as well as the Boston Public Health Commission's Declaration of a Public Health Emergency Relative to COVID-19 in the City of Boston dated March 15, 2020, as extended, hereby enacts and declares as follows:**

Whereas, a Public Health Emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19") in the City of Boston pursuant to declaration of the Boston Public Health Commission dated March 15, 2020 and extended on April 24, 2020 remains in full force and effect;

Whereas, there is clear evidence that COVID-19 continues to cause serious harm to the public health of the City of Boston;

Whereas, as of December 17, 2021, 78.8% of the total Boston resident population has received at least one vaccination dose and 68.4% of Boston the total Boston population is fully vaccinated;

Whereas, 86.6% of the Boston resident population over the age of 12 has received at least one vaccination dose and 75.7% of the population over the age of 12 is fully vaccinated;

Whereas, the positive test rate in Boston has reached 6.7%, up from a low of 0.4% in late June, 2021 and above the Commission's 5% threshold of concern;

Whereas, as of December 7, the percentage of occupied adult non-surge ICU beds has reached 94.5%, approaching the Commission's 95% threshold of concern;

Whereas, vaccinated individuals are less likely to develop serious symptoms or spread COVID-19 to those near them, particularly in indoor settings where social distancing is not possible, where eating and drinking require the removal of face coverings, and where physical exercise and exertion are taking place;

Whereas, the Executive Director of the Boston Public Health Commission, has determined that further temporary measures relative to requiring proof of vaccination for entry into certain indoor settings are necessary to prevent the spread and resurgence of COVID-19 in Boston; and

Whereas, the intent of this Order is to prevent the spread of COVID-19 to the maximum extent possible. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent and immediate threat to public health.

**THEREFORE, THE FOLLOWING PUBLIC HEALTH ORDER SHALL BE IN EFFECT FOR THE CITY OF BOSTON, AS FOLLOWS:**

1. A covered entity shall not permit a patron, full- or part-time employee, intern, volunteer, or on-site contractors to enter a covered premises without displaying proof of vaccination.
2. The following individuals are exempted from this Order, and therefore may enter a covered premises without displaying proof of vaccination, provided that such individuals wear a face mask at all times:
  - a. Individuals entering for a quick and limited purpose (for example, using the restroom, placing or picking up an order or service, making a delivery, or performing necessary repairs);
  - b. A performing artist not regularly employed by the covered entity while they are in a covered premises for purposes of performing;
  - c. A professional athlete/sports team who enters a covered premises as part of their regular employment for purposes of competing; and
  - d. An individual accompanying a performing artist or professional athlete/sports team into a covered premises as part of their regular employment so long as the performing artist or professional athlete/sports team are performing or competing in the covered premises.
3. Each covered entity shall post a sign at the entrance. The sign must alert patrons to the vaccination requirement in this Order and inform them that employees and patrons are required to be vaccinated. The sign will be available at [www.boston.gov](http://www.boston.gov) or available for pick up at city locations.
4. For the purposes of this Order:
  - a. “Covered entity” means any entity that operates one or more covered premises, except that it shall not include pre-kindergarten through grade twelve (12) public and non-public schools and programs, child care programs, senior centers, community centers, or as otherwise indicated by this Order.
  - b. “Covered premises” means any location, except a location in a residential or office building the use of which is limited to residents, owners, or tenants of that building, colleges or universities that have a vaccination requirement covering staff and students, or any other site that is otherwise not open to the general public, that is used for the following purposes:

- i. Indoor Food Services, including indoor portions of food service establishments offering food and drink, including restaurants, bars, and all indoor dining areas of food service establishments. The requirements of this Order shall not apply to any food service establishment offering food and/or drink exclusively for off-premises or outdoor consumption, or to a food service establishment providing charitable food services such as soup kitchens.
    - ii. Indoor Entertainment, Recreational, and Event Venues, including movie theaters, music or concert venues, commercial event and party venues, museums and galleries, professional sports arenas and indoor stadiums, convention centers and exhibition halls, performing arts theaters, bowling alleys, and other recreational centers;
    - iii. Indoor Gyms and Fitness Settings, including commercial gyms, fitness, yoga/pilates/barre/dance studios, boxing/kickboxing gyms, fitness boot camps, indoor pools, and other facilities used for conducting group fitness classes.
  - c. “Indoor portion” means any part of a covered premises with a roof or overhang that is enclosed by at least three walls, except that the following will not be considered an indoor portion: (1) a structure on the sidewalk or roadway if it is entirely open on the side facing the sidewalk; and (2) an outdoor dining structure for individual parties, such as a plastic dome, if it has adequate ventilation to allow for air circulation.
  - d. “Proof of vaccination” means proof of receipt of a COVID-19 vaccine authorized for emergency use or licensed for use by the U.S. Food and Drug Administration or authorized for emergency use by the World Health Organization, as required under the phased implementation of this Order. Such proof may be established by:
    - i. a CDC COVID-19 Vaccination Record Card;
    - ii. a digital image of the CDC card;
    - iii. any other official immunization record from the jurisdiction, state, or country where the vaccine was administered;
    - iv. a digital or physical photo of such a card or record, reflecting the person’s name, vaccine brand, and date administered;
    - v. a letter, digital image, or report from a health care provider, pharmacy, or vaccination site establishing proof of COVID-19 vaccination;
    - vi. or any vaccination verification smartphone application developed by the Commonwealth of Massachusetts, or developed or endorsed by the City of Boston.
5. Each instance that a covered entity fails to check an individual’s vaccination status shall constitute a separate violation of this Order.
6. The Boston Public Health Commission shall develop guidance to assist covered entities in complying with this Order in an equitable manner consistent with applicable law.

7. Covered entities shall comply with any guidelines issued by BPHC to further the intent of this Order and increase the number of vaccinated individuals in the City.
8. This Order shall take effect on the following schedule:
  - a. **Phase I: January 15, 2022.** All individuals ages 12 and over shall be required to present proof of at least one dose of vaccination, in either a one-dose or two-dose series.
  - b. **Phase II: February 15, 2022.** All individuals ages 12 and over shall be required to present proof of either one dose of a one-dose series or two doses in a two-dose series.
  - c. **Phase III: March 1, 2022.** All Individuals ages 5 to 11 shall be required to present proof of at least one dose of vaccination, in either a one-dose or two-dose series.
  - d. **Phase IV: May 1, 2022.** All individuals ages 5 and over shall be required to present proof of either one dose of a one-dose series or two doses in a two-dose series.
9. This Order shall remain in effect until rescinded by the Executive Director, in their discretion.

## **ENFORCEMENT**

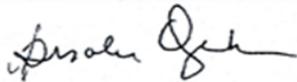
All reasonable efforts will be made to secure voluntary compliance with this Order, including outreach and education, as well as written warnings; however, this Order may be enforced through any and all mechanisms afforded by the authorizing statutes above, including fines of \$300.00 for each violation and orders of the BPHC to cease and desist. The Executive Director may seek the assistance of other City of Boston agencies in ensuring compliance with this order.

## **NOTICE**

The Boston Public Health Commission must promptly provide copies of this Order by posting on the Boston Public Health Commission website (bphc.org) and providing a copy to any member of the public requesting one.

**IT IS SO ORDERED:**

**Dated: December 20, 2021**



**Dr. Bisola Ojikutu**  
**EXECUTIVE DIRECTOR**  
**BOSTON PUBLIC HEALTH COMMISSION**  
**AS AGENT OF THE BOARD OF HEALTH**