

Frequently Asked Questions

City of San Jose Vaccination Requirement for Large Indoor Events at City-Owned Facilities

*Last revised December 16, 2021 (*note: This document will be regularly updated so please always check online for the latest version.)*

1. Why is the City doing this?

There has been a recent significant increase in COVID-19 cases and hospitalizations in Santa Clara County, due primarily to the Delta variant. Emerging evidence indicates that the Delta variant is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others. Given the extraordinary health threat caused by COVID-19 and the need to take extraordinary measures to limit its spread, the City was compelled to enact this emergency ordinance, which sets forth the requirements for COVID-19 vaccination for large indoor events at facilities owned by the City of San Jose.

2. When was this ordinance approved and what are some key components of it?

The ordinance was approved by the San José City Council on Tuesday, August 24, 2021, and was effective as of Monday, September 20, 2021. Events held prior to September 20 were not required to adhere to this ordinance. The ordinance requires proof of COVID-19 vaccinations for events of 50 or more people at city-owned facilities. Certain exemptions and exceptions apply as detailed in the remainder of this document.

3. When will the ordinance end?

This ordinance will be in effect for events occurring Monday, September 20, 2021, or later. It will remain in effect until the City either (1) adopts a superseding ordinance or (2) upon termination of the City's local COVID-19 emergency declaration.

4. What specific facilities does this apply to?

Below are city-owned facilities where events that fall under the ordinance may occur (please note that not all activities at these facilities will require proof of vaccination under this ordinance, only qualifying events):

- City Hall
- City-owned libraries
- City-owned community centers
- SAP Center at San Jose
- Solar 4 America Ice at San Jose
- San Jose McEnery Convention Center
- California Theatre
- San Jose Civic

- Montgomery Theater
- Center for the Performing Arts
- Fourth Street Summit Center
- School of Arts and Culture at the Mexican Heritage Plaza
- San Jose History Park
- San Jose Museum of Art
- Children’s Discovery Museum of San Jose
- The Tech Interactive

5. What does “fully vaccinated” mean and do we recognize other Country’s vaccinations?

The specific language from the ordinance is as follows:

“Fully Vaccinated” and “Full Vaccination” mean two weeks after completing the entire recommended series of vaccination (usually one or two doses) with 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). For example, as of the date of the adoption of this Ordinance, an individual would be 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 Johnson & Johnson’s Janssen COVID-19 vaccine. If any state or federal agency uses a more restrictive definition of what it means to be Fully Vaccinated or to prove that status for specified purposes (such as Cal/OSHA rules for employers in workplaces), then that more restrictive definition controls for those purposes.

As noted in the paragraph above, other country’s vaccinations, if authorized by the World Health Organization, are acceptable substitutions. A list of vaccines authorized by WHO for emergency use can be found at: <https://extranet.who.int/pqweb/vaccines/covid-19-vaccines>

6. What qualifies as an event that falls under this ordinance?

The specific language from the ordinance is as follows:

“Large Indoor Event” means an event with fifty (50) or more people attending indoors. A Large Indoor Event may be public or private, may have either assigned or unassigned seating, and may be either general admission or ticketed events. A Large Indoor Event can also include an event without seating or without tickets. It does not include the ordinary and customary provision of public services, such as, public meetings, food programs, or library programs. “Large Indoor Event” does not include venues such as museums or the airport that are open to public circulation as part of their regular operations, except to the extent that such venues host qualifying events.

Examples of specific activities with 50 or more people that do NOT require proof of vaccination are:

- Library daily operations, including story time;

- Senior Nutrition programs;
- City Council meetings and hearings;
- Daily operations of, and attendance at, museums;
- Food service and café's, unless the café is holding an event of over 50 such as a wedding reception.

Examples of specific events with 50 or more people that DO require proof of vaccination are:

- Hockey games
- Concerts
- Conventions
- IMAX movies

Note: The above lists are not all inclusive.

7. Who is exempted from this ordinance?

There are four exemptions as follows:

- Children under 12 years of age (see language further down in FAQs related to different State requirements for mega-events)
- Certain performers (see below FAQ for details)
- Religious (see below FAQ for details)
- Medical (see below FAQ for details)

Persons exempted in the performers, religious and medical categories will still require proof of negative COVID-19 test, as described further below. Specific operators may choose to have more stringent requirements, as noted below.

8. Can an event operator have more stringent requirements for a specific event? (i.e., can an operator not allow any exemptions?)

If an operator wishes to have more stringent requirements, the operating agreement between the City and the Operator shall govern. Attendees should contact the specific operator to determine if more stringent requirements apply to the event they plan on attending.

9. Performer exemption details

Exemptions for certain performers are allowed, unless the Operator chooses to have more stringent requirements. The specific language from the ordinance is as follows:

“Staff” means persons who provide goods or services at the facility hosting the event. This includes employees, temporary employees, contractors, subcontractors, vendors who are permitted to sell goods onsite, volunteers, and other individuals who regularly provide services onsite at the request of the business, governmental entity or organization

hosting the event. It does not include performers or players who are not employed by the business, governmental entity, or other organization hosting the event and do not regularly provide services at the facility (e.g., members of visiting teams and independent performers not employed by the host).

As indicated above, all staff who work the event, even if temporary, volunteer or contracted, require proof of vaccinations (unless they have a medical or religious exemption). The only exception is certain performers or players. In order to be exempted from requiring proof of vaccination, those performers or players must meet BOTH of the below criteria:

- Are not employed by the business, governmental entity, or other organization hosting the event, AND
- Do not regularly provide services at the facility (e.g. members of visiting teams and independent performers not employed by the host).

In order to be admitted to an event with a performer exemption, a person must also have a negative COVID-19 test result .

Specific examples of performers or players who would be exempted (unless the Operator chooses to have more stringent requirements):

- Visiting hockey players and their traveling party;
- Speaker at a convention, if that speaker is only attending for the speech and not participating in any other convention activities;
- Orchestra, symphony, performers and musicians who do not regularly play at the facility (unless they are employed by the venue).

Specific examples of performers or players who will NOT be exempted:

- Speaker at a convention, if that speaker is attending any other convention activities;
- San Jose Sharks hockey players.

10. Religious and Medical exemption details

Medical and religious exemptions are allowed (unless the Operator chooses to have more stringent requirements). Medical exemptions must be in writing, include the person's name, and be signed by a medical professional. Religious exemptions must also be in writing with the person's name. In order to be admitted to an event with a medical or religious exemption, a person must also have a negative COVID-19 test result .

11. What type of negative COVID test is acceptable?

Different State guidelines currently exist for "mega events" (over 1,000 attendees indoors) and other events. As these requirements are subject to change at the State level, :

Mega Events: As of December 15, 2021, testing for Mega events must be conducted within one day for antigen tests, and within two days for PCR tests prior to entry into the facility of venue. Further information on this can be found at the following weblink:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Beyond-Blueprint-Framework.aspx>

Other Events: CDPH (California Department of Public Health) recommends a point of care test (antigen or molecular) within 24 hours of entry for asymptomatic individuals. If point of care testing is not available, molecular testing of asymptomatic individuals within 72 hours of the event with results available before entry is recommended. In settings where testing is required by a State Public Health Order, either an antigen or molecular test is acceptable. Further information on this can be found in the “pre-entry” section of the following weblink:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Updated-COVID-19-Testing-Guidance.aspx#>

Additional information regarding testing, such as the documents that can be used to show proof of a negative test, can also be found at the above weblink,

12. What documentation do organizations need to keep requiring proof of vaccination verification?

Each organization must keep, at a minimum, the following records for each qualifying event (electronic or hard copy is acceptable). This information must be kept by the Operator for at least 30 days:

- Event Name;
- Event Date;
- List of all attendees and contact information (inclusive of staff, employees, performers, etc.);
- Verification signature from the event operator that the ordinance was adhered to.

13. Is it possible to submit a negative COVID test in place of proof of vaccination?

Negative COVID tests are only allowed to be used as a substitute for proof of vaccination when someone is requesting to be exempted in either the performer, medical or religious category. Negative COVID19 tests are not required for children under 12 (see language further down in FAQs related to different State requirements for mega-events). As noted previously, certain operators may choose to have more stringent requirements if allowed for in their operating agreement with the City.

14. Will the City be enforcing this ordinance?

The City may enforce any and all ordinances. Documentation of adherence to this ordinance must be made available to the City and County upon request to ensure the ability for quick

contact tracing to keep our community safe. Complaints regarding adherence to this policy can be directed to the following email address: event_vaccinations@sanjoseca.gov

What electronic technologies are available to assist with this process?

- Event attendees vaccinated in California may download an electronic version of their record through the State's website at: <https://myvaccinerecord.cdph.ca.gov/>
- Operators may consider having a staffed work station available should attendees need to access the state's website to obtain an electronic record of their vaccination;
- Event organizers may use the SMART Health Card reader listed on the State's website: <https://myvaccinerecord.cdph.ca.gov/faq>
- There are other available technologies in the marketplace that event organizers may choose to use at their discretion.

15. How will operators determine if a patron is under 12 years or age (see language further down in FAQs related to different State requirements for mega-events)?

Since most children do not carry ID indicating their age, operators are requested to utilize their professional judgement in this situation. For example, operators can ask for the year that the attendee was born to determine eligibility.

16. Do indoor masking requirements still apply?

Attendees must still comply with the most recent Public Health Order from the County of Santa Clara: <https://covid19.sccgov.org/public-health-orders>

17. What if the County, State or Federal government issues a more stringent public health order?

Per Section 4 of the City's ordinance, "where a conflict exists between this Ordinance and any county, state or federal health order related to the COVID-19 pandemic, the most restrictive provision (i.e, the more protective of public health) controls. At this time, staff is aware of one more restrictive State requirement for "mega-events" which, in summary, requires that all attendees aged 2 and above are either (1) fully vaccinated or (2) have received a negative COVID-19 test for any attendance at indoor events with 1,000 people or more. Further information on this can be found here: <https://covid19.ca.gov/mega-events/>