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**Thirty-Eighth Supplement to Public Order Under
City of Culver City Emergency Authority**

Issue Date: October 26, 2021 (as Amended November 8, 2021)

**Subject: Proof of COVID-19 Vaccination Required to Enter Certain Indoor
Businesses and Indoor City Facilities Effective November 29, 2021.**

Background of Local Emergency and Purpose of This Order.

This Thirty-Eighth Supplement to Public Order requires proof of full COVID-19 vaccination to enter certain indoor public locations, events, and City facilities. On March 14, 2020, the City Manager, as Director of Emergency Services, issued a Proclamation of Local Emergency, due to the outbreak and spread of the Coronavirus Respiratory Disease (COVID-19), which was ratified by the City Council on March 18, 2020 by Resolution No. 2020-R015. Beginning on March 16, 2020, the City Manager issued a number of public orders, closing many businesses and significantly restricting the operations of others, consistent with various supplemental orders that were issued by the State of California and the Los Angeles County Department of Public Health, as well as a number of neighboring communities.

Due to the continuing community transmission of COVID-19 in the County of Los Angeles, and the ongoing concerns about the Delta variant, which even vaccinated persons who become infected can spread to others, the County of Los Angeles continues to issue Public Health Orders, with the most recent Order issued on September 28, 2021 and effective as of October 7, 2021.

Over the past 19 months, the City Manager has issued 37 supplements to the original Public Order, all of which were ratified by the City Council. The City Manager's Public Orders echoed the numerous detailed Public Health Orders issued by the County of Los Angeles Health Officer, that included at various times business closures, restrictions on non-essential activities, advising residents they should remain at home, mask and distancing requirements when around persons not in one's immediate family, capacity requirements for businesses as well as refraining from social gatherings, and, at times, closing of indoor portions of non-essential businesses.

The United States Centers for Disease Control and Prevention, the California Department of Public Health, and the County of Los Angeles Department of Public Health (DPH) uniformly recommend widespread vaccination in order to combat the spread of COVID-19, protect those who cannot be vaccinated by reason of age, safeguard the capacity of the local healthcare system, and prevent unnecessary and premature deaths. Although vaccines are widely available in the City and in the region, many eligible County residents are not yet vaccinated. Culver City residents have a high vaccination rate, however, by virtue

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of its location, services, facilities, businesses restaurants and bars, the City is a destination for thousands of visitors and other persons who live outside of the City boundaries. The City has an interest in increasing vaccination rates which, in turn, will help stem the spread of COVID-19 and protect its residents, employees, and visitors.

On August 24, 2021, the DPH issued a memorandum titled "Evaluation of COVID-19 Vaccine Requirements for Indoor Public Spaces", which explained that "[b]ecause Los Angeles County is and has remained at a level of high community transmission, additional layers of protection in certain indoor setting where COVID-19 transmission is more likely to occur must be considered to avoid further negative impacts to the populous and business community." DPH recommended a vaccination requirement for "indoor public settings that present a higher risk of transmission ...because of exceptions to the universal indoor masking requirement, increased levels of physical exertion by customers, or large numbers of people at an establishment or the close proximity of employees and/or customers for long periods of time." DPH allowed for municipalities to require more stringent measures.

On September 17, 2021, DPH issued an Order titled "Responding Together at Work and in the Community" (DHP Order) with the stated goal of slowing the continuously high trends in and level of transmission of COVID-19. The DPH Order advises "[t]he best way to reduce the current level of community transmission and to prevent future surges is for everyone who is eligible, including those who have recovered from a COVID-19 infection, to get fully vaccinated as soon as possible."

Specifically, the DPH Order mandates proof of vaccination or a negative COVID-19 test for "Mega Events" defined as event with large crowds, including indoor events with greater than 1,000 attendees and outdoor events with greater than 10,000 attendees. The DPH Order also requires proof of vaccination for all indoor spaces at bars, breweries, wineries, distilleries, nightclubs, and lounges. The locations covered under the DPH Order are required to follow the mandates of the Order. The Order also strongly recommends that operators of all restaurants verify the COVID-19 vaccination status of their patrons for indoor service. The Order does not supersede any stricter limitation imposed by a local public entity and, in announcing the Order, the DPH applauded cities across the County for creating additional safeguards in spaces where people are intermingling with the use of targeted vaccination mandates.

In light of the DPH's guidance, requiring vaccination of all eligible individuals who frequent recreational 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 heavy physical exertion, or do not adequately physically distance, will provide the strongest protection to the health and safety of the City's residents and visitors, including those who for reasons of age cannot be vaccinated. Requiring vaccination or proof of a negative COVID-19 test for large outdoor events between 5,000 and 9,999 attendees also will address several factors that increase the risk of transmission at those events, including crowding, prolonged duration, removal of masks for eating or drinking, and the increased likelihood contagious persons are present when a larger number of people are gathered.

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Additionally, requiring vaccination for individuals who enter City facilities will protect the health and safety of the City's workforce who themselves must be vaccinated and will protect the public health at large. These requirements also offer an alternative approach to stringent public health measures such as complete business closures that have been implemented previously. The City therefore seeks to promote the health, safety, and welfare of its residents, to protect its workers, and to encourage vaccination, by requiring proof of full vaccination with a COVID-19 vaccine to enter recreational locations and events within the City that routinely allow for higher-risk interaction, and City facilities where City workers put themselves at risk to provide services to the general public. On the premises of these establishments, implementation of a vaccination requirement is critical in order to protect the City's employees, residents, visitors, and businesses, while also attempting to avoid future shutdowns and maintain the City's economic recovery. Nothing herein shall be interpreted to supersede or modify any Orders issued by the DPH, State Public Health Officer, or federal government.

PUBLIC ORDER

By virtue of authority vested in me as the Director of Emergency Services, pursuant to the provisions of CCMC Section 3.09.020.B.1.h(2), to make and issue rules and regulations on matters reasonably related to the protection of persons, property, and the environment as affected by such emergency, I hereby order:

Section 1. Definitions.

The following definitions shall apply to this Order:

- A. *City* means the City of Culver City.
- B. *City Facility* means the Indoor Portion of any building, structure, facility or premises belonging to or under the control of the City, including the Municipal Plunge. The lobby of the Culver City Police Department shall not be covered by this definition.
- C. *Covered Location* means any of the following locations in the City:
 - 1. Establishments where food or beverages are served, including, but not limited to, restaurants, bars, fast-food establishments, coffee shops, tasting rooms, cafeterias, food courts (including those in malls), breweries, wineries, distilleries, banquet halls, and hotel ballrooms;
 - 2. Gyms and fitness venues, including, but not limited to gyms, recreation facilities, fitness centers, yoga, Pilates, cycling, barre, and dance studios, hotel gyms, boxing and kickboxing gyms, fitness bootcamps, and other facilities used for conducting indoor group fitness classes;
 - 3. Entertainment and recreation venues, including, but not limited to, movie theaters, music and concert venues, live performance venues, adult entertainment venues, commercial event and party venues, sports arenas, convention centers, exhibition halls, performing arts theaters, bowling alleys, arcades, card rooms, family entertainment centers, play areas, pool and billiard halls, and other recreational game centers;

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4. Personal care establishments, including spas, nail salons, hair salons, barbershops, tanning salons, estheticians, skin care and cosmetology services, body art professionals, piercing shops, and massage therapy, except as medically required.

A Covered Location does not include any location that does not have an Indoor Portion. A Covered Location does not include any location that is required by a DPH Order to check proof of COVID-19 vaccination status prior to providing indoor service.

Nothing in this order shall be interpreted to preclude locations in the City that are not included in the above list from issuing vaccination requirements. Nothing in this Order shall be interpreted to preclude Covered Locations from issuing more stringent requirements than required by this Order.

- D. *COVID-19* means coronavirus disease 2019, the infectious disease caused by the SARS-CoV-2 virus that resulted in a global pandemic, including variants thereof.
- E. *COVID-19 Vaccine* means a vaccine authorized to prevent COVID-19 by the United States Food and Drug Administration (FDA), including by way of an emergency use authorization, or by the World Health Organization (WHO).
- F. *Full Vaccination/Fully Vaccinated* means 14 or more days after completing the entire recommended series of vaccination with a COVID-19 Vaccine. Currently, an individual is considered Fully Vaccinated at least two weeks after receiving a second dose of the Pfizer or Moderna COVID-19 Vaccine or two weeks after receiving the single dose of the Johnson & Johnson Janssen COVID-19 Vaccine.
- G. *Individual Eligible for a COVID-19 Vaccine* means a person who is 18 years of age or older, for whom a COVID-19 Vaccine is authorized for use by the FDA, including by way of an emergency use authorization or, in the case of a foreign visitor or traveler, a person for whom a COVID-19 Vaccine is authorized by the WHO. This definition includes elected and appointed City officials serving on City Council and all City Commissions, Boards and Committees.
- H. *Indoor Portion* means any part of a Covered Location or City Facility with a roof or overhang that is enclosed by at least three walls, except that the following will not be considered an Indoor Portion: (1) a structure on the sidewalk or roadway if it is entirely open on the side facing the sidewalk; and (2) an outdoor dining structure for individual parties, such as a plastic dome, if it has adequate ventilation to allow for air circulation.
- I. *Non-resident Performer* means a non-resident performing artist, nonresident professional athlete or sports team, or non-resident individual accompanying a performing artist or sports team as part of their regular employment.

- J. *Outdoor Large Event* means an outdoor event with between 5,000 and 9,999 attendees. An Outdoor Large Event includes conventions, conferences, expos, concerts, shows, nightclubs, sporting events, live events and entertainment, fairs, festivals, parades, large private events or gatherings, marathons or endurance races, and car shows. Outdoor Large Events may have either assigned or unassigned seating, and may be either general admission or gated, ticketed, and permitted events.
- K. *Patron* means an Individual Eligible to Receive a COVID-19 Vaccine who enters, patronizes, attends an event, or purchases goods or services at a Covered Location or Outdoor Large Event.
- L. *Photo Identification* means an original or copy of an identification card, including:
Driver's license;
Government issued identification card;
School or work identification card; or
Passport.
- M. *Proof of Negative COVID-19 Test* means a printed document, email or text message displayed on a phone, from a test provider or laboratory that shows results of a polymerase chain reaction (PCR) or antigen COVID-19 test that either has Emergency Use Authorization (EUA) by the U.S. Food and Drug Administration or is operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services, that was conducted within 72 hours before entry into a Covered Location, City Facility, or Outdoor Large Event. The printed document, email, or text message must include the person's name, type of test performed, date of the test, and negative test result.
- N. *Proof of Vaccination* means one of the following demonstrating proof of Full Vaccination:
1. Proof of vaccination includes the following:
(a) COVID-19 vaccination record card (issued by the Department of Health and Human Services, Centers for Disease Control & Prevention ("CDC") or World Health Organization Yellow Card) which includes name of person vaccinated, type of vaccine provided and date last dose administered);
(b) A photo of a vaccination record card as a separate document;
(c) A photo of a vaccination record card stored on a phone or electronic device;
(d) Documentation of COVID-19 vaccination from a health care provider; and
(e) Digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type.

Section 2. Proof of Vaccination Required for a Patron to Enter Indoor Portion of a Covered Location.

- A. Beginning on November 12, 2021, a Covered Location shall display prominently on its premises, visible to Patrons prior to entrance, and in any employee break room, an advisory notice informing Patrons that, beginning on November 29, 2021, Proof of Vaccination is required to enter any Indoor Portion of a Covered Location.
- B. Beginning on November 29, 2021, a Covered Location shall require each Patron to provide Proof of Vaccination upon entering an Indoor Portion of a Covered Location. A Covered Location shall require Proof of Vaccination upon the Patron's first in-person interaction with staff. A Covered Location is required to cross-check Proof of Vaccination for each Patron who appears to be 18 years of age or older against Photo Identification. Subject to the exemptions below, a Patron shall not be permitted to enter an Indoor Portion of a Covered Location without Proof of Vaccination.
 1. The Covered Location shall require any unvaccinated Patron, including a Patron claiming exemption and reasonable accommodation from the requirements of this Order under any applicable law, to use the portion of a Covered Location that is not an Indoor Portion. To the extent feasible, a Covered Location may offer service outside for a Patron who does not provide Proof of Vaccination, including curbside pickup, drive thru, delivery, and outdoor seating and dining. If such outdoor services are not available, the Patron may be permitted to enter an Indoor Portion of a Covered location by providing Proof of Negative COVID-19 Test and Photo Identification, and provided that the Patron wears a ~~surgical~~ or N-95 well-fitting mask at all times while in the Indoor Portion of the Covered Location except while actively eating or drinking, showering or engaging in personal hygiene or a personal care service that requires the removal of the face mask; or alone in a separate room, office or interior space.
 2. A Patron who does not provide Proof of Vaccination or Proof of Negative COVID-19 Test and Photo Identification may be allowed to enter an Indoor Portion of a Covered Location for brief and limited periods of time to use the restroom, order, pick-up, or pay for food or drink "to go," or perform necessary repairs, provided that the Patron wears a ~~surgical~~ or N-95 well-fitting mask at all times while in the Indoor Portion of the Covered Location.
 3. This section does not apply to a Non-resident Performer, who enters a Covered Location for purposes of performing or competing.
 4. A Covered Location must develop and keep a written record describing the protocol for implementing and enforcing the requirements of this article.

Section 3. Proof of Vaccination Required to Enter an Indoor Portion of a City Facility.

- A. Beginning on November 12 , 2021, a City Facility shall display prominently on its premises, visible to any persons upon entrance, an advisory notice that, beginning on November 29, 2021 , Proof of Vaccination is required to enter any Indoor Portion of a City Facility.
- B. Beginning on November 29, 2021, an Individual Eligible for a COVID-19 Vaccine shall provide Proof of Vaccination upon entering an Indoor Portion of a City Facility. A City Facility is required to cross-check Proof of Vaccination for each individual who appears to be 18 years of age or older against Photo Identification.
- C. An Individual Eligible for a COVID-19 Vaccine who does not provide Proof of Vaccination will be provided alternative arrangements for access to government services, to be determined on a case-by-case basis by each department, including, but not limited to, online or remote service, service outdoors, or providing Proof of Negative COVID-19 Test and Photo Identification prior to entering any Indoor Portion of a City Facility, and wearing a well-fitting mask at all times while in the Indoor Portion of the City Facility. In the event alternative arrangements are not available for City Council meetings, an Individual Eligible for a COVID-19 Vaccine who does not provide Proof of Vaccination will be required to provide Proof of Negative COVID-19 Test and Photo Identification prior to entering and will be required to wear a surgical mask or respirator (e.g., KN95 or N95) at all times while inside the City Facility.
- D. This section does not apply to any individual City employee or contractor covered by the COVID-19 Vaccination Requirement for all Current and Future City Employees. This section does not apply to a Non-resident Performer who enters a City Facility for purposes of performing or competing except for non-resident performers who qualify as City contractors.
- E. The vaccination requirement applicable to persons entering an Indoor portion of a City Facility does not apply to members of the public utilizing an Indoor cooling center. In lieu of a vaccination requirement, an Indoor cooling center at a City Facility may be limited in capacity, social distancing may be required, and no one with a fever over 100.4 degrees shall be allowed into the facility, and subject to wearing a surgical or N-95 well-fitting mask at all times.

Section 4. Proof of Vaccination or Proof of Negative Covid-19 Test Required to Attend Outdoor Large Event.

Beginning on November 29, 2021 an operator of an Outdoor Large Event that is ticketed or held in a defined space with controlled points of entry must verify Proof of Vaccination or Proof of Negative COVID-19 Test for each Patron, prior to entry to the event. An Outdoor

Large Event is required to cross-check Proof of Vaccination or Proof of Negative COVID-19 Test for each Patron who appears to be 18 years of age or older against Photo Identification. This section does not apply to a Non-resident Performer, who enters an Outdoor Large Event for purposes of performing or competing, except for non-resident performers who qualify as City contractors.

Section 5. Proof of Vaccination for On-site Employees of Covered Locations and Outdoor Large Events.

On-site employees of Covered Locations shall provide their employer with Proof of Full Vaccination by November 29, 2021. On-site employees may be exempt from the vaccination requirements only upon providing their employer, a declination form, signed by the individual stating either of the following: (1) the worker is declining vaccination based on sincerely held religious beliefs; or (2) the individual is excused from receiving any COVID-19 vaccine due to Qualifying Medical Reasons.

- A. To be eligible for a Qualified Medical Reasons exemption the individual must also provide to their employer a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption (but the statement should not describe the underlying medical condition or disability) and indicating the probable duration of the worker's inability to receive the vaccine (or if the duration is unknown or permanent, so indicate). See the most updated version of the CDC's Interim Clinical Considerations for Use of COVID-19 Vaccines guidance.
- B. If an operator of a covered facility deems its on-site employee to have met the requirements of an exemption, the unvaccinated exempt employee must meet the following requirements when entering or working in such a facility:
 - 1. Test for COVID-19 at least once per week with either polymerase chain reaction (PCR) or antigen test that either has Emergency Use Authorization (EUA) by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.
 - 2. Wear a well-fitting mask ~~surgical mask or higher level respirator approved by the National Institute of Occupational Safety and Health (NIOSH), such as an N95 filtering facepiece respirator,~~ at all times when in the covered facility.

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Section 6. No Conflict with Federal or State Law.

Nothing in this article shall be interpreted so as to create any power or duty in conflict with any state or federal law.

Section 7. Sunset.

This article shall sunset upon the lifting of the Proclamation of Local Emergency declared by the City Manager on March 4, 2020.

Section 8. Compliance.

Any violation of this Thirty-Eighth Supplement to Public Order may be enforced under the Culver City Municipal Code, including but not limited to the provisions of Title 1, Chapters 1.01 and 1.02, which provides for fines not to exceed \$1,000, imprisonment not to exceed six months, the issuance of administrative citations, or civil action. Each individual officer and City official should use their discretion in enforcing this order and always keep the intent of the order in mind.

Except as otherwise expressly provided herein, this Thirty-Eighth Supplement to Public Order shall be effective immediately and shall remain in effect until superseded, amended, modified, rescinded, or expired by its terms.

Date: November 9, 2021



John M. Nachbar, City Manager
Director of Emergency Services
City of Culver City