

ORDINANCE NO.

**AN UNCODIFIED URGENCY ORDINANCE OF THE CITY
OF SAN JOSE REPEALING ORDINANCE NO. 30711
ADOPTED ON JANUARY 11, 2022, REQUIRING FULL
COVID-19 VACCINATION AND UP-TO-DATE BOOSTERS
OR PROOF OF A NEGATIVE COVID-19 TEST FOR PUBLIC
ENTRY TO LARGE INDOOR EVENTS AT CITY-OWNED
FACILITIES**

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency based on the threat caused by COVID-19 (also known as the “Coronavirus Disease”), and the President of the United States issued a Proclamation Declaring a National Emergency Concerning COVID-19 beginning March 1, 2020; and

WHEREAS, on March 4, 2020, the Governor of California proclaimed a State of Emergency (Executive Order N-25-20) to exist in California based on the threats to public health caused by COVID-19; and

WHEREAS, on March 10, 2020, the Council of San José ratified the Director of Emergency Services’ Proclamation of Local Emergency finding that the existence and threat of COVID-19 in the community gives rise to conditions of extreme peril to the safety and health of persons within the City; and

WHEREAS, Government Code Section 8630(c) requires that the City Council review the need for continuing the local emergency at least once every sixty (60) days until the governing body terminates the local emergency, however the Gubernatorial Declaration of Emergency waives the 60-day renewal requirement and on October 19, 2021 the City Council adopted Resolution No. 80262 extending the local emergency until such time as conditions warrant termination; and

WHEREAS, on July 26, 2021, Governor Newsom announced that the State of California was implementing a first-in-the-nation standard to require all state workers and workers in health care and high-risk congregate settings to either show proof of full vaccination or be tested at least once per week, and encouraged all local government and other employers to adopt a similar protocol; and

WHEREAS, on August 24, 2021, the San José City Council adopted an uncodified urgency ordinance (Ordinance No. 30652) requiring staff and attendees to provide proof of COVID-19 vaccination before entering events of 50 or more people at City-owned facilities; and

WHEREAS, according to information made available through the Santa Clara County Public Health Department there had been a recent significant increase in COVID-19 cases and hospitalizations in Santa Clara County, due primarily to the Omicron variant of SARS-CoV-2, the virus that causes COVID-19. Emerging evidence indicated that the Omicron variant was more transmissible than prior variants of the virus and that even fully vaccinated individuals can spread the virus to others. Vaccination remains the best and most effective tool in preventing COVID-19 and its harms; evidence shows that even against the Omicron variant, fully vaccinated individuals have substantial protection against severe illness, hospitalization, and death. In considering options to stem the rapid increase in COVID-19 transmission, a continued increase in the proportion of the population vaccinated is the best measure available. Additionally, even a small reduction in community transmission could make a major difference in the demand on the healthcare system; and

WHEREAS, in December 2021, the State of California revised guidance for indoor “Mega Events” to further reduce the threshold of a Mega Event from 1000 attendees to 500 attendees and revised the requirement for attendees to show proof of full vaccination or show more restrictive proof of a negative test; and

WHEREAS, given the extraordinary health threat caused by COVID-19 and the need to take extraordinary measures to limit its spread, on January 11, 2022, the City Council adopted an uncodified urgency ordinance (Ordinance No. 30711), which superseded Ordinance No. 30652, and set forth the requirements for (1) COVID-19 vaccination and up-to-date boosters or (2) proof of a negative COVID-19 test for large indoor events at facilities owned by the City of San José; and

WHEREAS, the booster mandate has served its purpose during the surge of Omicron variant cases by encouraging attendees and visitors in public buildings and at large events to protect themselves and each other during the period when local ICU's faced the greatest stress of rising hospitalizations; and

WHEREAS, as of February 24, 2022, the Santa Clara County case rate has fallen below 550 for the first time since December 2021, and the rolling average of new cases countywide has now dropped to 555, one of the key thresholds for lifting the countywide mask mandate; and

WHEREAS, in light of rapidly falling rates of transmission of the Omicron variant, the City Council desires to repeal the vaccine booster mandate for large indoor events at City-owned facilities; and

WHEREAS, pursuant to section 605 of the City Charter, this urgency ordinance must be "adopted as and declared by the Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety, containing a statement of the facts constituting such urgency"; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and

Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Ordinance No. 30711, adopted by the City Council on January 11, 2022, is hereby repealed, effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San José.

SECTION 2. The City Council of the City of San José hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure.

SECTION 3. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety.

ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk