

REPORT

Special Council

Meeting Date: September 13, 2021

FROM: CAO's Office

DATE: September 13, 2021

SUBJECT: **Mandatory Vaccination Policy**

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That the report titled Mandatory Vaccination Policy, dated September 13, 2021, from the CAO's Office be received.
2. That the COVID-19 Vaccination Policy, MS-REG-003, be approved and related procedures be received.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Vaccination is a key element in protecting the community from the hazard of COVID-19.
- Since COVID-19 vaccines became available in Ontario in the spring of 2021, public health officials have strongly recommended that all eligible individuals receive the vaccine to protect themselves and others and to protect hospital capacity rates.
- Under the Occupational Health and Safety Act (OHSA) the town has a duty to take every precaution reasonable in the circumstances for the protection of workers. This includes taking measures to protect employees from contracting COVID-19.
- Halton's Medical Officer of Health directed local employers with 100 or more workers on site to establish a COVID-19 workplace vaccination policy to protect workers and the public from COVID-19.
- The Province has announced that COVID-19 vaccination will be mandatory in select settings, including some municipal programs and services.
- The proposed policy and procedures are based on public health advice, scientific facts, evidence and rigorous research studies.

BACKGROUND:***Provincial and Regional Direction***

On August 13, 2021, the Government of Canada announced its intent to require vaccination of the federal workforce and federally regulated transportation sector as early as the end of September. The Government of Canada also stated its expectation that Crown corporations and other federally regulated employers also require vaccination for their employees.

On August 17, 2021, the province announced that COVID-19 vaccination policies would be mandatory in certain high-risk settings, that the province's exit from the Roadmap to Reopen would be paused and that third doses of the vaccination will be provided to vulnerable populations.

On September 1, 2021, the province announced a vaccine certification program that will require people to be fully vaccinated and provide proof of their COVID-19 vaccination to access certain non-essential businesses and settings starting September 22, 2021, including gyms, fitness and recreational facilities, indoor restaurants, as well as theatres, meeting and event spaces.

On September 7, 2021, Halton's Medical Officer of Health, Dr. Hamidah Meghani, issued a Letter of Instructions to business and organizations with 100 or more workers physically present at the workplace. Moving beyond a previous recommendation that vaccination policies be established, these employers are now required to establish, implement and ensure compliance with a COVID-19 workplace vaccination policy by September 22, 2021. Dr. Meghani, stated:

The rapid and continuing spread of the Delta variant of concern – with increased transmissibility and disease severity – means that we must fully engage to protect our community and our health system capacity. Getting fully vaccinated for COVID-19 is the best defense against the virus, including the Delta variant.

Employers are obligated under the *Occupational Health and Safety Act (OSHA)* to take every precaution reasonable in the circumstances for the protection of its workforce. Employees also have a general duty to take responsibility for personal health and safety and should not behave or operate equipment in a way that would endanger themselves or others.

Legal and Privacy Considerations

Provincial and federal governments have broad powers during a public health emergency to mandate proactive measures to safeguard the population, including

requiring vaccination against transmissible diseases. Despite existing requirements for many federal or provincial employees to be vaccinated, there have been no corresponding directives for other employers to mandate vaccination of employees. Individual organizational decisions to implement mandatory vaccination programs for staff have been very recent. Consequently, there have been no arbitration or legal decisions around the implementation of a mandatory COVID-19 vaccine policy.

When considering a mandatory vaccination policy, there are clear expectations that an employee's privacy and human rights are balanced against the interests of the employer in ensuring the health and safety of employees and the public. It is not unlawful to ask employees if they have been vaccinated against COVID-19, provided it is for work related reasons. Privacy considerations will apply to the collection, storage and use of the responses received and to any necessary accommodations granted. The town will only use the information received to ensure compliance with the COVID-19 Vaccination Policy and its related procedures. In the case of employee information, a vaccination record will only be accessed by the Human Resources department to administer the procedure and accompanying policy and will be stored in a secure system, safeguarded by restricted access, ensuring the privacy of this medical information. This information will be destroyed if and when it is no longer required by the town. In the case of public access to town facilities, confirmation of vaccination records will be viewed but not collected from the public prior to access.

The confidential report from the Legal Department distributed separately provides legal advice regarding the implementation of a mandatory vaccination policy.

COVID-19 Cases and Data

Full vaccination has been shown to be effective in reducing COVID-19 virus transmission and protecting vaccinated individuals from severe consequences of COVID-19 and its variants, including the Delta variant currently circulating in Ontario. Essentially, vaccinations work to eliminate the threat of severe illness or death.

Dr. Kieran Moore, Ontario's Chief Medical Officer of Health has said the province must aim to surpass 90% of Ontarian's being vaccinated. Current vaccination levels are not enough to slow rising case counts in a fourth wave that is largely driven by the unvaccinated population.

According to information and data as of September 10, 2021 from Public Health Ontario or Halton Region Public Health Unit:

- Unvaccinated individuals carry increased viral loads of COVID-19, causing the risk of transmission to others to be greater and for a longer duration;

- The majority of the virus/variant spread is in the unvaccinated population; a single day of case reporting showed that Ontario had 848 new cases, 646 of which were in the unvaccinated/unknown categories;
- To date, Ontario has had 572,978 COVID-19 cases; 29,330 people have been hospitalized; 9,590 people have died as a result of the virus;
- To date, Halton Region has had 18,992 COVID-19 cases; 239 people have died as a result of the virus; of these, Oakville has had 5,936 COVID-19 cases and 67 deaths;
- Unvaccinated people are 27 times more likely to end up in hospital and 42 times more likely to end up in critical care with COVID-19. According to the Centres for Disease Control and Prevention, unvaccinated people are also 11 times more likely to die;
- 84% of Halton residents aged 18+ have received one vaccination dose; 80% aged 18+ have received two vaccination doses. These percentages are slightly lower for Oakville at 82% and 77% respectively;
- As a result of the direct efforts of the vaccination program, an estimated 63,248 cases have been prevented among people aged 18+ in the province;
- Vaccines help prevent you from getting COVID-19;
 - Out of 439,517 Halton Region residents who have been immunized with two doses of COVID-19 vaccine, only 0.07% were diagnosed with COVID-19 after vaccination;
 - For Oakville, only 0.05% were diagnosed with COVID-19 after vaccination;
- If a vaccinated person gets a breakthrough infection, you are less likely to be seriously ill;
- The highest number of cases by age group in Halton are age 20-39 followed by age 40-59.

In addition to the above, international data shows that approximately 10% of COVID-19 patients experience debilitating symptoms which can last for many months after recovering from COVID-19. These chronic conditions are defined as Post COVID-19 Syndrome. Halton Healthcare recently introduced a new clinic at Oakville Trafalgar Memorial Hospital to assist individuals who have recovered from COVID-19 but continue to suffer from ongoing symptoms of the virus.

Scientific research also shows that people who are unvaccinated not only risk their own health but function as “variant factories” which risk the health of others. The more unvaccinated people there are, the greater the chance for the virus to multiply. Vaccines work to prevent virus mutation. Public health experts have indicated ongoing concern about potential mutations being vaccine resistant, further risking

the overall population. Meaning, the unvaccinated population represents a direct risk to the vaccinated population.

Town of Oakville Approach to Date

Throughout the pandemic, the Town of Oakville has been committed to meeting its obligations under the *OHS*A and providing a safe working environment for both our employees and the community we serve. The town followed the Hierarchy of Controls Model from the National Institute of Occupational Safety and Health (NIOSH) when creating the town's Recovery Playbook – a guide used by staff across the organization when determining health and safety protocols for employees, facility users and the public during the town's service restoration and facility re-openings. It has been updated as required with the most current health and safety guidelines since it was first released in the summer of 2020.

The Hierarchy of Controls outlines a range of measures from most effective to least effective when controlling exposure to occupational hazards. Most effective starts with elimination and proceeds through substitution, engineering controls, administrative controls and ends with personal protective equipment as the least effective. According to the World Health Organization (WHO) and the Centers for Disease Control and Prevention (CDC), elimination is the most effective control measure to prevent the spread of COVID-19.

The town has strongly encouraged all staff to get vaccinated. Paid leave has been provided for vaccination appointments, resources on the importance of becoming fully vaccinated have been shared and staff are regularly updated with information on clinic locations. A dedicated clinic time was also provided to town staff during work hours at Iroquois Ridge Community Centre and additional opportunities are being explored. As town staff develop return to on-site work plans, questions around vaccination expectations have been raised through town halls and questions to management.

The town has also proactively engaged with our four union partners (CUPEs 136 and 1329, UNIFOR 1256 and the OPFFA) throughout the pandemic. The details of the recommended policy and procedures have been shared and multiple conversations with each union have occurred. It is important to recognize that some of the recommendations in this report place our union partners in a challenging position. Competing member rights can be very difficult to balance. However, the town's position remains focused on ensuring a safe work environment for all of our staff and the public we serve, which is why the policy has been written broadly to include not just staff but also facility users, individuals/organizations operating on behalf of the town, Members of Council, contractors and tenants/licensees of town facilities. It is an overarching approach that aims to eliminate the risk to the greatest extent possible and aligns with Provincial mandates and Public Health recommendations.

Mandatory Vaccination Programs

The implementation of a mandatory vaccination program is a difficult decision for any organization. As media reports and recent demonstrations in our region have shown, this is a highly emotional issue that raises questions around human rights and the right to choose. In normal circumstances, non-health care organizations would not mandate employee vaccinations. However, these are not normal circumstances; we are 18 months into a global pandemic with a highly transmissible variant circulating in the community. Hospitals across the province have twice halted non-emergency services and are closely monitoring their capacity levels, in particular ICU bed capacity. Other variants continue to be identified with increased concern from the medical community of the likelihood of vaccine-resistant variants as vaccination rates slow down and herd immunity is not achieved. This is a public health crisis that requires extraordinary measures to keep our community safe. In short, this goes beyond individual rights and is a question of health and safety.

Many organizations, public and private, have been either required or are choosing to implement mandatory vaccination policies. Municipalities that have implemented or announced an intention to implement mandatory vaccination policies for staff include Toronto, Ottawa, Hamilton, Kitchener, London, Richmond Hill, Mississauga, Burlington, Brampton, Milton, Waterloo and many more. The specifics of each organization's procedure will inevitably vary based on a variety of factors, including their size, work environments, space available, risk assessment, etc. However, the commonality is the requirement for all staff to be vaccinated with limited exceptions based on human rights, which includes medical accommodations. The province, along with the Ontario Medical Association, have signalled that exemptions will be rare and not the norm.

Given the continuing spread of COVID-19, the presence of the highly transmissible Delta variant within Ontario, the higher incidence of COVID-19 among the unvaccinated population and the increasing levels of contact between individuals as businesses, services and activities reopen, it is important for town employees and the public to be fully vaccinated to protect themselves and others against serious illness from COVID-19. We are relying on public health direction and advice that is based on scientific facts, evidence and rigorous research studies.

As leaders in the road to recovery, the town regards this COVID-19 Vaccination Policy as an important measure that complements the other health and safety measures in place to reduce transmission and is supported by Halton Region Public Health.

The purpose of this report is to provide Council with a COVID-19 vaccination policy that addresses the implementation of a Proof of Vaccination Program for visitors and includes town staff, Members of Council, any individual/organization representing the town, contractors and tenants/licensees of town facilities.

The proposed COVID-19 Vaccination Policy is attached (Appendix A).

COMMENT/OPTIONS:

The proposed COVID-19 Vaccination Policy prioritizes the health and safety of town staff and facility users by taking every reasonable precaution from the hazard of COVID-19. This policy supports adopting enhanced safety measures, which includes establishing procedures requiring individuals to be fully vaccinated against COVID-19. Where this is not possible, the policy supports appropriate safe, alternative accommodations based on individual circumstances where possible.

The mandatory vaccination policy applies to six different groups:

1. Visitors accessing town-operated facilities, services, events and programs;
2. All town employees;
3. Members of Council;
4. Any individual/organization representing or acting on behalf of the town in any manner (including, but not limited to consultants, volunteers and board members);
5. Contractors; and
6. Tenants/licensees of town facilities.

Specific procedures will be developed that outline the details applicable to each group. Not all procedures are ready to implement. In particular, the last three groups require further review and analysis; implementation of these parts of the COVID-19 Vaccination Policy will not occur until this work is complete.

Until the province surpasses a vaccination rate of 90%+ and direction from public health changes, continued adherence to established COVID-19 public health measures will still be required. All organizations must continue to implement all COVID-19 prevention measures for their sector as outlined in provincial and Halton Region Public Health mandates and guidelines. These measures may include screening, physical distancing, wearing of masks and eye protection, hand hygiene, infection prevention and control and a COVID-19 safety plan.

1. Proof of Vaccination Status - Visitors

On September 1, 2021, the Ontario Government, in consultation with the province's Chief Medical Officer of Health, announced that it will require people to be fully vaccinated and provide proof of their vaccination status to access select settings starting September 22, 2021. The province stated that requiring proof of vaccination in these settings reduces risk and is an important step to encourage every last eligible Ontarian to get vaccinated, which is critical to protecting the province's hospital capacity, while also supporting businesses with the tools they need to keep customers safe, stay open and minimize disruptions.

Ontarians will need to be fully vaccinated (two doses plus 14 days) and provide their proof of vaccination along with photo ID to access certain public settings and facilities. Their approach focuses on higher-risk indoor public settings where face coverings cannot always be worn and includes:

- Restaurants and bars (excluding outdoor patios, as well as delivery and takeout);
- Nightclubs (including outdoor areas of the establishment);
- Meeting and event spaces, such as banquet halls and conference/convention centres;
- Facilities used for sports and fitness activities and personal fitness training, such as gyms, fitness and recreational facilities with the exception of youth recreational sport;
- Sporting events;
- Casinos, bingo halls and gaming establishments;
- Concerts, music festivals, theatres and cinemas;
- Strip clubs, bathhouses and sex clubs;
- Racing venues (e.g., horse racing).

Town services directly impacted by this announcement include all recreation and culture facilities and public meeting space at Town Hall.

Provincial officials have stated these mandatory requirements would not apply to the outdoors, settings where people receive medical care, food from grocery stores, medical supplies and the like. The new rules will also not apply to children under the age of 12 and people with medical exemptions. Aligned with public health measures currently in place, indoor masking policies will continue to remain in place. The province is developing a digital vaccine certificate for October; in the meantime vaccine receipts are available from the provincial online booking portal or via telephone. Both proof of identity along with proof of vaccination will be required.

Note: As of September 12, 2021, Provincial regulations associated with the Proof of Vaccination program have not yet been released. The draft procedure will be finalized upon receipt and review of these regulations.

The provincial announcement represents minimum requirements. Organizations, in their discretion, can choose to establish additional vaccination requirements, particularly given the province is in the midst of a fourth wave and with summer coming to an end, the anticipation of more people heading indoors.

It is recommended that the town require any member of the public, aged 12 and up, who enters any identified town facilities to be fully vaccinated, further protecting our staff and community. Specifically, this recommendation includes:

- Proof of Vaccination and ID will be required for all visitors ages 12 and up to gain access to all recreation and culture facilities, including participants, rental groups, guardians, spectators and volunteers, as well as the ServiceOakville counter at Town Hall;
- Exceptions include unvaccinated people with medical exemptions, people under 12 years old, and any town service deemed essential, namely Oakville Transit;
- Town facilities that are co-located with the Oakville Public Library (OPL), which provides some essential services, will have delineated entrances;
- Recreation and Culture will also continue to offer and promote digital and virtual service options;
- The vast majority of ServiceOakville services can be conducted online; those that are not online can be accessed at the Oakville Transit location, at the region or a neighbouring municipality (e.g., marriage licences).

Implementing a consistent approach for all staff and users at town-operated public facilities, as opposed to a service-specific requirement, will allow for clearly understood expectations and will further protect our community and the town's workforce against the continued threat of COVID-19.

Some tenants, like the Oakville Soccer Club, that operate out of the Pine Glen soccer facility, have already indicated they will follow the town's planned implementation approach for proof of vaccination for all visitors. Many sporting groups, for example the Ontario Hockey Association, have already released their own requirements that staff, players and spectators aged 12 and above be fully vaccinated to attend their events.

There may be financial implications that result from the province's Proof of Vaccination Program. At least one exclusive use lease holder will not be able to grant access to their business for unvaccinated clients due to a common entrance with a town facility and some recreation and culture programming may get cancelled if specialty instructors or participants withdraw.

The risk of cancellation or service disruption should be mitigated by the fact that 82% of Oakville residents have received one vaccine dose and 77% have received both doses.

To assist staff in managing the screening of provincial vaccine certificates, the town will enlist the services of its security provider, Neptune Security Services. While public polls indicate a strong majority of Ontarians support mandatory vaccination, a small percentage of people who could be considered anti-vaccination/anti-emergency measures are becoming increasingly disruptive through a number of protests. This can be seen at various Liberal campaign stops during the lead up to the Federal election and more locally at Joseph Brant Hospital and the private residences of elected officials. A recent Angus Reid Institute poll showed that 70% of Canadians are comfortable with proof of vaccination requirements in public spaces; a recent Ipsos poll found that 80% support mandatory vaccines for healthcare workers, teachers and public servants.

Despite this broad support, it is likely that unvaccinated users will argue they have the right to access town services as tax payers. To avoid placing staff in a potentially highly charged situation and to help manage the administration of the province's Proof of Vaccination Program, Neptune Security Services will provide temporary screening services as a precautionary measure. Town management will evaluate this measure on an ongoing basis to determine its overall effectiveness and duration. This measure is estimated to cost the town approximately \$20-25k per week and is required regardless of the policy recommendations being made in this report. Administering the provincial Proof of Vaccination Program will require additional temporary precautions.

2. Mandatory vaccination for town employees

Given that the province has included town recreation and culture facilities in the Proof of Vaccination Program, it stands to reason that staff who serve visitors in these settings would also require vaccination. Conversely, staff delivering town services not covered under the Proof of Vaccination Program, are in turn being potentially exposed to unvaccinated people. In addition, the strong evidence supporting the effectiveness of vaccines in reducing COVID-19 transmissibility and the town's obligations under the *OHSA* to take all necessary precautions to protect the health and safety of its workforce warrants the recommendation for a mandatory vaccination policy for all staff.

This procedure will:

- Require all staff to disclose their vaccination status and provide proof of vaccination to Human Resources by September 20, 2021. For the purposes of this procedure only, staff in the Office of the Mayor and Council are considered town staff;
- Require all staff to be fully vaccinated against COVID-19 by October 31, 2021 (includes the 14 day post vaccination period to be considered fully vaccinated);

- Provide reasonable time for staff not yet vaccinated to receive the necessary doses;
- Attempt to accommodate employees who are not able to obtain a COVID-19 vaccination due to an *Ontario Human Rights Code* protected ground. As per the direction from the Province's Chief Medical Officer of Health, medical exemptions are limited to allergic reactions and heart-related complications from a first dose of a vaccine;
- Focus on encouraging and educating staff to increase vaccination compliance, however, non-compliance will result in the employee being placed on an unpaid leave and employees may subsequently be subject to termination of employment;
- Ensure personal and health-related information is securely held and meets the town's privacy obligations;
- Require full COVID-19 vaccination as a condition of employment for all new hires at the town. Accommodation requests under the *Ontario Human Rights Code* will continue to apply to new hires.

Given the province is in the midst of the pandemic's fourth wave, case counts continue to rise and the high transmissibility of the Delta variant, the town is adding a temporary measure to bridge the gap during the transition period before the policy is in full effect. Up until October 31, as an added measure of screening and to allow time for staff to get fully vaccinated, Rapid Antigen Testing will be required for staff who are not yet fully vaccinated to enter the workplace. This temporary testing measure will be paid for by the town. The cost associated with providing this extra interim measure is approximately \$40 per test. Staff undergoing testing during this time will be required to provide proof of their negative test results at regular intervals 2-3 times per week.

While some municipalities and other employers have chosen to offer Rapid Antigen Testing as an alternative to vaccination, the town's recommended procedure does not include this option after October 31, 2021. A March 2021 review of studies¹ found that the accuracy of these tests varied considerably. It also noted that people without COVID-19 symptoms correctly tested positive in 58% of rapid tests. While these tests may be suitable for specific circumstances, they are not accurate enough to mitigate the hazard posed by COVID-19 and its variants. They do not offer longer-term safety benefits and do not offset the advantages of full vaccination.

¹ Cochrane Library: Rapid, point of care antigen and molecular-based tests for diagnosis of SARS-COV-2 infection

The town will continue to closely monitor evolving public health information, advice and direction to protect the health and safety of employees.

A draft procedure for town staff is attached (Appendix B).

3. Mandatory Vaccination for Members of Council

It is recommended that Members of Council be included in the scope of this policy and have a corresponding vaccination procedure. Similar to the staff procedure noted above, the vaccination procedure for Members of Council will:

- Require Members of Council to disclose their vaccination status and provide proof of vaccination to the Town Clerk by September 20, 2021;
- Require Members of Council to be fully vaccinated against COVID-19 by October 31, 2021 (includes the 14 day post vaccination period to be considered fully vaccinated);
- Provide reasonable time for those not yet vaccinated to receive the necessary doses;
- Accommodate Members of Council who are not able to obtain a COVID-19 vaccination due to an *Ontario Human Rights Code* protected ground. As per the direction from the Province's Chief Medical Officer of Health, medical exemptions are limited to allergic reactions and heart-related complications from a first dose of a vaccine;
- Focus on encouraging and educating Members of Council to increase vaccination compliance. Non-compliance with this procedure will result in alternative arrangements to perform council duties and an inability to attend town facilities in person;

A draft procedure for Members of Council is attached (Appendix C).

4. Individuals Representing or Acting on Behalf of the Town of Oakville; and 5. Contractors

To protect the health and safety of the town's workforce and to mitigate the spread of COVID-19, the development of mandatory vaccination procedures under this policy is recommended for:

- Any individual representing or acting on behalf of the town in any manner. This includes, but is not limited to, consultants, contracted artists, volunteers and board members;
- Contractors performing service on behalf of the Town of Oakville;

A review of existing and pending town contracts is underway to better understand the ability for the town to implement this requirement. In the meantime, it is recommended that these groups be included in the policy statement with corresponding procedures to follow upon completion of the review process. The implementation of the mandatory vaccination policy for these identified groups is subject to the development of applicable procedures.

6. Tenants and Licensees

As an interim measure, any tenants/licensees at a town-owned facility that will be impacted by the province's Proof of Vaccination Program that starts on September 22, 2021, use the timelines set out under the town's mandatory vaccination procedure for town employees to allow tenants/licensees and their staff enough time to become fully vaccinated by October 31, 2021.

The implementation of the mandatory vaccination policy for this identified group is subject to the development of applicable procedures.

CONSIDERATIONS:

(A) PUBLIC

On September 1, 2021, the provincial government announced that it will require people to be fully vaccinated and provide proof of their vaccination status to access select settings starting September 22, 2021. The town will ensure it is in compliance with this direction and will communicate requirements through the town website, social media and signage at the facilities.

(B) FINANCIAL

To help manage the administration of the province's Proof of Vaccination Program, Neptune Security Services will provide temporary screening services as a precautionary measure. This measure is estimated to cost the town approximately \$25,000 per week.

Rapid Antigen Testing will be required for staff not yet fully vaccinated to enter the workplace for a five to six week period (starting mid to late September through to October 31). At \$40 per test, it is anticipated this will cost around \$100,000 for the interim duration.

Revenue loss may occur in Clerks for marriage certificates and Recreation and Culture if programs are cancelled as a result of specialty instructors or participants choosing not to comply with the Proof of Vaccination Program.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Potential operational and service level impacts exist if staff are placed on an unpaid leave. The number of staff currently vaccinated will be known as of September 20, 2021. Mitigation measures will be identified upon determining how many staff have disclosed they do not intend to get vaccinated, require accommodation or refuse to answer.

Proof of vaccination requirements may have a financial impact on community sport and culture organizations already significantly impacted by the pandemic. Select tenants within recreation and culture facilities are likely to be financially impacted as well.

(D) CORPORATE STRATEGIC GOALS

This supports council's strategic goal of accountable government.

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A – Draft COVID-19 Vaccination Policy

Appendix B – Draft procedure for town staff

Appendix C – Draft procedure for Members of Council

Submitted by:

Jane Clohecy

Chief Administrative Officer