

**CITY OF BELLINGHAM
EXECUTIVE ORDER 2021-02
COVID-19 VACCINATIONS FOR CITY OF BELLINGHAM
EMPLOYEES, VOLUNTEERS, AND ON-SITE INDOOR
CONTRACTORS**

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed that a State of Emergency exists in all counties in the State of Washington due to the outbreak of novel coronavirus (COVID-19); and

WHEREAS, on March 10, 2020, the Whatcom County Executive, in coordination with the Whatcom County Health Board, declared a Whatcom County public health emergency to reduce the spread of COVID-19 in our community; and

WHEREAS, on March 12, 2020, the City of Bellingham's Mayor issued a Proclamation of Local Emergency as a result of COVID-19; and

WHEREAS, in response to the rapidly evolving situation in Whatcom County, the Whatcom County Health Officer issued recommendations to slow the spread of COVID-19; and

WHEREAS, the City of Bellingham (City) has implemented measures within City operations, services, and facilities to follow the recommendations of the Whatcom County Health Department; and

WHEREAS, COVID-19 is a threat to life and public health and demands ongoing and further emergency action; and

WHEREAS, the World Health Organization (WHO) has declared that COVID-19 disease is a global pandemic, which is particularly severe in high risk populations such as people with underlying medical conditions and the elderly, and the WHO has raised the health emergency to the highest level requiring dramatic interventions to disrupt the spread of this disease; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency to allow the government to marshal additional resources to combat the virus; and

WHEREAS, after months of improving COVID-19 epidemiological conditions in Washington State and Whatcom County, the emergence of highly contagious COVID-19 variants,

including the “delta variant” that is at least twice as transmissible as the virus that emerged in late 2019, coupled with the continued significant numbers of unvaccinated people, have caused COVID-19 cases and hospitalizations to rise sharply among unvaccinated populations and have resulted in breakthrough infections in some fully vaccinated individuals; and

WHEREAS, COVID-19 vaccines are effective in reducing serious disease and hospitalizations, and

WHEREAS, widespread vaccination is the primary means available to the City to protect its employees and the public, including persons who cannot be vaccinated for medical reasons, youth who are not eligible to receive a vaccine, immunocompromised individuals, and vulnerable persons; and

WHEREAS, the Center for Disease Control (CDC) continues to rate Whatcom County at a “High” level of COVID-19 transmission despite numerous public health measures such as mask wearing and social distancing; and

WHEREAS, COVID-19 vaccinations have been available in Whatcom County for certain priority groups since December 2020, and for those over the age of 16 since April 2021, and for those over the age of 12 since May 2021, and have been free of charge and widely available; and

WHEREAS all three available COVID-19 vaccinations, Pfizer, Moderna, and Janssen (Johnson & Johnson), have proven safe and effective at reducing the risk of contracting the virus, severe illness, hospitalization, and death; and

WHEREAS, on July 6, 2021, the Office of Legal Counsel of the United States Department of Justice issued a legal opinion stating that federal and state governments were not prohibited by federal law from imposing vaccination mandates, even when the only vaccines available were those authorized under U.S. Food and Drug Administration Emergency Use Authorizations; and

WHEREAS, the Pfizer vaccine received full Food and Drug Administration (FDA) approval for use in the United States on August 23, 2021; and

WHEREAS, on August 9, 2021 Governor Jay Inslee issued a proclamation requiring all employees, on-site independent contractors, volunteers, goods and services providers, and

appointees of designated state agencies to be fully vaccinated against COVID-19 on or before October 18, 2021 and encouraged local governments to adopt a vaccine mandate; and

WHEREAS, on September 9, 2021, President Joe Biden ordered the Department of Labor to issue an emergency temporary standard that requires all federal employees and contractors to be vaccinated, and all employers with more than 100 employees to mandate vaccination against COVID-19 or conduct weekly testing of unvaccinated employees; and

WHEREAS, President Joe Biden has encouraged private employers and local governments to adopt vaccine mandates; and

WHEREAS, it is the duty of every employer to protect the health and safety of employees by establishing and maintaining a healthy and safe work environment and by requiring all employees to comply with health and safety measures; and

WHEREAS, City employees, volunteers, and On-Site Indoor Contractors provide services to and interact with the public; and

WHEREAS, Article 4.01 of the Bellingham City Charter states that the Mayor “shall be the chief executive and administrative officer of the City with the prime responsibility of coordination and supervision of the activities of all departments and employees of the City; and

WHEREAS, the Mayoral Proclamation of Local Emergency dated March 12, 2020 is still in effect and BMC 2.57.060 authorizes the Mayor to “make and issue orders” that are related to the protection of life as affected by the emergency; and

WHEREAS, to preserve and protect the health and safety of City employees and the public during the COVID-19 pandemic, the Mayor has made the managerial decision to require all employees, volunteers and On-Site Indoor Contractors (defined below) to be vaccinated;

NOW THEREFORE, I, Seth Fleetwood, at my sole discretion as chief administrator of the City of Bellingham, order the following:

Section 1. Mandatory COVID-19 Vaccination for All City Employees, Volunteers, and On-Site Indoor Contractors.

- A. All City employees are required to be fully vaccinated against the COVID-19 virus as a condition of employment no later than December 3, 2021. All

volunteers and On-Site Indoor Contractors (defined below) are required to be fully vaccinated against the COVID-19 virus by December 3, 2021, in order to perform work for the City. Employees seeking reasonable accommodations for legitimate medical reasons or sincerely held religious beliefs may apply for an accommodation no later than close of business on October 15, 2021. Fully vaccinated means two weeks after the second dose of the Pfizer or Moderna vaccine or two weeks after the single dose of Johnson & Johnson's Janssen vaccine. Requests for reasonable accommodations will be evaluated on an individualized basis.

B. An On-Site Indoor Contractor is an entity, including its employees and subcontractors and their employees, that performs on-site indoor work inside City-owned or leased facilities pursuant to a contract with the City ("Contractor"). This Order applies only to such work performed pursuant to a contract entered into after the Effective Date hereof. Contractors who are subject to this Order shall assume responsibility for the vaccination verification and accommodations requirements in this Order. The Contractor is prohibited from engaging in such work for the City and is prohibited from permitting such employees to engage in such work for them, unless the following requirements are met by December 3, 2021:

- the Contractor must obtain a copy of or visually observe proof of full vaccination against COVID-19 for every current employee who performs on-site indoor work inside City-owned or leased facilities;
- the Contractor must obtain a copy of or visually observe proof of full vaccination against COVID-19 for every employee hired after December 3, 2021, who will perform on-site indoor work in City-owned or leased facilities;
- the Contractor must follow applicable requirements for granting disability and religious accommodations to its current and future employees;
- by December 3, 2021, the Contractor must submit to the City a signed declaration in substantially the form prescribed in RCW 5.50.050 declaring that the Contractor has met the above requirements;
- the Contractor must submit additional signed declarations upon the request of and by the date designated by the City.

Section 2. Collective Bargaining. The City will comply with its collective bargaining obligations for represented employees regarding impacts of this Order.

Section 3. Acceptable Proof of Full Vaccination Against COVID-19. City employees, volunteers and employees of Contractors shall provide proof of full vaccination against

COVID-19 to the Human Resources Department no later than close of business on November 19, 2021. Acceptable proof includes:

- CDC COVID-19 Vaccination Record Card or photo of the card;
- Documentation of vaccination from a health care provider or electronic health record;
- State immunization information system record.

Section 4. Duration of Executive Order. This Executive Order shall be in effect until rescinded.

Section 5. Effective Date. This Executive Order shall be in full force and effect on September 21, 2021.

Section 6. Conflict with BMC Provisions. If the provisions of this Executive Order are found to be inconsistent with any provisions of the Bellingham Municipal Code, this Order shall control.

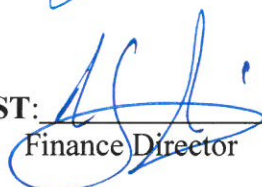
Section 7. Severability. If any section, sentence, clause or phrase of this Executive Order should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Order.

Section 8. Recitals. I adopt the above "WHEREAS" recitals as findings of fact and conclusions of law in support of this Executive Order.

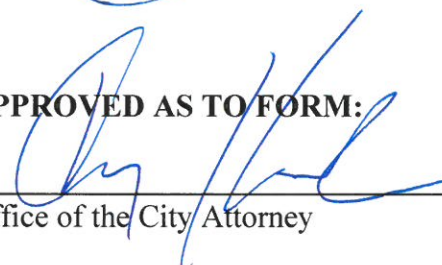
Dated this 21ST day of SEPTEMBER, 2021.



Mayor

ATTEST: 

Finance Director

APPROVED AS TO FORM: 

Office of the City Attorney