



CITY OF TAMPA

— OFFICE OF THE MAYOR —

Jane Castor, Mayor

EXECUTIVE ORDER 2021-47

WHEREAS, on March 13, 2020, then-President Donald J. Trump issued Proclamation 9994 declaring a **National Emergency** concerning Coronavirus Disease 2019 (COVID-19); and

WHEREAS, on February 24, 2021, President Joseph R. Biden Jr. issued notice of the Continuation of the **National Emergency** Concerning the Coronavirus Disease 2019 (COVID-19) pandemic, declared in Proclamation 9994, which declaration remains in effect; and

WHEREAS, then Secretary of Health and Human Services ("HHS") Alex M. Azar II declared a **National Public Health Emergency** on January 31, 2020, which determination was renewed on April 21, 2020, July 23, 2020, October 2, 2020, January 7, 2021, and more recently by HHS Secretary Xavier Becerra on April 15, 2021 and July 19, 2021; and

WHEREAS, on May 5, 2021, pursuant to Section 2-402 of the City of Tampa Code, as **Mayor of the City of Tampa**, I issued **City of Tampa Executive Order 2021-24**, declaring that a state of local emergency has occurred in the City of Tampa, based upon the COVID-19 pandemic, which has had and continues to have a negative financial impact on the City of Tampa, including the significant costs associated with mitigative measures and other protective actions the City of Tampa undertook and continues to undertake to reduce the spread of COVID-19 within its facilities, which declaration of emergency has been extended by subsequent orders and remains in effect; and

WHEREAS, pursuant to data provided by the State of Florida Department of Health, Hillsborough County has a Level of Community Transmission of COVID-19 rated at the highest level according to standards established by the U.S. Centers for Disease Control ("CDC"), with a positivity rate of 18.9% and 11,811 new cases diagnosed during the week that ended on August 29, 2021; and

WHEREAS, pursuant to data provided by the CDC, as of August 29, 2021, only 47.4% of the total population in Hillsborough County is fully vaccinated; and

WHEREAS, as of the date of this order, the Hillsborough County Public Schools have reported 8,661 cases of COVID-19 since the schools reopened on August 10, 2021; and

WHEREAS, pursuant to data provided by the Florida Hospital Association, as of August 30, 2021, there were 15,488 patients hospitalized with COVID-19 (32.8% of total inpatients); while 53.1% of Adult ICU inpatients were those being treated for COVID-19; and

WHEREAS, the Florida Hospital Association has reported bulk oxygen shortages are hitting record numbers due to hospital census for COVID-19 cases, which cases are treated with high flow respiratory equipment that utilizes oxygen; and

WHEREAS, due to a shortage of liquid oxygen that was diverted for hospital use, the City of Tampa has temporarily changed its primary water disinfection process to chlorine; and

WHEREAS, as of the week ending August 22, 2021, a total of 842 City of Tampa employees have been diagnosed with COVID-19, and a total of 4,221 employees – of which 2,992 are first responders – have been required to quarantine due to exposure to COVID-19, resulting in absences that have negatively impacted the City’s ability to provide essential, necessary and critical services to the public; and

WHEREAS, the Florida Department of Health issued a Public Health Advisory on April 29, 2021, stating that “scientific studies show that COVID-19 vaccines protect individuals from COVID-19, dramatically diminish hospitalizations and death caused by COVID-19, and protect both the vaccinated individual and others against COVID-19”; and

WHEREAS, the CDC has determined that COVID-19 vaccines are effective against severe disease and death from variants of the virus that causes COVID-19 currently circulating in the United States, including the Delta variant, and its guidance therefore recommends vaccinations for all individuals over the age of 12, in order to reduce the spread of COVID-19; and

WHEREAS, pursuant to the authority set forth in Section 4.01 of the City of Tampa Charter and Section 2-403 of the City of Tampa Code, the Mayor may issue and effectuate policy determinations with regard to the safety of City of Tampa facilities and the health and well-being of City employees, and in doing so, I hereby intend to substantially comply with authoritative or controlling government-issued health standards or guidance in effect, as said term is referenced in Section 768.38(c)(3)(2), Florida Statutes (2021); and

WHEREAS, as Mayor of the City of Tampa, I am authorized by Section 4.01(6) of the City of Tampa Charter to issue Administrative Directives and personnel rules as deemed necessary and proper; and

WHEREAS, pursuant to Section 381.00316(2), Florida Statutes (2021), the City of Tampa is expressly authorized to institute screening protocols for COVID-19 consistent with authoritative or controlling government-issued guidance to protect public health; and

WHEREAS, the U.S. Equal Employment Opportunity Commission("EEOC"), issued Technical Guidance entitled "What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws", dated December 16, 2020, as clarified and supplemented on May 28, 2021, which determined that under the Americans with Disabilities Act (ADA), Title VII and other federal employment nondiscrimination laws, employers are not prevented from requiring that all employees physically present in the workplace be vaccinated for COVID-19, subject to the provision of reasonable accommodations for those who may have disabilities or religious beliefs that prevent them from being vaccinated; and

WHEREAS, on August 25, 2021 I notified all City of Tampa personnel that I am implementing a "Mandatory COVID 19 Vaccination Plan-Directive" ("Vaccine Directive"), which constitutes a screening protocol consistent with authoritative or controlling government-issued guidance, specifically that of the Florida Department of Health and the CDC, to protect the public health by ensuring the health of City employees and ensuring their availability to provide essential, critical and necessary services to the public; and

WHEREAS, this Vaccine Directive does not restrict the rights and liberties of individuals or businesses in the City, and instead is applicable only to City employees who are already subject to various personnel regulations and directives.

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the City of Tampa by the City of Tampa Code, the Charter of the City of Tampa, and the Laws of the State of Florida, I hereby issue this Executive Order, and state further:

1. **Recital Clauses Incorporated.** The recital clauses set forth above are hereby incorporated herein by reference and made a part hereof.
2. **Intent and Purpose of Executive Order.** The intent and purpose of this Executive Order is to institute a screening protocol consistent with authoritative or controlling government-issued health standards or guidance, specifically the determinations made by the Florida Department of Health and the CDC regarding the COVID-19 vaccine. This Executive Order is intended to protect the public health by ensuring the health of City employees and ensuring their consistent availability to provide essential, critical and necessary services to the public.
3. **Employee Vaccine Mandate.** All City employees shall be fully vaccinated against COVID-19 by September 30, 2021, or comply with the alternative screening protocols set forth herein. Effective immediately, any City employee who does not provide proof of full vaccination against COVID-19 shall: 1) Every ninety (90) days, provide documentation from a licensed medical provider evidencing the existence of IgG/IgM antibodies; or 2) Every

seven (7) days, provide documentation from a licensed medical provider evidencing a negative COVID-19 test result; and daily must wear an N95 or KN95 facial covering/mask in common areas, in vehicles, and when they cannot physically distance from others. Nothing herein shall impact any requirement that an employee wear PPE as required for a particular job.

4. Failure to Comply with Directive, Progressive Discipline Administration. Failure to provide proof of vaccination or comply with one of the alternative screening protocols described herein may result in progressive discipline.
5. No Conflicts with Florida Statutes. Nothing herein is intended to conflict with Section 252.38(4), Florida Statutes (2021); specifically, nothing herein restricts the rights and liberties of individuals or businesses in the City, and instead is applicable only to City employees who are already subject to various personnel regulations and directives. Nothing herein is intended to conflict with Section 381.00316(2), Florida Statutes (2021); specifically, nothing herein restricts an individual's or businesses' ability to gain access to, entry upon, or service from the City of Tampa.
6. Effective Date and Duration. This Executive Order shall become effective on the date set forth below. This Executive Order shall remain in effect for ninety (90) days unless terminated earlier.

DONE and ORDERED this 7 day of September, 2021.


Jane Castor, Mayor

PREPARED AND APPROVED BY:


Gina K. Grimes, City Attorney