



Thomas Esqueda

City Manager

EMERGENCY ORDER 2021-02

MODIFIED COVID-19 EMERGENCY ORDER

As the Director of Emergency Services pursuant to Fresno Municipal Code Section 2-505, and by the powers invested in me by Fresno Municipal Code Section 2-506, in response to the public health threat of COVID-19, I hereby issue the following orders:

1. This Order is effective 12:01 a.m. on Tuesday, October 5, 2021, and supersedes all prior City of Fresno COVID-19 Emergency Orders. This Order shall remain in effect for so long as the Governor of California and the City of Fresno have declared a state of emergency related to COVID-19, but is subject to extension, rescission, or modification.
2. This Order is issued in accordance with, and incorporates by reference, all Orders issued by Governor of California as may be in effect from time to time, as applicable to Fresno County and the City of Fresno, and the March 16, 2020, Proclamation Declaring a Local Emergency by Mayor Lee Brand.
3. All persons within the City of Fresno and all businesses within the City of Fresno shall comply with Emergency Orders issued by the Governor, as may be modified and applicable to Fresno County and the City of Fresno.
4. The purpose of this Emergency Order is to provide a plan to reduce the accelerated spread of the COVID-19 virus that has been observed in our community. All City employees provide essential infrastructure and services necessary for the public health, safety, and welfare of the City of Fresno, and the City appreciates the dedication and commitment displayed by City employees during a global pandemic. The City of Fresno will implement reduction measures based on best available information and data, and with due consideration to minimize the disruption to the personal lives of City residents and employees.
5. All prior City of Fresno COVID-19 Emergency Orders are repealed, except as follows:
 - 5.1. 2020-09 Employee COVID-19 Self-Screening.
 - 5.2. 2020-10 Employee Leave Pay (to the extent remaining COVID-19 leave is not exhausted).
 - 5.3. 2020-15 Telework by City Employees (Revised) shall be reinstated. Department Directors shall have discretion to allow an employee or groups of employees to telework from their home or other approved location and may terminate or suspend telework of an employee at their discretion.

Department Directors should, if practical, give employees advance notice if a decision is made to terminate or suspend telework.

6. Public Access to City Hall.

6.1. City Hall shall remain open to the public for conducting business. To ensure that the City is in compliance with Fresno County Department of Public Health and OSHA requirements, all personnel will be required to self-screen before entering the workplace and all members of the public will be screened on entry. All visitors are required to wear a mask while in City Hall.

6.2. Public Meetings of the City Council, Planning Commission, Historic Preservation, and Parks Commission shall all be held in hybrid status with up to fifty-percent capacity in person and virtual by telephonic device, Zoom or any other platform.

6.3. The following Departments will be available to the public to conduct business by appointment only:

- 6.3.1. Planning and Development Counter
- 6.3.2. Department of Public Works Counter
- 6.3.3. Department of Public Utilities Counter
- 6.3.4. Personnel Services Department
- 6.3.5. Code Enforcement Counter
- 6.3.6. City Attorney's Office

6.4. The following Departments will be available to the public to conduct business without requiring an appointment:

- 6.4.1. Parking Division Counter
- 6.4.2. Utility Billing & Collection Counter
- 6.4.3. Business License Counter
- 6.4.4. City Clerk, City Council, Mayor and City Manager
- 6.4.5. Fresno Fire Headquarters and Police Department Headquarters Public Counters and all District Stations

6.5. Members of the public with disabilities who may not be able to comply in full or part with some requirements due to a qualifying disability shall not be denied services or benefits, in accordance with ADA Title II requirements. Reasonable modifications shall be made, such as allowing a person who indicates disability prevents them from sitting to stand or admitting a person with a respiratory disability that prevents them from wearing a mask, while still maintaining social distancing requirements.

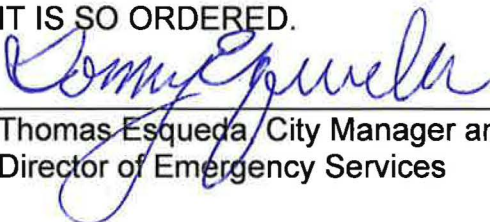
7. Vaccination, Mask, and Testing Requirements for City Employees.

7.1. City Employees and visitors to City facilities shall wear a mask indoors, except when employees are within their office with no other persons in the room.

7.2. All visitors to City Hall shall be required to submit to Health Screening, regarding temperature, respiratory issues, and close contact with another person having COVID-19 at security screening.

- 7.3. Bus Operators and Airport personnel are required to wear a mask while operating public transportation or inside an Airport Terminal under TSA rules. City Employees shall wear a mask when sharing a vehicle with another person and roll down their windows to allow a solid flow of air inside.
 - 7.4. Effective Monday, September 20, 2021, all City employees shall comply with the requirements outlined in the COVID-19 Virus Testing Plan contained within the September 10, 2021, Memorandum of the Office of the City Manager, attached herein as Exhibit A.
 - 7.5. All employees who report to work or call in sick must comply with Emergency Order 2020-09 and complete the Daily COVID-19 Health Questionnaire. Please continue to go to <http://covid.fresno.gov> to fill out the questionnaire.
 - 7.6. In an effort to limit the number of in-person gatherings and meetings, at the discretion of Department Directors are encouraged to conduct meetings virtually.
 - 7.7. All employees who have not provided proof of vaccination status to Personnel will be required to undergo weekly COVID-19 testing. This testing will be offered on City time, at City expense, unless an employee chooses to use a testing site offered by the County of Fresno or our test provider UCSF. This testing process will follow the COVID Employee Testing Plan of September 10, 2021, attached herein as Exhibit A.
 - 7.8. The Personnel Director shall, within 30 days, amend all recruitments and require selected employees to submit to COVID vaccinations as a condition of employment.
8. No person shall be criminally prosecuted for violation of this Order, except for egregious and immediate threats to public health and safety. Administrative citations for violations may be issued pursuant to the Fresno Municipal Code.
 9. This Order shall be subject to amendment or repeal at any time and shall not be deemed to confer any contractual obligations, property rights, or assume any City liability.
 10. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
 11. This Order shall be immediately translated into Spanish, Hmong, and Punjabi, and accommodations made for all disabled persons to read its contents; it shall also be distributed to all local media and made prominently available on the City's website.

IT IS SO ORDERED.



 Thomas Esqueda, City Manager and
 Director of Emergency Services

Date: 10/14/2021



OFFICE OF THE CITY MANAGER

MEMORANDUM

DATE: September 10, 2021

TO: HONORABLE MAYOR JERRY DYER
COUNCIL PRESIDENT LUIS CHAVEZ
COUNCILMEMBERS

FROM: THOMAS C. ESQUEDA, City Manager
GREGORY A. BARFIELD, Assistant City Manager

A handwritten signature in black ink, appearing to read "Thomas C. Esqueda", is written over the printed name of the City Manager.

SUBJECT: COVID19 VIRUS TESTING PLAN FOR UNVACCINATED EMPLOYEES

The purpose of this Memorandum is to provide the Mayor and City Council with a description of the City Manager's plan to conduct COVID19 virus testing for unvaccinated and incompletely vaccinated employees of the City of Fresno.

All City of Fresno employees provide essential infrastructure and services necessary for the public health, safety, and welfare of the City of Fresno, and the City Manager's Office appreciates the dedication and commitment displayed by city employees during a global pandemic.

Based on available information and data, as of September 10, 2021, the City Manager estimates that approximately 2,600 City of Fresno employees are unvaccinated.

1.0 COVID-19 VIRUS TESTING PLAN FOR UNVACCINATED EMPLOYEES

The City of Fresno will implement this COVID19 Virus Testing Plan for all unvaccinated and incompletely vaccinated employees with due consideration to minimize the disruption to the personal lives of City residents and employees.

Effective Monday, September 20, 2021, all City employees who have not shown proof of vaccination will be required to:

- 1) Always wear a mask while indoors at City offices and facilities.
- 2) Submit to testing for the COVID-19 virus on a weekly basis.
 - a) COVID-19 virus testing will be required for unvaccinated and incompletely vaccinated employees beginning Monday September 20, 2021.

EXHIBIT A

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- b) Previous history of a COVID-19 infection from which the employee recovered more than 90 calendar days earlier, or a previous positive antibody test for the COVID-19 virus, does not excuse employees from this requirement for testing.
- c) Employees that have not submitted to a weekly COVID-19 virus test because they have been away from the City on a remote work assignment, vacation, or other reasons, will have three (3) calendar days to submit to a COVID-19 virus test, and receive a Negative test result, prior to receiving authorization to report to work.
- d) The City shall be responsible for establishing and notifying employees of the testing locations designated to test City of Fresno employees for the COVID-19 virus. Every Thursday, the City shall notify City employees of testing locations and times for the following week.
- e) COVID-19 virus test results shall be available two (2) calendar days following the employee's testing date. COVID-19 virus test results shall be provided directly to the employee and to the City's Healthy Workplace Task Force (HWTF) by the COVID-19 virus testing provider.
- f) Employees may use third-party testing sites, such as those recommended by the City's Emergency Operations Center (EOC) and highlighted by Public Affairs. Employees shall provide test results, Positive or Negative, to their supervisors and the HWTF team at HWTF@fresno.gov immediately upon receipt. The City shall not reimburse employees who test at third-party sites for any out-of-pocket expenses.
- g) No employee shall be authorized to work unless the employee presents evidence of a Negative COVID-19 virus test result for the week or the employee has cleared the required quarantine or isolation period as determined by the HWTF.
- h) If the employee's COVID-19 test is Negative, the employee will be authorized to report to work. The authorization to work will be valid for seven (7) calendar days, at which time the employee will be tested for the following week.
- i) If the employees COVID-19 test is Positive, the employee will be required to isolate at home for at least 10 days in accordance with the Fresno County Department of Public Health Officer's order.

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- i) Upon completion of the isolation period, and prior to returning to work, the employee will contact their department Personnel Manager or the EOC staff to review and discuss the return-to-work procedures in effect at the time the employee has completed the isolation period.
 - ii) Once the employee has reviewed and discussed the return-to-work procedures with the employee's department Personnel Manager or EOC staff, the employee will be authorized to return to work.
- 3) If an unvaccinated employee has religious or medical reasons to decline COVID-19 virus testing, then the unvaccinated employee shall present those reasons to the Personnel Service Department for further review, and the Personnel Services Department will work with the employee through the Interactive Process (IAP) to determine appropriate accommodations, if any.

2.0 DEFINITIONS

The following definitions apply:

- 1) "Fully Vaccinated" means individuals who are considered fully vaccinated for COVID-19: two weeks or more after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization), or two weeks or more after they have received a single-dose vaccine (Johnson and Johnson [J&J]/Janssen). COVID-19 vaccines that are currently authorized for emergency use:
 - a) By the US Food and Drug Administration (FDA) , are listed at the [FDA COVID-19 Vaccines](#) webpage.
 - b) By the World Health Organization (WHO), are listed at [WHO COVID-19 Vaccine's](#) webpage
- 2) "Incompletely vaccinated" means persons who have received at least one dose of COVID-19 vaccine but do not meet the definition of fully vaccinated.
- 3) "Unvaccinated" means persons who have not received any doses of COVID-19 vaccine or whose vaccination status is unknown.

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3.0 COVID-19 MITIGATION MEASURES FOR CITY FACILITIES

- 1) Effective Monday, September 20, 2021, all City employees shall be required to report to work at their assigned City of Fresno offices and facilities as described below.
 - a) All employees shall be required to wear a mask while indoors at City offices, facilities, or vehicles, regardless of vaccination status unless they are in alone in a City office, facility, or vehicle.
 - b) If two or more employees are in an office, conference room, or city vehicle, all employees shall be required to wear a mask at all times while the employees are indoors together regardless of vaccination status.
 - c) All employees working outdoors on field assignments shall not be required to wear a mask while outdoors performing field assignments; however, all employees will be required to exercise social distancing while performing outdoor field assignments.
 - d) If an employee has a medical condition and/or disability preventing them from wearing a compliant mask, the City shall engage the employee in the interactive process to determine what accommodations, if any, may be made to enable the employee to comply with COVID-19 virus transmission reduction measures.
- 2) Department Directors shall be granted full authority and discretion to establish work schedules and work requirements to assist employees with complying with this COVID-19 Virus Testing Plan pursuant to applicable MOU provisions.
 - a) Directors may schedule COVID-19 virus testing outside of an employee's scheduled work shift to avoid and minimize disruptions to City operations and service delivery.
 - b) Directors may direct employees to telework to reduce the transmission of the COVID-19 virus.
 - i) Unvaccinated and incompletely vaccinated employees that are directed to telework shall still be subject to weekly COVID-19 virus testing.
 - ii) Employees directed to telework to reduce the transmission of the COVID-19 virus, shall have their remote workstations monitored to measure and record

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employee productivity to ensure continuity of City operations and service delivery for the community.

- 3) All employees shall continue to complete the daily online COVID-19 Health Screening Questionnaire to report symptoms and work location.
 - a) Employees who do not pass the self-screen shall not report to their assigned City office or facility, and instead shall alert their immediate supervisor or manager so that a risk assessment may be conducted.
 - b) Employees shall comply with all directives to quarantine or isolate for the applicable period as determined by the HWTF risk assessment.
- 4) All employees are required to comply with this COVID-19 Virus Testing Plan, commencing Monday September 20, 2021. Violations of this Plan may subject employees to corrective action up to and including termination.

4.0 EXEMPTION FOR COVID-19 VIRUS TESTING

- 1) The CDC has confirmed that vaccination against COVID-19 is the most effective means of preventing infection with the COVID-19 virus, and subsequent transmission and outbreaks. Current guidance strongly recommends vaccination for all eligible individuals, thereby reducing COVID-19 rates throughout the community and creating a wrap-around safety layer for unvaccinated and incompletely vaccinated employees.
- 2) City employees that are fully vaccinated and desire to be exempted from weekly COVID-19 virus testing, may schedule an appointment with the Personnel Services Department to present their valid vaccination card for recording.
- 3) Upon presenting a valid vaccination card to the Personnel Services Department to confirm proof of vaccination, Personnel Services will affix a self-adhesive label to the employee's identification badge.
- 4) Vaccinated employees must always have their employee identification badge in their possession, and visible for inspection with the label affixed.
- 5) City employees who are incompletely vaccinated, or for whom vaccination status is unknown or documentation is not provided, shall be considered unvaccinated.

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- 6) Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, only the following modes may be used as proof of vaccination:
- a) COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card) which includes name of person vaccinated, type of vaccine provided, and date last dose administered), OR
 - b) a photo of a Vaccination Record Card as a separate document; OR
 - c) a photo of the client's Vaccination Record Card stored on a phone or electronic device, OR
 - d) documentation of COVID-19 vaccination from a health care provider; OR
 - e) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type, OR
 - f) documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.
- 7) The City of Fresno has a document control plan for tracking verified employee vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

5.0 DISCIPLINE FOR FAILURE TO COMPLY WITH COVID-19 VIRUS TESTING

- 1) All unvaccinated and incompletely vaccinated employees are required to comply with this COVID-19 Virus Testing Plan commencing Monday, September 20, 2021.
- a) Employee's that fail to comply with the requirements of this COVID-19 Virus Testing Plan shall be subject to discipline, up to and including termination.
 - b) Employees that are reported to have MISSED a weekly COVID19 virus testing, shall be directed to leave work immediately and submit to a COVID19 virus test at one of the locations designated by the City of Fresno.
 - c) Employees that MISS their weekly COVID19 virus testing for two testing periods, shall be subject to discipline up to and including termination.

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- d) Permanent classified employees that REFUSE to submit to weekly COVID19 virus testing shall be subject to termination and issued a Notice of Proposed Removal upon the first REFUSAL, and a date for the *Skelly* meeting shall be stated in the Notice of Proposed Removal. *Skelly* meetings shall be conducted by Zoom or another video-conferencing platform at determined by the City.
- e) At-Will unclassified employees that REFUSE to submit to weekly COVID19 virus testing shall be subject to immediate termination upon the first REFUSAL.

6.0 COVID-19 VIRUS TESTING SERVICES FOR UNVACCINATED EMPLOYEES

- 1) All COVID-19 virus testing shall be conducted by trained medical personnel and test results shall be maintained as confidential medical records consistent with applicable law.
- 2) The City of Fresno has contracted with the University of California at San Francisco – Fresno (UCSF), through its Mobile Health Clinic, to conduct COVID-19 virus testing of all unvaccinated city employees.
- 3) The UCSF Mobile Health Clinic will be operated by Dr. Kenny Banh, Assistant Dean of Undergraduate Medical Education.
- 4) UCSF has been providing COVID-19 testing and vaccination services to residents of the City of Fresno during the pandemic under contracts with the City of Fresno and County of Fresno.
- 5) Unvaccinated and incompletely vaccinated employees shall be tested weekly with Polymerase Chain Reaction (PCR) COVID-19 virus tests. Any PCR (molecular) test used will either have Emergency Use Authorization by the U.S. Food and Drug Administration or be conducted in accordance with the Laboratory Developed Test requirements established by the U.S. Centers for Medicare and Medicaid Services.
- 6) To provide the required COVID-19 virus testing services for City employees, UCSF-Fresno shall:
 - a) Operate popup clinic events daily, as directed by the City, at designated City-owned sites.

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- b) Operate the UCSF static location drive-thru location at UC Merced Fresno Center (550 E Shaw Ave) 7-days a week, except for University holidays, from 8:00 a.m. to 4:00 p.m.
 - c) Safely and securely communicate to City: (1) a daily list of employees who participate in testing; and (2) test results for employees having tested positive for the COVID-19 virus (such communication shall be provided to City expeditiously and, at minimum, at the same time as it is provided to the employee).
 - i) Provide COVID-19 virus test results to every employee through Color - the California Department of Public Health Valencia Branch Lab. Test results shall be provided via easy-to-use text and email templates, including instructions on what to do if tested positive.
 - ii) Provide notification of Positive COVID-19 virus test to the City of Fresno HWTF for contact tracing efforts. The employee ID number will be used as the chief identifier.
 - d) Provide COVID-19 virus testing services without appointment, insurance, or copay.
 - e) Source vaccines from Fresno County Department of Public Health and COVID-19 PCR tests from California Department of Public Health - currently at no cost to UCSF Fresno - while supplies are available.
 - f) Provide necessary equipment and storage for sample collection and processing.
- cc: Douglas Sloan, City Attorney
Public Affairs (email blast)
Departments (for posting for employees without email)