



**Date: March 26, 2020**

**To: All City Employees**

**From: A.J. Johnson, City Manager**

**RE: Families First Coronavirus Response Act (FFCRA)**

Due to the current COVID-19 (coronavirus) outbreak, federal legislation regarding employer-paid emergency sick leave and employer-paid expanded Family and Medical Leave (FMLA) have recently been signed into law. These enhancements to employer-paid leave go into effect on **April 1<sup>st</sup>, 2020**, and are ***not retroactive before that date***. As you already know, the federal response to COVID-19 is extremely fluid and subject to rapid change. What follows below is an outline of how we understand the paid leave laws today, knowing that our understanding may change in the coming weeks as federal clarification(s) may change.

The Department of Labor (DOL) is the entity that typically gives direction on how new leave laws are administered. The DOL is continuing to take comments through March 30<sup>th</sup> and may issue additional updates to what is published at this time. What we know right now is that employers of health care providers and emergency responders can elect to exclude those employees from eligibility for the leave provided under the Act. For the foreseeable future and to conserve our ability to maintain adequate emergency responsiveness to our citizens and community, the City is electing to exclude our first responders at this time. This decision, upon re-evaluation, may be altered in the future when more is known regarding our community impact.

For our non-emergency responder employees, the Act provides for:

- Up to two weeks (80 hours) of employer-paid emergency sick leave at the employee's regular rate of pay if an employee is unable to work, or telework due to: the employee being quarantined, pursuant to Federal, State, or local government order or on the advice of a health care provider, and/or experiencing COVID-19 symptoms and seeking medical diagnosis.
- Up to two weeks (80 hours) of employer-paid emergency sick leave if the employee has a bona fide need to care for an individual subject to quarantine pursuant to Federal, State, or local government order or on the advice of a health care provider. ***By law, the City is only required to compensate at 2/3 pay, subject to daily and aggregate caps; however the City will also pay this at the employee's regular rate of pay.***
- Up to two weeks (80 hours) to care for a son or daughter under 18 whose school or child care provider is closed or unavailable, or if the childcare provider is unavailable for reasons related to COVID-19. An additional ten weeks of employer-paid FMLA leave for qualified employees (must have met 30 calendar days of employment) if school/daycare is closed or unavailable. ***By***

***law, the City is only required to compensate at 2/3 pay, subject to daily and aggregate caps; however the City will also pay this at the employee's regular rate of pay.***

This sweeping legislation is unique in that it provides employer-paid emergency sick leave and expanded FMLA leave to not only full time employees of the employer, but also part time employees. The part time "regular pay" is calculated by the employee's two week average over a look back period of six months.

All of the leaves identified above will be administered through the existing FMLA mechanisms we have in place. In order to utilize any of the paid leave provisions in the Act, the Human Resources Department must be notified so the appropriate paperwork can be processed in accordance with FMLA rules and the appropriate pay codes can be added to the employee's time clock profile. We will **not** be asking for doctor's notes and expect employees to be honest in asking for this leave when it is needed.

We expect that some employees will need to use the expanded ten weeks of FMLA if schools remain closed for the remainder of the spring semester. As most all employers are subject to these new laws, we anticipate that some of our employees will use the expanded FMLA intermittently when sharing child care duties with their spouses, significant others/household members, etc. Again, we realize this is a very fluid time in our nation and that employees' personal lives and plans have been significantly disrupted. Our intent in doing more than the minimum required by the FFCRA is to disrupt employees' paychecks as little as possible while we all deal with the unprecedented effects of COVID-19 at home and at work.

Attached to this memo you will find the DOL's poster regarding the FFCRA as it stands today. If you have questions, please direct them to the City Manager's Office or the Human Resources Department.

In closing, I wish to express my appreciation for your dedication, flexibility, and patience as we work through the myriad of issues this pandemic has brought to our lives, at work and at home.