



**HR – Emergency Paid Sick Leave and Emergency
FMLA Expanded Leave for Non-Emergency
Responders Related to COVID-19
City of Crystal Lake Administrative Directive**

PURPOSE:

The Governor of the State of Illinois has issued a disaster proclamation because of the COVID-19 virus outbreak. The Mayor has declared a state of emergency in the City of Crystal Lake because of the COVID-19 virus outbreak and the World Health Organization declared the COVID-19 virus outbreak a worldwide global pandemic. Under the Governor’s proclamation, the City of Crystal Lake and the services it provides to residents and businesses are essential services.

During the COVID-19 pandemic and the declared national emergency, the City of Crystal Lake is committed to serving the needs of our community. In order to provide essential services for the health, safety and welfare of the community, it is critical all City employees be available to work to maintain operations.

On March 18, 2020, the Federal Government enacted the Families First Coronavirus Response Act (FFCRA).

Per the FFCRA, Emergency Paid Sick Leave Act, all regular full-time and part-time employees who have not been designated as an emergency responder may receive up to a maximum 80 hours of paid emergency sick leave (or the number of hours the employee works on average over a 2-week period for part-time employees) for the purposes and uses outlined in this directive.

The following positions are not designated as Emergency Responders for purposes of this policy:

- Three Oaks Recreation Manager
- Office Assistant
- Administrative Assistant
- Police Records Assistant
- Development Services Representative
- Financial Services Representative
- Development Services Specialist
- Human Resources Assistant
- Executive Assistant
- Public Works Analyst
- Accountant
- Support Services Coordinator
- Plans Examiner
- Assistant City Planner
- Assistant to the City Manager
- Civil Engineer
- Assistant Finance Director
- Capital Engineering Manager
- City Engineer
- City Planner
- Economic Development Manager

EMERGENCY PAID SICK LEAVE

PROCEDURE:

Employees not designated as emergency responders as defined in the FFCRA may take up to 80 hours of emergency paid sick leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 (To qualify for emergency paid sick leave, an employee must provide a quarantine or isolation order directed to the employee or the employee's household specifically. The criteria for paid leave cannot be based upon general direction to the public, "shelter in place" or public emergency order); or
2. Has been advised by a health care provider to self-quarantine for reasons related to COVID-19; or
3. Has a COVID-19 medical diagnosis or is experiencing COVID-19 symptoms and is seeking a medical diagnosis; or
4. Is caring for an individual subject or advised to quarantine or isolation related to COVID-19;
5. Is caring for a son or daughter whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions; or
6. Is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

To be eligible to receive Emergency Paid Sick Leave under Categories 1, 2, and 3 of this policy, employees must provide sufficient medical documentation supporting the need for a leave, including a DOL Certificate of Healthcare Provider for the employee or their immediate family member as defined by the FMLA. If the employee provides sufficient medical documentation, the City will pay the employee under Categories 1, 2, and 3 at the rate of 100% the employee's base hourly rate up to a maximum of \$511 per day and a maximum aggregate of \$5,110 for 80 hours total.

To be eligible to receive Emergency Paid Sick Leave under Categories 4, 5, and 6 of this policy, employees must provide sufficient documentation supporting the need for a leave, including a DOL Certificate of Healthcare Provider for the employee or their immediate family member as defined by the FMLA for Categories 4 and 6. The City will compensate employees who provide sufficient documentation, including a DOL Certificate of Healthcare Provider for Categories 4 and 6 above, at the rate of two-thirds (2/3) the employee's base hourly rate of pay with a maximum of \$200 per day and a total aggregate of \$2,000.

Employees are required to provide documentation of the need for leave under Category 5, including the qualifying reason for requesting the leave; the dates the leave is requested; notice from a school or daycare provider of a closure; or other reasonable documentation.

Regarding Categories 4, 5, and 6 above, an employee may use accrued benefit time to supplement the remaining 1/3 of unpaid time at the employee's election. Employees will not be entitled to use benefit time to exceed 100% of their daily salary. Employees may use accrued sick (as allowed by the provisions in the Sick Leave Administrative Directive), vacation, personal business, or comp time for purposes of supplementing wages.

Emergency Paid Sick Leave is a combined benefit, meaning an employee is only entitled to a maximum of 80 paid hours over a two-week period. In other words, an employee is not entitled to 80 paid hours of leave for *each* of the qualifying Emergency Paid Sick Leave reasons.

For purposes of determining whether an employee covered by this policy is unable to work, the employee must provide a statement from the employee's supervisor and/or Department Director that the supervisor/Department Director is unable to provide the employee with work or telework so that the employee can perform work from home and/or telework from home provided the employee is physically capable of doing so.

The City will work proactively with the employee to determine whether the Department is able to modify the employee's schedule or provide employee with the ability to work remotely or telework. Employees cannot refuse to modify their schedules or refuse to work remotely/telework in order to meet the definition "unable to work."

To establish inability to work, for categories 1, 2, 3, 4, and 6, the employee must utilize the DOL's Certificate for Healthcare Provider for the employee's serious health condition or the serious health condition of an immediate family member as defined by the FMLA. The DOL Certificate for Healthcare Provider form is available on the Intranet or from Human Resources.

Employees will not be paid any sick leave benefits until the healthcare provider's note is submitted to the City. If the employee is diagnosed with a serious health condition, the employee must submit to the City a completed DOL Certificate of Health Care Provider for the employee's own serious health condition or that of a family member's health care condition.

Additional time as appropriate may be granted per the Family and Medical Leave Act (FMLA).

The following guidelines apply to emergency paid sick leave under this policy:

- This policy will only be in effect from April 1, 2020 until December 31, 2020 and any leave take must be completed on or before December 31, 2020.
- A maximum of 80 paid hours of emergency sick leave is available April 1, 2020 through December 31, 2020 to be used only for purposes described in this policy.
- For Categories 1, 2, 3, 4, and 6, emergency sick leave hours must be taken in full-day increments and the employee must continue to take paid sick leave each day until the employee either:
 - Uses the full amount of emergency paid sick leave; or

- No longer has a qualifying reason for taking emergency paid sick leave.
- For Category 5, emergency sick leave may be taken intermittently with approval from the Department Director, Director of Human Resources, and the City Manager until the employee either:
 - Uses the full amount of emergency paid sick leave; or
 - No longer has a qualifying reason for taking emergency paid sick leave.
- Emergency Paid Sick Leave may run concurrently with unpaid leave under the Family and Medical Leave Act (FMLA) if applicable. An employee may be entitled to additional leave under the City's FMLA policy but must comply with the requirements of the City's FMLA policy to qualify for any additional leave time.
- The Department Director or Director of Human Resources will require a statement from a licensed health care provider and/or DOL Certificate of Healthcare Provider confirming the illness and indicating the employee's condition falls within one of the criteria listed above and that the employee is unable to work (including telework). Appropriate documentation includes:
 - The source of any quarantine or isolation order and may include a copy of the Federal, State or local quarantine or isolation order related to COVID-19 specifically applicable to the employee or immediate family member as defined by the FMLA;
 - the name of the health care provider who has advised the employee or immediate family member as defined by FMLA to self-quarantine due to concerns related to COVID-19;
 - DOL Certificate of Healthcare Provider certifying the serious health condition of the employee or an immediate family member.
- Employees are responsible for obtaining this health care provider's statement when requested by the City. Payment of sick leave under this policy may be withheld pending the submission of proof of illness.
- Emergency paid sick leave will be calculated at the employee's hourly rate at the time of leave use.
- Emergency paid sick leave hours under this policy and the FFCRA will not carry over or be available after December 31, 2020 or be paid out upon employment termination. Emergency paid sick leave is not eligible to be used to purchase IMRF service credit upon retirement.

FAMILY AND MEDICAL LEAVE EXPANSION ACT:

An employee who has been employed with the City for at least 30 calendar days is eligible for leave under the Family and Medical Leave Expansion Act. Should the employee need leave for Reason 5 above (school closure/childcare due to COVID-19), the first two weeks of leave under the FML Expansion Act is unpaid. The FFCRA permits an employee to substitute Emergency Paid Sick Leave provided under the FFCRA for the first two weeks of unpaid leave under the FML Expansion Act. Employees may also substitute accrued benefit time for the first two weeks of unpaid leave under the FML Expansion Act.

Employees may be eligible for an additional 10 weeks of leave (a maximum of 12 weeks under the FMLA) depending upon how many weeks of FMLA leave the employee has taken in the past 12 months. The City calculates FMLA leave on a rolling 12-month basis. A determination of whether

an employee is entitled to any additional leave will depend upon how much FMLA time the employee has previously utilized.

If the employee is eligible for any additional time off under the FML Expansion Act, the remaining maximum 10 weeks are paid at two-thirds (2/3) of the employee's regular rate, at maximum daily rate for the remaining 10 weeks is \$200 with a maximum of \$12,000 aggregate. An employee may also substitute accrued benefit time for the 1/3 of unpaid time under the FML Expansion Act. Supplemented paid leave can be accrued sick (as allowed by the provisions in the Sick Leave Administrative Directive), vacation, personal business, or comp time.

Employees are required to provide documentation of the need for leave under the FML Expansion Act including the qualifying reason for requesting the leave; the dates the leave is requested; notice from a school or daycare provider of a closure; or other reasonable documentation.

For purposes of leave under the FML Expansion Act, an employee must not be able to work or telework. To do so, the employee must present a statement from the employee's supervisor and/or Department Head stating:

1. The supervisor and/or Department Director is unable to provide the employee with work or telework so that the employee can perform work from home and/or telework from home during the employee's regular work schedule; or
2. The Department Director is unable to modify the employees' schedule or provide employee with the ability to work remotely or telework on a modified schedule. (Employees cannot refuse to modify their schedules or refuse to work remotely/telework in order to meet the definition of "unable to work."); or
3. The employee works a daytime shift (during school hours) and that the supervisor and/or Department Director is unable to schedule the employee to work flexible hours/times or days when the employee's child would not otherwise have been at school or daycare; for example, can the employee be scheduled to work a second shift when the employee's spouse is normally at home.

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.

Intermittent leave under the FML Expansion Act may be taken with approval from the Department Director, Director of Human Resources, and the City Manager.

RESPONSIBILITY:

All City employees shall have the responsibility of familiarizing themselves with this directive and adhering to it. Any unauthorized use or abuse of emergency sick leave privileges for purposes other than those outlined above shall be grounds for disciplinary action, up to and including termination, and will be considered when reviewing the employee's overall performance.

Information regarding any diagnosis, official quarantine and/or information concerning an employee's illness or disability will remain confidential from all non-need-to-know employees and kept in the employee's medical files, which are in the possession of the Human Resources Department.

Department Directors and supervisors shall have the responsibility to ensure that employees under their supervision fulfill the requirements of this directive. In addition, all supervisors shall assist with the administration of this directive.

Approved By: 
City Manager

Revised: 08/13/2020
Original Effective Date: 04/01/2020