

## **A Families First Corona Virus Response Act Policy**

Effective April 1, 2020 through December 31, 2020

The following is the City of Highland Park's policy implementing the Families First Coronavirus Response Act, specifically the Emergency Paid Sick Leave Act and the Family and Medical Leave Expansion Act, which amends the Family and Medical Leave Act. The City reserves the right to interpret and change these policies at any time.

### **Paid Sick Leave Act**

The Paid Sick Leave Act provides that an employee who is employed by the City and is unable to work or telework may be eligible for paid sick leave.

In order to qualify for paid sick leave, the employee must:

1. Work for the City at the time of the request.
2. Must not be included by the City in the definition of an Emergency Responder. The City deems Emergency Responders to include all Sworn Police Department personnel, Sworn Fire Department personnel, and all certified water plant operators assigned to work at the City's Water Plant.
3. Must be unable to work or telework for the following reasons:
  - a. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
  - b. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
  - c. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
  - d. The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2); or
  - e. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions; or
  - f. The employee is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
4. Unable to work Determination:
  - a. The City will review all applications for Paid Sick Leave benefits to determine whether the City can provide telework. Employees that are able to telework are not eligible for Paid Sick Leave benefits. The City may, at its discretion, work with the employee to restructure the employee's work hours. Any schedule change will be confirmed in writing by the City.

- i. To establish inability to work, for categories 3(a), (b), (c), (d) and (f), the employee must provide documentation as outlined below as well as documentation from the employee's or affected individual's medical provider if applicable.
  - b. For the employee's own illness or the illness of an individual under the care of the employee, the employee must provide either a written order from a Federal, State or local government, health agency or physician that the employee or the employee's household is under a quarantine or isolation order. This statement or order must be directed at the employee specifically and cannot be a general statement of "shelter in place" or public health emergency.
  - c. If the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis, under section 3 (c), the employee will be given leave subject to production of a note from a physician that the employee was examined by the health care professional as soon as possible. The City may excuse the requirement of a doctor's note in extenuating circumstances.
  - d. If the employee is seeking leave under 3(e), documentation must be provided consistent with the Family and Medical Leave Expansion Act Policy.

## 5. Pay for Sick Leave:

If an employee is eligible for paid sick leave benefits under the Paid Sick Leave Act s/he will be paid as follows:

- a. Full time employees will be paid for up to eighty (80) hours;
    - b. Part-time employees will be paid the average number of hours the employee worked during a two-week period.
    - c. If paid sick leave is requested for reasons set forth in paragraphs 3(a)(b) or (c), the employee will be paid their regular rate of pay but no more than \$511 per day and \$5,110 in total.
    - d. If paid sick leave is requested for reasons set forth in paragraphs 3(d), (e), or (f), the employee will be paid no more than 2/3 of their regular rate of pay up to a maximum of \$200 per day and \$2000 in total.
    - e. Employees should use their Paid Sick Leave Benefits before using their accrued benefit time under the City policy.
- ## 6. Intermittent Paid Sick Leave
- a. For employees that are not eligible to work remotely:
      - i. Intermittent Paid Sick Leave is only allowed if the reason for the leave is reason (e), caring for a child whose school or daycare is closed.
    - b. For employees that are able to work remotely:
      - i. Requests for intermittent Paid Sick Leave will be reviewed on a case-by-case basis.
- ## 7. Paid sick leave shall end the next scheduled workday after the need for leave ends or once the employee has exhausted the benefits under this Policy.

8. Benefits under this policy end on December 31, 2020 unless an employee remains on an approved leave under the FMLA.

### Family and Medical Leave Expansion Act

The Family and Medical Leave Expansion Act (Sec. 102(a)(1)(F)), provides that an employee who has been employed by the City for thirty calendar days who is unable to work or telework may be eligible and request a leave of absence to care for a son or daughter under age 18 due to a public health emergency which has resulted in the closure of an elementary or secondary school or the facility that had been providing child care services for a fee to the employee's child on a regular basis prior to the declaration of a public health emergency on January 31, 2020.

In order to qualify for this leave, the employee must:

1. Have worked for the City for thirty (30) calendar days at the time of the request.
2. Must not be identified by the City as an Emergency Responder. The City deems Emergency Responders to include all Sworn Police Department personnel, sworn Fire Department personnel, certified water plant operators.
3. Must provide the following information and complete the application form provided by the City:
  - a. Notice of closure:
    - i. For a childcare facility, the employee must provide:
      1. The name and age of the child;
      2. A notice from the childcare facility that it is closed as a result of a public health emergency, including the facilities hours of operation; and
      3. Verification that the employee was enrolled in the childcare facility prior to its closure.
    - ii. For a school closure, the employee must provide:
      1. The name and age of the child;
      2. A notice from the school indicating that it is closed and the date it anticipates re-opening (the City will waive this requirement for the duration of the Governor's current "Shelter in Place" Order); and
      3. Evidence that the employee's child was enrolled in the school prior to March 1, 2020.
  - b. Unable to Work (for purposes of childcare):
    - i. The City will review all applications for FMLEA benefits to determine whether the City can provide telework. Employees that are offered telework are not eligible for FMLEA benefits. The City may, at its discretion, work

with the employee to restructure the employee's work hours. Any schedule change will be confirmed in writing by the City.

4. Once the information set forth above is provided, the City will evaluate and discuss with the employee any alternate options or suggestions for enabling the employee to continue to perform work or telework in an alternate or flexible schedule. An employee may not refuse a work from home or telework assignment or refuse to work a modified schedule offered by the employer and still be considered unable to work.
5. Once the determination is made that the employee is eligible for a leave under the FMLEA, the employee will be eligible to receive up to 12 weeks of leave depending on how much FMLA leave the employee has used under the City's FMLA policy.
6. The first two weeks of leave under the Family and Medical Leave Expansion Act are unpaid. During the first two weeks of FMLEA leave; the employees will ordinarily use Paid Sick Leave under the Paid Sick Leave Benefit Act. The only exception is if the employee chooses to take unpaid leave or if the employee has already used his or her entitlement to Paid Sick Leave under that Act.
  - a. If the employee is not eligible for Paid Sick Leave as set forth in the Paid Sick Leave Policy, the employee may utilize other paid benefit time provided the City's policy allows for such use. By way of example, an employee may utilize holiday pay, vacation pay, paid time off, and/or compensatory time if allowed under the City's applicable policies. The City will make an exception to the Sick Leave policy in this limited instance and allow the use of sick leave in addition to other leave types. Additional exceptions may be approved at the discretion of the City Manager.
7. If an employee is unable to work based upon any other FMLA qualifying conditions and/or qualifying conditions under the Paid Sick Leave Act, the employee must complete the Department of Labor's Certification of Health Care Provider Form for the employee or their family member as appropriate.
8. After the first two weeks of leave under the FMLEA, Sec. 102(a)(1)(F), an employee may be eligible for paid time off at the rate of two-thirds of the employee's regular rate of pay for the number of hours the employee would normally be scheduled to work but not to exceed \$200 dollars per day and \$10,000 in total for all FMLEA time.
  - a. If an employee has a schedule that has variable hours from week to week, and the City cannot determine the number of hours the employee would have worked in any week if the employee had continued working instead of taking time off, then the number shall be determined based on:
    - i. the average number of hours the employee worked in the six months prior to the day leave was taken;
    - ii. OR, if the employee did not work for the six months prior to taking leave, the reasonable expectation of the employee at the time of hiring of the average number of hours per day the employee would normally be scheduled to work.

9. Intermittent Leave

- a. Intermittent leave is allowed with permission from the City for expanded FMLEA leave. The City will consider the unique circumstances regarding the request for intermittent leave, such as the employee's availability to work remotely.