

ORDINANCE NO. 2021-1

Introduced by Monty Tapp

AN ORDINANCE EXTENDING PAID SICK LEAVE AND EXPANDED MEDICAL LEAVE PROVIDED UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) THROUGH MARCH 31, 2021, AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave or expanded family and medical leave (EFML), which is defined under the Emergency Family and Medical Leave Expansion Act (EFMLEA) and Emergency Paid Sick Leave Act (EPSLA). The City of Huron (City) provides its employees with paid leave for specified reasons related to COVID-19 under the FFCRA, which paid leave benefits are classified as "Paid Emergency Sick Leave." Benefits were provided under the FFCRA through December 31, 2020. In an effort to mitigate the spread of coronavirus in the workplace, the City has gratuitously extended the deadline through March 31, 2021, under the City's home rule Charter. A copy of the City's Emergency FMLA and Paid Sick Leave Policy is attached hereto as Exhibit A.

SECTION 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the residents and for the further reason that this Ordinance shall become immediately effective to fund the operations of the City of Huron; additionally, in accordance with Section 3.06 of the Charter of the City of Huron, appropriation ordinances shall take effect immediately;

WHEREFORE, this Ordinance shall take effect immediately upon its adoption.



Sam Artino, Mayor

ATTEST: 
Clerk of Council

ADOPTED: 12 DEC 2021



Emergency FMLA and Paid Sick Leave Policy

General Statement of Rights

The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave or expanded family and medical leave (EFML), which is defined under the Emergency Family and Medical Leave Expansion Act (EFMLEA) and Emergency Paid Sick Leave Act (EPSLA). The City of Huron (City) provides employees with **paid leave** for specified reasons related to COVID-19 under the FFCRA. The City classifies paid leave benefits under these acts as “Paid Emergency Sick Leave” benefits. Benefits under these acts will apply through December 31, 2020. In an effort to mitigate the spread of coronavirus in the workplace, the City has gratuitously extended the deadline through March 31, 2021, under the City’s home rule Charter.

An eligible employee may take up to a total of 12 work weeks of leave during a 12-month period for one or more qualifying reasons set forth in the City’s FMLA Policy or for a qualifying need related to a public health emergency. For purposes of this policy, the 12-month period is calculated as a “rolling” 12-month period measured backward from the date of any FMLA leave usage and is not a calendar year. The Paid Emergency Sick Leave established by the FFCRA is not an additional 12 weeks. For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy, if eligible.

Under this policy, all employees are eligible for an aggregate total of three weeks (120 hours) of Paid Emergency Sick Leave for specified reasons related to COVID-19, which will include any Paid Emergency Sick Leave hours utilized since the effective date of the FFCRA (April 1, 2020). Employees employed for at least 30 days are eligible for up to an additional 10 weeks of Expanded FMLA to care for a child under certain circumstances related to COVID-19.

Qualifying Reasons for Paid Emergency Sick Leave:

Under the EFMLEA and EPSLA, an employee qualifies for Paid Emergency Sick Leave if the employee is unable to work (or unable to telework) due to a need for leave because of any of the following reasons:

Reason #1 The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.

Clarifications for Reason #1 • The governmental order must be the reason the employee is unable to work; that is, the employee is otherwise available and able to work.

- Reason #1 does not apply to employees who are furloughed or laid off, employees for whom the City does not have work or shifts, or employees who are able to telework.

Reason #2 The employee has been advised by a health care provider to self-quarantine related to COVID-19.

Clarifications for Reason #2

- The advisory to self-quarantine must be for reasons relating to the employee's own condition.

Reason #3 The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.

Clarifications for Reason #3

- To qualify for Reason #3 the employee must be **actively seeking** a medical diagnosis.
- The employee must report on the outcome of the employee's efforts to obtain a diagnosis.
- If the employee's health care provider says no coronavirus test is recommended for you, Reason #2 may apply if the provider still advises self-isolation.

Reason #4 The employee is caring for an individual subject to an order described in Reason #1 or self-quarantine as described in Reason #2.

Clarifications for Reason #4

- But for obligation to care for the individual patient, the employee would be willing and able to work.
- The employee must have a personal relationship the individual requiring care, with an expectation that the employee is to be the person caring for the individual.
- The individual receiving care must be subject to Reason #1 or Reason #2.

Reason #5 The employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Clarifications for Reason #5

- But for need to care for the employee's own child, the employee would be willing and able work.
- The employee's child must be under 18 or require the employee's care due to a disability.
- Reason #5 does not apply if the employee can care for the child and still work or telework, or if there is someone else caring for child.
- The first two weeks of Reason #5 are considered Paid Sick Leave; thereafter, the benefit is available to those employees eligible for paid Expanded Family and Medical Leave.

Reason #6 The employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

- There are no HHS specifications at the time of this policy.

Notice of Leave:

Employees who need leave for one of the above reasons must provide the City with notice as soon as practicable.

Employees should submit requests for Paid Emergency Sick Leave to the Department head and Personnel Officer. Employees should also submit a written statement describing the circumstances which they believe qualify them for this type of leave.

The City will determine whether the leave qualifies as Paid Emergency Sick Leave, designate it as leave that counts against the employee's twelve (12) week entitlement, if appropriate, and notify the employee that the leave has (or has not) been designated as Paid Emergency Sick Leave.

Written Leave Documentation

After the employee gives notice, the employee must still provide written documentation regarding Paid Emergency Sick Leave. This documentation provides the employer with the basis for administering leave and utilizing CARES ACT funding, and imposes stricter conditions on the employee.

****Written leave documentation is required before paid leave is approved, and is in addition to the notice requirement****

Regardless of the form of notice of leave, employees must provide the following information in writing before paid leave is approved:

1. The employee's name;
2. The date or dates for which leave is requested;
3. A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason (see table below); and
 - a. If available, the employee must submit documentation from their health care provider or department of health.
4. A statement that the employee is unable to work, including by means of telework, for such reason.

Reason for Leave	Required Documentation
Reason #1	<ul style="list-style-type: none">• Name of the government agency issuing the order.
Reason #2	<ul style="list-style-type: none">• Name of employee's health care provider.
Reason #3	<ul style="list-style-type: none">• Name of the employee's health care provider from whom the employee is actively seeking a diagnosis• Report on results of seeking a diagnosis
Reason #4	<ul style="list-style-type: none">• Name of the individual being cared for• The relationship between the individual and the employee• A statement that the employee is expected to care for the individual

and

- Name of the government agency issuing the order pertaining to the individual, or
Name of the health care provider providing the basis for the individual's need for care under Reason # 1 or Reason #2.

Reason #5

- Name & age of child.
- Name of school.
- Representation that no other person will be providing care for the child during the leave period.

Additional information to be contained in any intermittent leave agreement under Reason #5:

- Agreed leave increment
- Agreed schedule

Duration of Leave:

For Reasons #1-#4 and Reason #6: A full-time employee is eligible for 120 hours of leave. A part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period. Intermittent leave is not available for Paid Emergency Sick Leave other than child care leave.

For Reason #5: A full-time employee is eligible for up to 12 weeks of leave (three weeks of paid sick leave, subject to the total aggregate 120-hour limit on all Paid Emergency Sick Leave, followed by up to 10 weeks of paid Expanded Family & Medical Leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period. Child care leave may be taken intermittently if the City and employee agree on a schedule in writing.

All prior paid emergency sick leave used under the FFCRA (initial policy expiring 12/31/2020) will be counted towards the 120 aggregate total hours available for paid emergency sick leave when determining the amount of paid emergency sick leave available to each employee at 1/1/2021 under this amended policy, which shall extend through and including March 31, 2021. Employees must utilize their own sick time for sick leave needed over 120 aggregate total hours for reasons #1-#4, from paid emergency sick leave used in 2020 and through and including March 31, 2021. Paid Emergency Sick Leave shall not carryover to future periods and will be unavailable after March 31, 2021.

Concurrent Leave:

Employees who elect, may use accrued, unused paid leave (e.g. vacation, sick) for the one-third of the employee's hours not covered under the leave after the first 10 days of EFML.

Calculation of Pay:

For leave Reasons #1, #2, or #3: employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher; with benefits capped at \$511 per day and \$7,665 in the aggregate (over a 3-week period).

For leave reasons #4 or #6: employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, with benefits capped at \$200 per day and \$3,000 in the aggregate (over a 3-week period).

For leave reason #5: employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, capped at \$200 per day and \$12,000 in the aggregate (over a 12-week period).

Use of Paid Emergency Sick Leave:

Paid Emergency Sick Leave shall be charged using the City's current practice for sick leave.

Employees are not required to find a substitute employee to fill their position in order receive Paid Emergency Sick Leave.

Eligible employees are not to use other forms of paid leave prior to receiving Paid Emergency Sick Leave.

Employees who are teleworking may take paid sick leave intermittently when agreed to by the City.

Employees who are working at their normal worksite may take paid sick leave intermittently when agreed to by the Employer and only when taking paid sick leave to care for a child whose school or care provider is closed or unavailable. Employees working at their normal worksite and taking paid sick leave for any other reason (other than to care for a child whose school or care provider closed or is unavailable) may not take paid sick leave on an intermittent basis.

Unless the employee is teleworking, and except for paid sick leave to care for a child whose school or care provider is closed, once an employee begins taking paid sick leave for one or more of the qualifying reasons, the employee must continue to take paid sick leave each day until the employee either (1) uses the full amount of paid sick leave or (2) no longer has a qualifying reason for taking paid sick leave.

Health Benefits During Paid Emergency Sick Leave:

While an employee is on Paid Emergency Sick Leave, the Employer will maintain group health plan benefits on the same basis as if the employee had continued to work throughout the leave. Employees are required to pay their share of group health premiums which had been paid by the employee prior to the leave. Employee contribution amounts when applicable are subject to any change that occurs while the employee is on leave.

Paid Emergency Sick Leave will not constitute a break in service credit for employees. Service credit shall continue to accrue during periods of Paid Emergency Sick Leave. In addition, Paid Emergency Sick Leave will be treated as continuous service for the purpose of calculating benefits that are based on length of service. Paid leave benefits will not accrue during any period of Paid Emergency Sick Leave.