

EMERGENCY EXECUTIVE ORDER 2021-01

AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF POMONA, CALIFORNIA, EXTENDING CERTAIN LEAVE PROVISIONS FOR CITY EMPLOYEES FOR COVID-RELATED QUARANTINE AND ILLNESS

SECTION 1. Findings.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”).
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.
- D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments to prevent the spread of and address the effects of COVID-19.
- E. On March 18, 2020, the federal government passed the Families First Coronavirus Relief Act (FFCRA), which provided for COVID-related leave provisions for employees for the period of April 1, 2020 through December 31, 2020, with the option to exclude emergency responders.
- F. The City implemented the FFCRA and excluded Group A employees, all police employees, all water resources employees, solid waste employees, and signal/lighting employees.
- G. On September 9, 2020, the State of California passed Assembly Bill 1867 to provide COVID-related leave provisions to emergency responders who were excluded from the FFCRA retroactive to April 1, 2020.
- H. The City implemented an Emergency Paid Sick Leave for Emergency Responders Policy and applied it to all emergency responders previously excluded from the FFCRA implementation.
- I. On December 21, 2020, the federal government passed the Consolidated Appropriations Act, 2021 (Emergency Coronavirus Relief Package) which did not

extend the FFCRA but did extend the tax credit for private businesses as a means to incentivize them to continue to provide additional COVID-related leave benefits.

- J. As of January 5, 2021, the State of California has not extended the leave benefits.
- K. With the Intensive Care Unit (ICU) bed capacity rapidly decreasing throughout California, the Governor of the State of California issued a State Regional Stay at Home Order on December 3, 2020, that would trigger greater restrictions on a region consisting of multiple counties depending upon that region's ICU hospital bed availability. Once a region has less than 15 percent ICU availability, all counties within the region are required to follow the State Regional Stay at Home Order within 24 hours for at least three weeks.
- L. Effective December 30, 2020, Los Angeles County Department of Public Health extended its Safer at Home Order, which continues to require social distancing, as well as requirements for self-isolation for persons ill or presumed to be ill with COVID-19 and quarantine for persons exposed to persons with COVID-19.
- M. The City of Pomona as an employer is required to ensure employees do not report to the worksite if they are subject to a self-isolation or quarantine order consistent with the County Public Health orders.
- N. The Southern California Region, which the City of Pomona is a part of, was at zero percent (0%) ICU capacity as of January 5, 2021.
- O. The situation is unprecedented and evolving rapidly.
- P. Although the COVID-related leave provisions provided by Federal and State Law expired, the infection rate is at the highest level to date in the State of California.
- Q. City employees are testing positive and reporting exposures to COVID-19 infected persons on a frequent basis. Continuing the COVID-related leave is in the interest of public health and safety to ensure employees continue to report infection, observe self-isolation and quarantine orders.
- R. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this order related to the protection of life and property.
- S. This Order is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and Chapter 2.56 of the Pomona Municipal Code to protect the peace, health, and safety of the public. This order is necessary for the preservation of the public peace, health, and safety of residents living within the City.

NOW, THEREFORE, I, James Makshanoff, the Director of Emergency Services for the City of Pomona, do hereby issue the following Order to become effective immediately, subject to concurrence, clarification, or revision as soon as practicable by the City Council:

IT IS HEREBY ORDERED THAT:

SECTION 1. Continuation of COVID-related FFCRA leave. Because of the local emergency, the City hereby continues the provisions of the FFCRA leave as it relates to COVID-related illness and quarantine only as shown in Exhibit A through March 31, 2021. If the Federal or State government subsequently extends or implements substantially similar leave, this leave will count toward any such leave mandated by law.

SECTION 2. Continuation of COVID-related leave for Emergency Responders. Because of the local emergency, the City hereby continues the provisions of the Emergency Responder leave as shown in Exhibit B through March 31, 2021. If the Federal or State government subsequently extends or implements substantially similar leave, this leave will count toward any such leave subsequently mandated by law.

SECTION 3. Advancement of Sick Leave Accruals. In the event that an employee exhausts all available leave accruals, including but not limited to, vacation, compensatory time, floating holiday, executive leave, on-call leave bank, and furlough leave, the employee may voluntarily elect to be advanced up to 80 hours of sick leave for absence covered under the COVID-related leave policies in Section 1 and 2. The sick leave will be paid back out of future sick leave accruals. The employee must utilize the sick leave advancement in order to be eligible to apply for catastrophic leave.

SECTION 4. Due to the urgent nature of this action, meet and confer was not completed prior to implementation. Pursuant to Government Code section 3504.5(b) the City shall notify each recognized employee organization of this Order and provide them with an opportunity to meet and confer at the earliest practicable time.

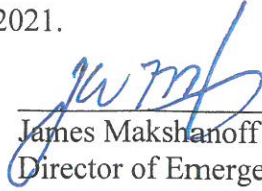
SECTION 5. These provisions are in effect from January 1, 2021 through March 31, 2021.

SECTION 6. This Order may be superseded by a duly enacted Resolution of the City Council or a further Order by the Director of Emergency Services adopted during the local emergency that expressly supersedes this Order.

SECTION 6. This Order shall become effective immediately and remain in effect until March 31, 2021, unless extended.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or word of this Order is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Order.

APPROVED AND ADOPTED this 12th day of January, 2021.


James Makshanoff
Director of Emergency Services

ATTEST:


City Clerk

Attachments

Exhibit A – Families First Coronavirus Relief Act Extension Policy

Exhibit B - Emergency Paid Sick Leave Policy for Emergency Responders



Exhibit A

Approved: April 12, 2020
Revised and Extended: January 11, 2021

City Manager's Approval: _____

**THE CITY OF
POMONA**

**COVID-19 EMERGENCY
FAMILIES FIRST CORONAVIRUS RESPONSE
ACT EXTENSION POLICY**

The purpose of this revised temporary policy is to extend the emergency paid sick leave provisions of the Families First Coronavirus Response Act (FFCRA) to assist employees affected by the COVID-19 outbreak. The original policy was in effect from April 1, 2020 until December 31, 2020.

Given the expiration of this leave entitlement, the City has considered the impact to City staff and the safety of the workplace. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the City will continue to provide Emergency Paid Sick Leave to ensure employees quarantine or isolate from the workplace in accordance with federal, state, and local orders when they have been exposed or are experiencing symptoms of COVID-19.

The City is extending Emergency Paid Sick Leave (EMPDSL) from January 1, 2021 through March 31, 2021 or through the expiration date provided by the federal or state government should they extend such benefits, whichever is later. This is not a new entitlement to an additional 80 hours, but an extension of the timeframe for employees to utilize this leave if it has not been previously used.

EMERGENCY PAID SICK LEAVE

I. PURPOSE OF EMERGENCY PAID SICK LEAVE

The revised and extended Policy continues the Emergency Paid Sick Leave benefit to employees unable to work (or unable to telework) due to reasons related to COVID-19.

II. EMPLOYEES ELIGIBLE FOR LEAVE

Full-time and part-time employees are eligible for this leave as follows.

- A. All employees are eligible for this leave upon hire.
- B. Employee is unable to work or telecommute.
- C. Emergency responders are excluded from the FFCRA. Emergency responders

Families First Coronavirus Response Act (Continued):

are defined as anyone needed for the response to COVID-19. This includes but not limited to, sworn personnel, dispatchers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. Emergency responders for purposes of this policy include all Group A employees, all Police Department employees, all Water Resources employees, all Solid Waste employees up through Public Works Director, and all Signal and Lighting employees up through Public Works Director.

III. REASONS FOR LEAVE

Employees are entitled to Emergency Paid Sick Leave at their regular rate of pay for the following reasons:

- 1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- 2) The employee is advised by a health care provider to self-quarantine related to COVID-19; or
- 3) The employee is prohibited from working by the employer due to health concerns related to the potential transmission of COVID-19.

IV. AMOUNT OF PAID LEAVE

- A. For qualifying reasons above, full-time employees are eligible for up to two weeks (up to 80 hours) of paid leave, not to exceed \$5,110. Part-time employees are eligible for the number of hours of leave that the employee works on average over a two-week period, not to exceed \$5,110.
 - a. For part-time employees with varying hours, one of two methods will be used to calculate hours paid.
 - i. The average number of hours that the employee was scheduled per pay period over the 6-month period (excluding the pay periods for Thanksgiving and Christmas) ending on the date on which the employee takes leave, including hours for which the employee took leave of any type; or,
 - ii. If the employee has worked less than 6 months, the expected number of hours to be scheduled per pay period at the time of hire.
- B. Maximum amount of leave may be for any combination of qualifying reasons and total number may not exceed amount of leave as stated in IV.A. or the maximum cap in pay as stated in section IV.A.
- C. Unused leave does not carry over for any employee.

Families First Coronavirus Response Act (Continued):

- D. Emergency Paid Sick Leave shall be compensated in the same manner as other accrued leaves in accordance with the employee's Memorandum of Understanding or Compensation Plan.
- E. If the federal or state government subsequently extends or implements a substantially similar leave, this leave will count toward the total number of hours of COVID-19 supplemental leave, as required by federal or state laws for the same reasons as set forth in this Policy.

V. INTERACTION AND SUBSTITUTION WITH OTHER PAID LEAVES

- A. Employee may use emergency paid sick leave under this policy before using any other accrued leave for time off for qualifying reasons.
- B. If employee reaches their cap, they may supplement with any accruals to achieve 100% of the regular rate of pay.

VI. INTERMITTENT LEAVE

In certain situations, the City may allow employees to use the emergency paid sick leave on an intermittent basis as follows:

- A. Employee is unable to telework and has a need for flexibility.
- B. Department reviews situation and agrees that employee can take emergency paid sick leave intermittently while teleworking.

VII. REQUIRED FORMS AND DOCUMENTATION

- A. Employee must submit the Request for Leave form as provided by Human Resources.
- B. Employee must provide supporting documentation in support of the reason for paid sick leave. Documentation will vary depending on the reason.

VIII. EXPIRATION

The provisions under this Policy shall expire on December 31, 2020 or when the FFCRA is no longer effective. The City is extending this Policy from January 1, 2021 through March 31, 2021 or through the expiration date should the federal or state government extend such benefits, whichever is later.



Exhibit B

Approved: September 30, 2020
Extended: January 11, 2021

City Manager's Approval: _____

**THE CITY OF
POMONA**

**COVID-19 EMERGENCY
EMERGENCY PAID SICK LEAVE
FOR EMERGENCY RESPONDERS POLICY**

Assembly Bill (AB) 1867 was signed into law on September 9, 2020. On September 17, 2020, the City approved a policy to comply with AB 1867, Labor Code Section 248.1 to assist employees affected by the COVID-19 outbreak. The policy is in effect September 19, 2020 until December 31, 2020 or the date of expiration for the benefits provided under the Emergency Paid Sick Leave Act should the federal government extend such benefits, whichever is later.

Upon mutual agreement of the City and employee, these benefits may apply retroactively to April 1, 2020 and expire on December 31, 2020.

Given the expiration of this leave entitlement, the City has considered the impact to City staff and the safety of the workplace. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the City will continue to provide Emergency Paid Sick Leave to ensure employees quarantine or isolate from the workplace in accordance with federal, state, and local orders when they have been exposed or are experiencing symptoms of COVID-19.

The City is extending Emergency Paid Sick Leave (EPSL) from January 1, 2021 through March 31, 2021 or through the expiration date provided by the federal or state government should they extend such benefits, whichever is later. This is not a new entitlement to an additional 80 hours, but an extension of the timeframe for employees to utilize this leave if it has not been previously used.

I. PURPOSE OF EMERGENCY PAID SICK LEAVE

The revised and extended Policy continues the Emergency Paid Sick Leave benefit to emergency responders who are excluded from the City's Families First Coronavirus Relief Act (FFCRA) Policy.

II. EMPLOYEES ELIGIBLE FOR LEAVE

- A. This policy applies to full-time and part-time employees who are excluded from the City of Pomona's FFCRA policy due to their status as an emergency

Emergency Paid Sick Leave for Emergency Responders (Continued):

responder. This includes all Group A employees, all Police Department employees, all Water Resources employees, all Solid Waste employees up through Public Works Director, and all Signal and Lighting employees up through Public Works Director.

- B. Employees are eligible for this leave upon hire.
- C. The Employee must be unable to work or telework.

III. REASONS FOR LEAVE

Employees are entitled to Emergency Paid Sick Leave for the following reasons:

- 1) The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- 2) The employee is advised by a health care provider to self-quarantine or self isolate due to concerns related to COVID-19; or
- 3) The employee is prohibited from working by the employer due to health concerns related to the potential transmission of COVID-19.

IV. AMOUNT OF PAID LEAVE

- A. For qualifying reasons above, full-time employees are eligible for up to two weeks (up to 80 hours) of paid leave, not to exceed \$5,110. Part-time employees are eligible for the number of hours of leave that the employee works on average over a two-week period, not to exceed \$5,110.
 - a. For part-time employees with varying hours, one of two methods will be used to calculate hours paid.
 - i. The average number of hours that the employee was scheduled per pay period over the 6-month period (excluding the pay periods for Thanksgiving and Christmas) ending on the date on which the employee takes leave, including hours for which the employee took leave of any type; or,
 - ii. If the employee has worked less than 6 months, the expected number of hours to be scheduled per pay period at the time of hire.
- B. Maximum amount of leave may be for any combination of qualifying reasons and total hours taken may not exceed the number of hours or dollar cap as stated in IV.A.
- C. Unused leave does not carry over for any employee.

Emergency Paid Sick Leave for Emergency Responders (Continued):

- D. Emergency Paid Sick Leave shall be compensated in the same manner as other accrued leaves in accordance with the employee's Memorandum of Understanding or Compensation Plan.
- E. If the federal or state government subsequently extends or implements a substantially similar leave, this leave will count toward the total number of hours of COVID-19 supplemental leave, as required by federal or state laws for the same reasons as set forth in this Policy.

V. INTERACTION AND SUBSTITUTION WITH OTHER PAID LEAVES

- A. Employee may use emergency paid sick leave under this policy before using any other accrued leave for time off for qualifying reasons.
- B. If an employee reaches his/her cap, he/she may supplement with any other leave accruals to achieve 100% of pay.

VI. INTERMITTENT LEAVE

- A. In most cases, the leave will be taken in full day increments. In certain situations, the City may allow employees to use the emergency paid sick leave on an intermittent basis. One such situation is when telework is available for part of a day.

VII. REQUIRED FORMS AND DOCUMENTATION

- A. Employee must submit the Request for Leave form as provided by Human Resources.
- B. Employee must provide supporting documentation in support of the reason for paid sick leave. Documentation will vary depending on the reason.

VIII. EXPIRATION

The provisions under this Policy shall expire on December 31, 2020 or when the FFCRA is no longer effective. The City is extending this Policy from January 1, 2021 through March 31, 2021 or through the expiration date should the federal or state government extend such benefits, whichever is later.