



## TOWN OF BROOKLINE DEPARTMENT OF PUBLIC HEALTH

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*Patrick J. Maloney, MPAH, CHO, RS  
Acting Commissioner of Public Health  
& Human Services*

### BROOKLINE HEALTH DEPARTMENT M E M O R A N D U M

1/13/2022

To: All Food Establishments with seats, Commercial Fitness Settings,  
Indoor Entertainment settings

From: Patrick J Maloney, MPAH, CHO, RS  
Acting Director of Public Health and Human Services

Re: Regulation Requiring COVID-19 Evidence for your Establishment

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Please be advised that the Brookline Department of Public Health, with the support of the Advisory Council on Public Health and the Brookline Select Board, will implement a vaccine requirement at businesses listed above. This regulation which has been reviewed in a number of Town Public Meetings, will take effect on January 15, 2022. This Regulation is in line with Regulations adopted by the City of Boston and a number of other Boston Metro communities which will also start on the same date. Due to the implementation date of this Regulation being so soon we are having a "soft opening", which will delay enforcement and stress education for the next ten days.

This approach helps to protect our entire community as we approach the start of the third year of a pandemic that has touched all of our lives. By implementing this regulation, Brookline is doing its part to mitigate a continuing surge that is stretching our healthcare system to its limits, because vaccination is proven to significantly limit the potential for hospitalizations due to COVID-19.

Enclosed you will find the required regulation, signage, and an important Question and Answer guide to assist you in understanding the Regulation and communicating with your patrons.

Our Business community is an important partner in assisting the Public Health Department in protecting the community. Our businesses have cooperatively worked with our Department through the many stages of this Pandemic and I thank you for that. I'm trusting you will continue to work with us to implement this new Regulation and continue to assist in protecting our community.



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*Patrick J. Maloney, MPAH, CHO, RS  
Acting Commissioner of Public Health  
& Human Services*

### TOWN OF BROOKLINE MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

#### REGULATION REQUIRING COVID-19 VACCINATION FOR ALL INDOOR ENTERTAINMENT, RECREATION, DINING (INCLUDING OUTDOOR SEATING), AND FITNESS SETTINGS IN THE TOWN OF BROOKLINE

This Regulation is adopted by the Brookline Acting Director of Public Health under the Authority of the Board of Health pursuant to M.G.L. c 111 ss 6, 7, 31, 95, 104, 122, 310 CMR 11.05, 105 CMR 300.200, 1945 Mass. Acts ch. 345 as amended, and all other authorizing statutes, hereby enacts and declares as follows:

**Whereas**, there is clear evidence that COVID-19 continues to cause serious harm to the public health of the Town of Brookline ("Town");

**Whereas**, as of January 4, 2022, 87.2% of the total Town resident population has received at least one vaccination dose and 75.1% of the total Town population is fully vaccinated;

**Whereas**, 91.4% of the Town resident population over the age of 12 has received at least one vaccination dose and 78.7% of the population over the age of 12 is fully vaccinated;

**Whereas**, the positive test rate in the Town has reached 15.9%, up from a low of 0.0% in late June, 2021 and above the Health Department's 5% threshold of concern;

**Whereas**, as of December 7, the percentage of occupied adult non-surge ICU beds has reached 92.1%, 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 Director of Public Health for the Town 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 the Town; 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 REGULATION SHALL BE IN EFFECT FOR THE TOWN OF BROOKLINE, AS FOLLOWS:**

- 1) A covered entity shall not permit any patron to enter the premises without displaying proof of vaccination.
- 2) The following patrons are exempted from the vaccination requirements of this Regulation and therefore may enter a covered entity without displaying proof of vaccination, provided such patrons wear a face mask at all times and follow other applicable regulations and requirements.
  - a. Patrons 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. Public Safety, Public Health and Emergency Services personnel.
- 3) Each covered entity shall post a sign at all entrance areas. This includes exterior and interior regulated areas. The posted sign must alert patrons to the vaccination requirement in this Regulation and inform them that patrons entering the covered premises are required to be vaccinated and provide proof of vaccination prior to entry. Required signage will be supplied by the Town's Health Department.
- 4) For the purposes of this Regulation:
  - a. "Covered entity" means any entity that operates one or more covered premises, except that it shall not include:
    - i. Pre-kindergarten through grade 12 public and non-public schools.
    - ii. Childcare programs
    - iii. Senior centers
    - iv. Community centers
    - v. Non-commercial municipal functions
    - vi. Any other site that is otherwise not open to the general public
  - b. "Covered premises" means any location, except a location in residential or office buildings the use of which is limited to residents, owners, or tenants of that building, and colleges or universities that have a vaccination requirement covering staff and students. "Covered premises" include:
    - i. Indoor entertainment and indoor recreational and event venues, including movie and performance theaters, commercial event and party venues, museums and galleries, exhibition halls, performing arts theaters, and other recreational centers.
    - ii. Food service establishments, including interior and exterior seating areas. This Regulation shall not apply to any food establishment offering food or beverage exclusively off premises or to charitable food service such as soup kitchens.
    - iii. All commercial indoor gyms and fitness settings, including, fitness, yoga, pilates, barre and other dance studios, boxing/kickboxing gyms, fitness boot camps, indoor pools, and other facilities used for conducting group fitness.
  - c. "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 Regulation. Such proof may be established by:

- i. A CDC COVID-19 Vaccination Card
  - ii. A digital image of a 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 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. Any vaccination verification smartphone application developed by the Commonwealth of Massachusetts or developed or endorsed by the Town.
- 5) Each instance that a covered entity fails to check an individual's vaccination status shall constitute a separate violation of this Regulation.
- 6) Covered entities shall comply with any guidelines issued by the Health Department to further the purposes of this Order.
- 7) This Regulation shall take effect on the following schedule:
  - a. Phase 1: January 15, 2022. All patrons ages 12 and over shall be required to present proof of at least one dose of vaccination in either a one dose or multiple dose series.
  - b. Phase 2: February 15, 2022. All patrons ages 12 and over shall be required to present proof of one dose in a one-dose series or all doses in a multiple dose series.
  - c. Phase 3: March 1, 2022. All patrons ages 5-11 shall be required to present proof of at least one dose of vaccination in either a one dose or a multiple dose series.
  - d. Phase 4: May 1, 2022. All patrons ages 5 to 11 shall be required to present proof of either one dose of a one-dose series or all doses in a multiple dose series.

## ENFORCEMENT

All reasonable efforts will be made to obtain voluntary compliance with this Regulation. This Regulation is enforceable by a fine of \$300.00 in the manner provided for non-criminal disposition of violation of the Town of Brookline Regulations, pursuant to MGL c 40 s 21D and Article 10.3 of the Town's General By-laws. The Health Department, Police Department and any other Brookline Public Safety designee is authorized to enforce this Regulation.

BY:

Patrick Maloney

1/11/2022

Patrick J., Maloney MPAH CHO, RS  
Acting Director of Public Health

Date:

Endorsed by The Advisory Council on Public Health:  
Endorsed by The Town of Brookline Select Board:

1/6/2022  
1/11/2022

# NOTICE: VACCINATION REQUIRED

Per order of the Town of Brookline's  
Department of Public Health

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Starting January 15, 2022, patrons must have proof of COVID-19 vaccination to enter this business\*. That verification can be done with:

- A CDC vaccination card
- A digital image of your CDC card
- An image of any official immunization record
- A COVID vaccine verification app

*\*Food Service Take Out Orders Are Exempt*



Access MA's  
My Vax Records



## Frequently Asked Questions

### **Does this new regulation change Brookline's indoor face covering order?**

No. Brookline's indoor face covering order remains in effect. The public health guidance from the CDC and the Brookline Health Department is that the best protection against COVID-19 is both to get vaccinated and to wear a well fitted mask until the spread of COVID-19 in the community is suppressed.

### **When I show my proof of vaccine verification, do I also need to show ID?**

No. People only need to show proof that they are vaccinated.

### **What if I have misplaced my vaccination card?**

Businesses are required to ask for proof of vaccination. Businesses may allow a patron to enter for a limited purpose, such as to pick up food or to recharge their cell phone to enable the patron to show a digital image of their proof of vaccination. Businesses may also exercise discretion to allow entrance to a vaccinated minor who cannot show proof of vaccination if the minor or an accompanying adult can offer a reasonable explanation.

### **What if I don't have a smartphone?**

You can show that you are vaccinated without a smartphone by showing your CDC vaccination card or any other official immunization record.

### **Can I report a business that is not following the policy?**

If you see a business that is not following the policy that you believe should be, please contact the Health Department at [vaccine@brooklinema.gov](mailto:vaccine@brooklinema.gov). If you are a worker concerned about retaliation, please also contact the [Attorney General's Fair Labor Division](#).

### **Do I need a booster shot under the policy?**

There is currently no requirement in the policy to have a booster to enter indoor establishments. The Health Commissioner may modify this provision in the future, in consultation with public health data and guidance from the CDC.

### **Does this policy apply to children?**

Starting on January 15, 2022, the policy applies to people age 12+. Starting March 1, 2022, the policy also applies to children ages 5-11. The policy does not currently apply to children under 5 years old.

<b>Date</b>	<b>Requirement</b>
January 15 <sup>th</sup>	All patrons ages 12 and over shall be required to present proof of at least one dose of vaccination in either a one dose or multiple dose series.
February 15 <sup>th</sup>	All patrons ages 12 and over shall be required to present proof of being fully vaccinated (i.e., one dose in a one-dose series or all doses in a multiple dose series).
March 1 <sup>st</sup>	All patrons ages 5-11 shall be required to present proof of at least one dose of vaccination in either a one dose or a multiple dose series. All patrons ages 12 and older shall be required to present proof of being fully vaccinated.
May 1 <sup>st</sup>	All patrons ages 5 and older shall be required to present proof of being fully vaccinated.

### **How should businesses verify that an individual is under 5 and exempt from the policy?**

Businesses are not required to ask for identification alongside proof of vaccination. If a customer states that their child is under 5, businesses should use their best discretion to accommodate that child.

### **Does this policy apply to schools or school programs?**

No, the policy excludes public and non-public schools (pre-kindergarten through grade 12), school trips, school programs, child care programs, and community centers.

### **Why are schools exempt?**

Public Schools of Brookline have implemented a number of mitigation measures to reduce exposure to the virus that we are not requiring of our local businesses. It is also consistent with the regional approach to this vaccine requirement.

### **Does this policy apply to colleges and universities?**

The policy excludes indoor dining, fitness, and entertainment spaces within higher education institutions that already require vaccination for all members of the community.

### **What if an individual refuses to show proof of vaccination at a covered establishment?**

An individual who refuses to show proof of vaccination may not enter except for very quick and limited purposes (such as using the bathroom, picking up food, making a takeout order, or paying a takeout bill). When entering a venue for such limited purposes, the individuals must wear a face mask. If an individual cannot show proof of vaccination, businesses may engage in a cooperative dialogue to find a reasonable accommodation, such as providing takeout rather than dine-in service or joining a virtual rather than in-person exercise class.

**Does this policy apply to indoor dining, fitness or entertainment in schools?**

No. The policy excludes pre-kindergarten through grade 12 public and non-public schools and programs, child care programs, senior centers, and community centers. The policy does not apply to indoor college and university spaces that already require vaccination for all members of the community.

**If someone is entering a business for a brief, limited purpose is the business required to check proof of vaccination?**

No, those who enter a covered facility solely for a quick and limited purpose, such as using the bathroom, picking up food, making a takeout order, or paying a takeout bill, are not required to show vaccination status.

**Do businesses need to check proof of vaccination from suppliers or vendors?**

Those entering a facility solely for a quick and limited purpose, such as making a delivery to a restaurant or performing necessary repairs, are not required to show vaccination status. These individuals must wear a face mask.

**Will there be enforcement against businesses who don't follow the policy?**

The Town's goal is to help businesses follow the policy so that we can encourage vaccination and limit the risk to customers and workers. Initially the department is launching this policy on January 15th with a soft opening to educate businesses on the requirements. Ten days after the effective date, inspectors will begin spot checks for compliance. Businesses who are found not in compliance will receive educational materials and a warning. If businesses continue not to comply, they may be fined or face other enforcement action. The Town's focus will be ensuring that covered entities understand the policy and have every opportunity to comply.

**Can businesses maintain notes to confirm vaccination status of regular customers or guests, rather than asking for vaccination status upon entry?**

Membership-only businesses, such as gyms, may maintain a list of customers with certification that each customer has shown their vaccination status. Businesses must provide members the option of verifying their vaccination status each time they enter the business without vaccination status being entered into a database. These businesses must be able to demonstrate to inspectors how they are verifying members' vaccination status.

### **What if a customer states that they cannot be vaccinated for medical, disability, or other civil rights-related reasons?**

Covered businesses must require proof of vaccination. If a customer requests an accommodation due to a disability, medical condition, or another civil rights-related reason, businesses should not ask for documentation to support this request. Instead, businesses should engage in a cooperative dialogue, or a good faith discussion, to see if a reasonable accommodation is possible. Reasonable accommodations can take many forms. For example, an unvaccinated customer could order by phone and do a no-contact pick-up take-out order or participate in virtual programming.

A business does not have to provide such an accommodation if doing so would create a direct threat for other customers or employees of the business or impose an undue hardship on the business. Examples of accommodations that a business may decide is likely to pose a direct threat or an undue burden include allowing an unvaccinated customer to eat in the seating area of a restaurant, participate in a group exercise class, or participate in indoor, unmasked contact sports.

**Note that customers may also be entitled to reasonable accommodations for their religious beliefs.**

### **How does this policy apply to multi-purpose facilities, such as libraries or community centers?**

Within multi-purpose facilities, certain portions of the establishment may be covered by the policy (indoor dining, fitness, or entertainment activities). Facilities may display signage at the entrance of these covered portions of the multi-purpose facility – for example, at the entrance to a hotel gym or pool, rather than the entrance to the hotel itself. Vaccination proof may be checked at the entrance to the facility, or at the entrance to the covered portion, according to the discretion of the facility.

### **Does this policy apply to hotels?**

Hotel guests using facilities covered by this policy (e.g. indoor dining, including restaurants, bars, and nightclubs; indoor fitness, including gyms and pools; and indoor entertainment, including function rooms) are required to show proof of vaccination, and hotel employees working in these facilities must be vaccinated. Areas that are for employees only and are not open to the public, such as employee cafeterias, are not covered by the order. The order does not cover in-room dining services that are not open to the public.

### **Are private events in hotels or venues covered under the policy?**

No, private events in covered premises that are not open to the public (e.g., wedding) are not required to follow this policy.

### **Are restaurant customers required to provide proof of vaccination for outdoor dining?**

Yes, this policy applies to both indoor and outdoor portions of food service establishments.

### **Are restaurants with no seating that only offer take-out and delivery only, are exempt from the vaccine mandate?**

Yes, the policy does not apply to any food service establishment offering food or drink exclusively for off-premises consumption.

**Are quick-service restaurants that offer both take-out and dine-in services required to check proof of vaccination from all customers at the door?**

No. Customers entering a covered establishment for a quick and limited purpose, such as picking up take-out food, are not required to show their vaccination status.

Quick-service restaurants must ask for proof of vaccination at the point of service, after a customer indicates that they are planning to dine in.

**Do employees of covered establishments need to be vaccinated?**

No. This policy covers only patrons at this time. The Commissioner may revisit this requirement at a later date.

**Can customers submit recent COVID-19 test results as an alternative to vaccination?**

No, the policy does not allow for testing as a substitute for showing vaccination status.

**Will customers be fined \$300 for not complying with this policy?**

No, customers cannot be fined under this policy. Fines are strictly for businesses that do not comply with the policy. The Department of Health and Human Services wishes to work collaboratively with our local businesses to implement this policy. If a customer continues to be noncooperative management can request that they leave for non-compliance and request an order of disinvite.