

CLIENT ALERT: Boston Reinstates Mask Mandate for Certain Businesses Effective August 27, 2021

Effective on August 27, 2021, at 8:00 a.m., all persons must wear a mask whenever they are indoors in a place open to the public in the City of Boston. The “Order Requiring Face Coverings in the City of Boston” was issued on August 20, 2021, by acting Mayor of Boston, Kim Janey, as a result of public health metrics related to COVID-19 trending in the wrong direction and the Centers for Disease Control (“CDC”)’s recommendation for indoor masking for substantial or high transmission areas.

As set out in the [order](#) and related [Frequently Asked Questions](#), spaces “open to the public” include restaurants, retail establishments, gyms and indoor fitness centers, performance spaces and theaters, museums, cultural and historical sites, and municipal buildings. Accordingly, employers operating in such spaces should update their policies for employees and the public to require masking, with limited exceptions for disability-related accommodations. Customers in bars and restaurants are only permitted to remove their masks indoors while actively eating or drinking (and not, for example, while ordering their food or beverage). Musical and other live performances are still permitted, and performers are able to remove their masks while performing provided that the performer is at least six feet away from any customer.

Importantly, the Boston mask mandate does *not* apply to offices or businesses in the City of Boston that are not open to the public, including those that are closed to the public except for appointments. Although not covered by the order, all employers are encouraged to continue COVID-19 mitigation efforts, and comply with masking recommendations from the CDC and the most recent guidance from the Occupational Safety and Health Administration (“OSHA”), discussed [here](#).

The Mayor’s Office has indicated that the mandate will remain in place for the City of Boston until it sees a consistent downtrend in the City’s health data and until community transmission levels are downgraded.

While the mandate discussed above covers the City of Boston, several other communities in Massachusetts have imposed some form of a mask mandate as of the date of this alert, including: Arlington, Belmont, Billerica, Brookline, Cambridge (required in all city and municipal buildings and urged “in all situations where transmission is likely”), Edgartown, Lexington, Nantucket, Oak Bluffs, Provincetown, Salem, Somerville, Tisbury, Truro, Watertown, Wellfleet, Winchester, and Worcester.

As guidance on required and recommended COVID-19 mitigation efforts continues to change on a regular basis, employers are encouraged to work with their MBJ attorney to ensure they are complying with the rapidly evolving guidance.

[Andrea Zoia](#) is a Partner at Morgan, Brown & Joy, LLP, and may be reached at (617) 523-6666, or at azoia@morganbrown.com. Morgan, Brown & Joy, LLP focuses exclusively on representing employers in employment and labor matters.

This alert was prepared on August 25, 2021.

This publication, which may be considered advertising under the ethical rules of certain jurisdictions, should not be construed as legal advice or a legal opinion on any specific facts or circumstances by Morgan, Brown & Joy, LLP and its attorneys. This newsletter is intended for general information purposes only and you should consult an attorney concerning any specific legal questions you may have.

byline-default