

CITY OF WEST ALLIS
RESOLUTION R-2023-0317

**RESOLUTION TO REPEAL POLICY NO. 1499 RELATING TO TEMPORARY
POLICY AND ADMINISTRATIVE GUIDELINES.**

NOW THEREFORE, be it ordained by the Council of the City Of West Allis, in the State of Wisconsin, as follows:

SECTION 1: REPEAL “1499 Temporary Policy And Administrative Guidelines For COVID-19” of the City Of West Allis Policies & Procedures is hereby *repealed* as follows:

R E P E A L

1499 Temporary Policy And Administrative Guidelines For COVID-19

1. ~~**PURPOSE** This Temporary Policy and Administrative Guidelines document relates to certain employment and workplace policies, practices, and procedures that may be impacted in response to the novel coronavirus pandemic, COVID-19. The content of this Policy may be periodically revised under the authority provided under Common Council Resolution R-2020-0193, and in accordance with any directives, orders and other guidance provided by the Centers for Disease Control (CDC), the EEOC, the Department of Labor (DOL), the Internal Revenue Service (IRS), the Wisconsin Department of Health (DHS), the Governor of the State of Wisconsin, and the West Allis Health Department (WAHD). ORGANIZATIONS AND PERSONS AFFECTED The provisions of the Temporary Policy and Administrative Guidelines apply to all non-represented, benefitted employees. Except as otherwise provided herein, the provisions apply to sworn employees of the Fire and Police Departments, unless in conflict with specific language of a current collective bargaining agreement or departmental directive, in which case the collective bargaining agreement or directive will control. RESTRICTIONS ON TRAVEL Employees who choose to travel shall comply with any federal, state, county, or local emergency or public health order, if any, in effect at the time of travel for the planned destination, and shall follow all other applicable public health recommendations or guidance relating to mass gathering size limits, physical distancing, and protective measure requirements. CONTINUATION OF OPERATION EMPLOYEES WITH SYMPTOMS OR POTENTIAL EXPOSURE WORKPLACE MASK REQUIREMENTS TEMPORARY REVISIONS TO PAID LEAVE POLICIES USE OF FAMILY MEDICAL LEAVE ACT (FMLA) LEAVE. In more severe cases of coronavirus disease (COVID-19) that require inpatient care of continuing treatment by a health care provider, an employee diagnosed~~

~~with COVID-19 may be entitled to leave under the federal or state FMLA for a "serious health condition."~~
~~REFUSING TO WORK DUE TO CONCERNS RELATED TO COVID-19 EXPOSURE~~
~~ADA CONSIDERATIONS~~
~~FAIR LABOR STANDARDS ACT (FLSA)~~

~~CONSIDERATIONS~~ ~~SUNEMPLOYMENT INSURANCE BENEFITS~~

~~Unemployment insurance benefits are generally available to employees who are unemployed through no fault of their own. If the COVID-19 pandemic causes a department to shut down operations, and no work is available through telework or temporary reassignment, impacted employees may be eligible for unemployment benefits. Employees who are not fully vaccinated are encouraged, to the greatest extent possible, to use technology to avoid meeting in person, including virtual meetings, teleconference, and remote work. An employee is considered fully vaccinated two weeks after getting the second Pfizer or Moderna shot or two weeks after receiving the one-dose Johnson & Johnson vaccine, if the recommended vaccine doses were received within the last 6 months (2 months for J&J vaccine), or if having received a vaccine booster.~~

~~Alternative Work Arrangements To ensure the safety of employees and the continuation of operations, departments shall provide employees, to the greatest extent possible, flexibility for temporary remote and telework opportunities, to include the use of technology for virtual meetings and teleconferences to comply with social distancing requirements. Alternative work arrangements include the temporary reassignment of employees to other shifts and other duties, either within the same or different division or department, to meet the needs of the City during the declared emergency.~~

~~Responsibility to Report An employee, regardless of vaccination status, shall immediately notify their supervisor whenever the employee is experiencing symptoms of COVID-19, is tested for COVID-19, or is notified of a positive COVID-19 test result. An employee shall also immediately notify his or her supervisor whenever it becomes known to the employee that the employee has had close contact with a person experiencing symptoms of COVID-19, or with a person with COVID-19. Supervisors are responsible for sharing information with the health department (Deputy Health Commissioner) whenever an employee tests positive for COVID-19. The term "close contact" as used in this section is defined as the following:~~

~~Self-Quarantine Required~~
~~Self-Isolation Required~~
~~Guidance for Healthcare Personnel:~~

~~Work restrictions relating to infection and exposure and return to work criteria for healthcare personnel shall follow CDC recommendations, as revised.~~

~~Whenever the COVID-19 community level as established by the CDC is deemed High Risk, the following workplace mask requirements shall apply:~~
~~Fully Vaccinated and Boosted (if eligible) Employees~~
~~Employees who have received a vaccine booster, if eligible, or all recommended vaccine doses within the last 6 months (2 months for J&J vaccine), are not required to wear masks, unless otherwise required to do so under self-quarantine and self-isolation requirements.~~
~~Not Fully Vaccinated and Boosted (if eligible)~~
~~Employees~~
~~Exceptions. The following may be exempted from wearing a mask:~~

~~City to Provide Masks~~
~~Enforcement~~
~~Department Heads shall be~~

responsible for encouraging and enforcing compliance with this policy. Any employee who fails to comply with the mask requirement shall receive notice of the requirement and be provided the opportunity to immediately comply. If the employee does not immediately comply, the employee may be sent home and issued a warning letter. Repeated failure to comply with the requirement may be grounds for further disciplinary action.

Use of Paid Leave for COVID-19 Related Events – Except as otherwise provided herein, any non-represented, benefited employee who is unable to work because of the following reasons may use available paid time-off benefits (including up to 80 hours of paid sick leave), if authorized by the Department Head, and telework is not available:

Use of Extended Sick Leave Bank – The City has temporarily suspended the provision that restricts the use of time in the Extended Sick Leave Bank (ESLB) to FMLA-eligible events. Non-represented, benefited employees under the Total Benefit Package are authorized to use time in their ESLB for non-FMLA, COVID-19 related eligible events, if all other paid leave in their time off bank is exhausted.

Increased Amount of Negative Balance in Time Off Bank – The City has temporarily increased from 40 hours to 80 hours the maximum number of hours of time off in advance of time off earned a non-represented, benefited employee may request per calendar year under the Total Benefit Package when all leave in an employee's time off bank is exhausted. The application of this provision for employees under the Legacy Benefit Package will be administered on a case-to-case basis.

Use of Voluntary Unpaid Time Off – Time off without pay may be granted at departmental discretion to employees who have exhausted other leave balances; however, departments are encourage to first be as flexible as possible in establishing telework and alternative work arrangements when considering employee requests for voluntary time off. The City has temporarily increased from 40 hours to 80 hours the maximum number of hours of voluntary unpaid time off a non-represented, benefited employee may request per calendar year under the Total Benefit Package when all leave in an employee's time off bank is exhausted. The application of this provision for employees under the Legacy Benefit Package will be administered on a case-to-case basis.

Accrual of Time Off, Continuation of Benefits – The City has established a temporary exception to the provision that employees must be in paid status for the entire month to be eligible to earn the monthly time off allocation. In addition, for an employee not in paid status, all benefits that the employee was receiving while in paid status shall, continue pending continued employment with the City.

General Policy – An employee who refuses to work will not be paid and may be disciplined.

Exceptions – Employees generally not entitled to sick leave or FMLA or reasonable accommodation leave to stay at home to avoid getting sick. Situations relating to employees in high-risk categories, as defined by the CDC, or with other special circumstances (for example, already-compromised immune systems or certain chronic medical conditions) will be address on a case-by-case basis in accordance with applicable laws. Employees may also be permitted to work remotely in accordance with the department's protocols.

Applicability – Based on medical information available at this time. COVID-19 on its own likely

would not qualify as a disability under the Americans with Disabilities Act. In most cases, people infected with COVID-19 recover after a week or two, or up to several weeks depending on the severity of the illness. However, depending on the severity and duration of the illness, COVID-19 may qualify as an ADA-recognized disability. Employees may also develop a disability from COVID-19 or aggravate a pre-existing disability. Employees with a disability are entitled to a reasonable accommodation, provided it does not cause an undue hardship or a direct threat to health and safety.

Disability-related Inquiries – Under the ADA, managers are restricted from making medical inquiries into an employee's medical status; however, inquiries may be permitted in order to protect the workforce during a pandemic. If the department has a reasonable belief that an employee poses a direct threat to the health or safety of others in the department, the inquiry is permitted under the law.

Reasonable Accommodations – Employees Subject to FLSA Provisions – Hourly employees permitted to work remotely are required to track remote hours to limit potential wage claims. Employees who are required to self-quarantine for the reasons specified under applicable provisions of these guidelines, may take time without pay as necessary as regulations do not guarantee wages or hours and pay.

Employees Exempt from FLSA Provisions – Exempt employees are paid on a "salary basis", which means that, with limited exceptions for public employees, exempt employees must receive their full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Deductions can be made when an exempt public employee is absent from work if such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

In other words, a partial day deduction may be made for personal reasons or illness if pursuant to policy or practice consistent with principles of public accountability. Public employers may dock exempt employee takes unpaid leave under the FMLA (either partial day or full day deductions may be made). Time away from work can be unpaid as long as it is in full-day increments, if it is voluntary and initiated by the exempt employee. For time off mandated by the employer, the time away can be unpaid only in full-pay week increments. Being within 6 feet of a person with COVID-19 for a cumulative period of 15 minutes or longer without wearing a mask, or if only wearing a cloth mask.

Providing care at home to a person with COVID-19.

Having direct physical contact (touched, hugged, or kissed) with a person with COVID-19.

Sharing eating or drinking utensils with a person with COVID-19.

Having been sneezed or coughed upon by, or otherwise received respiratory droplets from, a person with COVID-19.

If an employee experiences symptoms of COVID-19 (feels feverish/develops a fever of 100.4 degrees or higher, chills, muscle aches, cough, shortness of breath, nausea, diarrhea, vomiting, abdominal pain, or loss of taste

or smell), the employee shall not come to work, but instead self-quarantine at home by limiting contact with others and seeking advice by telephone from a healthcare provider to determine whether medical evaluation is needed. An employee shall self-quarantine at home until fever-free for 24 hours without fever-reducing medicine and there has been a noticeable improvement in other symptoms. Even without a known close contact, COVID-19 has community-wide spread and high activity in SE WI. For that reason, if an employee is experiencing these symptoms, it is strongly recommended that the employee is tested for COVID-19. If an employee is tested for COVID-19, the employee shall self-quarantine at home until the results of the test are known. If an employee is identified as having close contact with a person who tests positive for COVID-19, the employee will be required to self-quarantine at home for 5 days, get tested at least 5 days after the last close contact and monitor for symptoms for 10 days after the last close contact, unless the employee has received a vaccine booster, or all recommended vaccine doses within the last 6 months (2 months for J&J vaccine), or they have had and recovered from COVID-19 illness within the last 90 days and are asymptomatic, in which case no self-quarantine is required, but the employee is required to get tested at least 5 days after the last close contact and wear a medical mask around others for 10 days from the date of the last close contact. Employees in self-quarantine are permitted to work remotely in accordance with the department's protocols, and may be required to work remotely, if asymptomatic and physically able to do so. Regardless of their vaccination status, an employee who tests positive for COVID-19 shall remain in self-isolation for at least 5 days from the start of symptoms, or test date for asymptomatic individuals, and be fever-free for 24 hours without fever-reducing medicine with a noticeable improvement in other symptoms, or have been cleared to return by a medical provider or public health authority. The employee shall continue to wear a medical mask around others for 5 additional days after the end of the isolation period. If not experiencing symptom improvement by day 5, employee should remain in isolation until their symptoms have improved. Employees at any City workplace or site who have not received a vaccine booster, if eligible, or all recommended vaccine doses within the last 6 months (2 months for J&J vaccine), shall wear medical masks covering their nose and mouth whenever. Non-medical cloth face coverings do not meet the requirements of this provision unless no medical masks are immediately available. Employees who are using break time to eat or drink, provided employees are able to maintain a distance of 6 feet from the nearest person, perform the necessary hand hygiene and replace the masks when they are done. Employees who fall into the Center for Disease Control and Prevention's guidance for those who should not wear face coverings due to a medical condition, mental health condition, or developmental disability, in such cases accommodation may be made under the Americans with Disabilities Act. Employees in the performance of job duties for which face coverings present a safety hazard, as determined by the Department Head. Medical masks will be provided to employees by the City at regular intervals. Current state guidance is

~~that medical masks can be continued to be reused daily until soiled or damaged. Monthly replacement under normal use conditions is acceptable for most employees working indoors. Employees are responsible for requesting replacement masks whenever their masks are damaged, lost, or soiled. The City will provide instruction on the proper wearing, care, and disposal of masks. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19; The employee has been advised by a health care provider to self-quarantine because of COVID-19; The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; The employee is caring for an individual subject or advised to quarantine or isolate; The employee is caring for his or her own child(ren) whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions. This provision does not apply to protective service employees. Employee may be required to provide documentation in support of their requested leave. Departments may have employees with chronic health conditions that may provide a medical certificate indicating that they should not be at work because they are high risk for COVID-19. Although not provided for under the FFCRA, these situations will be administered as requests for accommodations under the ADA. Generally it is not a reasonable accommodation to be absent from work indefinitely due to a chronic health condition, but if an employee has a chronic health condition and a doctor has indicated to stay home, the employee may be allowed under the ADA to stay home and use their paid sick leave or other available paid time-off benefits, if unable to telework during the accommodation period. Permission for its use has not been sought or has been sought and denied; Accrued leave has been exhausted; or The employee chooses to use leave without pay. Interacting in person with any member of the public. Working in any space regularly visited by members of the public, regardless of whether anyone from the public is present at the time. In any shared office, room, or enclosed area where other people are present when unable to maintain a distance of 6 feet from another person. In any private office, if seated within 6 feet of the doorway. In or walking through common areas of any shared office, room, or enclosed area. In or walking through common areas such as restrooms, hallways, stairways, and elevators. In any City vehicle when other people are present. Outdoors, whenever unable to maintain a distance of 6 feet from another person. Required to do so under self-quarantine and self-isolation requirements.~~

~~**WORKER'S COMPENSATION CONSIDERATIONS** Exposure to COVID-19 that is deemed to have arisen out of and in the course of employment may be eligible for Worker's Compensation benefits, including injury pay. For claims to be compensable, however, it would have to be proven that the virus was, in fact, contracted at work, and exposure to the employee was not due to an alternative source. The City will work with its third party administrator and the appropriate medical professionals in determining whether the disease is work-related.~~

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

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	AYE	NAY	ABSENT	ABSTAIN
Ald. Vince Vitale	_____	_____	_____	_____
Ald. Ray Turner	_____	_____	_____	_____
Ald. Tracy Stefanski	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Thomas Lajsic	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Rosalie Reinke	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of
West Allis

Dan Devine, Mayor, City Of West
Allis