

ADOPTED BY THE  
MAYOR AND COUNCIL

August 13, 2021

ORDINANCE NO. 11869

RELATING TO PUBLIC HEALTH AND SAFETY AND THE PREVENTION OF SPREAD OF INFECTIOUS DISEASE; FINDING AND REAFFIRMING THAT THE COVID-19 PANDEMIC CONSTITUTES A CONTINUING LOCAL AND CIVIL EMERGENCY; AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE, ADMINISTER, IMPLEMENT AND ENFORCE AN ADMINISTRATIVE DIRECTIVE IN ORDER TO PROMOTE AND REQUIRE CITY EMPLOYEES TO GET VACCINATED AGAINST COVID-19, AND TO CARRY OUT ITS VARIOUS PROVISIONS IN ORDER TO MITIGATE AGAINST THE SPREAD OF COVID-19 IN OUR WORKFORCE AND IN OUR COMMUNITY AND REGION; ESTABLISHING CERTAIN EXEMPTIONS AND ACCOMMODATIONS; ESTABLISHING PENALTIES; AFFIRMING THAT THE REQUIREMENTS OF THIS POLICY ARE MANAGEMENT RIGHTS OF THE CITY AS AN EMPLOYER; AUTHORIZING THE CITY MANAGER TO ESTABLISH HIGHER HEALTH CARE PREMIUMS FOR EMPLOYEE PARTICIPANTS WHO DO NOT SUBMIT PROOF OF VACCINATION, TO THE EXTENT AUTHORIZED BY LAW; AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council of the City of Tucson make the following findings:

1) Chapter IV, Section 1(10) of the Tucson Charter provides that the City has the power “to make regulations to prevent the spread of diseases;” and Chapter VII, Section 1(28) of the Tucson Charter provides that the Mayor and Council have the power to make all regulations which may be necessary or expedient for the preservation of the health and the suppression of disease; and to make regulations to prevent the introduction of contagious, infectious, or other diseases into the city; and

2) The State of Arizona is under a continuing Declaration of Public Health

Emergency, as ordered by Governor Douglas A. Ducey, due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19;

3) The City of Tucson is under a continuing Declaration of Emergency or Local and/or Civil Emergency, as proclaimed by Mayor Regina Romero and as supported by motions adopted by unanimous votes of the Mayor and Council on multiple dates, including but not limited to March 24, April 21 and June 9, 2020, due to the COVID-19 pandemic; and

4) the most current local data relating to COVID-19 as provided by Pima County (part of which is included in the agenda material for this August 13, 2021 Special Session meeting) show that Pima County and the City of Tucson are experiencing substantial and in fact now “high” community-based transmission of COVID-19, and an increasing pace of viral spread that constitutes another surge of this pandemic. This surge is largely attributable to the increasing spread of the Delta variant, and the increase in infections and serious illness/hospitalization is overwhelmingly attributable to transmission among persons who have chosen not to be vaccinated against the COVID-19 virus, despite the widespread (and free of cost) availability of the approved vaccines; and

5) hospitalization and death among the vaccinated population remains exceedingly rare, demonstrating that the vaccines are extraordinarily effective; but the instances of breakthrough infections (infection of vaccinated persons) are growing; and

6) vaccination remains the single most important tool that needs to be leveraged in our local community’s pandemic response if we are to prevent needless hospitalizations and deaths in the City of Tucson and throughout Pima County; and

7) a recent survey of City employees demonstrates that it is reasonable to believe that an estimated 1,000 City employees remain unvaccinated against the COVID-19 virus; and

8) the City of Tucson, as an employer (and by and through its City Manager and ultimately through its legislative body), has a legal duty to provide and maintain a safe and healthy workplace for its employees; and

9) the actions included in this Ordinance and its attachments are reasonable and necessary to provide a safe workplace for City employees, the majority of whom have been vaccinated but who face increased threat of infection from unvaccinated coworkers; and these actions are reasonable and necessary to protect public health throughout our community and to ensure the City's ongoing capacity to provide essential services:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Mayor and Council find and reaffirm that the COVID-19 pandemic constitutes a continuing emergency, local emergency and civil emergency that endangers life within the City of Tucson, and requires extraordinary measures to protect public health and safety, all as provided under the Tucson Charter, Arizona Revised Statutes and Tucson Code.

SECTION 2. The Mayor and Council authorize and direct the City Manager to execute, administer, implement and enforce the provisions of the Administrative Directive attached hereto as Exhibit A, in order to promote and require City employees to get vaccinated against COVID-19, and to carry out its provisions in order to mitigate

against the spread of COVID-19 in our workforce and in our community and region. This authorization and direction supplements the authority already vested in the City Manager pursuant to the Tucson Charter and City Code, and does not limit or otherwise modify the authority that the City Manager holds under the Charter, Code, and other laws.

SECTION 3. The Mayor and Council authorize the City Manager to revise and amend the attached Administrative Directive, without need for further action by the Mayor and Council, for the purposes of carrying out its intent and to make any changes needed or convenient for its efficient administration and/or to satisfy legal requirements.

SECTION 4. The Mayor and Council find that the requirements of City employees as approved under this Ordinance and as established under the attached Exhibit A are lawfully imposed under the scope of “management rights” as that term is used in Chapter 14 of the Tucson Code and elsewhere, and hereby declare that the requirements of this Ordinance and the attached Exhibit A are necessary, reasonable and expedient to promote public health and the suppression of disease; and to prevent the introduction and/or spread of contagious, infectious, or other diseases within the City.

SECTION 5. The Mayor and Council also authorize the City Manager to implement an incentive for City employees to submit proof that they have been vaccinated against the COVID-19 virus, under which qualifying employees may receive leave benefits as specified by the City Manager through a separate Administrative Directive or similar communication.

SECTION 6. The Mayor and Council further authorize the City Manager to establish revised requirements relating to employee premiums under the City's health care coverage plan(s); under which employees who fail to demonstrate that they are fully vaccinated against the COVID-19 virus shall be responsible for higher premium payments than employees who choose to provide such proof. Any such changes must comply with all applicable federal and state laws and regulations.

SECTION 7. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this Ordinance become immediately effective, an emergency is hereby declared to exist, and this Ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, August 13, 2021.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
CITY MANAGER

MR/dg  
8/12/21