



## CITY OF SALEM, MASSACHUSETTS

BOARD OF HEALTH  
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**Public Health**  
Prevent. Promote. Protect.

KIMBERLEY DRISCOLL  
MAYOR

DAVID GREENBAUM, RS  
HEALTH AGENT

### **TEMPORARY ORDER REQUIRING COVID-19 VACCINATION FOR INDOOR ENTERTAINMENT, RECREATION, DINING, AND FITNESS SETTINGS**

#### **City of Salem COVID-19 Public Health Mandate of the Salem Board of Health**

The Salem Board of Health, acting through its duly appointed and authorized agent, and, pursuant to M.G.L. c. 111, § 30, the M.G.L. c. 111 §§ 6, 7, 31, 95, 104, 122, 310 CMR 11.05, 105 CMR 300.200 and all other authorizing statutes hereby enacts and declares as follows:

**Whereas, as of December 14, 2021, 76.4% of the total Salem resident population has received at least one vaccination dose and 68.8% of the total Salem resident population is fully vaccinated;**

**Whereas, as of December 14, 2021, 84.3% of the Salem resident population over the age of 12 has received at least one dose and 76.3% of the Salem resident population over the age of 12 is fully vaccinated;**

**Whereas, as of December 11, 2021, the two-week positivity rate in Salem has reached 6.2%, up from a low of 0.2% in June 2021 and above the Massachusetts Department of Public Health's 5.0% threshold for the red alert level category;**

**Whereas, as of December 16, 2021, the percentage of occupied non-surge ICU beds in the northeast region of Massachusetts has reached 95.0%, compared to 83.0% occupancy on December 16, 2020, and exceeding the threshold of concern for ICU occupancy;**

**Whereas, as of November 20, 2021, Salem again exceeded the Massachusetts Department of Public Health's metrics to classify as being in the "red," or highest, alert level category for COVID-19;**

**Whereas, as of December 14, 2021, only 46% of the Salem resident population age 16-19 and only 50% of the Salem resident population age 20-29 is fully vaccinated;**

**Whereas, as of December 17, 2021, Salem's two-week average new case rate is 15% higher than the state's rate and Salem's two-week positivity rate is 24% higher than the state's rate;**

**Whereas, as of December 16, 2021, only 11 medical/surgical hospital beds are available in the northeast region of Massachusetts, compared to 150 beds available on December 16, 2020, and around 10% of the capacity of other regions of the Commonwealth;**

**Whereas, when the Commonwealth's final "reopening" phase went into effect on July 13, 2020 Salem had 138 active cases, a 1.11 two-week case rate, a 2.1% two-week positivity rate, and 546**

available hospital beds in the region, compared to the most current data of 322 active cases, 71.6 two-week case rate, a 6.2% two-week positivity rate, and 16 available hospital beds in the region;

Whereas the conditions recited above present a public health emergency within the City of Salem, and require further temporary measures relative to requiring proof of vaccination for entry into certain indoor settings and are necessary to prevent the spread and mitigate the resurgence of COVID-19.

**THEREFORE, THE FOLLOWING PUBLIC HEALTH ORDER SHALL BE IN EFFECT FOR THE CITY OF SALEM:**

1. A covered entity shall not permit a patron, full- or part-time employee, intern, volunteer, or on-site contractors to enter a covered premises without displaying proof of vaccination.
2. The following individuals are exempted from this Order, and therefore may enter a covered premises without displaying proof of vaccination, provided that such individuals wear a face mask at all times they are unable to maintain six (6) feet of distance from other individuals inside the covered premises:
  - a. Individuals entering for a quick and limited purpose (for example, using the restroom, placing or picking up an order or service, making a delivery, or performing necessary repairs);
  - b. A performing artist regularly employed by the covered entity while they are in a covered premises for purposes of performing, provided they show proof of vaccination at least once;
  - c. A professional athlete/sports team who enters a covered premises as part of their regular employment for purposes of competing; and
  - d. An individual accompanying a performing artist or professional athlete/sports team into a covered premises as part of their regular employment so long as the performing artist or professional athlete/sports team are performing or competing in the covered premises.
3. Each covered entity shall post a sign at the entrance. The sign must alert patrons to the vaccination requirement in this Order and inform them that employees and patrons are required to be vaccinated. The sign will be available at [www.salem.com](http://www.salem.com) or available for pick up at city locations, prior to the effective date of this Order.
4. For the purposes of this Order:
  - a. “Covered entity” means any entity that operates one or more covered premises, except that it shall not include pre-kindergarten through grade twelve (12) public and non-public schools and programs, child care programs, senior centers, community centers, or as otherwise indicated by this Order.
  - b. “Covered premises” means any location, except a location in a residential or

office building the use of which is limited to residents, owners, or tenants of that building, colleges or universities that have a vaccination requirement covering staff and students, or any other site that is otherwise not open to the general public, that is used for the following purposes:

- i. Indoor Entertainment, Recreational, and Event Venues, including movie theaters, music or concert venues, commercial event and party venues, museums and galleries, professional sports arenas and indoor stadiums, convention centers and exhibition halls, performing arts theaters, bowling alleys, haunted houses, escape rooms, and similar indoor attractions and other recreational centers;

- ii. Indoor Food Services, including indoor portions of food service establishments offering food and drink, including restaurants, bars, and all indoor dining areas of food service establishments. The requirements of this Order shall not apply to any food service establishment offering food and/or drink exclusively for off-premises or outdoor consumption, or to a food service establishment providing charitable food services such as soup kitchens.

- iii. Indoor Gyms and Fitness Settings, including commercial gyms, fitness, yoga/pilates/barre/dance studios, boxing/kickboxing gyms, fitness boot camps, indoor pools, and other facilities used for conducting group fitness classes.

c “Indoor portion” means any part of a covered premises 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.

d. “Proof of vaccination” means proof of receipt of a COVID-19 vaccine authorized for emergency use or licensed for use by the U.S. Food and Drug Administration or authorized for emergency use by the World Health Organization, as required under the phased implementation of this Order. Such proof may be established by a CDC COVID-19 Vaccination Record Card, a digital image of the CDC card, or any other official immunization record from the jurisdiction, state, or country where the vaccine was administered or a digital or physical photo of such a card or record, reflecting the person’s name, vaccine brand, and date administered, or any vaccination verification smartphone application developed by the Commonwealth of Massachusetts, or developed or endorsed by the City of Salem.

5. Each instance that a covered entity fails to check an individual’s vaccination status shall constitute a separate violation of this Order.

6. The City of Salem and the Board of Health shall develop guidance to assist covered entities in complying with this Order in an equitable manner consistent with applicable law.

7. Covered entities shall comply with any guidelines issued by Salem Board of Health to further the intent of this Order and increase the number of vaccinated individuals in the City.

8. This Order shall take effect on the following schedule:

a. Phase I: January 15, 2022. All individuals ages 12 and over shall be required to present proof of at least one dose of vaccination, in either a one-dose or two-dose series.

b. Phase II: March 1, 2022.

i. All individuals ages 12 and over shall be required to present proof of either one dose of a one-dose series or two doses in a two-dose series.

ii. All Individuals ages 5 to 11 shall be required to present proof of at least one dose of vaccination, in either a one-dose or two-dose series.

c. Phase III: May 1, 2022. All individuals ages 5 to 11 shall be required to present proof of either one dose of a one-dose series or two doses in a two-dose series.

#### ENFORCEMENT

All reasonable efforts will be made to secure voluntary compliance with this Order, including -- at the discretion of the City Official a verbal warning for a first violation and a written warning for a second violation, however this Order may be enforced through any and all mechanisms afforded by the authorizing statutes above, including fines of \$300.00 for every subsequent violation and orders from the Salem Board of Health to cease and desist.

**To the extent necessary, this Order shall be enforced by Board of Health officials.**

**Penalties will be issued in accordance with municipal fines as set forth in the City Ordinance of \$50 for the first offense, \$150 for the second offense and \$300 for third and subsequent offenses.**

**This emergency order shall be effective immediately and shall remain in effect until such time as the Board of Health determine this order should be modified or rescinded.**

**This order will be reviewed during the March 8, 2022, Board of Health meeting.**

**ORDERED at City Hall this 22<sup>nd</sup> day of December 2021.**

For the Board of Health



David Greenbaum  
Health Agent  
Salem Board of Health