

ORDINANCE NUMBER O- 21398 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 29 2021

AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO CHARTER SECTION 295, ADOPTING A MANDATORY COVID-19 VACCINATION POLICY.

WHEREAS, the coronavirus disease (COVID-19) is an infectious respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, on February 19, 2020, the Board of Supervisors of the County of San Diego ratified a declaration of local health emergency related to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency due to the threat of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization (WHO) officially declared COVID-19 to be a global pandemic; and

WHEREAS, on March 12, 2020, the Mayor of the City of San Diego proclaimed the existence of a local emergency related to the COVID-19 threat, which was ratified by the San Diego City Council (Council) on March 17, 2020, by Resolution R-312895; and

WHEREAS, according to the U.S. Centers for Disease Control and Prevention, the California Department of Public Health, and the San Diego County Health and Human Services Agency, COVID-19 continues to pose a substantial threat to public health and safety, especially to those who are not fully vaccinated against COVID-19; and

WHEREAS, on August 23, 2021, the U.S. Food and Drug Administration (FDA) granted full approval of the Pfizer-BioNTech COVID-19 vaccine (now brand-named Comirnaty) for individuals 16 years of age and older; and

WHEREAS, multiple COVID-19 vaccines, approved by the FDA or authorized for emergency use by the FDA or the WHO, are currently available and have proven to be safe and highly effective in protecting individuals against serious illness, hospitalization, and death from COVID-19 infection; and

WHEREAS, the City of San Diego's workforce, residents, and visitors include individuals who are particularly vulnerable to serious COVID-19 infection and those who cannot receive a COVID-19 vaccine; and

WHEREAS, to protect the City's workforce and the public it serves, the Mayor is recommending that the Council adopt a Mandatory COVID-19 Vaccination Policy that requires all current City of San Diego employees not represented by any of the City's six recognized employee organizations (REO), elected officials, members of boards and commissions, and authorized volunteers to be fully vaccinated against COVID-19 and provide proof of their full vaccination by December 1, 2021, as a condition of continued employment or service with the City; and requires all newly hired or appointed City employees, elected officials, members of boards and commissions, and authorized volunteers to be fully vaccinated against COVID-19 and provide proof of their full vaccination before their start date, as a minimum requirement for employment or service with the City, effective immediately; and

WHEREAS, the recommended Mandatory COVID-19 Vaccination Policy would require all current City employees represented by an REO to be fully vaccinated against COVID-19 and provide proof of their full vaccination by December 1, 2021, or upon completion of any process required under the Meyers-Milias-Brown Act (MMBA), as a condition of continued employment with the City; and

WHEREAS, the recommended Mandatory COVID-19 Vaccination Policy would require all City contractors, who interact in person with City employees while providing contracted services indoors in City facilities or while performing bargaining unit work as specified in the Policy, are required to be fully vaccinated against COVID-19, effective January 3, 2022, as a condition for provision or continued provision of contracted services; and

WHEREAS, after considering the Mayor's recommendation, the Council finds that pursuant to Charter section 295(e), it is necessary and appropriate to adopt a Mandatory COVID-19 Vaccination Policy to provide for the immediate preservation of the public peace, property, health, or safety; and

WHEREAS, under Charter section 295(e), a supermajority vote of the Council is required for passage of this ordinance; and

WHEREAS, under Charter section 280(a)(3), this ordinance is not subject to veto by the Mayor because it is an emergency ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That all current City employees not represented by an REO, elected officials, members of boards and commissions, and authorized volunteers are required to be fully vaccinated against COVID-19 and provide proof of their full vaccination by December 1, 2021, as a condition of continued employment or service with the City.

Section 2. That all current City employees represented by an REO are required to be fully vaccinated against COVID-19 and provide proof of their full vaccination by December 1, 2021, or upon completion of any process required under the MMBA, as a condition of continued employment with the City.

Section 3. That all newly hired or appointed City employees, elected officials, members of boards and commissions, and authorized volunteers are required to be fully vaccinated against COVID-19 and provide proof of their full vaccination before their start date, as a minimum requirement for employment or service with the City, effective immediately.

Section 4. That all City contractors, who interact in person with City employees while providing contracted services indoors in City facilities or while performing bargaining unit work while indoors, are required to be fully vaccinated against COVID-19, effective January 3, 2022, as a condition for provision or continued provision of contracted services.

Section 5. That “authorized volunteer” means a volunteer who has completed and signed a volunteer participation agreement accepted by a City department.

Section 6. That “City contractor” means a person who has contracted with the City of San Diego to provide public works, goods, services, franchise, or consultant services for or on behalf of the City, and includes a subcontractor, vendor, franchisee, consultant, or any of their respective officers, directors, shareholders, partners, managers, employees, or other individuals associated with the contractor, subcontractor, consultant, or vendor. “Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization.

Section 7. That “fully vaccinated” means a person has received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine, or otherwise meets the criteria for full vaccination against COVID-19 as stated in applicable public health guidance, orders, or law. Acceptable COVID-19 vaccines must be approved by the FDA or authorized for emergency use by the FDA or the WHO.

Section 8. That all current and newly hired or appointed City employees, elected officials, members of boards and commissions, and authorized volunteers may submit a request to the City for reasonable accommodation and medical or religious exemption from the COVID-19 vaccination requirement, which will be evaluated on a case-by-case basis as required by the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, and the California Fair Employment and Housing Act.

Section 9. That the Mayor or designee is authorized to take all actions necessary to administer the City's Mandatory COVID-19 Vaccination Policy.

Section 10. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 11. That this ordinance is declared to be an emergency measure required for the immediate preservation of the public peace, safety, health, and welfare pursuant to Charter section 295 and shall take effect immediately from the day of adoption by the affirmative vote of at least six members of the Council.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Miguel Merrell
Miguel Merrell
Deputy City Attorney

MM:jvg
9/15/21
Or.Dept: Human Resources
Doc. No.: 2761011

Passed by the Council of The City of San Diego on NOV 29 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

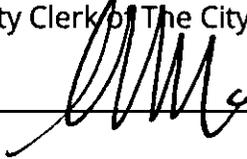
Date of final passage NOV 29 2021.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

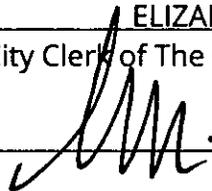
By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on NOV 29 2021, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

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