

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

AARON GDOVICKAK, ALEXZANDER )  
GLOVER, ANDREW LUPISELLA, )  
BENJAMIN PASTVA, BRENDAN )  
SCHECKER, BRICE MACK, CARL )  
DAVID GRANT, CECILIA F. LEONE, )  
CHRIS EDWARDS, CRAIG HAMILTON, )  
DANA FLANIGAN, EDWARD )  
MARSHALL ANDERSON, ERIC )  
GLOVER, GERRY HARTER, HAYLEY )  
BELL, JANE DOE, JOHN CHARLES )  
PETRO, JOHN DANIEL JOHNSON, )  
JOHN DOE FIREFIGHTER #1, JOHN )  
DOE FIREFIGHTER #2, JOHN E. )  
BAKER, JOHN MCDONALD, )  
JONATHAN MASSIE, JOSH TURNER, )  
JOSHAWA DANIEL BELL, JOSHUA )  
COR, JUSTIN KAHLE, KATELYN )  
BROGAN, KIP HIBBARD, KYLE GARY )  
SKEELS, LOGAN FACE, MATTHEW )  
BRENNAN, MATTHEW WILSON, )  
MICHAEL FEDELE, RICHARD WALLS, )  
RJ WALLS, ROBERT SACCO, ROBERT )  
TACKETT, SCOTT DABNEY, THOMAS )  
MCNAMARA, TODD MCCUMBEE, )  
TRAVIS DOVERSPIKE, VICTOR )  
KRUZINSKY, and WILLIAM JAMES )  
TOWNE, )

Case No. 2021CP1004394

**MOTION FOR  
TEMPORARY INJUNCTION  
AND  
RESTRAINING ORDER**

Plaintiffs,

vs.

JOHN J. TECKLENBURG, in his official )  
and individual capacities; and CITY OF )  
CHARLESTON, )

Defendants.

Please take notice that the Plaintiffs, by and through their undersigned counsel, respectfully  
move for an injunction prohibiting the Defendants from enforcing City of Charleston Mandatory

COVID-19 Vaccination Policy (“Policy”) to the named Plaintiffs and all other similarly situated individuals. Pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, the grounds of this motion are as follows:

**PARTIES**

1. Plaintiff Aaron Gdovicak is, and at all times herein, was employed by the City of Charleston.
2. Plaintiff Alexzander Glover is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
3. Plaintiff Andrew Lupisella is, and at all times herein, was a police officer employed by the City of Charleston Police Department.
4. Plaintiff Benjamin Pastva is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
5. Plaintiff Brendon Schecker is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
6. Plaintiff Brice Mack is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
7. Plaintiff Carl David Grant is, and at all times herein, was employed by the City of Charleston.
8. Plaintiff Celia F. Leone is, and at all times herein, was a Vendor with the City of Charleston.
9. Plaintiff Chris Edwards is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
10. Plaintiff Craig Hamilton is, and at all times herein, was a police officer employed by the

City of Charleston Police Department.

11. Plaintiff Dana Flanigan is, and at all times herein, was employed by the City of Charleston.

12. Plaintiff Edward Marshall Anderson is, and at all times herein, was employed by the City of Charleston.

13. Plaintiff Eric Glover is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

14. Plaintiff Gerry Harter is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

15. Plaintiff Hayley Bell is, and at all times herein, was employed by the City of Charleston.

16. Plaintiff Jane Doe is, and at all times herein, was employed by the City of Charleston.

17. Plaintiff John Charles Petro is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

18. Plaintiff John Daniel Johnson is, and at all times herein, was employed by the City of Charleston.

19. Plaintiff John Doe Firefighter #1 is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

20. Plaintiff John Doe Firefighter #2 is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

21. Plaintiff John E. Baker is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

22. Plaintiff John McDonald is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

23. Plaintiff Jonathan Massie is, and at all times herein, was a firefighter employed by the City

of Charleston Fire Department.

24. Plaintiff Josh Turner is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

25. Plaintiff Joshawa Daniel Bell is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

26. Plaintiff Joshua Cor is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

27. Plaintiff Justin Kahle is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

28. Plaintiff Katelyn Brogan is, and at all times herein, was a police officer employed by the City of Charleston Police Department.

29. Plaintiff Kip Hibbard is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

30. Plaintiff Kyle Gary Skeels is, and at all times herein, was a police officer employed by the City of Charleston Police Department.

31. Plaintiff Logan Face is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

32. Plaintiff Matthew Brennan is, and at all times herein, was employed by the City of Charleston.

33. Plaintiff Matthew Wilson is, and at all times herein, was a police officer employed by the City of Charleston Police Department.

34. Plaintiff Michael Fedele is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.

35. Plaintiff Richard Walls is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
36. Plaintiff RJ Walls is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
37. Plaintiff Robert Sacco is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
38. Plaintiff Robert Tackett is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
39. Plaintiff Scott Dabney is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
40. Plaintiff Thomas McNamara is, and at all times herein, was a police officer employed by the City of Charleston Police Department.
41. Plaintiff Todd McCumbee is, and at all times herein, was employed by the City of Charleston.
42. Plaintiff Travis Doverspike is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
43. Plaintiff Victor Kruzinsky is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
44. Plaintiff William James Towne is, and at all times herein, was a firefighter employed by the City of Charleston Fire Department.
45. The Plaintiffs are informed and believe that the Defendant John J. Tecklenburg at all times relevant to this action is the Mayor of the City of Charleston ("Mayor"), duly elected under and by the virtue of laws of the State of South Carolina.

46. The Plaintiffs are informed and believe that the Defendant the City of Charleston (“Charleston”) at all times relevant to this action is a governmental agency and/or political subdivision of the State of South Carolina, as defined in S.C. Code Ann. § 15-78-10, existing under the laws of the State of South Carolina, and is located in the City of Charleston, South Carolina.

47. That venue is properly laid in this Court pursuant to § 15-7-30 South Carolina Code of Laws Annotated [Law. Co-op. 1976].

### **FACTUAL ALLEGATIONS**

48. The Defendants issued the City’s Mandatory COVID-19 Vaccine Policy (“Policy”), attached as **Exhibit A**, which purported to impose a mandatory vaccine requirement on all city employees, volunteers, interns, and agency temporary employees, whether working on a full or part time schedule (“employees”).

49. The Policy dictates that compliance is a condition of continued employment.

50. The Policy sets the compliance date as November 7, 2021.

51. The individual plaintiffs are City employees, volunteers, interns, and agency temporary employees and outside vendors as defined in the Policy who want to exercise control over their own medical treatment and are being forced to choose between their rights privileges and liberties as citizens on the one hand and their employment, careers, and financial futures on the other.

52. Plaintiffs seek an order declaring the Policy as unenforceable because it conflicts with the South Carolina Constitution’s guarantee of free expression, violates the South Carolina’s Home Rule Act, violates DHEC’s General Supervision of Vaccination, Screening, and Immunization, would result in a common law wrongful discharge of the Plaintiffs, violates

Substantive Due Process under the Fourteenth Amendment to the United States Constitution, conflicts with the United States Constitution's guarantee of equal protection, free exercise, and due process, and deprives plaintiffs of their fundamental right to refuse medical treatment.

53. Article I, Section 2 of the South Carolina Constitution states:

“The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances.”

54. Plaintiffs are under the belief that the right to control their own medical destinies is both *expressive speech* in the form of opposition to the COVID-19 vaccine, and *expressive conduct* in opposition to the vaccine mandate.

55. Defendants' Policy is directed as the substance of that opinion and the subject of Plaintiffs' communications it is constitutionally impermissible.

56. South Carolina's Home Rule Act, S.C. Code Ann. §§ 5-7-10 to -310 (2004), allows a city to declare a state of emergency under an alleged need to preserve the “health, peace, order and good government of its citizens.”

57. However, the Home Rule doctrine in no manner serves as a license for local governments to countermand state law or the South Carolina Constitution. See, e.g., *Charleston County*, 306 S.C. at 156, 410 S.E.2d at 571 (noting a grant of police power to local governments is given with the caveat that the locality may not enact ordinances that conflict with state law). see also *Williams v. Town of Hilton Head Island*, 311 S.C. 417, 422, 429 S.E.2d 802, 805 (1993) (explaining Home Rule “bestow[s] upon municipalities the authority to enact regulations . . . so long as such regulations are not inconsistent with the Constitution and

general law of the state").

58. Resolving a conflict between state law and a city (or county) ordinance invokes the principle of preemption.

Conflict preemption occurs when the ordinance hinders the accomplishment of the statute's purpose or when the ordinance conflicts with the statute such that compliance with both is impossible. See *Peoples Program for Endangered Species v. Sexton*, 323 S.C. 526, 530, 476 S.E.2d 477, 480 (1996) ("To determine whether the ordinance has been preempted by Federal or State law, we must determine whether there is a conflict between the ordinance and the statutes and whether the ordinance creates any obstacle to the fulfillment of Federal or State objectives."); . . . 56 Am. Jur. 2d *Municipal Corporations* [§] 392 [(2000)] ("[Implied] conflict preemption occurs when an ordinance prohibits an act permitted by a statute, or permits an act prohibited by a statute[.]") . . . .

*S.C. State Ports Auth. v. Jasper Cnty.*, 368 S.C. 388, 400–01, 629 S.E.2d 624, 630 (2006).

59. Defendant's Policy is unconstitutional under Article I, Section 2 of the South Carolina constitution and completely controverts the principle of the Home Rule Act.

60. Article VIII, Section 14 of the South Carolina Constitution states:

**"In enacting provisions required or authorized by this article, general law provisions applicable to the following matters shall not be set aside: (1) The freedoms guaranteed every person; (2) election and suffrage qualifications; (3) bonded indebtedness of governmental units; (4) the structure for and the administration of the State's judicial system; (5) criminal laws and the penalties and sanctions for the transgression thereof; and (6) the structure and the administration of any governmental service or function, responsibility for which rests with the State government or which requires statewide uniformity. (1972 (57) 3184; 1973 (58) 67.)."** (emphasis added)

61. S.C. Code Ann. § 44-29-40 states:

(A) The Department of Health and Environmental Control shall have general direction and supervision of vaccination, screening, and immunization in this State. The Department of Health and Environmental Control has the authority to promulgate regulations concerning vaccination, screening, and immunization requirements.



62. The Department of Health and Environmental Control (DHEC) has the authority to declare regulations concerning vaccination and immunization requirements; South Carolina municipalities do not.
63. The City's mandate is unconstitutional under Article VIII, Section 14 of the South Carolina constitution and completely controverts the principle of the DHEC's General Supervision of Vaccination, Screening, and Immunization.
64. Plaintiffs have an individual, fundamental right to protect bodily integrity and refuse unwanted medical treatment. A forceable injection into a nonconsenting person's body represents a substantial interference with that person's liberty. *Washington v. Harper*, 494 U.S. 210, 229 (1990); see also *Cruzan v. Director of Mississippi Department of Public Health*, 497 U.S. 261, 278 (1990); *King v. Rubenstein*, 825 F.3d 206, 222 (4th Cir. 2016).
65. The State has not mandated vaccines, nor has the Governor, nor has the Department of Health and Environmental Control (DHEC).
66. The defendants, therefore, have no statutory authority to order the vaccine of employees, volunteers, interns, and agency temporary employees and all immunization requirements are based on the South Carolina Department of Health and Environmental Control.
67. Strict scrutiny therefore applies to defendants' policy, requiring that their restrictions of plaintiffs' fundamental right must be narrowly tailored to serve a compelling state interest. *Mohamed v. Holder*, 266 F. Supp. 3d 868, 877 (E.D. Va. 2017).
68. Unconstitutional conditions doctrine prevents the government from coercing people into giving up their enumerated Constitutional rights. *Memorial Hosp. v. Maricopa Cty.*, 415 U.S. 250 (1974).

69. The First Amendment of the United States Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably to assemble, and to petition the Government for a redress of grievances.

70. Defendants are violating Plaintiffs' First Amendment protected right of free speech to express a message with which the Plaintiffs disagree with. See *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com'n*, 138 S.Ct. 1719, 1729 (2018) (cake design can be expressive speech); *Citizens United v. Federal Election Com'n*, 558 U.S. 310, 339 (2010) (holding money is equivalent to speech).

71. Article I Section 3 of the South Carolina Constitution states,

"The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

72. The City's Policy grants some employees, volunteers, interns, and agency temporary employees and vendors of Charleston the ability to be employed and provide services, which is a privilege, which does not equally belong to all employees, volunteers, interns, and agency temporary employees and vendors of Charleston. The Policy on its face only applies to some City employees, volunteers, interns, and agency temporary employees and Vendors. The Policy fails to explain why it applies to only certain employees, volunteers, interns, and agency temporary employees and vendors and not others.

73. Article XIV Section 1 of the United States Constitution states:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

74. Defendants Policy states that Charleston employees, volunteers, interns, and agency temporary employees and vendors are prohibited from engaging in work if they are not fully vaccinated. The Policy deprives Plaintiffs of their property interest in their jobs at Charleston without due process. To the extent Plaintiffs are treated differently from other similarly situated employees, volunteers, interns, and agency temporary employees and vendors the Policy is also a violation of the Plaintiffs' right to equal protection under the law.
75. Plaintiffs have suffered and are likely to continue to suffer immediate, irreparable harm without the issuance of an injunction and restraining order.
76. Plaintiffs' ability to work for Charleston has been prejudiced by the excessive and unconstitutional Policy and therefore, has resulted in and persists to be an irreparable harm to Plaintiffs.
77. Plaintiffs are informed and believe it is likely to succeed on the merits of these claims.

### **CONCLUSION**

Based on the above, the Plaintiffs would ask for an order from the Court prohibiting the Defendants from enforcing the Mandate until such time a determination can be made on the merits of the case. The Plaintiffs would request that the duration of such an order be until such time as the accompanying litigation has been resolved. Plaintiffs would also request such other remedies of law or other acceptable relief that the Court may deem just and proper.

*SIGNATURE PAGE NEXT*

Respectfully submitted,

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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON ) FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2021CP1004394

**CERTIFICATE OF SERVICE**

AARON GDOVICK, ALEXZANDER  
GLOVER, ANDREW LUPISELLA,  
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MCNAMARA, TODD MCCUMBEE,  
TRAVIS DOVERSPIKE, VICTOR  
KRUZINSKY, and WILLIAM JAMES  
TOWNE,

Plaintiffs,

vs.

JOHN J. TECKLENBURG, in his official  
and individual capacities; and CITY OF  
CHARLESTON,

Defendants.

The undersigned hereby certifies that on September 24, 2021, a copy of the foregoing  
*Motion for Temporary Injunction And Restraining Order* was duly served on Clerk of Council,  
80 Broad Street, Charleston, 29401.

September 24, 2021

**GOLDFINCH WINSLOW, LLC**

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*Attorneys for the Plaintiffs*

**CITY OF CHARLESTON**  
**MANDATORY COVID-19 VACCINATION POLICY**

**Effective September 20, 2021**

**SECTION I. PURPOSE**

The on-going pandemic has created an infectious disease threat to our community and to the world that is unprecedented in our time. The recent surge in cases created by the “Delta” and other evolving variants has further heightened a compelling interest in preventing the spread of this life-threatening disease.

The national Centers for Disease Control (“CDC”) has identified vaccination as a “critical prevention measure” to help end the pandemic. This guidance is supported by clinical trials, scientific research, and extensive safety monitoring which have demonstrated the safety and effectiveness of currently-available vaccines. The U.S. Food and Drug Administration (“FDA”) has now given full standard approval to the Pfizer vaccine in addition to emergency use approval of the Moderna and the Janssen (a/k/a Johnson & Johnson) vaccines. These vaccines provide protection against infection and, even when post-vaccination infection occurs, they provide demonstrated protection from more serious symptoms, including those leading to hospitalization and death.

In an effort to achieve and maintain a workplace that is free from this known health and safety hazard, we hereby adopt this Mandatory Vaccination policy to protect our employees and their families as well as vendors, visitors, and the citizens we serve.

The requirements and provisions of this policy are based on current guidance from the CDC and other health officials and comply with all applicable workplace laws. Because the health and science information is evolving, this policy may be modified in any way necessary to incorporate such changes.

**SECTION II. COVERED INDIVIDUALS**

The requirements of this policy apply to all employees, volunteers, interns, and agency temporary employees whether working on a full or part time schedule.

**SECTION III. DEFINITIONS**

“COVID-19 vaccine” or “vaccine” means, for the purposes of this policy, any vaccine approved by the FDA to prevent the virus caused by COVID-19. This includes not only vaccines with full standard FDA approval, but also those with approval for emergency use.

A “Fully Vaccinated” individual is one who has: (1) for no less than two weeks, completed the entire recommended series of a Janssen, Moderna, or Pfizer vaccine (or such additional future vaccines as may receive FDA approval as required herein); **and** (2) provided proof of vaccination in the form of a completely executed CDC vaccination card.



A “Partially Vaccinated” individual is one who has: (1) received one dose of a two-dose series of Moderna or Pfizer (or any similar two-dose Vaccine which might receive FDA approval in the future); **or** (2) has completed the full recommended series of any FDA approved vaccine but has not yet completed the full two-week immunity-building period; **and** (3) has provided proof of vaccination in the form of a completely executed CDC vaccination card.

NOTE: Falsification of vaccine cards will subject an employee to discipline up to and including immediate discharge from employment.

## SECTION IV. POLICY

All employees, volunteers, interns and agency temporary employees, as a condition of continued employment (or volunteer/intern/agency temp) status, must become Fully Vaccinated by **November 22, 2021**. For convenience and to facilitate compliance, one or more on-site or employer-sponsored vaccine clinics will be held on dates to be announced. Employees who prefer to be vaccinated at other times or locations may comply using any of those alternative resources.

### A. COMPLIANCE DEADLINES:

**September 30, 2021** - Employees who wish to take advantage of an on-site or employer-sponsored clinic must pre-register with Susan Dellucci in Human Resources at 843-724-7313 for the purposes of identifying how many shots will need to be made available.

**October 4, 2021-** All employees, volunteers, interns, and agency temps must be partially or fully vaccinated, or have registered with the City for a City sponsored clinic and have an appointment, or must have submitted a request for exemption.

**November 22, 2021-**All employees, volunteers, interns and agency temps must be Fully Vaccinated or must have submitted a request and been approved for an exemption.

NOTE: Separation from service for non-compliance with this policy is non-grievable.

### B. DEADLINE DEFERRALS:

- Individuals who are in a prolonged leave status (such as on continuous FMLA leave) may request a deferral of the vaccine until their return to work if they will not be returning to work until after November 22, 2021. All such individuals must be Fully Vaccinated before returning from leave.
- The CDC recommends a 90 day waiting period for individuals to receive a vaccine after being treated with monoclonal antibodies. Employees must be partially vaccinated within 2 weeks post the recommended 90 day waiting period. Thereafter, the individual must become Fully Vaccinated no later than seven weeks after the 90 day waiting period.



- Individuals who have tested positive for COVID-19 or test positive between now and any deadline may, with proof of the positive test, be permitted to defer that deadline 90 days post infection.
- Individuals who have submitted a written request for an exemption which request was denied must be Partially Vaccinated within 14 calendar days of denial, and Fully Vaccinated within 9 weeks of that same date.

### C. EXEMPTIONS TO VACCINE REQUIREMENT

In accordance with various state and federal laws, employees may be granted exemption from the Vaccine mandate under the limited circumstances discussed below. Generally, volunteers and unpaid interns are not entitled to these exemptions, but they may make a request which will be considered on a case-by-case basis. Individuals may request accommodation without fear of retaliation. Any health information/documentation disclosed as part of the process will be kept secured as is all protected health information.

#### 1. MEDICAL EXEMPTIONS AND ACCOMMODATIONS

Individuals may request a medical exemption and reasonable accommodation to the Vaccination requirement if they:

- Have a contraindication recognized by the CDC or by the Vaccine's manufacturer to every approved COVID-19 vaccine. A contraindication means a condition that makes vaccination inadvisable. Appropriate documentation from a health care provider will be required as part of the interactive process during which reasonable accommodation will be explored. See "Accommodations" below.
- Have a disability and are requesting a medical exception as a reasonable accommodation. Appropriate documentation from a health care provider will be required as part of the interactive process. See "Accommodations" below.

#### 2. RELIGIOUS EXEMPTIONS AND ACCOMMODATIONS

- Individuals may request a religious exemption and reasonable accommodation based on their sincerely held religious belief, practice or observance. You will be asked to identify your religious requirement or belief and explain how it is in conflict with this policy. See "Accommodations" below.

#### D. ACCOMMODATIONS FOR INDIVIDUALS GRANTED EXEMPTIONS

Individuals who are granted exemptions will be exempt from the vaccination requirement only – they will not be exempt from the essential job duty of participating in workplace safety via their reasonable accommodation/alternate means of performing that duty. What accommodation is best suited to the employment and personal circumstances of the individual in question will be determined on a case-by-case basis. It is not possible to describe every possible accommodation, but an example of an accommodation might include weekly or other periodic testing combined with use of mask and/or other safety equipment in lieu of vaccination. Another example might be a leave of absence. Applicable laws do not require accommodations that would impose employer hardships, or which would pose a direct threat to the health and safety of other employees.

Requests for exemptions/accommodations must be made ***no later than October 4, 2021***. To avoid non-compliance, requests should be made as soon as possible once the policy is in effect. All requests for exemptions/accommodations should be made through the Human Resources office. HR will provide you with official forms which must be used to document requests and will explain to you how to complete the process and identify any documentation required.

At the conclusion of the process, you will receive written response(s) either granting or denying your request. If the exemption is granted, you will also be notified of the specific accommodation granted by which you will participate in alternative safety measures in lieu of vaccination.

#### SECTION V. Conclusion

The requirements of this policy are essential to our efforts to provide a workplace free of known hazards and to meet the compelling need to prevent and protect from the spread of the infectious disease caused by the COVID-19 virus.

To ensure that all covered individuals have received notice of this policy and its requirements, each employee, volunteer, and intern will receive a copy of this policy via postal mail, City e-mail for those with access, and will be attached to all employee's September 10, 2021 paystub. The mailed copy will be sent to your last known home address, and it is your responsibility to ensure that we have an updated home address for you in our HRIS system. Notices will also be posted at various locations in City offices. In addition, this policy will be sent to all temporary staffing agencies.

## REQUEST FOR MEDICAL EXEMPTION/ACCOMMODATION

In the interests of promoting and protecting the health and welfare of City employees and citizens and providing a safe working environment, the City has imposed a requirement that employees be vaccinated with a vaccine approved by the FDA (whether standard or emergency use approval) to prevent infection and spread of the virus caused by COVID-19.

In addition to its duty to pursue a workplace free from known threats, the City also understands and is committed to satisfying its obligation to prevent and protect individuals with disabilities from unlawful discrimination and retaliation and to provide reasonable accommodations, where appropriate, to enable such individuals to perform the essential functions of their employment, provided that such accommodation(s) do not impose undue hardship or present a direct threat of safety to others. Whether and what accommodation is appropriate will be determined through an individualized interactive process beginning with a review of the relevant information submitted by an employee requesting accommodation.

To request a medical exemption/accommodation related to the COVID-19 Vaccine mandate, all requesting employees should complete Part 1 of this form *and* have Part 2 completed and signed by their health care provider. Part 3 of the form is for Human Resources use only. The form, with parts 1 and 2 *fully completed* should be returned to Human Resources.

Upon receipt of a fully completed request, Human Resources may need to meet with the requesting employee to further engage in the interactive process to determine whether and what accommodation is appropriate.

### PART 1

(To be completed by the requesting employee)

Name of requesting employee: \_\_\_\_\_

Department: \_\_\_\_\_

#### VERIFICATION:

I have a health/medical condition that prevents me from complying with the City's vaccination requirement, and I am requesting an accommodation that will enable me to perform the essential function of observing workplace safety rules without being vaccinated.

I verify that the information I am submitting in support of my request is complete and accurate to the best of my knowledge. I understand that providing false or misleading information as part of this request will subject me to disciplinary action.

I acknowledge that my request for accommodation may be denied if there is no reasonable accommodation that can be made without creating a direct threat to others in the workplace or causing an undue hardship on the City.

Signature \_\_\_\_\_ Date \_\_\_\_\_, 2021

Print name \_\_\_\_\_

## PART 2

(To be completed by health care provider)

Employee Name: \_\_\_\_\_

Attention Medical Provider:

The City requires a COVID-19 vaccination as a condition of employment. In accordance with applicable laws, the City will provide an exemption and reasonable accommodation for employees with medical contraindications that are confirmed by a health care provider.

The requesting employee should have filled out Part 1 above. Upon receipt, please complete this Part 2 (Certification of Need) of this request form.

If you have questions, you may contact \_\_\_\_\_ at \_\_\_\_\_.

### Certification of Need

I \_\_\_\_\_ (print name), certify that I am the referenced employee's health care provider and that s/he should not be immunized for COVID-19 for the following reasons (check all that apply):

\_\_\_\_\_ History of previous allergic reaction to indicate an immediate hypersensitivity reaction to a component of the vaccine.

\_\_\_\_\_ The physical condition of the person or medical circumstances relating to the person are such that immunization is not considered safe. The specific nature of the condition and the probable duration of the medical condition or circumstances are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Other: (provide narrative description of reason which includes the probable duration):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Medical Provider Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

### **PART 3**

(To be completed by City Human Resources Representative)

Date form received by Human Resources \_\_\_\_\_

Dates of further interaction with employee or health care provider (if applicable)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Was Exemption/Accommodation Granted?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

Date employee notified in writing (may include email) \_\_\_\_\_

**ATTACH COPY OF WRITTEN RESPONSE PROVIDED TO EMPLOYEE**

## REQUEST FOR RELIGIOUS EXEMPTION/ACCOMMODATION

In the interests of promoting and protecting the health and welfare of City employees and citizens and providing a safe working environment, the City has imposed a requirement that employees be vaccinated with a vaccine approved by the FDA (whether standard or emergency use approval) to prevent infection and spread of the virus caused by COVID-19.

In addition to its duty to pursue a workplace free from known threats, the City also understands and is committed to satisfying its obligation to prevent and protect employees from unlawful discrimination and retaliation based on religion. Upon notice from an employee of a sincerely held religious belief that prohibits the employee from receiving a COVID-19 vaccine, the City will engage in an interactive process with the employee to determine whether and what reasonable accommodation might be appropriate, and will grant a reasonable accommodation provided that same does not impose an undue hardship (as that term is used by applicable law) on the City and provided it does not present a direct threat of safety to others. Whether and what accommodation is appropriate will be determined through an individualized interactive process beginning with a review of the relevant information submitted by an employee requesting exemption.

To request a religious exemption/accommodation related to the COVID-19 Vaccine mandate, all requesting employees should complete Part 1 of this form and submit it to the City's Human Resources office. Part 2 of the form is for Human Resources use only.

Upon receipt of a fully completed request, Human Resources may need to meet with the requesting employee to further engage in the interactive process to determine whether and what accommodation is appropriate.

### PART 1

(To be completed by the requesting employee)

Name of requesting employee: \_\_\_\_\_

Please explain below why you are requesting an Exemption from the City's mandatory COVID-19 vaccine policy. If the space provided is not sufficient, you may attach additional sheets.

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In some cases, the City may need to meet or communicate with you to obtain additional information about religious belief(s) or practice(s) in order to fully understand and consider your request for an exemption and determine what, if any reasonable accommodation is appropriate. Your cooperation in this interaction is necessary to complete the exemption request process.

**VERIFICATION:**

I verify that the information I am submitting in support of my request for an exemption is complete and accurate to the best of my knowledge. I understand that providing false or misleading information as part of this request will subject me to disciplinary action.

I acknowledge that my request for accommodation may be denied if there is no reasonable accommodation that can be made without creating a direct threat to others in the workplace or causing an undue hardship on the City.

Signature \_\_\_\_\_ Date \_\_\_\_\_, 2021

Print name \_\_\_\_\_

## **PART 2**

(To be completed by City Human Resources Representative)

Date form received by Human Resources \_\_\_\_\_

Dates of further interaction with employee (if applicable)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Was Exemption/Accommodation Granted?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

Date employee notified in writing (may include email) \_\_\_\_\_

**ATTACH COPY OF WRITTEN RESPONSE PROVIDED TO EMPLOYEE**