

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

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November 22, 2021

**OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU
EMERGENCY ORDER NO. 2021-16
(COVID-19 [Novel Coronavirus])**

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 Proclamation and Emergency Order No. 2021-16 (**COVID-19 [Novel Coronavirus]**) (the “**Proclamation and Order**”) to further address the emergency initially declared via proclamation on March 4, 2020.

I. BASIS FOR THE PROCLAMATION AND 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]).

Although COVID-19, in particular Delta, the highly contagious SARS-CoV-2 virus strain, is still present in the City, the impact of Delta has lessened as evidenced by COVID-19 statistics. As of October 26, 2021, the City has 787 “active” COVID-19 positive cases and has averaged 63 new COVID-19 cases per day over the last seven (7) days with a 1.5 percent positivity rate of COVID-19 tests performed over the same time period. 35 individuals are currently hospitalized and 4 individuals are in intensive care unit beds due to COVID-19. These statistics represent a positive trend as the metrics used to measure COVID-19 impact have significantly improved since September 22, 2021.

The CDC has stated that vaccination is a safe and most effective tool to mitigate the spread of COVID-19 and protect against severe illness, hospitalization and death. 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. On August 23, 2021, the U.S. Food and Drug Administration granted full approval of the Pfizer-BioNTech (COMIRNATY) COVID-19 Vaccine. The City has made great strides in protecting its population with 75% of its community completely vaccinated.

At this stage of the pandemic — with the reduced impact of the Delta variant, high vaccination rates, and fewer individuals requiring medical care and hospitalization for COVID-19 — the transition from government-imposed restrictions to personal and private sector responsibility and decision making should be initiated as the community adapts to live with COVID-19. Nonetheless, the highly transmissible Delta variant of COVID-19 has not been eliminated, and its continued presence, along with our limited healthcare capacity, still requires the City to take steps to mitigate the person-to-person spread of COVID-19 in certain high risk environments. Unmasked eating and drinking with others, as well as indoor exercise (and similar activities) presents a higher risk of infection. Requiring vaccination or testing 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. Additionally, larger gatherings generally involve groups of unassociated people interacting and sharing the same air for a substantial period of time, and masking requirements will mitigate that risk of infection.

A state of emergency or disaster arising out of, and relating to, the COVID-19 pandemic (including the rise in the Delta variant) continues to exist in all or any portion of the City as of the date and time of this Proclamation and Order requiring action and effort to ensure the proper functioning of the healthcare system and to promote and protect the public health, safety, and welfare of the City's residents.

II. PROCLAMATION DECLARING A STATE OF EMERGENCY PERIOD

For the reasons stated herein, I, Rick Blangiardi, Mayor of the City and County of Honolulu, pursuant to the authority vested in me as the Mayor of the City and County of Honolulu under Haw. Rev. Stat. Ch. 127A, in order to promote and protect the public health, safety, and welfare of the residents of the City and County of Honolulu, do hereby proclaim, determine, declare and find that:

1. a state of emergency or disaster period relating to the COVID-19 pandemic is hereby declared and will remain in place for 60 days from the date of execution of this Proclamation and Order (the "**Emergency Period**"); and
2. this proclamation hereby supersedes all prior COVID-19-related proclamations.

This Proclamation and Order shall be in effect through the end of the Emergency Period, unless terminated earlier by the undersigned pursuant to Haw. Rev. Stat. Ch. 127A.

III. ORDER: SAFE OAHU RESPONSE PLAN

The orders herein effectuate the goals of the *Safe Oahu Response Plan*. These orders are designed to mitigate the resurgence of COVID-19, ensure there are sufficient levels of critical healthcare capacity in the City, while also promoting increased personal and private sector responsibility and decision making, with less government regulation.

Order 1: Mitigation measures for businesses, operations, and events

- A.** Effective December 1, 2021, all businesses and operations except those events outlined in section B, of this Order 1, may operate subject to the following conditions:
1. Face coverings, consistent with Order 5, are required in all indoor areas.
 2. Indoor fitness facilities (including facilities holding group fitness classes, dance classes, and similar activities), and all businesses/operations offering or allowing food and/or drinks for on-premises consumption must implement and comply with Order 10 (Safe Access Oahu).
- B.** Events. Effective December 1, 2021, gatherings and events other than “social gatherings” as defined in Order 3, including parades (a new category), and those previously categorized as “outdoor seated entertainment,” (outdoor events that have controlled ingress/egress and assigned seating for all attendees (e.g., concerts, shows, commercial sporting events, etc.)) “outdoor interactive events,” (traditional events such as weddings, funerals, birthday parties, concerts, shows, etc. with food, beverages, and mingling that are held exclusively outdoors) “indoor seated entertainment,” (indoor concerts, shows, commercial sporting events, and similar events with assigned seating) “indoor interactive events,” (traditional events such as weddings, funerals, birthday parties, concerts, shows, etc. with food, beverages, and mingling that are held in whole or in part indoors) and “public competitions” (outdoor competitions and events on public or private roadways and other spaces (such as marathons and similar running races, cycling races, triathlons, trail races etc.)), are subject to the following conditions:
1. Face coverings are required, whether indoors or outdoors, except while actively eating/drinking (if on-premises consumption is allowed) or while competing in a “public competition.”
 2. If on-premises consumption of food and/or beverages is allowed within an area controlled by the operator of the event, the operator must implement and comply with Order 10 (Safe Access Oahu).
- C.** All businesses, operations, and events must comply with any additional conditions set forth by the State.

Order 2: Reserved.

Order 3: Gatherings.

- A.** The State limitation on social gatherings does not apply to businesses, operations, and events outlined in Order 1. Nothing in this Order prohibits the gathering of members of a single household or living unit on their property (including shared common areas).

- B.** The Safe Access Oahu requirements for businesses, operations, and events do not apply to social gatherings. Starting on December 1, 2021, for purposes of this Order, a “social gathering” is any informal and non-commercial gathering held in one’s personal residence or a park.

Order 4: Reserved.

Order 5: Face coverings.

All individuals shall wear face coverings over their noses and mouths when in public settings.

The only exceptions to this requirement are:

- A.** Individuals with medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the individual;
- B.** Children under the age of 5;
- C.** While working at a desk or work station and not actively engaged with other employees, customers, or visitors, provided that the individual’s desk or workstation is not located in a common or shared area and physical distancing of at least six (6) feet is maintained;
- D.** While eating, drinking, smoking, as permitted by applicable law;
- E.** Inside private automobiles, provided the only occupants are members of the same household or living unit;
- F.** While receiving services allowed under a State or county order, rule, or proclamation that require access to that individual’s nose or mouth;
- G.** Where federal or state safety or health regulations, or a financial institution’s policy (based on security concerns), prohibit the wearing of facial coverings;
- H.** Individuals who are communicating with the hearing impaired while actively communicating (e.g., signing or lip reading);
- I.** First responders (police, fire fighters, lifeguards, etc.) to the extent that wearing face coverings may impair or impede the safety of the first responder in the performance of his/her duty;
- J.** While outdoors (except for events, as provided in Order 1); and
- K.** As specifically allowed by a provision of a State or City COVID-19 related order, rule, or proclamation.

An owner or operator of any business, operation, or event *shall* refuse admission or service to any individual who fails to wear a face covering, unless an exception applies under this section. Businesses or operations may adopt stricter protocols or requirements related to face coverings and face shields. Businesses or operations not enforcing this rule may be subject to enforcement, including fines and mandatory closure.

Definition: “Face covering” as used herein means a tightly woven fabric (without holes, vents, or valves) that is secured to the head with either ties or straps, or simply wrapped and tied around the wearer’s nose and mouth. Face coverings must comply with the recommendations of the Center for Disease Control and Prevention (“CDC”), as such recommendations may change from time to time.

The current CDC guidelines are available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>. A medical grade face-covering is not required.

Face shields (plexi-glass/clear plastic shields, etc.) are not permitted as substitutes for face coverings unless an exception to the face covering requirement applies. Individuals who are unable to wear a face covering due to medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the person, or other exception, are encouraged to wear a face shield instead.

The wearing of face coverings is intended to complement, not serve as a substitute, for physical distancing and cleanliness.

Any seller of face coverings, or materials or supplies to make or manufacture such face coverings, shall abide by Haw. Rev. Stat. §127A-30.

Order 6: Reserved.

Order 7: Reserved.

Order 8: Restrictions on singing, playing wind instruments, and similar activities.

In general, singing, and/or playing a wind instrument, and similar activities that increase the presence and propulsion of respiratory droplets in the air in mixed household/living unit settings are discouraged. When such activities are performed, mitigation measures (e.g., increased physical distancing and improved ventilation) should be considered and implemented.

Order 9: Reserved.

Order 10: Safe Access Oahu.

- A. 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, unless otherwise indicated in this Proclamation and Order:

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

D. Each covered entity (excluding event operators) 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.

E. 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.

F. 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, hospitals, long-term care facilities, and assisted living facilities.

3. "Covered premises" means
 - a. **Any business, operation, or event offering or allowing on-premises consumption of food or beverages**, including, but not limited to businesses operating seating areas of food courts; catering food service establishments that provide food/beverages for on premises consumption; events (outlined in Order 1, Section B.) facilitating on-premises consumption of food/beverages, 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 beverages exclusively for off-premises consumption, or to a food service establishment providing charitable food services (shelters, soup kitchens, etc.);
 - b. **Indoor "gym and fitness facility operations" and "activities and group physical activity classes" (as defined and used in this Order)**, including 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 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 or the World Health Organization, regardless of whether a COVID-19 vaccine booster has been received.

Order 11: City Contractors

All City 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 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.

Order 12: Order and Rule for Violations

Pursuant to Haw. Rev. Stat. sections 127A-29 and 127A-25 and chapter 291D, violation of any of the orders is an emergency period infraction, as defined in Haw. Rev. Stat. section 291D-2, and subject to a \$250 fine, unless the Proclamation and Order, or part thereof, designates a different penalty for a particular violation.

Nothing contained in this section shall modify the criminal penalties for violating transpacific travel or quarantine rules set forth in the Governor’s Proclamations, as amended. Should the penalty provisions relating to quarantine violations be adjudged inconsistent with the Governor’s Proclamation, the Governor’s Proclamation shall govern.

This Order 12 supersedes any other “rules” issued by the City’s mayor regarding the applicable penalties for violation of COVID-19 pandemic-related orders within the City.

Order 13: Pilot sidewalk/outdoor dining privilege

The City’s pilot sidewalk/outdoor dining privilege that was created during the pandemic shall continue, subject to the conditions and requirements provided at: https://www.honolulu.gov/rep/site/dts/tpd/tpd_docs/Temporary_Sidewalk_Dining_Program_Guidelines.pdf].

IV. GENERAL

- A. **Superseding Proclamation and Order.** Emergency Order Nos. 2020-01 through 2020-31 and Nos. 2021-01 through 2021-15 issued by the Office of the Mayor City and County of Honolulu (related to the COVID-19 pandemic) are hereby rescinded — to the extent they have not been already — and are superseded by this Proclamation and Order upon its execution.
- B. **Enforcement.** All law enforcement of the State of Hawai'i and City shall ensure compliance with and enforce this Proclamation and Order in accordance with Haw. Rev. Stat. § 127A-29 and mayor's rules (Order 12).
- C. **Promulgation/posting.** This Proclamation and 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.
- D. **Severability.** If any provision of this Proclamation and Order or its application to any person or circumstance is held to be invalid, the remainder of the Proclamation and Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of the Proclamation and Order are severable.



RICK BLANGIARDI

Mayor

City and County of Honolulu

APPROVED:



DANA M.O. VIOLA

Corporation Counsel

City and County of Honolulu