

ORDINANCE NO. D-2517-20

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL, INDIANA,
REPEALING CHAPTER 2, ARTICLE 3, SECTION 2-59 AND AMENDING CHAPTER 2,
ARTICLE 3, SECTION 2-86 OF THE CARMEL CITY CODE**

Synopsis: This ordinance is designed to repeal Carmel City Code Section 2-59 and amend Section 2-86, facilitating the ability of the City’s civilian employees to manage their work and family obligations should they be affected by the coronavirus, in accordance with the Families First Coronavirus Response Act, and to help ensure that City services are not disrupted and the City’s interests are protected.

WHEREAS, pursuant to Indiana Code Sections 36-1-3-5 and 36-1-3-6, the City of Carmel, Indiana (“City”) has the authority to exercise all powers necessary for the effective operation of the local affairs of government, and to adopt ordinances requiring a specific manner for exercising those powers; and,

WHEREAS, the Common Council of the City (“Council”) passed Ordinance D-2516-20 on March 16, 2020, adopting certain interim policies that allow its civilian employees to manage their work and family obligations should they be affected by the coronavirus (“COVID-19”) and to thereby help protect the health, safety, and welfare of all City residents and guests; and,

WHEREAS, the Families First Coronavirus Response Act came into effect on April 1, 2020; and,

WHEREAS, COVID-19 has since been declared a pandemic and is an evolving crisis, necessitating the need for more significant interim changes than previously anticipated.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Carmel, Indiana, as follows:

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

Section 2. Carmel City Code Section 2-59 is hereby repealed:

“§ 2-59 ~~COVID-19 Leave~~Reserved for Future Use.

~~(a) The purpose of COVID-19 Leave is to provide additional paid leave for certain civilian City employees who face direct and verifiable exposure to COVID-19, who have been directed to self-quarantine, and/or must provide care to their school-age children when classes are cancelled. COVID-19 Leave will not be authorized based upon fear, speculation, or unverified rumor.~~

~~(b) COVID-19 Leave is available to certain civilian City employees only. The Chief of Police and Fire Chief will develop COVID-19 policies for the City’s sworn police officers and firefighters.~~

- 49 ~~(c) Each full time civilian City employee will be given a COVID-19 Leave bank of 75 hours, which~~
50 ~~may be increased or decreased in the City's sole discretion.~~
51
- 52 ~~(d) Each part time civilian City employee will be given a COVID-19 Leave bank of 60 hours, which~~
53 ~~may be increased or decreased in the City's sole discretion.~~
54
- 55 ~~(e) Seasonal and temporary civilian City employees are not eligible for COVID-19 Leave.~~
56
- 57 ~~(f) All COVID-19 Leave authorized and taken by an employee will be deducted from his or her~~
58 ~~COVID-19 Leave bank. Employees will be provided special pay codes to record this time. All~~
59 ~~COVID-19 Leave bank hours not used will be forfeited.~~
60
- 61 ~~(g) Any employee who is denied COVID-19 Leave is free to use his or her accrued paid time off~~
62 ~~("PTO") leave, except that an employee may not use COVID-19 Leave alone or in combination~~
63 ~~with PTO or sick leave to record more than 37.5 hours during any workweek.~~
64
- 65 ~~(h) COVID-19 Leave may be taken prior to the use of an employee's PTO or sick leave.~~
66
- 67 ~~(i) COVID-19 Leave may be authorized in the following circumstances:~~
68
- 69 ~~1) An employee's minor child/children attend a school, pre-school, or a daycare facility that is~~
70 ~~closed due to COVID-19, and the parent needs to care for the child/children.~~
71
- 72 ~~2) An employee or a member of his or her household or immediate family has tested positive for~~
73 ~~COVID-19.~~
74
- 75 ~~3) An employee or a member of his or her household or immediate family is presenting symptoms~~
76 ~~of COVID-19 or has worked, attended school, pre-school, or a daycare facility, or has~~
77 ~~otherwise had sustained contact with a person who has tested positive for, or has been~~
78 ~~otherwise diagnosed as having, COVID-19.~~
79
- 80 ~~4) An employee or a member of his or her household has recently returned from a foreign country~~
81 ~~that has received a CDC Level 3 Travel Health Notice and is thereby advised to self-~~
82 ~~quarantine.~~
83
- 84 ~~5) An employee or a member of his or her household or immediate family is informed by a public~~
85 ~~health agency that he or she has been exposed to another person who has tested positive for~~
86 ~~COVID-19.~~
87
- 88 ~~6) An employee at elevated risk due to pregnancy, age (over 65), compromised immune system,~~
89 ~~or chronic health condition who has been advised by a doctor or other health care professional~~
90 ~~to self-quarantine.~~
91

96 ~~(j) All COVID-19 Leave shall be subject to the following conditions:~~

- 97
- 98 ~~1) Employees who are healthy and have not been exposed to the COVID-19 virus are expected to~~
- 99 ~~report to work as scheduled unless they are able to perform their essential job functions from~~
- 100 ~~home and their off-site work has been approved by their department director,~~
- 101
- 102 ~~2) An employee on COVID-19 Leave is encouraged to work from home as his or her health or~~
- 103 ~~childcare responsibilities allow.~~
- 104
- 105 ~~3) While on COVID-19 Leave, an employee may not work or earn compensation from any other~~
- 106 ~~source during his or her regularly scheduled work hours.~~
- 107
- 108 ~~4) Consistent with the ADA and other applicable laws, rules, regulations, and directives, an~~
- 109 ~~employee may be required to provide evidence of his or her eligibility for COVID-19 Leave at~~
- 110 ~~any time before or during such leave.~~
- 111
- 112 ~~5) All documentation provided to the City to justify COVID-19 Leave will be treated as~~
- 113 ~~“confidential” and will be shared with management officials on a need to know basis only.~~
- 114
- 115 ~~6) The City strongly discourages speculation as to whether an employee is or is not on COVID-~~
- 116 ~~19 Leave, and will take appropriate disciplinary action against any employee who spreads~~
- 117 ~~unsubstantiated rumors about the reason why any City employee is absent from the workplace~~
- 118
- 119 ~~7) Except as specifically set forth herein, this Section shall have no effect on the City’s laws, rules,~~
- 120 ~~policies, and procedures, which remain in full force and effect.~~
- 121

122 Section 3. Carmel City Code Section 2-86 is hereby amended and shall read as follows:

123

124 **“§ 2-86 City COVID-19 Policy.**

125

126 (a) In the event local schools are closed due to the coronavirus (“COVID-19”), City employees or their

127 families are exposed to COVID-19, or other circumstances dictate, and in the Mayor’s sole

128 discretion, some or all of the following policies may be put into effect:

129

130 ~~(1) Civilian employees will receive paid time off for authorized COVID-19 Leave pursuant to City~~

131 ~~Code Section 2-59.~~

132

133 (1) FMLA paperwork will be streamlined for COVID-19 on a case-by-case basis.

134

135 (2) Department directors will determine which and for how long a job or job duty can be performed

136 off-site.

- 142 (3) Department directors will determine the staffing needs of their department and take such actions
143 as are necessary or prudent to ensure that City services are not disrupted and the City's interests
144 are protected.
- 145
- 146 (4) Employee business travel to certain areas may be cancelled or postponed.
- 147
- 148 (5) Employees who exhibit symptoms consistent with the COVID-19 virus may be sent home and,
149 if sent home, shall be entitled to use ~~their COVID-19 FFCRA Sick Leave bank to cover all or~~
150 ~~a portion of their time away from work due to their COVID-19 virus symptoms.~~
- 151
- 152 (6) The City may require an employee reasonably believed, based upon objective evidence, to pose
153 a direct threat to be cleared by a doctor or other health care professional before returning to
154 work.
- 155
- 156 (7) An employee who is available and able to work and has been told to stay home for some or all
157 of his or her normal workweek due to COVID-19 social distancing requirements, shall be paid
158 his or her regular rate of pay and shall remotely perform his or her essential job functions or
159 other assigned duties to the fullest extent as reasonably possible and be available for work
160 related matters via telephone, email, text, or other means of communication, during normal
161 work hours, or as otherwise approved by the employee's department director.
- 162
- 163 (8) An employee who takes leave under the Emergency Paid Sick Leave Act of the Families First
164 Coronavirus Response Act ("FFCRA") ("FFCRA Sick Leave") may receive up to his or her
165 full regular pay with no daily or aggregate pay maximum.
- 166
- 167 (9) An employee who takes leave under the Emergency Family Medical Leave Expansion Act of
168 the FFCRA ("Emergency FMLA Leave") may receive up to his or her full regular pay for weeks
169 three (3) through twelve (12) of the Emergency FMLA Leave with no daily or aggregate pay
170 maximum.
- 171
- 172 (10) An employee who is not entitled Emergency FMLA Leave under the FFCRA may take up to
173 ten (10) weeks of leave if the employee or a member of his or her household has a documented
174 elevated risk to COVID-19, due to pregnancy, age (over 65), compromised immune system, or
175 chronic health condition, and has been advised by a medical practitioner to self-quarantine
176 ("COVID-19 Quarantine Leave"). During COVID-19 Quarantine Leave an employee may
177 receive up to his or her full regular pay.
- 178
- 179 (b) The Mayor, in his sole discretion, will determine if and when **any of the provisions of this subsection**
180 **COVID-19 policy** will be put into effect, **the scope of the provision(s), and its** the duration, and
181 will communicate these decisions to City employees through the Director of Human Resources.
- 182

- 187 (b) While on leave under this Section or the FFCRA, an employee may not work or earn compensation
188 from any other source during his or her regularly scheduled work hours.
189
- 190 (c) Consistent with the ADA and other applicable laws, rules, regulations, and directives, an employee
191 may be required to provide evidence of his or her eligibility for leave under this Section or the
192 FFCRA at any time before or during such leave.
193
- 194 (d) All documentation provided to the City to justify leave under this Section or the FFCRA will be
195 treated as “confidential” and will be shared with management officials on a need-to-know basis
196 only.
197
- 198 (e) Except as specifically set forth herein, this Section shall have no effect on the City’s laws, rules,
199 policies, and procedures, which remain in full force and effect.
200
- 201 (f) Leave policies under this Section are applicable to civilian City employees only. The Chief of
202 Police and Fire Chief will develop leave policies for the City’s sworn police officers and
203 firefighters.
204
- 205 (g) FFCRA Sick Leave, Emergency FMLA Leave, or COVID-19 Quarantine Leave may be taken
206 prior to the use of an employee’s PTO or sick leave. Any employee who is denied FFCRA Sick
207 Leave, Emergency FMLA Leave, or COVID-19 Quarantine Leave is free to use his or her accrued
208 paid time off (“PTO”) leave.
209
- 210 (h) At no time shall an employee use any leave provided in this Section, alone or in combination with
211 hours worked, to receive his or her overtime rate of pay.
212
- 213 (i) Except as specifically set forth herein, this Section shall have no effect on the City’s laws, rules,
214 policies, and procedures, which remain in full force and effect.
215
- 216 (j) Nothing in this Section shall restrict or otherwise infringe on the leave and/or pay benefits provided
217 to employees under the FFCRA.
218
- 219 (k) This Section shall expire on December 31, 2020.”
220
221

222 Section 4. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are
223 hereby repealed, to the extent of such inconsistency only, as of the effective date of this Ordinance, such repeal
224 to have prospective effect only. However, the repeal or amendment by this Ordinance of any other ordinance
225 does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective
226 date of this Ordinance. Those rights, liabilities and proceedings are continued and penalties shall be imposed
227 and as if this Ordinance had not been adopted.
228
229
230

SPONSOR(S): Councilors Campbell, Kimball,
Nelson, Rider, Worrell

281 **PASSED** by the Common Council of the City of Carmel, Indiana, this ____ day of _____, 2020, by a vote
282 of ____ ayes and ____ nays.

283
284
285 **COMMON COUNCIL FOR THE CITY OF CARMEL**

286
287 _____
288 Laura D. Campbell, President

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287 _____
288 H. Bruce Kimball

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290 _____
291 Sue Finkam, Vice-President

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290 _____
291 Miles Nelson

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293 _____
294 Adam Aasen

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293 _____
294 Kevin D. Rider

295
296 _____
297 Anthony Green

295
296 _____
297 Jeff Worrell

298
299 _____
300 Timothy J. Hannon

301
302 ATTEST:
303 _____
304
305 Sue Wolfgang, Clerk

306
307
308 Presented by me to the Mayor of the City of Carmel, Indiana this ____ day of
309 _____ 2020, at _____ .M.

310
311 _____
312 Sue Wolfgang, Clerk

313
314
315 Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of
316 _____ 2020, at _____ .M.

317
318
319 _____
320 James Brainard, Mayor

321 ATTEST:
322 _____
323
324 Sue Wolfgang, Clerk

325
326
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This Ordinance was prepared by Benjamin J. Legge, Assistant Corporation Counsel, on April 2, 2020, at 3:00 P.M. No subsequent revision to this Ordinance has been reviewed by Mr. Legge.