

Township of Southgate

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Staff Report CAO2021-065

Title of Report: Southgate COVID-19 Vaccination Policy for Approval by
Municipal By-law

Department: Administration

Council Date: October 6, 2021

Council Recommendation:

Be it resolved that Council receive staff report CAO2021-065 as information; and

That Council approve the updated Southgate Policy #87 COVID-19 Vaccination Policy dated October 6, 2021 as presented; and

That Council receive the Southgate COVID-19 Rapid Antigen Testing Protocol as presented as a temporary Standard Operating Procedure during the pandemic conditions as a supporting document to the Southgate COVID-19 Vaccination Policy; and

That Council consider approving the Southgate COVID-19 Vaccination Policy at the October 6, 2021 meeting by Municipal By-law 2021-148.

Background:

The purpose of this report and the Southgate COVID-19 Vaccination Policy is to establish the following:

1. A working environment that considers the health and safety of our Township employees related to COVID-19 transmission and outbreak of the disease;
2. To ensure the continuity of the important municipal services we deliver to the public; and
3. To provide the stakeholders with the public confidence that our Southgate staff are protected with an immunization protocol established by the Ministry of Health to prevent community spread.

On August 24, 2021, the Ontario government filed a regulation O. Reg 577/21 amending the Rules for Areas at Step 3 and at the Roadmap Exit Step with respect to the establishment and implementation of vaccination policies by businesses or organizations. O. Reg. 577/21 requires businesses and organizations to operate in compliance with "any advice, recommendations and instructions" issued by the Office of the Chief Medical Officer of Health, or by Medical Officer of Health after consultation with the Office of the Chief Medical Officer of Health:

- (a) Requiring the business or organization to establish, implement and ensure compliance with a COVID-19 policy; or

- (b) Setting out the precautions and procedures that the business or organization must include in its COVID-19 vaccination policy.

The Medical Officer of Health and Chief Executive Officer of the Grey Bruce Health Unit strongly recommends all businesses in Grey-Bruce create and implement a COVID-19 Vaccination Policy with the guidance of Public Health. The Health Unit provides information on why we need to have a policy for reasons mentioned earlier in this report and that our document should have consideration for the Occupational Health and Safety Act, the Ontario Human Rights Code and privacy laws. With the challenges of creating such a policy and the possible disruptions in the workplace, it is required because unlike other viruses, like influenza, the consequences of catching COVID-19 if a person has not been vaccinated are severe. The virus is also easily transferrable, especially with new variants spreading throughout communities. These two factors, as well as the strong efficacy of the vaccinations establishes the stronger argument than in the past with other virus for vaccination policies.

The big question is can employers require employees to be vaccinated? There is currently nothing at law that prevents an employer based in Ontario from making COVID-19 vaccination a term or condition of employment. However, mandatory vaccination policies raise both privacy and human rights considerations and legal risks of which employers will want to be aware before forging ahead with implementation.

How the Township deals with the privacy issues and how we will manage the information we collect about employee vaccination status is a critical process. The Human Resources Coordinator will collect all the information received from employees related to vaccinations in a separate file for HR use only and will not be placed in personnel files for access by any other Township Manager or Supervisor knowledge. The HR Coordinator will manage this file in confidence and work with all non-vaccinated employees in a confidential manner to provide education spelled out in the policy document, deal with evidence of medical restrictions, Human Rights exemptions, evaluate accommodation requests and manage antigen test reporting. At some point the HR Coordinator and management will need to carefully consider the nature of the workplace health and safety in relation to those non-vaccinated employees without exemptions or options for accommodation.

The next issue is Human Rights exemptions. If an employee has medical reasons for not receiving a vaccination it is very simple that a report from a Medical Health professional would be required and exempted from taking the vaccine shot. The Human Rights claim(s) would be something an employee would report on with the justification to the Township's HR Coordinator in confidence related religious and ethnic freedoms.

The legal issues at this point that we need to be concerned about is related to the Employment Standards Act and latitude that the Township can place an employee on unpaid job-protected infectious disease emergency leave. If there is a concern from any employee about their health and safety and exposure in the workplace to the COVID-19 disease, unpaid leave is an option for the Township, if accommodation is not a viable option for the individual's job description responsibilities.

Southgate staff recommend that Southgate Council approve the updated Policy #87 COVID-19 Vaccination Policy and consider approval by municipal by-law on October 6, 2021. With that said we see this policy being amended frequently in the coming months to accommodate changes in legislation, public health protocols, science and legal decisions.

The policy document is about dealing with the impact this pandemic in the workplace related to minimizing the health impacts of COVID-19 going forward on our employees, students, volunteers, Councillors, Committee members and those public members in the community we serve.

This policy has been created to:

- Prevent where possible COVID-19 outbreaks through every reasonable precaution to protect staff within a safe and healthy workplace;
- Prevent the further transmission of COVID-19 in our workplace and the community;
- Maintain continuity of our business operations and critical services; and
- Limit unnecessary pressure on our healthcare system and medical service providers.

Council received and considered staff report CAO2021-064 being a draft Southgate COVID-19 Vaccination Policy. The proposed motion was amended and approved by Council:

Moved by Deputy Mayor Milne; **Seconded by** Councillor Frew;

Be it resolved that Council receive staff report CAO2021- 064 as information; and

That Council receive the draft Southgate COVID-19 Vaccination Policy dated September 15, 2021 as presented and agree in principle with the policy; and

That Council direct staff to revise the vaccination policy to include clearer provisions under the "Accommodation" section of the policy as discussed; and

That Council direct staff to proceed with the Human Resources Coordinator requesting information, collecting employee vaccination data in confidence, if provided, and holding one on one employee education sessions related to COVID-19 immunization requirements while the policy is being revised; and

That Council consider approving a revised Southgate COVID-19 Vaccination Policy by Municipal By-law at the October 6, 2021 meeting, as discussed.

Carried No. 2021-528

Staff Comments

Staff have updated the Southgate COVID-19 Vaccination Policy #87 with Council's request and staff recommended changes based on employee discussions, information since received from the Province and observations from other municipal policies. The following changes have been made or added to the Southgate COVID-19 Vaccination Policy:

1. Policy #87 updates made between September 9, 2021 to September 22, 2021:
 - **Section 2 - "Purpose"**
 - Changed the words "it is medically contraindicated" to "accommodation is requested".
 - **Section 6(d) - "Employees"**
 - Added the words "or accommodation documentation".
 - **Section 7 "Vaccination Requirement"** – Removed this section.
*The Township of Southgate requires all employees who are able to become vaccinated against COVID-19, to provide proof of vaccination by **October 31, 2021***
 - **Section 8 (changed to Section 7) "Vaccination Process and Timelines:**
 - Changed timelines to reflect staff timelines vs Council and Committee members. This change was done because proof will not be requested for Council and Committee members until the final policy is approved by by-law.
 - November 15th changed to add "with Council review" to fulfill requests by some Council members for a council review of all layoffs and terminations in relation to this policy.
 - **Section 9 (b) "Accommodation Request Process":**
 - To clarify the process when accommodations are requested we added the following wording to add more confidence in the policy we inserted, "Only in extreme circumstances will the Township proceed with layoff or termination actions and will have the decision reviewed by Council."
 - **Section 10 (changed to Section 9) Accommodations**
 - Reformatted sections to break into section A "An employee that does not provide proof of full vaccination must" with the three steps that must be taken if an individual is not going to provide proof of vaccination which includes:
 - Attend mandatory education training
 - Rapid Antigen Testing
 - Written Accommodation request
2. Added to Policy #87 three forms for the 3 different types of possible requests accommodation:

- Request for COVID-19 Vaccination Exemption – Statement of Creed/Religious Belief Form (Attachment #2)
- Request for COVID-19 Vaccination Exemption – Reporting Confirmation from a Medical Professional Form (Attachment #3)
- Request for COVID-19 Vaccination Exemption - General Accommodation Form (Attachment #4)

Antigen Testing Protocol

Staff created the "COVID-19 Rapid Antigen Testing Protocol" document (Attachment #5) complimentary to the COVID-19 Vaccination Policy to provide direction to those employees that must follow the protocol, as well as to provide assurance to vaccinated employees that the Township of Southgate is committed to a healthy and safe workplace.

Staff recommend that Council approve the Southgate COVID-19 Vaccination Policy as presented by municipal By-law and receive the COVID-19 Rapid Antigen Testing Protocol at the October 6, 2021 meeting.

Addendum Changes and Policy Updates

1. Section 3 – The policy has been changed to require new hires to be fully vaccinated and have removed "or accommodation documentation" in this section. This change has been made as a very high percentage of municipal vaccination policies in this area require newly hired employees to be fully vaccinated.
2. Section 4(d) – Added a reference to the future and that if any booster vaccination shot(s) are required by the Ministry of Health this would be a requirement of maintaining a Fully Vaccinated status. If a COVID-19 Vaccine booster shot becomes required in order to maintain immunity from COVID-19, this will be required in order to be considered fully vaccinated under this policy
3. Section 4(e) – Removed references of the 2 doses for AstraZeneca, Moderna and Pfizer-BioNTech, in order to avoid confusion on mixing of doses. We left the one dose reference for the Janssen (Johnson & Johnson product) to provide clarity in the document.
4. Section 6(d) – The policy has been changed to require new hires to be fully vaccinated, so we have removed the words "or accommodation documentation" in last point of this section. This change has been made as a very high percentage of municipal vaccination policies in this area require newly hired employees to be fully vaccinated.

Financial Impact or Long Term Implications

There is no financial impact to the municipality as a result of this report to the 2021 budget other than Human Resources (HR) time to roll out and manage the policy. HR will also have to communicate with each employee to confirm vaccination status, deliver staff education and training if required to some staff, to review

accommodation requests and to recruit/hire casual and/or part time replacement staff to infill and support the municipal operation if required.

Communications & Community Action Plan Impact:

This report has been written and presented to Council to communicate accurate information to the public.

This report and the policy has been created to communicate that the Township of Southgate has a COVID-19 Vaccination Policy for its employees, students and volunteers that they have the assurance when dealing with customer service experience or on property contacts and meetings. Council and committee members are part of the policy to provide the assurance during future in person meetings everyone is protected by vaccinations or they can use the hybrid meeting features with virtual meetings for those that are not vaccinated, cannot be immunized or want the safety of remote access to meeting events.

Concluding Comments:

1. That Council receive this staff report CAO2021-065 as information.
2. That Council approve the Southgate Vaccination Policy as presented.
3. That Council receive the COVID-19 Rapid Antigen Testing Protocol as presented.
4. That Council approve the Southgate Vaccination Policy by municipal By-law at the October 6, 2021 meeting.
5. The Human Resources Coordinator has created the COVID-19 Vaccination Education Module: Making an Informed Decision document include in this report as Attachment #6.

Respectfully Submitted,

CAO approval: Original Signed By

Dave Milliner – CAO

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- Attachment 1 – Southgate Policy #87 COVID-19 Vaccination Policy
- Attachment 2 – Request for COVID-19 Vaccination Exemption – Statement of Creed/Religious Belief Form
- Attachment 3 – Request for COVID-19 Vaccination Exemption – Reporting Confirmation from a Medical Professional Form
- Attachment 4 – Request for COVID-19 Vaccination Exemption - General Accommodation Form
- Attachment 5 – COVID-19 Rapid Antigen Testing Protocol
- Attachment 6 – COVID-19 Vaccination Education Module: Making an Informed Decision

