

TO: MAYOR AND CITY COUNCIL

FROM: NEIL JENSEN, City Administrator

SUBJECT: Covid Policy

MEETING DATE: January 4, 2022

BACKGROUND

The Federal Covid Vaccine Mandate looms in the future and at the last City Council meeting it was approved to draft a policy to prepare for the mandate. This policy is based on the fact the federal mandate will go into effect and the State of Minnesota OSHA will adopt the same mandate. When you read the policy keep that in mind. As example the second paragraph states that MN OSHA has adopted the federal OSHA ETS.

In the policy, it refers to a Covid Personnel Committee. If there are incidents that staff need assistance in the clarification of the policy, we have a committee set up to do so.

This policy can be effective when MN OSHA adopts the Federal ruling and sets a date. In the meantime, if there are changes, we can make them or if council is satisfied approve the policy contingent on State and Federal approvals.

City Attorney Sarah Schwarzhoff will be on Zoom to handle any questions that the council may have on the technical issues of the policy.

REQUESTED COUNCIL ACTION

Motion to adopt the COVID-19 Vaccination or Testing Policy as presented (or as revised _____) contingent on the federal mandate being upheld by the US Supreme Court. If the Supreme Court invalidates the mandate this policy will automatically be void unless the Council takes additional action.

City of Cannon Falls
COVID-19 Vaccination and Testing Policy

Policy

The OSHA COVID-19 Emergency Temporary Standard on Vaccination and Testing generally requires employers with a total of 100 or more employees to establish, implement, and enforce a written mandatory vaccination policy (29 CFR 1910.501(d)(1)). In the alternative, employers may establish, implement, and enforce a written policy allowing any employee to choose either to be fully vaccinated against COVID-19 or provide proof of regular testing and wear a face covering (29 CFR 1910.501(d)(2)).

MN OSHA has adopted the federal OSHA ETS by reference in its entirety.

Vaccination is a vital tool to reduce the presence and severity of COVID-19 cases in the workplace, in communities, and in the nation as a whole. The City of Cannon Falls has adopted this policy to safeguard the health of our employees from the hazard of COVID-19 by requiring proof of vaccination or weekly testing. This policy is intended to comply with OSHA's Emergency Temporary Standard on Vaccination and Testing (29 CFR 1910.501).

All persons regardless of vaccination status must also continue to comply with City masking, social distancing or other safety protocols as determined necessary by the City. This policy is subject to change based on public health guidance. Employees and other persons may be subject to additional attestation, vaccination, or testing requirements under local, state or federal law.

Definitions

Definitions. The following definitions apply to this policy:

Council COVID Personnel Committee: a committee consisting of current Council members appointed by the City Council to govern this policy. The committee may seek guidance and assistance from City staff and the City Attorney but only Council members shall be voting members of the committee.

Covered persons: All of the following are Covered Persons:

- All City employees whether full-time, part-time or seasonal; and
- City Elected officials.

COVID-19 (Coronavirus Disease 2019): the disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2).

COVID-19 test: a test for SARS-CoV-2 that is:

- Cleared, approved, or authorized, including in an Emergency Use Authorization, by the FDA to detect current infection with the SARS-CoV-2 virus (e.g., a viral test);
- Administered in accordance with the authorized instructions; and
- Not both self-administered and self-read unless observed by the employer or an authorized telehealth proctor. Examples of tests that satisfy this requirement include tests with specimens that are processed by a laboratory (including home or on-site collected specimens which are processed either individually or as pooled specimens), proctored over-the-counter tests, point of care tests, and tests where specimen collection and processing is either done or observed by an employer.

Face covering: a covering that:

- completely covers the nose and mouth;
- Is made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source);
- Is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
- Fits snugly over the nose, mouth, and chin with no large gaps on the outside of the face; and
- Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings.

This definition includes clear face coverings or cloth face coverings with a clear plastic panel that, despite the non-cloth material allowing light to pass through, otherwise meet this definition and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.

Fully vaccinated:

- Two weeks after a single-dose COVID-19 vaccine which is approved/authorized/listed for permanent or emergency use by the U.S. Food and Drug Administration ("FDA") or the World Health Organization ("WHO").
- Two weeks after the second dose of a two-dose COVID-19 vaccine which is approved/authorized/listed for permanent or emergency use by the FDA or WHO.

Workplace: a physical location (e.g., fixed, mobile), whether indoor or outdoor, where the City's work or operations are performed. It does not include a covered person's residence but does include all City owned or leased property and all City vehicles.

Scope and Requirement

This policy applies to all covered persons. Beginning on _____, in order to enter the workplace, covered persons must be in full compliance with one of the following two options:

1. Option 1 - Fully Vaccinated

- a. Covered person must be fully vaccinated.
- b. Covered person must provide proof of fully vaccinated status.
 - i. Proof of fully vaccinated status shall be submitted in person or by email to HR Tech Michelle Sandeen or City Administrator Neil Jensen.
 - ii. Proof of fully vaccinated status should include the covered person's name, the type of vaccine administered, the date(s) of administration, and the name of the healthcare professional or clinic site that administered the vaccination.
 - iii. Proof of fully vaccinated status may be provided by one of the following:
 1. The record of immunization from a healthcare provider or pharmacy;
 2. A copy of the COVID-19 Vaccination Record Card;
 3. A copy of medical records documenting the vaccination;
 4. A copy of immunization records from a public health, state, or tribal immunization information system; or
 5. A copy of any other official documentation that includes the required information.

2. Option 2 - COVID-19 Test and Face Covering

- a. Covered person must take a COVID-19 test provided and administered by the City at least once every seven days.
- b. Covered persons must report to the public safety building at 7:00 a.m. each Monday for the test to be administered. Covered persons may request that the weekly test be administered at another date, time or location. The City will review all such requests on a case by case basis and may, but is not required, to honor such requests.
- c. Covered persons absent from the workplace do not need to test during the absence but must test prior to returning to the workplace.
- d. Covered persons who have received a positive COVID-19 test administered or accepted by the City or has been diagnosed with COVID-19 by a licensed health care provider within the past 90 days do not need to submit a weekly test for the 90 days after their test or diagnosis.
- e. Covered person must wear a face covering while indoors and while occupying a vehicle with another person for work purposes except in the following circumstances:
 - i. When a covered person is alone in a room with floor to ceiling walls and a closed door.
 - ii. For a limited time, while a covered person is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements.
 - iii. When a covered person is wearing a respirator or facemask as defined in 29 CFR 1910.501(c).
 - iv. Where the City has determined that the use of face coverings is infeasible or creates a greater hazard (e.g., when it is important to see the covered person's mouth for reasons related to their job duties, when the work requires the use of the covered person's uncovered mouth, or when the use of a face covering presents a risk of serious injury or death to the covered person).

Payment and Costs

The City will not provide paid time off or reimbursement for vaccinations or testing for City Elected officials.

For employees, the City will provide the following related to the COVID-19 vaccine shot:

- The City will pay for the cost the employee is charged for the shot.
- The City will provide up to 4 hours of paid leave per shot. If an employee is vaccinated outside of regular work hours the time will not be compensated.
- An employee may request up to two additional days of time off for side effects from the shot. Such time will be granted by the City Administrator if deemed reasonable. Such time will not be compensated unless the employee elects to use sick or vacation time.

For employees, the City will provide the following related to COVID-19 tests:

- The City will provide and pay for the weekly test.
- An employee will be considered on the clock while the employee is waiting for the weekly test results and must report to work immediately upon receipt of negative test results. If the results are positive, the employee shall follow the process below for positive test results.

New or Returning Employees

Newly hired or elected covered persons must comply with this policy prior to entering the workplace.

Retesting

If a covered person takes a COVID-19 test not administered by the City and presents those test results to the City to meet the testing requirements of Option 2 above or to comply with the requirements for reporting a positive test below, the City may accept the results or may require the covered person to take a test administered by the City to confirm the results. The Council COVID Personnel Committee shall determine what test results will be accepted based on the definition of COVID-19 test in this policy.

COVID-19 Symptoms, Diagnosis or Positive Test

Any covered person who experiences COVID-19 symptoms, is diagnosed with COVID-19 by a licensed health care provider or tests positive for COVID-19, shall:

- Immediately inform HR Tech Michelle Sandeen or City Administrator Neil Jensen by email or phone; and
- Immediately leave the workplace and not return until one of the following occurs:
 - The covered person receives a negative result on a COVID-19 test administered or accepted by the City;
 - If the covered person is asymptomatic, after 5 days have passed since a positive COVID-19 test;
 - If the covered person is symptomatic, after 10 days have passed since symptoms first appeared, at least 24 hours have passed with no fever or fever-reducing medication AND other symptoms of COVID-19 are improving; or
 - The covered person receives a written recommendation to return to work from a licensed health care provider.

Use of any sick, vacation, FMLA, or other applicable leave for COVID-19 symptoms, diagnosis or a positive test shall to be taken as set forth in the City's Personnel Policy Handbook.

Exemptions

Requests for reasonable accommodations or exemptions under the Americans with Disabilities Act or Title VII of the Civil Rights Act to these policy requirements due to disability or medical (including pregnancy-related) reasons, or sincerely held religious beliefs, practices, or observances, or other requested exceptions to this policy will be received and evaluated on an individual case-by-case basis consistent with state and federal law. Any such request shall be submitted in writing to HR Tech Michelle Sandeen or City Administrator Neil Jensen. Any such request shall be considered and decided by the Council COVID Personnel Committee.

Non-Compliance

Any covered person not fully in compliance with this policy is prohibited from entering the workplace.

An employee not allowed at the workplace due to failure to comply with this policy shall immediately be placed on unpaid leave. While not in compliance with this policy, the employee will not be compensated and the employee:

- May not use sick or vacation time;
- Will not accrue any additional sick or vacation time; and
- Shall be responsible for paying all health insurance, life insurance and long-term disability premiums and related payments.

Once the employee is in compliance with the policy, the employee may once again be eligible for these benefits, but will not be provided back pay or reimbursements for amounts paid during the non-compliance.

Any employee not fully in compliance with this policy may be subject to discipline up to and including termination as determined on a case-by-case basis by the Council COVID Personnel Committee.

Data

All data collected by the City shall be collected and maintained pursuant to the Data Practices Act, Minn. Stat. Chap. 13.

Questions

Any questions related to this policy shall be directed to HR Tech Michele Sandeen or City Administrator Neil Jensen.