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NYC | HOSPITALITY
ALLIANCE

Mayor Adams to Drop Key to NYC's Vaccination Requirements

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Effective March 7, 2022, New York City will lift the Key to NYC mandate requiring that anyone age 5 and older show proof of vaccination to enter indoor dining, fitness, entertainment and certain meeting spaces. Mayor Eric Adams's [announcement](#), issued February 27, 2022, is welcome news to the operators of many hospitality venues that have been hindered by the ever-changing requirements imposed last year by then-Mayor Bill de Blasio.

Key to NYC Mandate – Will Be Lifted March 7

Although the Key to NYC [requirements](#) have changed throughout the pandemic, since August 17, 2021, no “covered entity” has been allowed to permit a patron, full- or part-time employee, intern, volunteer or contractor to enter its premises without showing proof of COVID-19 vaccination. Entities covered by the mandate include Indoor Food Services, Indoor Gyms and Fitness Settings, and Indoor Entertainment and Recreational Settings.

Any entity that is determined to have violated the Key to NYC mandate is subject to a fine of not less than \$1,000 for a first offense, \$2,000 for a second event within 12 months and \$5,000 for each subsequent offense within 12 months. Each instance where a covered entity fails to check an individual's vaccination status is considered a separate violation of the order.

Private Sector Order – Will NOT Be Lifted March 7

As explained [here](#), on December 13, 2021, the city issued a broader Executive [Order](#) covering most of the city's private businesses. That order, which still remains in effect and will not be rescinded on March 7, 2022, requires every non-government entity that employs more than one worker in the city or maintains a workplace in the city to ensure that all of its “workers” provide proof that they are vaccinated against COVID-19 before entering the workplace.

This order defines “worker” as an individual who works in person in the city, including full- or part-time staff members, employers, employees, interns, volunteers or contractors of a covered entity. The order also covers self-employed individuals or sole practitioners who work at a public workplace or interact with other workers or the public in the course of their business.

Employees — Not Guests — Must Still Show Proof of Vaccination

Once the Key to NYC is rescinded on March 7, 2022, a covered employer will no longer be required to have its *guests* show proof of vaccination to enter the establishment's indoor areas.

However, as explained above, the December 13 order remains in effect. Accordingly, hospitality employers no longer subject to the Key to NYC

mandate must still comply with the December 13 order. In other words, private businesses that employ more than one worker in the city or maintain a workplace in the city must continue to require that most *employees* and *new hires* show proof that they are fully vaccinated before entering the workplace.

Under the December 13 order, employees who are not required to show proof of vaccination include:

- An individual who works from their own home and whose employment does not involve interacting in person with coworkers or members of the public
- An individual who enters the workplace for “a quick and limited purpose”
- Non-city residents who are performing artists, college or professional athletes, or individuals accompanying such performing artists or college or professional athletes that are not required to show proof of vaccination pursuant to the city’s Key to NYC program.

For more information on the Private Sector Order, please see our December 16, 2021 alert [here](#).

Employers Must Still Provide Reasonable Accommodations Where Feasible

Given that most hospitality employers will still be covered under the December 13 order, they must continue to engage in the interactive process (also known as the “cooperative dialogue”) with a worker who requests to be

exempt from vaccination as a reasonable accommodation due to a medical condition or a sincerely held religious belief, so long it does not cause undue hardship on the employer.

Further, the employer must continue to keep records demonstrating that such accommodation was requested, any documents provided by the worker in support of the request, documents showing the employer’s response and documents evidencing the accommodation that was provided, if any. All of these records must be kept in a separate file.

On December 20, 2021, the city issued specific accommodation request forms that employers should use when employees request a reasonable accommodation. These forms can be found on the city’s website [here](#).

Key Takeaway

The city’s vaccination mandate has been in constant flux. Thus, while many hospitality employers will be relieved from the Key to NYC requirements, most will remain covered under the December 13 order and must continue to ensure that certain workers show proof of vaccination.

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