

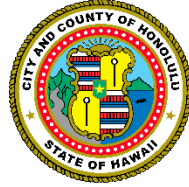
**OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU**

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August 30, 2021

**OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU
EMERGENCY ORDER NO. 2021-11
(COVID-19 [Novel Coronavirus])**

**SECOND AMENDMENT TO THE ORDER IMPLEMENTING TIER 5 OF
HONOLULU'S POST COVID-19 VACCINE FRAMEWORK**

By the authority vested in me as Mayor of the City and County of Honolulu (the “City”) pursuant to Revised Charter of the City and County of Honolulu 1973 (2017 Edition), as amended; the Revised Ordinances of the City and County of Honolulu 1990, as amended; the Hawai‘i Revised Statutes, as amended (“**Haw. Rev. Stat.**”), the Constitution and laws of the State of Hawai‘i, I, RICK BLANGIARDI, hereby issue this Second Amendment to the Order Implementing Tier 5 of Honolulu’s Post COVID-19 Vaccine Framework (“**Second Amendment**”) to further address the emergency initially declared via proclamation on March 4, 2020, and the subsequent Fifteenth Proclamation of Emergency or Disaster (COVID-19 [Novel Coronavirus]).

I. FURTHER AMENDMENTS TO THE ORDER

A. Addition of “Order 10” and “Order 11”

Emergency Order No. 2021-09 (COVID-19 [Novel Coronavirus]) Order Implementing Tier 5 of Honolulu’s Post Covid-19 Vaccine Framework (the “**Order**”) is further amended to include “Order 10” and “Order 11” (following Order 9 on page 6 of the Order), as set forth below:

Order 10:

- A.** Effective September 13, 2021, all covered entities shall not permit a patron to enter covered premises without displaying proof of full vaccination, and identification bearing the same identifying information as the proof of full vaccination. Furthermore, all

covered entities shall not permit a full or part-time employee, intern, volunteer, or contractor to enter covered premises without proof of full vaccination.

B. Exceptions: The following individuals are exempt from this Order 10, section A. above, and therefore may enter covered premises without proof of full vaccination:

1. Patrons with proof of a negative COVID-19 test result taken within 48 hours of entry into the covered premises, and identification bearing the same identifying information as the proof of negative COVID-19 test presented (the negative test result required under this section B must be from an FDA approved, or FDA EUA approved, molecular or antigen test);
2. Full or part-time employees, interns, volunteers, or contractors with proof of a negative COVID-19 test result taken within seven (7) days of entry into the covered premises (the negative test result required under this section B must be from an FDA approved, or FDA EUA approved, molecular or antigen test);
3. Individuals under 12 years of age; or
4. Individuals entering and remaining for 15 minutes or less per 24-hour day;

C. Proof of full vaccination includes:

1. a hard copy of a state-approved vaccination card;
2. a photograph/digital copy of a state-approved vaccination card; or
3. a Hawai'i state-approved digital/smart device application confirming full vaccination status.

D. Each covered entity must develop and keep a written record describing the covered entity's protocol for implementing and enforcing the requirements of this Order 10. Such written record shall be available for inspection upon a request of a City official.

E. Each covered entity must post an 8.5 x 11 inch (minimum) sign in a conspicuous place that is viewable by prospective patrons prior to entering the establishment. The sign must alert patrons to the COVID-19 vaccination requirement in this Order 10 and inform them that employees and patrons are required to show proof of full vaccination or satisfy one of the exceptions in this Order 10, Section B.

- F. The owner or authorized agent of each covered entity must complete a form, available at <https://www.oneoahu.org/test-attestation>, attesting that Order 10 will be followed.
- G. Definitions. For purposes of this Order 10:
1. "Contractor" means the owner and/or employees of any business that a covered entity has hired to perform work within a covered premise.
 2. "Covered entity" means any entity that operates one or more covered premises, except that it shall not include public and private K-12 schools, colleges, and universities, child care programs, senior centers, or as otherwise indicated by this Order.
 3. "Covered premises" means
 - a. **Entertainment and Recreational Settings** includes the following: bowling alleys, arcades, pool/billiard halls, movie theaters, museums, other recreational game or entertainment centers, and the indoor portions of botanical gardens, aquariums, zoos, sea life attractions, commercial recreational boating, public and private commercial pools, shooting/archery ranges, and other commercial attractions (cultural attractions, go kart, mini golf);
 - b. **Restaurants/Bars (as defined and used in this Order)**, includes any establishments: offering food and/or drink for on premises consumption; businesses operating seating areas of food courts; catering food service establishments that provide food/beverages for on premises consumption; and any food service establishment that is regulated by the State of Hawaii, Department of Health offering food/beverages for on-premises consumption. The requirements of this Order 10 shall not apply to any food service establishment offering food and/or drink exclusively for off-premises consumption, or to a food service establishment providing charitable food services (shelters, soup kitchens, etc.);

- c. **Indoor “gym and fitness facility operations” and “activities and group physical activity classes” (as defined and used in this Order)**, includes standalone and hotel gyms and fitness centers, yoga/Pilates/barre/dance studios, boxing/kickboxing gyms, fitness boot camps, indoor pools, and other similar facilities.
- 4. “Indoor” means any space 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, if it has adequate ventilation to allow for air circulation.
- 5. “Full vaccination” means two weeks have passed after the second dose in a two-dose COVID-19 vaccination series which has been authorized for emergency use or approved by the U.S. Food and Drug Administration, or two weeks have passed after a single-dose COVID-19 vaccination which has been authorized for emergency use or approved by the U.S. Food and Drug Administration, regardless of whether a COVID-19 vaccine booster has been received.

Order 11:

Consistent with the City’s efforts to continue to maintain a healthy public workforce and the vaccination policy it recently implemented for all City employees, effective September 13, 2021, all City vendors/consultants/contractors that have or will have any of their employees physically present/located, in excess of 15 minutes per 24-hour day, at any City facility shall comply with the same COVID-19 vaccination/exemption guidelines that the City has implemented for its employees, and attest to compliance with the same.

All City vendors, consultants, or contractors (via their owner/authorized agent) must complete a form provided by the City, attesting that all of their employees allowed on and/or physically in City facilities are fully vaccinated or are exempted from this requirement (consistent with, and subject to, applicable state and federal laws), and agreeing to inspection by a City or State official.

For purposes of Order 11, “contractor” means the owner and/or employees of any business that the City has hired to perform work for the City.

B. 10:00 p.m. cut off for the sale, service, and consumption of liquor at establishments that sell liquor for on premises consumption

Prior to this Second Amendment, the Order (as amended) required establishments offering liquor for on premises consumption to cease the sale, service, and prohibit consumption of liquor at or before midnight (12:00 a.m.) each day, and to not have liquor, whether in bottle, glass, or other container, open and readily consumable after midnight (12:00 a.m.) each day.

Effective September 13, 2021, the Order is further amended throughout, as necessary, to require establishments offering liquor for on premises consumption to cease the sale, service, and prohibit consumption of liquor at or before 10:00 p.m. each day, and to not have liquor, whether in bottle, glass, or other container, open and readily consumable after 10:00 p.m. each day.

II. BASIS FOR THIS ORDER

On March 4, 2020, a City and County of Honolulu Proclamation COVID-19 [Novel Coronavirus] was issued in response to the COVID-19 pandemic. Subsequently, other City proclamations were issued to address the ongoing COVID-19 pandemic, including the most recent Fifteenth Proclamation of Emergency or Disaster (COVID-19 [Novel Coronavirus]).

A significant level of COVID-19, in particular Delta, the highly contagious SARS-CoV-2 virus strain, continues to spread throughout the City. As of August 26, 2021, the City has 6,682 “active” COVID-19 positive cases and has averaged 456 new COVID-19 cases per day over the last seven (7) days with a 9.8 percent positivity rate of COVID-19 tests performed over the same time period.

The U.S. Centers for Disease Control and Prevention (“CDC”) reports that new variants of COVID-19, classified as “variants of concern,” such as the Delta variant, are present in the United States. Some of these new variants currently account for the majority of COVID-19 cases sequenced in the City and are much more transmissible than earlier variants.

The CDC has stated that vaccination is the most effective tool to mitigate the spread of COVID-19 and protect against severe illness. The CDC has also stated that vaccination benefits both vaccine recipients and those with whom they come into contact, including individuals who are ineligible for the vaccine due to age, health or other conditions.

The recent appearance in the City of the highly transmissible Delta variant of COVID-19 has substantially increased the risk of infection. The risk of infection is higher in certain environments and the City must continue to take steps to mitigate the person-to-person spread of COVID-19 in those areas.

Entertainment, recreation, dining and fitness settings generally involve groups of unassociated people interacting and/or sharing the same air for a substantial period of time. Requiring vaccination for all individuals in these areas, including workers, will protect the public health,

promote public safety, and save the lives of not just those vaccinated individuals but the public at large.

According to the federal Centers for Disease Control and Prevention (CDC), the Hawaii State Department of Health, and Honolulu Emergency Services Department, Health Services Branch, COVID-19 continues to pose a risk, especially to individuals who are not fully vaccinated, and certain safety measures remain necessary to protect against COVID-19 cases, hospitalizations, and deaths.

Further, it is the opinion of the State Director of Health that COVID-19 and its variant(s) do and continue to pose a danger of an epidemic in the City and County of Honolulu as evidenced in the increases community spread of infection.

Vaccination is safe and the most effective way to mitigate COVID-19 transmission and limit COVID-19 hospitalizations and deaths, and on August 23, 2021, the U.S. Food and Drug Administration granted full approval of the Pfizer-BioNTech (COMIRNATY) COVID-19 Vaccine.

Epidemiological evidence shows that low rates of vaccination fuel increased rates of community transmission. Mandating vaccinations at the types of establishments that residents frequent will incentivize vaccinations, increasing the City's vaccination rates and saving lives.

Testing for COVID-19 continues to be an important tool for protecting the public health because it identifies active cases, even when the carrier is asymptomatic, which allows for prescribed interventions (medical/isolation/quarantine) to prevent further spread, and also provides data as to the prevalence of the disease within our community at any given time.

On August 5, 2021, Governor David Y. Ige issued an Emergency Proclamation Related to the COVID-19 Response that addressed vaccination and testing. Suitable immunizing agents are available for SARS-CoV-2 strains and a need for immunization exists within the City as there is danger of an epidemic from highly contagious SARS-CoV-2 virus strains.

Further, Hawaii Revised Statutes (Haw. Rev. Stat.) § 127A-13(b)(1) provides that the Mayor may relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the mayor to exist in the laws of the county and to result from the operation of federal programs or measures taken under this chapter, by suspending the county laws, in whole or in part, or by alleviating the provisions of county laws on such terms and conditions as the mayor may impose, including county licensing laws, and county laws relating to labels, grades, and standards.

Haw. Rev. Stat. § 127A-12(c)(2) provides that the Mayor may sponsor and develop mutual aid plans and agreements for emergency management between one or more counties, and other governmental, private-sector, or nonprofit organizations, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services; emergency housing; police services; health, medical, and related services; firefighting, rescue, transportation, and

construction services and facilities; personnel necessary to provide or conduct these services; and other materials, facilities, personnel, and services as may be needed.

Haw. Rev. Stat. § 127A-12(c)(12) provides that the Mayor may restrict the congregation of the public in stricken or dangerous areas or under dangerous conditions; and


Haw. Rev. Stat. § 127A-12(c)(17) provides that the Mayor may take any and all steps necessary or appropriate to carry out the purposes of this chapter notwithstanding that those powers in section § 127A-13(b) may only be exercised during an emergency period; and

III. EFFECT OF THE ORDER

This Second Amendment supplements Emergency Order No. 2021-09 (Order Implementing Tier 5 of Honolulu’s Post COVID-19 Vaccine Framework), and Emergency Order No. 2021-10 First Amendment to the Order Implementing Tier 5 of Honolulu’s Post COVID-19 Vaccine Framework. Except as expressly modified by this Second Amendment, the Order (Emergency Order No. 2021-09) as amended by Emergency Order No. 2021-10, remains in full force and effect.


IV. PROMULGATION/POSTING

This Order shall be posted on the City website as soon as practicable in one or more appropriate places, and shall remain posted while in effect.

 Digitally signed by Blangiardi,
Rick
Date: 2021.08.30 11:39:53 -10'00'

RICK BLANGIARDI
Mayor
City and County of Honolulu

APPROVED:

 Digitally signed by Viola,
Dana M O
Date: 2021.08.30 11:13:11
-10'00'

DANA M.O. VIOLA
Corporation Counsel
City and County of Honolulu

APPROVED:



DAVID Y. IGE
Governor
State of Hawai‘i