



## Legislation Text

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Staff Report for a City of San Leandro City Council Urgency Ordinance and a Regular Ordinance to Require Proof of COVID-19 Vaccination to Enter Specified Places of Public Accommodation

### **RECOMMENDATION**

Per the City Council's direction at the October 4, 2021 City Council meeting, staff presents for the City Council's consideration and possible action an Urgency Ordinance that would go into effect immediately and a Regular Ordinance to require proof of COVID-19 vaccination at specified indoor locations within the City.

### **BACKGROUND AND SUMMARY**

The COVID-19 pandemic remains a significant challenge in the City of San Leandro, especially in light of the highly contagious Delta variant. The number of COVID-19 cases and rate of community transmission remain a matter of significant public concern and, according to health experts, both are capable of increasing without warning because respiratory viruses and the flu spread more easily in the fall and winter months.

The United States Centers for Disease Control and Prevention, California Department of Public Health, and the Alameda County Department of Health uniformly recommend widespread vaccination in order to combat the spread of COVID-19, protect those who cannot be vaccinated by reason of age or immune weakness, safeguard the capacity of the local health care system, and prevent unnecessary and premature deaths. Although vaccines are widely available throughout the City and Alameda County, many eligible residents are not yet vaccinated. If there is not a significant increase in vaccination coverage, health experts warn that there will be a cycle of repeated surges every few months. The City has an interest in increasing vaccination rates which, in turn, will help stem the spread of COVID-19 and protect its residents against disease that threatens the health, safety, and wellbeing of everyone.

In light of state and local guidance, requiring vaccination of all eligible individuals who frequent certain indoor businesses that allow groups of unassociated individuals to interact for long periods of time where patrons remove their masks to eat or drink, engage in physical exertion or aerobic activity, or do not adequately physically distance, will provide the strongest protection to the health and safety of the City's residents, including those who for reasons of age or immune weakness cannot be vaccinated. Requiring vaccination or proof of a negative COVID-19 test for individuals who enter such specified establishments will promote public health and safety. These requirements also offer an alternative approach to stringent public health measures such as complete business closures that were implemented previously.

The City of San Leandro therefore seeks to promote the health, safety, and welfare of residents, those who work and recreate in the City, and to encourage vaccination, by requiring proof of full

vaccination with a COVID-19 vaccine to enter specified establishments within the City that routinely allow for higher-risk interactions between unassociated individuals, such as full service restaurants, large scale and small scale fast food establishments, bars, cafes, gyms, and theaters, amongst others.

At these establishments, implementation of a proof of vaccination requirement is critical in order to protect City residents, visitors, and those businesses' employees, while also attempting to avoid future shutdowns and maintain the City's economic recovery.

If approved by the City Council, the urgency ordinance would go into effect immediately; the regular ordinance would go into effect thirty days after its second reading, which is currently scheduled for November 15, 2021.

City staff will commence enforcement, which may include at staff's enforcement discretion initially by courtesy notice and education. The Ordinance will automatically sunset on January 31, 2022 or when the proclamation of a local emergency is terminated by the City, whichever occurs first, unless otherwise amended by the City Council.

### **Proposed Ordinance Requirements**

The proposed Ordinance would require proof of vaccination for adult patrons (18 years of age or older) to enter the indoor portion of the following types of businesses (as defined in the City of San Leandro Zoning Code):

1. Establishments where food or drink is served indoors, including but not limited to Full Service Restaurants, Bars, Large Scale and Small Scale Fast Food Establishments, Brewpubs, and Cafés;
2. Health and Fitness Centers and Instruction and Improvement Services;
3. Card rooms, Dance Clubs, Entertainment Events, Game Centers, Theaters, and Theaters (Small Scale).

Proof of vaccination would not be required for adult patrons utilizing outdoor areas, or for customers who enter covered businesses for brief periods of time to use the restroom, pick up "to go" orders or perform necessary repairs, provided that the patron wears a well-fitting mask at all times while indoors. An adult patron may be exempt from the proof of vaccine requirement if they are entitled under any applicable law to a reasonable accommodation for a medical condition or a sincerely held religious belief. Such exempt adult patron may only utilize indoor areas of covered businesses by providing proof of negative COVID-19 test. Additionally, the Ordinance does not apply to the brief service of food or drink as a part of a religious ceremony or to any location already required by a separate Federal, State or County Order to check proof of vaccination.

Further details regarding the implementation of the proof of vaccine requirement, including means of performing vaccine verification, determining exemption, and implementing the requirement in particular circumstances, are included in the Ordinance.

### **Statewide Context**

Based on a search of available online resources, city staff was thus far able to identify only four other jurisdictions in California that have adopted similar requirements mandating proof of vaccination to

enter specified places of public accommodation. Those agencies include:

- City and County of San Francisco\*
- City of Berkeley\*
- City of Los Angeles
- Contra Costa County\*

\*Of the four agencies identified above, three of them have their own public health officer and so their mandatory proof of vaccination requirements were adopted via a public health order, rather than via a local ordinance.

### **Potential Impact to Local Businesses and Organizations**

Based on available data generated by the City of San Leandro's business license records, it is estimated that approximately 250 businesses would be affected by the proposed proof of vaccination requirements. If the Ordinance were adopted, those businesses would need to modify their daily operations to ensure that they could implement the proposed requirements, which could include updated procedures, electronic equipment, signage, staff and customer education, and additional staffing. The customer volume and overall revenues may be impacted, with unvaccinated customers or those who do not have their proof of vaccine on hand, not patronizing the business. Outreach to mitigate the impact on covered businesses will include direct notices to businesses, public messaging, information on City website including a frequently asked questions guide, and an informational webinar.

### **Resources for Local Enforcement**

The adopted FY 2021-22 city budget has no funding appropriated to support enforcement of the provisions of this ordinance. Due to highly constrained existing staffing resources, enforcement of the provisions of this ordinance would likely be prioritized based on public reports of non-compliance, balanced against existing workloads associated with staff's primary work duties and responsibilities.

### **Attachments:**

- Proposed Urgency Ordinance
- Proposed Regular Ordinance

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