

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Action on Resolution No. 483 - Requiring Mandatory COVID-19 Vaccinations as a Qualification of Employment or Public Service with the City of Shoreline, as a Qualification for Providing Contracted Services at City Facilities, Authorizing the City Manager to Develop Additional Rules and Parameters for Implementing this Requirement, and Establishing a Deadline of Full Vaccination by December 1, 2021
DEPARTMENT:	City Manager's Office
PRESENTED BY:	John Norris, Assistant City Manager
ACTION:	<input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Tonight, the City Council is scheduled to take action on proposed Resolution No. 483 (Attachment A), which would establish a mandatory vaccination policy as a qualification of employment or volunteer public service with the City of Shoreline. It would also require that contractors providing services in City facilities be fully vaccinated. Proposed Resolution No. 483 would require that proof of full vaccination be provided by December 1, 2021.

Widespread vaccination is the primary means to prevent and curtail the spread of new variants of the COVID-19 virus, avoid the return of stringent public health measures, and end the COVID-19 pandemic. While non-pharmaceutical interventions such as wearing face coverings and social distancing help to reduce the spread of COVID-19, the COVID-19 vaccination has been proven as a safe and highly effective measure in preventing COVID-19 infection and limiting hospitalization and death.

As of September 22, 2021, the City of Shoreline has 221 employees (regular and extra-help) on payroll and 187, or 85%, of those employees have provided proof of being fully vaccinated. This does not include the Shoreline Police Department, as they are King County employees. The City's workforce is supplemented by contractors who provide in-person services within City facilities, appointed members of City Boards and Commissions and elected City officials. The City, to date, has not collected proof of vaccination from these individuals.

As of September 22, 2021, King County had 6,822 new COVID-19 cases in the most recent two-week period and 236 hospitalizations, approximately 3.5% of the new COVID-19 cases. Of the five key indicators of COVID-19 activity monitored by King

County, only two are meeting the target and that is that the risk of death from COVID-19 is changing (improving) as a result of vaccinations and the effective reproductive number indicates that the current outbreak wave is starting to shrink. The other criteria are not being met, which includes transmission rates (high transmission/181.1 per 100k), hospitalization trends are increasing, and over 10% of King County hospital beds are serving COVID-19 patients.

The City Council discussed proposed Resolution No. 483 on September 20, 2021 and was generally supportive of this proposal. The Council is scheduled to take action on proposed Resolution No. 483 tonight.

RESOURCE/FINANCIAL IMPACT:

The primary resource impact of implementing proposed Resolution No. 483 is the staff time to monitor and process vaccination verification forms and exemption/accommodation requests. There may be impacts as a result of the termination of employees who fail to provide proof of vaccination by the required deadline and the related resource impact of hiring and training replacements. This could also be true for the dismissal of volunteers or termination of contractors not meeting the City's mandatory vaccination requirements.

RECOMMENDATION

Staff recommends that the City Council adopt proposed Resolution No. 483.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

On June 21, 2021, the City Council discussed pursuing a mandatory COVID-19 vaccination policy for City employment. At that time, there was not sufficient interest by the City Council to require City staff to this develop policy. The staff report for this Council discussion can be reviewed at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2021/staffreport062121-8c.pdf>.

Since that time, COVID-19 transmission has significantly increased, primarily as a result of the transmission rate of the COVID-19 Delta variant and the number of unvaccinated individuals in the community. As of September 22, 2021, King County had 6,822 new COVID-19 cases in the most recent two-week period and 236 hospitalizations, approximately 3.5% of the new COVID-19 cases. Of the five key indicators of COVID-19 activity monitored by King County, only two are meeting the target and that is that the risk of death from COVID-19 is changing (improving) as a result of vaccinations and the effective reproductive number indicates that the current outbreak wave is starting to shrink. The other criteria are not being met, which includes transmission rates (high transmission/181.1 per 100k), hospitalization trends are increasing, and over 10% of King County hospital beds are serving COVID-19 patients.

Widespread vaccination is the primary means to prevent and curtail the spread of new variants of the COVID-19 virus, avoid the return of stringent public health measures, and end the COVID-19 pandemic. While non-pharmaceutical interventions such as wearing face coverings and social distancing help to reduce the spread of COVID-19, the COVID-19 vaccination has been proven as a safe and highly effective measure in preventing COVID-19 infection and limiting hospitalization and death.

As of September 22, 2021, the City of Shoreline has 221 employees (regular and extra-help) on payroll and 187, or 85%, of those employees have provided proof of being fully vaccinated. This does not include the Shoreline Police Department, as they are King County employees. The City's workforce is supplemented by contractors who provide in-person services within City facilities, appointed members of City Boards and Commissions and elected City officials. The City, to date, has not collected proof of vaccination from these individuals.

Tonight, the City Council is scheduled to take action on proposed Resolution No. 483, which would establish a mandatory vaccination policy as a qualification of employment or volunteer public service with the City of Shoreline. It would also require that contractors providing services in City facilities be fully vaccinated. Proposed Resolution No. 483 would require that proof of full vaccination be provided by December 1, 2021.

The City Council discussed proposed Resolution No. 483 on September 20, 2021. The staff report for this Council discussion can be found at the following link:

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DISCUSSION

Proposed Resolution No. 483 (Attachment A) would require that as a qualification of employment or volunteer public service, that the following groups be fully vaccinated by December 1, 2021:

- City of Shoreline employees,
- Elected officials (City Councilmembers),
- Appointed members of boards and commissions (Planning Commissioners and Parks, Recreation and Cultural Services Board Members),
- City volunteers, and
- Those individuals under contract with the City to provide in-person services at City Facilities.

As is defined in proposed Resolution No. 483, “fully vaccinated” means two weeks after an individual has received the second dose in a two-dose series of a COVID-19 vaccine and a third, booster shot within 30 days of eligibility for the booster as determined by the CDC or Washington State Health Officer; or two weeks after a single-dose COVID-19 vaccine, and a second, booster shot within 30 days of eligibility for the booster as determined by the CDC or Washington State Health Officer.

The City can make vaccination a qualification of employment subject to the application of federal anti-discrimination laws, including the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964 (Title VII”). The U.S. Equal Employment Opportunity Commission (EEOC) advised that while these laws do not prohibit employer-mandated COVID-19 vaccinations per se, they do require employers to undertake individualized risk assessments and offer reasonable accommodations to protect the legal rights of employees who cannot or will not be vaccinated for medical or religious reasons. As such, the City will provide an opportunity for employees, Councilmembers, appointed members of boards and commissions and volunteers to seek a medical or religious accommodation. There will be no exemptions for philosophical reasons for any individual.

The City Manager has drafted administrative policies and procedure that would address the consequences for individuals who do not comply with the vaccination policy. Any employee, appointed official or volunteer who fails to be fully vaccinated or has not received a medical or religious exemption by December 1, 2021, will no longer be permitted to undertake the essential duties of their position, and as such, will be terminated or removed from their appointment/volunteer role. Individuals may seek a deadline extension to this vaccination requirement from the City Manager in writing, but the City Manager will only consider a deadline extension when necessary, through no fault of the individual, such as a medical reason confirmed by a doctor.

Proposed Resolution No. 483 also provides that if a City Councilmember fails to be fully vaccinated or receive a medical or religious exemption by the deadline, they are not eligible to receive any benefits, such as the payment for health insurance or a payment in-lieu of receiving health insurance, and that the Council may remove them from any

assignments to intergovernmental/regional boards, commissions, or committees. For appointed board and commission members (Planning Commissioners and Parks, Recreation, and Cultural Services Board Members), failure to comply may result in removal by the City Manager from their board/commission with the concurrence of the City Council as provided in [SMC 2.20.020\(D\)](#). The decision to impose these sanctions is by an affirmative vote of a majority of the City Council.

The City's standard service contract requires that all services provided to the City be in compliance with all federal, state, and local statutes, rules, and ordinances applicable to the services being provided. Under this proposed Resolution, individuals providing in-person services in City facilities via contract will be required to be fully vaccinated. City facilities include all City-owned buildings and City-owned or managed opens spaces, including but not limited to City parks and the Interurban Trail. All service contractors providing these in-person services will assume responsibility for vaccination verification and accommodation requirements and an authorized representative of a service contractor will be required to provide the City with a signed Employer Declaration that they have verified proof of full vaccination with any employee providing service per a City contract. The City will retain the right to investigate or inquire into a Service Contractor's compliance with the requirements of the City's established administrative policy.

RESOURCE/FINANCIAL IMPACT

The primary resource impact of implementing proposed Resolution No. 483 is the staff time to monitor and process vaccination verification forms and exemption/accommodation requests. There may be impacts as a result of the termination of employees who fail to provide proof of vaccination by the required deadline and the related resource impact of hiring and training replacements. This could also be true for the dismissal of volunteers or termination of contractors not meeting the City's mandatory vaccination requirements.

RECOMMENDATION

Staff recommends that the City Council adopt proposed Resolution No. 483.

ATTACHMENT

Attachment A: Proposed Resolution No. 483

RESOLUTION NO. 483

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, REQUIRING MANDATORY COVID-19 VACCINATIONS AS A QUALIFICATION OF EMPLOYMENT OR PUBLIC SERVICE WITH THE CITY OF SHORELINE; AS A QUALIFICATION FOR PROVIDING CONTRACTED SERVICES AT CITY FACILITIES; AUTHORIZING THE CITY MANAGER TO DEVELOP ADDITIONAL RULES AND PARAMETERS FOR IMPLEMENTING; AND ESTABLISHING A DEADLINE OF FULL VACCINATION BY DECEMBER 1, 2021.

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a nationwide public health emergency; and

WHEREAS, on February 29, 2020, Governor Jay Inslee issued Proclamation 20-05 declaring a state of emergency in all counties of the state related to the spread of the COVID-19 virus; and

WHEREAS, on March 4, 2020, the City Manager issued a Local Declaration of Public Health Emergency (“Declaration”) to address the significant health risks posed by the COVID-19 virus. The Declaration, issued pursuant to Shoreline Municipal Code (“SMC”) Chapter 2.50, and ratified by the Shoreline City Council on March 16, 2020, by Resolution No. 454, authorized the City Manager to take action and exercise powers on behalf of the City of Shoreline (“City”) in the event of an emergency; and

WHEREAS, On March 23, 2020, Governor Inslee issued a “Stay Home – Stay Healthy” order intended to reduce the spread and transmission of the COVID-19 virus, and has since issued several proclamations and orders related to the reopening of the state, including Proclamation 20-25.4 (“Safe Start-Stay Healthy”), Proclamation 20-25.14 (“Washington Ready”) and multiple amendments thereof; and

WHEREAS, the Food and Drug Administration (FDA) has provided Emergency Use Authorization (EUA) for multiple COVID-19 vaccinations beginning with Pfizer-BioNTech on December 11, 2020, Moderna on December 18, 2020, and Janssen on February 27, 2021. On August 23, 2021, the FDA approved the first COVID-19 vaccine, which has been known as the Pfizer-BioNTech COVID-19 vaccine and will now be marketed as *Comirnaty* for the prevention of the COVID-19 disease in individuals 16 years of age and older, and under EUA for individuals 12 – 15 years of age and for the administration of a third dose in certain immunocompromised individuals. The Moderna, which filed for FDA approval on August 25, 2021, and Janssen vaccines continue to be available under EUA for individuals 18 years and older; and

WHEREAS, on July 27, 2021, the Centers for Disease Control and Prevention released updated guidance on the need for urgently increasing COVID-19 vaccination rates amid high transmission rates; and

WHEREAS, at the present time, after months of improving COVID-19 epidemiological conditions, highly contagious COVID-19 variants are emerging, including the Delta variant; and

WHEREAS, COVID-19 transmission is continuing at a high rate within the King County area, primarily among unvaccinated people, with the Washington Department of Health reporting that over 96% of new cases in August 2021 arose from the more easily transmissible Delta variant; and

WHEREAS, area hospitals and healthcare facilities are reaching or exceeding existing intensive care unit (ICU) capacity, directly related to hospitalized COVID-19 patients; and

WHEREAS, on August 9, 2021, Governor Inslee issued Proclamation 21-14 requiring certain state employees and health care workers to be fully vaccinated against COVID-19 by October 18, 2021, as a condition of employment; and

WHEREAS, on August 10, 2021, King County Executive Dow Constantine issued an Order requiring COVID-19 vaccination for all executive branch employees of King County by October 18, 2021, as a condition of employment; and

WHEREAS, on August 21, 2021, Governor Inslee issued Proclamation 21-14.1 expanding the vaccination requirements to all employees working in higher education, K-12 education, most childcare and early learning facilities, and municipal parks and recreation programs serving children and youth, and re-imposing a statewide mask mandate for all individuals regardless of vaccination status in public indoor spaces; and

WHEREAS, in addition to contractors providing services for youth programs, other contractors and consultants provide in-person services at City Facilities; and

WHEREAS, vaccines have been shown to be safe and highly effective at preventing COVID-19 infection and in limiting hospitalization and death; and

WHEREAS, according to Public Health – Seattle and King County, COVID-19 Outcomes by Vaccination Status on January 17, 2021, a person not fully vaccinated was three (3) times more likely to test positive for COVID-19, 15 times more likely to be hospitalized for COVID-19, and 19 times more likely to die of COVID-19 related illness; and based on data through August 26, 2021, a person not fully vaccinated is now seven (7) times more likely to test positive for COVID-19, 50 times more likely to be hospitalized for COVID-19, and 30 times more likely to die of COVID-19 related illness; and

WHEREAS, on September 9, 2021, the President of the United States announced a COVID-19 action plan – Path out of the Pandemic, directing the federal Occupational Safety and Health Administration (OSHA) to promulgate rules that address vaccine mandates for business with more than 100 employees. Additionally, President Biden issued two Executive Orders requiring all federal workers to be vaccinated and federal contractors to comply with COVID-19 safety protocols that will likely require vaccination: and

WHEREAS, all people ages 12 and older have been eligible to receive a COVID-19 vaccine since May 10, 2021, providing ample time for all eligible employees to become fully vaccinated; and

WHEREAS, widespread vaccination is the primary means that the City of Shoreline has to protect employees, residents, and the community at large from COVID-19 infections, including

persons who cannot be vaccinated for medical reasons, youth who are not yet eligible to receive a vaccine, immunocompromised individuals, and vulnerable persons such as persons in health care facilities and other congregate care facilities; and

WHEREAS, widespread vaccination is also the primary means to prevent and curtail the spread of new variants of the COVID-19 virus, avoid the return of stringent public health measures, and put the pandemic behind us; and

WHEREAS, in order to provide and maintain a safe workplace, protect the health of all of our employees and their families, and reduce and protect the community at large from the risks and adverse effects of COVID-19, the City Council has determined that it is necessary to adopt this Resolution;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Full Vaccine Requirement. As a qualification of employment or public service, all City of Shoreline employees, elected officials, appointed members of boards and commissions, volunteers for the City of Shoreline, and those individuals under contract with the City to provide in-person services at City Facilities, (collectively “Workers”) shall be required to be Fully Vaccinated by 12:01 am on December 1, 2021, and must provide proof of full vaccination by this deadline in accordance with policies or procedures that shall be established by the City Manager. All future Workers shall provide proof of full vaccination against COVID-19 prior to the date of hire, provision of services, or as a condition of contracting. Any person subject to Proclamation 21-14.1’s vaccine mandate deadline of October 18, 2021, shall also be subject to the vaccine mandate in this Resolution. The requirement for Full Vaccination is mandatory and only subject to such exceptions as required by law.

Section 2. City Manager Directive. In addition to those powers and duties granted to the City Manager under state law or the Shoreline Municipal Code, the City Manager is additionally hereby directed to enact and implement a mandatory COVID-19 vaccination requirement consistent with this Resolution for all current and future employees as a qualification of employment, for all public service volunteers as a qualification of a volunteer position, and for service contractors and consultants providing in-person services at City Facilities, provided that the requirement allows for a religious or medical exemption. The City Manager is further directed to adopt or implement any related policies and procedures and to work with our employees’ labor representatives regarding the impacts, if any, related to this mandatory requirement, including termination of employment, volunteer service, or contract services.

Section 3. City Council and Boards and Commissions. A City Councilmember is not eligible to receive benefits including, medical, dental, vision, life insurance, and long-term disability, or payment in lieu of these benefits, unless Fully Vaccinated in accordance with this Resolution. Additionally, failure of a member of the City Council or a City Board or Commission to be Fully Vaccinated by the December 1, 2021, may result in the following sanctions:

- A. For City Councilmembers: Removal from any assignments to intergovernmental boards, commissions, or committees; and/or

- B. For Board and Commission Members: Removal by the City Manager, with the concurrence of the City Council, as provided in SMC 2.20.020(D).

The decision to impose sanctions is by an affirmative vote of a majority of the City Council.

Section 4. Definitions. The following definition shall apply to this Resolution:

“Fully Vaccinated” means two weeks after a Worker has received the second dose in a two-dose series of a COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA (e.g., Pfizer-BioNTech, Comirnaty, or Moderna) and a third, booster shot within 30 days of eligibility for the booster, as eligibility is determined by the FDA, Centers for Disease Control and Prevention (CDC) and/or the Washington State Health Officer, as applicable; or two weeks after a Worker has received a single-dose COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA (e.g., Johnson & Johnson (J&J)/Janssen, and a second, booster shot within 30 days of eligibility for the booster, as eligibility is determined by the FDA, CDC and/or the Washington State Health Officer, as applicable. Should the FDA, CDC and/or the Washington State Health Officer or other agency with jurisdiction provide different criteria or requirements to be considered fully vaccinated, said requirements shall be included in this definition and the requirements of this Resolution, and the City Manager shall implement the requirements.

Section 5. Effective Date; Duration. This Resolution shall take effect and be in full force immediately upon passage by the City Council. The COVID-19 vaccine mandate this Resolution sets forth shall be in effect until expressly revoked by formal action of the City Council.

Section 6. Corrections by City Clerk. Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to this Resolution, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 7. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Resolution or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or its application to any person or situation.

PASSED BY THE CITY COUNCIL ON OCTOBER 4, 2021

Mayor Will Hall

ATTEST:

Jessica Simulecik Smith
City Clerk