

City Council – Action Request Form

Date: January 11, 2022

To: Mayor, Mayor Pro Tempore, and Members of the City Council

From: Ben Rowe, Assistant City Manager
Dr. Marquis H. Barnett, Human Resources Director

Council Action Requested:

Resolution Revising the City of Winston-Salem COVID-19 Vaccination Policy

Strategic Focus Area: Service Excellence

Strategic Objective: No

Strategic Plan Action Item: No

Key Work Item: No



Summary of Information:

Over the last several months, variants of COVID-19 have contributed to a rise in positive cases and hospitalizations across the country and locally. In an effort to increase the vaccination rate among City employees, the City Manager offered eight hours of paid time off for employees who provided proof of full vaccination. Less than 900 employees, or approximately 34%, took advantage of this benefit.

In October, City management presented a proposed vaccination policy that would award financial incentives to City employees who presented proof of full vaccination status as of Sunday, December 5, 2021 (\$1,000 for Full-Time Employees and \$500 for Part-Time Employees). Employees who elected to become vaccinated after December 5th would be eligible for a reduced vaccination incentive. The Mayor and City Council approved the policy on October 18, and the policy went into effect on Monday, October 25, 2021.

Committee Action:

Committee	<u>CDHGG 1/11/22</u>	Action	<u>Approval</u>
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For	<u>Unanimous</u>	Against	<u></u>
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Remarks:

City staff provided an update on the City workforce's vaccination status at the Community Development/Housing/General Government Committee meeting on December 14th. At that time, 82% of the City's workforce was fully vaccinated. Currently, 1,920 employees, or 85% of the City's workforce, have provided proof of full vaccination status and received the vaccination financial incentive. The City paid out \$1.8 million in full and partial vaccination incentives as part of the December 17 payroll. City staff plan to bring a budget amendment in January to appropriate both health benefits fund reserves and a portion of the City's allocation of Coronavirus Local Fiscal Recovery Funds to cover the cost of the incentives.

Currently, 383 employees who remained unvaccinated have been required to submit to weekly COVID-19 testing. Testing has taken place over the last four weeks and is scheduled to end on Thursday, December 30, 2021. The estimated weekly cost of this testing has totaled approximately \$35,000, which will be charged to the City's health benefits fund.

The City's policy was adopted prior to and independent of the OSHA Emergency Temporary Standard (ETS), which, as expected, is the subject of several legal challenges. The City is not precluded from moving forward with its policy because of the legal challenges to the ETS Vaccine Mandate.

Based on information shared with City staff, it appears that the North Carolina cities that are requiring unvaccinated employees to submit to COVID-19 testing are moving forward with their respective testing policies, until their testing periods expire. They will determine whether to proceed with additional testing or the disciplinary process set forth in some of their policies. Again, cities are not precluded from moving forward with their policies because of the legal challenges to the ETS. The United States Supreme Court is scheduled to hear oral arguments on the legal challenges to the ETS Vaccine Mandate on January 7. Depending on the outcome of the court's ruling, staff may need to revise the City's vaccination policy further to comply with the ETS Vaccine Mandate.

Because the City's testing period ends on December 30th, staff from the City Manager's Office, City Attorney's Office, and Human Resources Department have prepared proposed revisions to the City's vaccination policy to provide additional financial incentives for employees to get fully vaccinated and to revise and extend the weekly testing requirement for unvaccinated employees, including additional progressive disciplinary measures.

The proposed revisions to the City's vaccination policy are outlined below:

- Establishes a vaccination financial incentive of \$200 for Full-Time Employees (\$100 for Part-Time Employees) who receive a booster.
- Extends the availability of the partial vaccination financial incentive of \$500 for Full-Time Employees and \$250 for Part-Time Employees beyond the four-week mandatory testing period.
- Authorizes department heads to provide exempt employees who are unvaccinated with comp time to get tested.

- Requires unvaccinated employees to provide proof of a negative test result each week by the deadline. Employees must provide results issued by the testing facility that include their name, testing location, date, and negative test result. If the negative test result is not available by the weekly deadline, employees must provide proof of testing to report to work. Proof of testing must be issued by the testing facility and include their name, testing location, and date. Asymptomatic employees may come to work as regularly scheduled while waiting for negative test results. A negative test result must then be provided by the following Monday.
- Reinforces that employees who test positive for COVID-19 must follow existing protocols for positive COVID-19 test results. Employees are not to report to work. In addition, if an employee tests positive for COVID-19, or is diagnosed with COVID-19 by a licensed health care provider, that employee will be removed from the system for mandatory testing during their quarantine period and will not be penalized for failing to adhere to weekly testing protocols. Employees and departments will have to work together to ensure that employees are appropriately quarantined and removed from the workplace according to the current CDC protocols and our workplace policies that affect a return to work after a positive COVID-19 diagnosis.
- Establishes additional disciplinary measures for non-compliance with the weekly testing requirement. The current vaccination policy provides progressive disciplinary measures for up to four incidents of non-compliance. The proposed revisions to the policy add the following progressive measures, highlighted in the table below.

First Missed/Refusal Week	Written Reprimand
Second Missed/Refusal Week	One-Day Suspension Without Pay
Third Missed/Refusal Week	Three-Day Suspension Without Pay
Fourth Missed/Refusal Week	Five-Day Suspension Without Pay
Fifth Missed/Refusal Week	Ten-Day Suspension Without Pay
Sixth Missed/Refusal Week	Indefinite Suspension Without Pay

The progressive disciplinary process does not start anew with this revised policy. Any disciplinary action(s) received pursuant to the initial COVID-19 testing protocol adopted October 18, 2021 will still count for purposes of any subsequent disciplinary action(s) received in accordance with this revised policy.

- Notes that Human Resources will maintain records with the status of all employees as they submit their records of vaccination and testing.
- States that the City Manager will provide periodic reports to City Council and seek additional guidance regarding future measures.
- Includes edits to distinguish provisions established as part of the original policy from the proposed revisions.

The attached resolution revises the City of Winston-Salem COVID-19 Vaccination Policy, as described above. If approved, the revised policy will be effective immediately; therefore, unvaccinated employees will have to comply with the weekly testing requirement by Friday, January 21.