

A Families First Corona Virus Response Act Policy

Effective April 1, 2020 through December 31, 2020

Updated April 9, 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.
5. Documentation. The employee must provide the City notice and the following information as soon as practicable after the first workday or portion of a workday for which an employee receives paid sick leave in order to continue to receive such leave:
 - a. The employee's name;
 - b. The dates on which leave is requested;
 - c. The qualifying reason for leave;
 - d. A statement that the employee is unable to work or telework as a result of the qualifying reason for leave; and
 - e. The following information, depending on the reason for the request for leave:
 - i. For reason 3(a), the name of the government agency that issued the quarantine or isolation order.
 - ii. For reason 3(b), the name of the physician who recommend the employee quarantine or isolate. If the employee has a serious health condition, the City may also require the employee to provide an FMLA medical certification form, Form WH-380-E.
 - iii. For reason 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. If the employee has a serious health condition, the City may require the employee to provide an FMLA medical certification form, Form WH-380-E.
 - iv. For reason 3(d), the employee must provide either: the name of the government agency that issued the order, or the name of the physician, whichever applies. If the family member has a serious health condition, the City may also require the employee to provide an FMLA medical certification form, Form WH-380-F.
 - v. For reason 3(e), the employee must provide: (1) the name and age of the child; (2) the name of the School, Place of Care, or Child Care Provider that has closed or become unavailable; and (3) a representation that no other suitable person will be caring for the Son or Daughter during the period for which the Employee takes Paid Sick Leave or Expanded Family and Medical Leave.
 - vi. For reason 3(f), if the employee has a serious health condition, the City may require the employee to provide FMLA certification Form WH-380-E

6. 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 under this policy are employees regularly scheduled to work at least 40 hours per week. 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.

7. 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.

8. 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.

9. 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 person or facility that had been providing child care services 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:
 - i.
 1. The employee's name;
 2. The dates when leave is required;
 3. A statement that the employee is unable to work because of the qualified reason for leave;
 4. The name and age of the child;
 5. The name of the School, Place of Care, or Childcare Provider that has closed or become unavailable; and
 6. A representation that no other suitable person will be caring for the son or daughter during the period for which the employee takes Expanded Family and Medical Leave
 - 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.