



**AMENDMENT CONCERNING THE EFFECTIVENESS OF  
THE EMERGENCY REGULATION  
GOVERNING THE CONTROL AND PREVENTION OF COVID-19  
MANDATING VACCINES FOR INDIVIDUALS WORKING AND DINING  
AT INDOOR DINING LOCATIONS (AS AMENDED 1/4/2022)**

**WHEREAS**, the whereas clauses from The Emergency Regulation Governing the control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations (as amended 1/4/2022) are incorporated herein by reference; and

**WHEREAS**, on December 15, 2022, the Board adopted the Emergency Regulation Governing the control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations, and subsequently amended such regulation on January 4, 2022, after a public hearing on the regulation; and

**WHEREAS**, the Omicron variant led to a huge surge in cases in Philadelphia and across the country, with daily cases in Philadelphia peaking at more than 3500 cases per day in early January, with an equally sharp drop in cases over the second half of January and the first half of February down to an average of fewer than 225 cases per day; and

**WHEREAS**, the Indoor Dining Vaccine Mandate proved helpful in reducing COVID-19 cases in Philadelphia during this previous surge and in encouraging increased vaccination; and

**WHEREAS**, the Mayor and the Health Commissioner recently announced that the City would like to use certain objective metrics to identify when certain precautions can be rolled back and others should be imposed; and

**WHEREAS**, those metrics have been met at the current time, such that the Indoor Dining Vaccine Mandate does not need to be in place at the current time and is not currently being enforced by the Department of Health; and

**WHEREAS**, the Board of Health has recognized that the situation involving the COVID-19 pandemic is fast moving and often requires changes to control measures both to impose additional measures and to roll back required measures when appropriate before the Board is able to meet and at this time it is appropriate to identify objective metrics regarding when the Indoor Dining Vaccine Mandate should be reimposed; and

**NOW, THEREFORE**, pursuant to its authority under the Pennsylvania Disease Prevention and Control Law of 1955, Section 6-210 of The Philadelphia Code, Section 8-407 of the Philadelphia Home Rule Charter, and the Mayor’s “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus,” the Board of Health hereby adopts the following emergency regulation, effective immediately upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate this as a formal regulation:

**Section A: *Indoor Dining Mandate Not In Effect (Mask Precautions or All Clear Response Levels)***. The Emergency Regulation Governing the control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations (as amended 1/4/2022), attached hereto as Exhibit A, (the “Indoor Dining Vaccine Mandate”) is not in effect at this time based on the Commissioner and Board’s determination that three (3) or more of the following metrics have been reached:

1. The average daily case count of reported COVID-19 cases for the prior seven (7) days is less than two hundred and twenty-five (225).
2. Hospitalizations related to COVID-19 cases are under one hundred (100).
3. The current positivity rate for COVID-19 tests is under 5%.
4. The average daily case count for reported COVID-19 cases has not risen by more than 50% within the prior ten (10) days.

If the Indoor Dining Vaccine Mandate becomes effective once more under either Section B or Section C of this Regulation, the mandate shall cease to be effective upon the Commissioner’s determination and certification to the Board and the Mayor that three (3) or more of the metrics identified above have been reached.

**Section B: *Indoor Dining Mandate Effective With Option for Testing in Lieu of Vaccination (Caution Response Level)***. Upon the Commissioner’s Determination and Certification to the Board and the Mayor that (a) three (3) or more of the metrics set forth below are applicable; and (b) reimposition of the requirements of the Indoor Dining Vaccine Mandate with the testing exception provided in this Section B is appropriate and necessary to control the spread of COVID-19 in the City, the Indoor Dining Vaccine Mandate shall be reinstated, however, Indoor Dining Locations shall have the option to accept proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from a customer within twenty-four (24) hours of the date of entrance to the Indoor Dining Location in lieu of proof of vaccination or an exception, all as the Department of Health shall set forth in guidance consistent with the Optional Exception for Testing that was allowed under the Indoor Dining Vaccine Mandate prior to January 17, 2022, *see* Indoor Dining Mandate at Section 2(E):

1. The average daily case count of reported COVID-19 cases for the prior seven (7) days is two hundred and twenty-five (225) or more but less than five hundred (500).

2. Hospitalizations related to COVID-19 cases are one hundred (100) or more but under five hundred (500).
3. The current positivity rate for COVID-19 tests is 5% or over but under 10%.
4. The average daily case count for reported COVID-19 cases has not risen by more than 50% within the prior ten (10) days.

**Section C: *Indoor Dining Mandate Effective Without Option for Testing in Lieu of Vaccination (Extreme Caution Response Level)*.** Upon the Commissioner's determination and certification to the Board and Mayor that (a) two (2) or more of the metrics set forth below are applicable; and (b) reimposition of the requirements of the Indoor Dining Vaccine Mandate without the testing exception provided for in Section B, above, is appropriate and necessary to control the spread of COVID-19 in the City, the Indoor Dining Vaccine Mandate shall be reinstated, without any option for Indoor Dining Locations to accept a negative COVID-19 test within 24-hours in lieu of proof of vaccination:

1. The average daily case count of reported COVID-19 cases for the prior seven (7) days is five hundred (500) or more.
2. Hospitalizations related to COVID-19 cases are five hundred (500) or more.
3. The current positivity rate for COVID-19 tests is 10% or higher.
4. The average daily case count for reported COVID-19 cases has risen by more than 50% within the prior ten (10) days.