

UPDATED MAY 19, 2021 REGULATIONS

The following is an update related to the implementation of CDC guidance relating to post COVID-19 business activities, as provided by NYSAR. NYSAR states that the ESD has provided “Reopening New York: Implementing CDC Guidance” to replace the guidance under Phase 2, meaning that **Phase 2 requirement/regulations are no longer in effect**. The ESD reopening guidance can be [found here](#). For further information on the new guidelines please see: [NYSAR FAQs](#)

New CDC Guidance

If the new guidance is followed by a business/brokerage/homeowner:

1. Proof of vaccination may be requested or, alternatively, the business/brokerage/homeowner may rely upon self-reporting of vaccination status (e.g., honor system).
2. Licensees who are fully vaccinated* and are not otherwise restricted by state, local government, business, workplace or consumer requirements, may perform real estate activity without a mask. Also, when all parties are fully vaccinated (including clients) licensees are not required to clean/disinfect the property after a showing.
3. For those not fully vaccinated or unvaccinated, masks will be required, a 6 foot social distancing is to be maintained, and frequent hand washing is encouraged. Licensees will be required to clean/disinfect high touch areas. *If a party refuses to supply proof of vaccination upon request, they are to be considered unvaccinated.*

If the new guidance is NOT followed by a business/brokerage/homeowner:

The prior rules relating to masks, social distancing, cleaning/disinfecting will apply.

Children under the age of 12: Children who are not yet vaccine eligible, and under the age of 16 who have not yet been able to be vaccinated, may accompany a fully vaccinated adult.

Vaccination Proof

A business may require proof of full vaccination status through paper form, digital application, or the State's Excelsior Pass. Alternatively, such businesses may rely upon self-reporting of vaccination status (e.g., honor system). *If a party refuses to supply proof of vaccination upon request, they are to be considered unvaccinated.*

Use of Masks/Social Distancing

The ESD interpretation of the CDC guidance provides that individual businesses/brokerages/homeowners can choose to require masks of all individuals regardless of vaccination status. Further, the guidance indicates that federal/state/local governments may impose stricter standards.

Conducting Open Houses and/or Showings

NYSAR has indicated that sellers, landlords etc. may decide to continue to require all parties to wear masks in order to enter the property for the purpose of a showing or open house or they may apply the new guidance. This should be determined in advance of a showing or open house.

Agents should discuss with the homeowner if they are going to apply the new CDC guidance or continue to follow the old rules. If they choose to follow the new guidance, the agent will need to inquire as to what proof of vaccination the homeowner is comfortable with (i.e. physical proof or self-reporting). For individuals not wearing masks, the licensee can ask for proof of vaccination prior to entering the premises. If a seller is comfortable, the listing agent can require cooperating brokers to verify that all parties are fully vaccinated. Cooperating brokers may be required to verify proof of vaccination of themselves and their clients, as the Real Property Law and the Code of Ethics requires all parties to be honest and trustworthy when interacting with other licensees and members of the public. For all unvaccinated, not fully vaccinated, or individuals not providing proof of vaccination, masks must be worn and high touch surfaces or surfaces that were touched must be cleaned and disinfected. If the seller refuses to require proof of vaccination, the old rules will apply and all parties must wear masks and maintain 6 feet of social distancing.

NYSAR states that a homeowner cannot refuse a party access to the property based upon lack of vaccination, but they should require the use of masks, social distancing, and cleaning of high touch areas. *If anyone refuses to wear a mask when required, that person should not be permitted access to the premises.*

COVID-19 Documents

Licensees may choose to discontinue use of the NYSAR COVID-19 Health Questionnaire or COVID-19 Disclosure Form; however, they may still be used if desired.

Cold Calling

The Governor has extended to State of Emergency in New York to June 24, 2021. This means that the cold-calling prohibition is still in effect.

*Current CDC guidance indicates that individuals are considered fully vaccinated for COVID-19 ≥ 2 weeks after they have received the second dose of a 2-dose series vaccine, or ≥ 2 weeks after they have received a single-dose vaccine. Those vaccine recipients who have not waited the required ≥ 2 week interval are not considered fully vaccinated. This includes children not yet eligible for vaccination. The CDC guidance can be [found here.](#)