

The information below is based on the federal law as of April 1, 2020, and is not intended to provide legal advice and should not be used as a substitute for legal guidance. Consult your city attorney for advice concerning specific situations.

MUNICIPAL ORDER. _____

MUNICIPAL ORDER PROVIDING FOR LEAVE UNDER THE FAMILIES FIRST
CORONAVIRUS RESPONSE ACT

WHEREAS, the President signed into law the “Families First Coronavirus Response Act” to assist with the impact of COVID-19, employees may be eligible for additional leave under the law;

WHEREAS, to comply with the temporary leave requirements, the City of _____ is altering its leave policy for city employees effective April 1, 2020;

NOW, THEREFORE, BE IT ORDERED AS FOLLOWS:

1. Pursuant to the Emergency Paid Sick Leave Act, all employees are eligible for two weeks of Emergency Paid Sick Leave (EPSL) at their regular rate of pay for the following reasons. Eligible full-time employees will receive up to 80 hours of paid sick leave. Eligible part-time employees will receive pay based on the average number of hours worked over the last six months. An employee must be:
 - a. Subject to a federal, state or local quarantine or isolation order related to COVID-19;
 - b. Advised by a healthcare provider to self-quarantine due to COVID-19 concerns;
 - c. Experiencing COVID-19 symptoms and seeking medical diagnosis;
 - d. Caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a healthcare provider to self-quarantine due to COVID-19 concerns (caring for another who is subject to an isolation order or advised to self-quarantine as described above is not limited to only family members).
 - e. Caring for the employee’s child if the child’s school or place of care is closed or the child’s care provider is unavailable due to COVID-19 related reasons; or
 - f. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
 - g. Paid sick leave wages are limited to \$511 per day up to \$5,110 total per employee for their own use. Paid sick leave wages are paid at two-thirds the normal rate of pay and limited to \$200 per day up to \$2,000 total to care for others and any other substantially similar condition.

2. Pursuant to the Emergency Family Medical Leave Expansion Act (EFMLEA), an employee that has been employed for 30 days or more is eligible for up to 12 weeks of job-protected leave to allow the employee, who is unable to work or telework, to care for the employee's child (under 18 years of age) if the child's school or place of care is closed or the childcare provider is unavailable due to COVID-19 related reasons. The Act allows the employers to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave.
- a. The first two weeks days of EFMLEA-qualified leave are unpaid. An employee may either be eligible for Emergency Paid Sick Leave as outlined in Paragraph 1. or may take other paid leave concurrently with the EFMLEA.
 - b. Beginning the third week of EFMLEA, an eligible employee shall be paid according to the following:
 - i. Full-time employees at two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled. The EFMLEA limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.
 - ii. Employees who work a part-time or irregular schedule are entitled to be paid at two-thirds the employee's regular rate, based on the average number of hours the employee worked for the six months prior to taking Emergency FMLA. Employees who have worked for less than six months prior to leave are entitled to the employee's reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work. The EFMLEA also limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.
 - c. The city will make reasonable attempts to return the employee to their prior position for up to one year following the leave.

OR

The city will return the employee to their prior position in accordance with the restoration requirements of the FMLA.

- d. The city's FMLA leave is otherwise unchanged and employees are not eligible for FMLA leave except as outlined, above, under the EFMLEA.

OR

The city's FMLA leave is otherwise unchanged and any EFMLEA leave will count toward the employee's total 12 weeks of job-protected FMLA leave.

3. Employees must request approval to use EFMLEA or EPSL by contacting their supervisor as soon as the need for leave is known in the same manner as provided for within the City of _____ personnel policies, as well as filling out the Emergency FMLEA Form or Emergency Paid Sick Leave Form. In addition, the employee, as soon as practicable shall provide the city with documentation as follows:
 - a. For EPSL
 - i. Employee's name;
 - ii. Date leave requested;
 - iii. Qualifying reason;
 - iv. Statement that the employee is unable to work based on the qualifying reason; and
 - v. Name of governmental entity that issued quarantine or isolation order;
 - vi. Name of healthcare provider who advised to self-quarantine; or
 - vii. Notice from a healthcare provider.
 - b. For EFMLEA
 - i. Name of child;
 - ii. Name of school or childcare facility or provider;
 - iii. A representation that no other suitable person will be available to care for the child; and
 - iv. A copy of a notice posted on a government, school or daycare website; a notice published in a newspaper; or an email from an employee or official of the school, place of care or childcare provider.
4. The executive authority shall determine which employees are eligible for continued work or telework based on the needs and capacity of the city.
5. The Act allows the employers to exclude healthcare providers and emergency

responders from the definition of employees who are allowed to take Emergency FMLA and Emergency Paid Sick Leave. At this time, the city has decided to exclude emergency responders from the Emergency Paid Sick Leave Act and Emergency FMLA provisions.

- a. For purposes of this provision, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19 and includes:
 - i. [List positions here based on DOL information]

All other employee manual rules shall remain in force.

This order will become effective April 1, 2020 and terminate at the expiration of the Families First Coronavirus Relief Act, currently set for December 31, 2020.

On motion of _____, seconded by _____, that the foregoing Municipal Order be adopted, the vote was called. On roll call the vote stood:

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING, this the _____ day of _____ 2020.

Mayor

Date

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY THIS ____ DAY OF _____ 2020.

[By] _____
City Attorney []