

CORONAVIRUS RESPONSE LEAVE POLICY

Effective Date April 1, 2020

Revised and Re-Promulgated April 13, 2020

Revised and Re-Promulgated May 3, 2020

1. **Policy Purpose.** The Families First Coronavirus Response Act (FFCRA) was signed into law on March 18, 2020 in response to the COVID-19 pandemic. This federal law grants additional emergency protections and leave for employees of the City of Columbia, Missouri. The purpose of this policy is to satisfy all requirements of this law and to provide guidance to City employees of their leave rights and responsibilities during the COVID-19 pandemic. This policy will be interpreted and applied in a manner that is consistent with the FFCRA. This policy has been revised effective May 3, 2020.

2. **Effective Date.** The protections and leave provisions provided herein are effective April 1, 2020 and expire December 31, 2020, except as otherwise amended by the City and only in a manner consistent with federal law.

3. **Federal Emergency Sick Leave.**

a. *General.* The FFCRA enacted the Emergency Paid Sick Leave Act (EPSLA) which provides additional paid leave for eligible COVID-19 related purposes. The City refers to this paid leave as “Federal Emergency Sick Leave”. The Federal Emergency Sick Leave is in addition to the City COVID-19 Leave that was previously provided to City employees.

b. *Total Hours of FESL.* Full-time employees may receive up to eighty (80) hours of Federal Emergency Sick Leave. Part-time employees may receive up to a number of hours of Federal Emergency Sick Leave equal to the number of hours that such employee works, on average, over a two (2) week period. For any part-time employees whose hours vary week-to-week, then the City will follow the EPSLA requirements and the U.S. Department of Labor’s guidance to calculate the number of hours the employee may receive.

c. *Eligibility for FESL.* For administrative tracking purposes, the City has categorized the eligible Federal Emergency Sick Leave as Type I and Type II Leave. An employee may use Federal Emergency Sick Leave when the employee is unable to work (or telework) due to a need for leave because of any one of the following.

Type I Eligible Federal Emergency Sick Leave

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19¹.
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

Type II Eligible Federal Emergency Sick Leave

¹ The City’s Stay at Home Order issued by the Columbia Director of Public Health and Senior Services on March 24, 2020 meets the definition of a “quarantine or isolation order related to COVID-19” under the FFCRA Regulations published April 1, 2020.

- (4) The employee is caring for an individual who qualifies under categories (1) or (2) above.
- (5) 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 child care provider of such son or daughter is unavailable due to COVID-19 precautions.
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of the U.S. Health and Human Services in consultation with the Secretary of the U.S. Treasury and the U.S. Secretary of Labor.

d. *Employee FESL Responsibilities.* It is the employee's responsibility to indicate on his or her timesheet which Type of Federal Emergency Sick Leave that he or she is seeking. Employees shall also adhere to and abide by any reasonable notice procedures or administrative requirements in order for the employee to continue receiving such paid sick time as required by the respective Departments. In addition to following departmental notice requirements, the employee must complete a Request for Federal Emergency Sick Leave form. Leave will be granted if all federal rules and guidelines are met.

e. *Rate of Pay for FESL.* At this time, all Federal Emergency Sick Leave will be paid at the employee's regular rate of pay. The City has elected not to adopt the federal pay cap limits under the FFCRA² or to restrict an employee to two-thirds (2/3) regular rate of pay for Type II Federal Emergency Sick Leave. The City reserves the right to adopt such federal caps and limits in the future provided that, prior to adopting, the City shall provide reasonable notice to employees of the change in policy.

4. **FMLA Plus Leave.**

a. *General.* The FFCRA has amended the existing Family and Medical Leave Act (FMLA) to provide a new category of protected leave which the City refers to as "FMLA Plus" leave.

b. *FMLA Plus Eligibility.* An employee may be eligible for FMLA Plus leave if the employee:

- (1). Has been employed by the City for thirty (30) or more calendar days; and
- (2). Is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable due to an emergency with respect to COVID-19 declared by a Federal, State or local authority.

c. *Pay Status for FMLA Plus.* An employee's initial ten (10) days of FMLA Plus leave is unpaid so the employee **is required to use any applicable paid leave** the employee has available. Depending on what has been used by the employee in the past, these may include City COVID-19 Leave, Federal Emergency Sick Leave, or any other applicable accruals.

After the initial ten (10) days, then the City will pay the qualifying employee at a rate of two-thirds (2/3) his or her regular rate of pay for the remaining duration of the employee's FMLA Plus leave. The employee **is required to use any applicable paid leave** the employee has available for the remaining one-third (1/3) of the regular rate of pay. Depending on what has

² The federal cap limits for Federal Emergency Sick Leave is the following: for Type I, the maximum pay cap is \$511 per day and \$5,110 in aggregate; for Type II, the maximum pay cap is \$200 per day and \$2,000 aggregate.

been used by the employee in the past, these may include City COVID-19 Leave, Federal Emergency Sick Leave, or any other applicable accruals the employee has available.

d. *Rate of Pay for FMLA Plus Leave.* At this time, all FMLA Plus Leave will be paid as provided above. The City has elected not to adopt the federal pay cap limits for FMLA Plus leave provided under the FFCRA³. The City reserves the right to adopt the federal caps for FMLA Plus leave in the future. Prior to adopting the federal caps, the City shall provide reasonable notice to employees of the change in policy.

e. *Existing FMLA Rules Apply.* All other rights and responsibilities regarding the FMLA apply to the emergency FMLA Plus leave. Employees are entitled to up to twelve (12) weeks of FMLA leave per year, and any FMLA used prior to the enactment of FMLA Plus still counts towards the twelve (12) weeks. Family Medical Leave time is tracked using a rolling 12 month period (backwards). The City uses FMLA Source to administer this leave and employees should use normal procedures applicable to FMLA requests to obtain FMLA Plus. A supervisor must complete the FMLA Request Form that can be found here: <https://www.como.gov/CMS/WebForms/form.php?formid=279>.

5. **City COVID-19 Leave.** The City Manager has previously granted employees City COVID-19 Leave. This is in addition to the leave provisions provided for herein. The terms and conditions of this leave are set forth in the City's COVID-19 Leave Policy, revised and re-promulgated April 1, 2020.

6. **Miscellaneous Provisions.**

a. *Health Care Providers or Emergency Responders Exception.* At this time, the City is choosing not to exclude any employees who are considered to be health care providers or emergency responders, as defined in the FFCRA regulations, from the leave provisions herein. The City Manager, in his or her sole discretion, reserves the right to exercise such option to exclude these essential employees in a manner consistent with the provisions of the FFCRA. If the City exercises the exclusion, then the City will provide reasonable notice to any impacted employees.

b. *Overtime Leave Prohibited.* Employees shall not be allowed to use the paid leave provisions herein to receive overtime pay.

c. **Questions.** For questions related to this policy, employees shall contact his or her supervisors, managers or Department Director. A Department Director may contact Human Resources at any time for additional clarification.

³ The federal cap limits for FMLA Plus Leave is \$200 per day and \$10,000 in aggregate.