

ANALYSIS

This is an urgency ordinance to require County contractors to provide vaccinated contractor workers prior to interacting in person with County workforce members and members of the public, or working on County-owned or controlled property. This urgency ordinance adds Chapter 2.212 (COVID-19 Vaccinations of County Contractor Personnel) to Title 2 – Administration, Division 4 - Miscellaneous – of the Los Angeles County Code.

This ordinance is an urgency measure that will take immediate effect upon its approval by at least a four-fifths (4/5) vote of the Board of Supervisors.

RODRIGO A. CASTRO-SILVA
County Counsel

By



TRUC L. MOORE
Principal Deputy County Counsel
Government Services Division

TLM: bk

Requested: 10/22/21
Revised: 11/08/21

ORDINANCE NO. 2021-0066U

An ordinance amending Title 2 - Administration of the Los Angeles County Code, to require County contractors to provide vaccinated contractor workers prior to interacting in person with County workforce members and members of the public, or working on County-owned or controlled property. This urgency ordinance adds Chapter 2.212 (COVID-19 Vaccinations of County Contractor Personnel) to Title 2 – Administration, Division 4 - Miscellaneous – of the Los Angeles County Code.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 2.212 is hereby added to read as follows:

Chapter 2.212 COVID-19 Vaccinations of County Contractor Personnel

2.212.010 Findings and Purpose.

2.212.020 Definitions.

2.212.030 COVID-19 Vaccination Requirements of Contractor Personnel.

2.212.040 Exemptions of Contractor Personnel.

2.212.050 Proof of Vaccination or Exemption Status.

2.212.060 Notice(s) to the County.

2.212.070 Compliance with All Laws.

2.212.080 New Contracts, Contract Extensions and Contract Options.

2.212.090 Administrative Enforcement.

2.212.100 Conflicts.

2.212.110 Severability.

2.212.120 Operative Period.

2.212.130 Authority.

2.212.010 Findings and Purpose.

The County of Los Angeles has a strong interest in protecting its County workforce members and the public from the novel coronavirus (COVID-19) and variants in order to continue to provide critical services to County residents.

Vaccinations are the main line of defense against the spread of COVID-19. The County has taken great strides to inform those who live and work in the County about the need to get vaccinated, including its County workforce members. On August 4, 2021, the Chair of the Board of Supervisors issued an Executive Order, ratified on August 10, 2021, for a mandatory vaccination policy which required all County workforce members to provide proof of full vaccination or, if exempt, begin regular testing by October 1, 2021.

Contractor workers should be held to similar requirements to vaccinate as County workforce members. Many contractor workers work hand in hand with County workforce members and often on County-owned or controlled property, or otherwise engage with County residents while providing services on behalf of the County. These contractor workers should be vaccinated so that they do not add to the spread of COVID-19 while performing work for the County, and so that the County can maintain a safe work environment for its County workforce members and continue to provide critical government services.

The County is invested in preventing its County workforce members from getting COVID-19 as the County reopens its buildings and continues to provide needed and critical services to County residents. It is equally invested in protecting County residents who engage with the County and its contractors to receive these needed and critical services from being infected with COVID-19. Thus, the County must act to protect and keep safe County workforce members and the public from COVID-19, by requiring Contractor workers to be vaccinated against COVID-19.

2.212.020 Definitions.

The following definitions apply to this Chapter:

A. "Contract" means any agreement between any individual or entity, and the County for the sale of goods and/or performance of services to the County, and includes construction agreements, concession agreements, delegated authority agreements, lease agreements, licenses, master agreements, purchase orders, subrecipient agreements, work orders, or any other type of agreement, regardless of nomenclature, where some portion of services are provided to the County pursuant to the agreement.

B. "Contractor" means any individual or entity who enters into a Contract with the County to provide goods or services, but does not include those who solely sell commodities that are delivered to the County via common carrier with little to no in-person interaction with County Workforce Members or the public, or commodities where associated services are de minimis in scope.

C. "Contractor Personnel" means all employees of a Contractor, and persons working on its behalf on a Contract with the County, including but not limited to, subcontractors of any tier.

D. "County" means the County of Los Angeles and any entity or special district where the Board of Supervisors serves as the approval, authorizing, or governing authority.

E. "County Workforce Members" means the County's employees, interns, volunteers, and commissioners.

F. "Fully Vaccinated" means it has been two (2) weeks or more since Contractor Personnel received:

1. The second dose in a 2-dose COVID-19 vaccine series (e.g., Pfizer-BioNTech or Moderna);
2. A single-dose COVID-19 vaccine (e.g., Johnson and Johnson's [J&J] Janssen); or
3. The final dose of any COVID-19 vaccine authorized by the World Health Organization ("WHO").

G. "In-Person Services" means Contractor Personnel coming into contact with County Workforce Members or the public while performing services under a Contract.

H. "Proof of Vaccination" means any of the following documentation showing that Contractor Personnel is Fully Vaccinated:

1. Official COVID-19 Vaccination Record Card (issued by the California Department of Health and Human Services, Centers for Disease Control ("CDC") (CDC or WHO Yellow Card)), which includes the name of the person vaccinated, type of vaccine provided, and date of the last dose administered ("Vaccination Record Card");
2. Copy (including a photographic copy) of a Vaccination Record Card;
3. Documentation of vaccination from a licensed medical provider;
4. A digital record that includes a quick response ("QR") code that when scanned by a SMART HealthCard reader displays to the reader client name, date of birth, vaccine dates, and vaccine type, and the QR code confirms the vaccine record as an official record of the State of California; or
5. Documentation of vaccination from Contractor(s) who follow the California Department of Public Health's vaccination records guidelines and standards.

2.212.030 COVID-19 Vaccination Requirements of Contractor Personnel.

- A. Effective immediately, all Contractor Personnel must be Fully Vaccinated against the novel coronavirus 2019 ("COVID-19") prior to:
1. Interacting in person with County Workforce Members;
 2. Working on County-owned or controlled property, while performing services under a Contract with the County; or
 3. Coming into contact with County Workforce Members or the public while performing In-Person Services under a Contract with the County.

2.212.040 Exemptions of Contractor Personnel.

A. Contractor shall evaluate any medical or sincerely held religious belief exemption request to vaccinations submitted by its Contractor Personnel, as required by law.

B. If Contractor has determined that Contractor Personnel has met the requirements for a medical or sincerely held religious belief exemption, the unvaccinated exempt Contractor Personnel must meet the following requirements prior to interacting in person with County Workforce Members, working on County-owned or controlled property, while performing services under the Contract, or coming into contact with County Workforce Members or the public while performing In-Person Services under a Contract with the County:

1. Test for COVID-19 with either a polymerase chain reaction ("PCR") or antigen test that has an Emergency Use Authorization ("EUA") by the FDA or is operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Testing must occur at least weekly, or more frequently as required by County or other applicable law, regulation or order.

2. Wear a mask that is consistent with CDC recommendations at all times while on County controlled or owned property, and while engaging with members of the public and County Workforce Members.

3. Engage in proper physical distancing, as determined by the applicable County department that the Contract is with.

2.212.050 Proof of Vaccination or Exemption Status.

A. Consistent with applicable privacy laws and regulations, Contractor must maintain records of Proof of Vaccination for its Contractor Personnel or exemption status for the document retention period set forth in the applicable Contract.

B. If Contractor Personnel is exempt pursuant to a medical or sincerely held religious belief reason, the Contractor must also maintain records of the Contractor Personnel's testing results. The Contractor must provide such records to the County for audit purposes, when required by County.

2.212.060 Notice(s) to the County.

Contractor must provide written notice(s) to the County, at the frequency required by the applicable County department that the Contract is with, that its Contractor Personnel are in compliance with the requirements of this Chapter.

2.212.070 Compliance with All Laws, Regulations and Requirements.

In addition to complying with the requirements of this Chapter, Contractor must also comply with all other applicable local, departmental, State, and federal laws, regulations and requirements for COVID-19. Contractor must also comply with the requirements of this Chapter at its sole cost, unless there is an explicit applicable Contract provision that provides otherwise.

2.212.080 New Contracts, Contract Extensions and Contract

Options.

Effective immediately, all new Contracts, including related procurements and solicitations for such new Contracts, will contain Contract language requiring compliance with the requirements of this Chapter. In addition, such Contract language must also be included in any future Contract extensions or Contract Options exercised by the County for existing Contracts.

2.212.090 Administrative Enforcement.

A. Each County department or entity with a Contract covered by the requirements of this Chapter, is authorized to oversee, monitor, confirm and audit for compliance with the requirements of this Chapter, and to enforce contract, legal and administrative remedies for failure to comply, including termination of the applicable Contract.

B. Nothing in this Chapter limits or otherwise prohibits any governmental agency with jurisdiction over any applicable local, State, and federal laws, or regulations and requirements for COVID-19, from monitoring, enforcing or pursuing remedies for such compliance or lack thereof, by the provisions of this Chapter.

2.212.100 Conflicts.

Nothing in this Chapter is to be interpreted or applied to create any power or duty in conflict with any federal or State law.

2.212.110 Severability.

If any subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have adopted this Chapter and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the Chapter would be subsequently declared invalid or unconstitutional.

2.212.120 Operative Period.

A. This Chapter is hereby declared to be in full force and effect immediately upon its passage by at least a four-fifths (4/5) vote of the Board of Supervisors.

B. This Chapter is in effect until revoked by the Board of Supervisors.

2.212.130 Authority.

A. This Chapter is necessary for the protection of life, property, health, safety, and welfare of the public and is adopted pursuant to the powers vested in the County of Los Angeles under the laws and the Constitution of the State of California, including the police powers vested in the County pursuant to Article XI, section 7 of the California Constitution.

B. This Chapter 2.212 is approved pursuant to sections 25123(d) and 25131 of the California Government Code, allowing for ordinances for the immediate preservation of the public peace, health, or safety.

[CH2212TMCC]

SECTION 2 This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Chair

ATTEST:

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of December 7, 2021 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Noes

Supervisors Hilda L. Solis
Holly J. Mitchell
Sheila Kuehl
Janice Hahn
Kathryn Barger

Supervisors None

Effective Date: December 7, 2021

~~Operative Date:~~ _____

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles



APPROVED AS TO FORM:
RODRIGO A. CASTRO-SILVA
County Counsel

By _____
Dawyn Harrison
Chief Deputy County Counsel