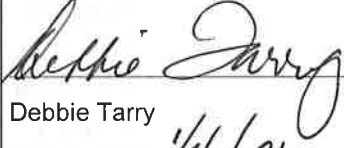




TEMPORARY EMERGENCY ORDER of the City Manager

<h3>COVID-19 Public Health Emergency Pay and Leave for Regular City Employees, Emergency Paid Sick Leave and Expanded Family and Medical Leave</h3>			Category: COVID-19
			Number: 7
			Classification: Employee Compensation
Effective Date: 01/01/2021 – 03/31/2021	Supersedes and Replaces: Emergency Order No. 1 as amended by Order 1.1, Order 1.2 Emergency Pay/Leave, Order 1.2 FFCRA Expanded FMLA and Emergency Sick Leave; and Order 1.3	Policy Originator: City Manager	Approved By: City Manager  Debbie Tarry Date Issued: 4/4/21

1. PURPOSE/SCOPE:

The purpose of this emergency policy is to provide guidance and establish procedures regarding the use of paid leave and pay for City employees under the COVID-19 Health Emergency declaration.

This Temporary Emergency Order establishes the following policies:

- COVID-19 Donated Leave Pool Policy**
- City Closure Pay Policy**
- Emergency Paid Sick Leave Act Policy**
- Expanded Family and Medical Leave Policy**

2. AFFECTED PARTIES:

All current, regular full-time and part-time employees

3. POLICY:

It is the policy of the City of Shoreline to take all appropriate measures needed to address the COVID-19 Health Emergency and protect public health. Protecting the community and City staff is a priority and this policy establishes guidance on the use

of paid leave and pay for City employees. This policy and procedures are meant to augment and amend existing Employment Policies related to leave and employee pay as reflected in the most recently approved Employee Handbook which was last approved by Council Resolution No. 462 approved on October 12, 2020.

4. DEFINITIONS:

For purposes of this emergency policy the following definitions are modified from and/or added to those provided in the Employee Handbook.

- A. *Child:*** A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:
1. Under 18 years of age; or
 2. 18 years of age or older and incapable of self-care because of a mental or physical disability.
- B. *Child Care Provider:***
1. A provider who receives compensation for providing child care services on a regular basis, including:
 - a. A center-based child care provider;
 - b. A group home child care provider;
 - c. A family child care provider (one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence);
 - d. Other licensed provider of childcare services for compensation;
 - e. An individual who is 18 years of age or older who provides child care services to a child who is either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece or nephew of such provider, at the direction of the parent of that child; or
 - f. An unlicensed individual who is 18 years of age or older who provides child care at the direction of and at no cost to the parent of a child on a regular basis, such as a grandparent, aunt, uncle, sibling, niece, nephew, or neighbor.
- C. *City Closure:*** When the City Manager orders all City facilities closed and when the City Manager has directed that employees should not report to work, except for those that are essential for City operations.
- D. *City Closure Pay:*** *Payment of regular wages and benefits to regular employees during a City Closure.*
- E. *COVID-19 Donated Leave Pool:*** *This will be a pool of donated leave in which the City Manager may allow a regular employee to receive donated leave from another employee. This is separate and distinct from Donated Leave (Section VI.J) as provided in the City's Employee Handbook.*

- F. *Emergency Paid Sick Leave (EPSL)*: A City of Shoreline temporary leave benefit related to COVID-19 that provides up to 80 hours of paid leave to an eligible employee when they are unable to work for qualifying reasons due to the impact of the disease.
- G. *Expanded Family and Medical Leave Act (EFMLA)*: A City of Shoreline temporary leave benefit that provides up to ten (10) weeks paid and two (2) weeks unpaid leave to an eligible employee when they are unable to work because a Child's School, Place of Care, or Child Care Provider is unavailable to provide care due to COVID-19 related reasons.
- H. *Extra Duty Pay*: An increase in regular wages of five percent (5%) for non-managerial FLSA-exempt employees who are directed to work by the City Manager during a City Closure.
- I. *Family and Medical Leave under FMLA*: For purposes of this emergency policy, Section VI.L and the definition of FMLA Covered Family Member as set forth in the City's Employee Handbook Definitions (T) will be used in the context of COVID-19. This supersedes Section VI.L.2, Reasons for Taking Leave to state: "To care for an employee's immediate family member who has a serious health condition or is in need of care as a result of the COVID-19 health emergency."

"For a serious health condition that makes the employee unable to perform the essential functions of his or her job due to COVID-19."

"To care for an employee's spouse, child or parent who has a serious health condition or for an individual as defined by this policy who is in need of care as a result of the COVID-19 health emergency."

- J. *Family and Medical Leave under FMLA – Definition – Serious Health Condition - incapacity*: For purposes of this emergency policy the definition of Incapacity as set forth in the City's Employee Handbook (VI.L.3) is amended to read:

Inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore or recovery there from or due to exposure to COVID-19 where there is a risk to the health of others, if the school, place of care, or caregiver of an employee's child or immediate family member is closed due to the COVID-19 health emergency, or when a quarantine of an immediate family member is ordered by State or County Health Officials due to a COVID-19 illness or when subject to a local, federal, or quarantine or isolation order related to COVID-19.

- K. *Family and Medical Leave Act (FMLA)*: A federal law, 29 USC 2601, et seq., that provides certain employees with up to 12 weeks of unpaid, job-protected leave per year while maintaining group health benefits during the leave.

- L. *FLSA Exempt Managerial Staff*: FLSA Exempt Managerial Staff are the members of the City's Leadership Team, with the exception of the Executive Assistant to the City Manager and City Council.
- M. *Individual*: An immediate family member, roommate or similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if they were self-quarantined or was quarantined.
- N. *Health Care Provider*: A licensed Doctor of Medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of FMLA.
- O. *Place of Care*: A physical location in which care is provided for a child. This may include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.
- P. *School*: An elementary, middle, or high school or equivalent secondary public or private school.
- Q. *Supplemental Paid Family and Medical Leave – Eligibility*: For purposes of this emergency policy the definition of Eligibility as set forth in the City's Employee Handbook (VI.M.1) is amended to read:

Supplemental Paid Family and Medical Leave is available to all regular full-time and part-time employees who are.

1. Actively employed with the City: and
2. Has experienced a qualifying reason that results in the need for a leave of absence; and
3. Lacks enough earned accrued leave to maintain an equivalent balance of two weeks.

- R. *Use of Sick Leave – Employee*: For purposes of this emergency policy Use of Sick Leave – Employee as set forth in the City's Employee Handbook (VI.H.2.a) is amended to read:

Sick leave may be used when an employee is ill, injured, disabled (including a disability due to pregnancy or childbirth) or has been exposed to a contagious disease where there is a risk to the health of others or when an employee is concerned regarding the potential exposure to COVID-19 with the approval of Human Resources based on the CDC's risk assessment protocols and whether the employee's position is essential to City operation or public safety or when subject to a local, federal, or quarantine or isolation order related to COVID-19, or for medical or dental examinations or treatment when such appointments cannot be scheduled outside of working hours, or when the use of a prescription drug impairs job performance or safety.

- S. *Use of Sick Leave – Immediate Family Members:* For purposes of this emergency policy Use of Sick Leave – Immediate Family Members as set forth in the City’s Employee Handbook (VI.H,2,b) is amended to read:

Sick leave may be used to care for a member of the immediate family who is ill, injured, disabled, has been exposed to COVID-19 where there is a risk to the health of others, or if the school, place of care, or caregiver of an employee’s child or immediate family is closed/unavailable due to the COVID-19 health emergency, or when a quarantine of an immediate family member is ordered by State or County Health Officials due to a COVID-19 illness or when subject to a local, federal, or quarantine or isolation order related to COVID-19. Sick leave may also be used for qualifying Family and Medical Leave provided for in the Family and Medical Leave section.

5. PROCEDURES:

A. COVID-19 Donated Leave Pool Policy

Employees will be allowed to donate sick or accrued vacation leave to create a COVID-19 Donated Leave Pool.

1. Eligibility Criteria for Use of Leave Pool

- a. An employee needs leave that is related to the COVID-19 health emergency and is likely to cause the employee to go on leave without pay.
- b. The employee has depleted all other available leave benefits and accruals

2. Eligibility Criteria for Donation to Leave Pool

An employee may donate up to 25 hours of their sick leave balance. An employee is not eligible to donate sick leave hours unless a balance of 80 hours will be maintained. An employee may also choose to donate any amount of accrued vacation leave. The donating employee in either case shall submit a written request to Human Resources.

3. Value of Donated Leave

Donated hours will be used on an hour for hour basis with no consideration given to the dollar value of the leave donated.

4. Administration

- a. This pool will be administered by the Human Resources Director with the approval of the City Manager.
- b. Human Resources may recommend that the City Manager allow an employee to receive donated leave from the COVID-19 Donated Leave Pool.
- c. The City Manager may approve the donated leave if the employee meets the criteria in Subsection 5(A)(1).

5. Treatment of Leave Remaining

If more leave is donated than is used, the hours of leave that remain shall be returned to the employee(s) donating the leave on a pro rata basis.

6. No Cash Out

Donated COVID-19 Leave hours are not eligible for the cash out provisions in the Separation from Service policies in the Employee Handbook.

B. City Closure Pay Policy

The City Manager may determine that it is necessary to close all City facilities and direct that only certain employees report to City work sites to complete essential City functions. Staff who can telecommute and are directed to do so by the City Manager, will be allowed to do so. Managers and supervisors will coordinate this directly with their employees.

a. Eligibility Criteria

- a. To the extent that employees are not directed to fully or partially telecommute, staff will be provided City Closure Pay in accordance with the provisions in this Section 5(B) City Closure Pay Policy.
- b. Employees who are on a planned absence, such as vacation leave and are not recalled back to work will not receive City Closure Pay.
- c. Any employee already on sick leave shall be eligible for City Closure Pay in lieu of continued use of sick leave once City Closure Pay is in effect.

b. Compensation and Rate of Pay

- a. FLSA Non-Exempt (hourly) staff:

- i. Will receive City Closure Pay for those hours in which they are unable to telecommute (full or partially) or to work their scheduled hours. City Closure Pay will only be made available to staff to cover their regularly scheduled work hours.
 - ii. FLSA Non-Exempt (hourly) staff who are directed by the City Manager to report to work during a City Closure will receive pay at a rate of time and a half for work carried out during a City Closure. Such premium pay shall be credited against any overtime pay the employee may earn during the applicable work week (i.e., the employee shall not receive "double overtime").
- b. FLSA Exempt (salaried) employees:
- i. Shall continue to receive their normal salary during a City Closure, regardless of whether they are able to telecommute.
 - ii. Who are directed to work by the City Manager during a City Closure shall receive Extra Duty Pay for all hours actually worked by the employee EXCEPT FLSA Exempt managerial staff. These exempt employees shall be required to accurately track and report their hours for purposes of calculating the Extra Duty Pay.
 - iii. FLSA Exempt managerial staff who are directed to work by the City Manager, during a City Closure will not receive any additional compensation for such work.

C. EMERGENCY PAID SICK LEAVE ACT (EPSL) POLICY (Effective 4/1/2020 – 03/31/2021)

Regular Full-Time and Part Time employees, as those terms are defined in Section III(N) of the Employee Handbook, are entitled up to 80 hours of Emergency Paid Sick Leave to use for qualifying reasons associated with COVID-19 as set forth in this section. This leave entitlement is separate from and in addition to any paid leave benefits provided under current City policy.

1. Eligibility Criteria

All current, regular Full-Time and Part-Time employees currently scheduled but unable to work (or telework) due to a need for leave for one of the following qualifying 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 a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- e. The employee is caring for their child if the School or Place of Care of the child has been closed, or the Child Care Provider of such child is unavailable due to COVID-19 precautions; or
- f. The employee is experiencing any other substantially similar condition specified by the U.S. Secretary of Health and Human Services in consultation with the U.S. Secretary of the Treasury and the U.S. Secretary of Labor.

2. Leave Entitlement

Employees shall be entitled leave as follows:

- a. Eligible Full-Time employees will have up to 80 hours of Emergency Paid Sick Leave available to use for qualifying reasons noted in Section 4.1 above. Once an employee has exhausted their 80-hour entitlement for reasons a., b., c., d., and f., in Eligibility Section 1 above, they must use their own leave accruals until their leave accrual balance drops to 80 hours or less, at which time they are eligible for Supplemental Paid Family and Medical Leave
- b. Eligible Part-Time employees are entitled to the average number of work hours in a two-week period, based on the number of hours the employee is normally scheduled to work.
- c. For employees with varying hours, one of two methods for computing the number of hours paid will be used:
 - i. If the employee has worked six (6) months or more, the average number of hours that the employee was scheduled per day over the six (6) month period immediately prior to the date on which the employee takes leave, including paid leave hours.

- ii. If the employee has worked less than six (6) months, the expected number of hours to be scheduled per day at the time of hire.

3. Compensation and Rate of Pay

- a. Emergency Paid Sick Leave will be paid at the employee's regular rate of pay for those reasons stated in subsections 5(C)(1)(a), (b), and (c) above.
- b. An employee taking leave for those reasons stated in subsections 5(C)(1)(d), (e), and (f) above will be compensated at two-thirds (2/3rd) their regular rate of pay, or Washington State minimum wage, whichever is greater.
- c. Unless supplementing with leave accruals to fill the gap between the benefit amount and their full regular paycheck amount, in no event will an employee's pay exceed:
 - i. \$511 per day and \$5,110 in total for leave taken for reasons stated in subsections 5(C)(1)(a), (b), and (c) above.
 - ii. \$200 per day and \$2,000 in total for leave taken for reasons stated in subsections 5(C)(1)(d), (e), and (f) above

5. Pay Supplementation

An employee may elect to supplement Emergency Paid Sick Leave with earned leave accruals, City of Shoreline Supplemental Paid Family and Medical Leave, or COVID-19 Leave Donation Pool in accordance with existing policies, up to but not exceeding their normal regular earnings.

6. Increments and Intermittent Use of Leave

An employee may use intermittent Emergency Paid Sick Leave in the following situations:

- i. To care for their child(ren) when their School or Place of Care is closed, or the Child Care Provider is unavailable due to COVID-19 precautions; or
- ii. If the employee is telecommuting and able to work while in quarantine or isolation due to exposure to or infection with COVID-19

Employees who are not telecommuting (working on-site at a City facility on a regular basis to perform their work) are required to use full-day increments of leave if the absence is due to their own quarantine, isolation, or illness

related to COVID-19 so as to minimize the potential spread of the virus. An employee should not be reporting to work at a City facility for any duration of time if they are in quarantine, isolation or ill.

Supervisors and employees are expected to be flexible in scheduling whenever possible and to explore options that may meet both the employee's personal needs and work requirements.

7. Interaction with Other Paid Leave Benefits

- a. An employee on EFMLA, as provided in Section 5(D) below, may use Emergency Paid Sick Leave for the first two (2) weeks of EFMLA.
- b. Emergency Paid Sick Leave may also be used when an employee is on leave under traditional FMLA for their own COVID-19 related serious health condition or to care for a qualified family member/Individual with such a condition.
- c. Where allowable by law or City of Shoreline policy, EFMLA will run concurrent with FMLA and other leave benefits.

8. Requesting Leave

- a. An employee must notify the Human Resources Department of the need and specific reason for EPSL leave. A leave request form for this purpose is available through the Human Resources site at <https://cityofshoreline.sharepoint.com/covid19/SitePages/Home.aspx>.
- b. If an employee is not capable of submitting the leave request form, the Human Resources Department will accept verbal notification until it is reasonably practicable for the employee to submit a leave request form.
- c. Documentation supporting the need for the Emergency Paid Sick Leave will be required and may include:
 - i. A copy of the federal, state or local quarantine or isolation order related to COVID-19.
 - ii. Written documentation by a Health Care Provider advising self-quarantine due to concerns related to COVID19.
 - iii. The name and relationship of the individual the employee is taking leave to care for who is subject to a quarantine or isolation order or is advised to self-quarantine.

- iv. The name and age of the Child/Children being cared for; the name of the School, Place of Care, or Child Care Provider that closed or became unavailable due to COVID-19 related reasons; and a written statement that no other suitable person is available to care for the Child/Children during the period of requested leave.
- v. For a Child/Children over age 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.

9. Duration of Benefits, Carryover, and Payout

Emergency Paid Sick Leave will be available until 11:59 pm Local Time, March 31, 2021. Any unused portion of this leave entitlement shall not carry over to the next year or be paid out to employees.

D. EXPANDED PAID FAMILY AND MEDICAL LEAVE (EPFML) POLICY:

Eligible employees are entitled to up to ten (10) weeks paid and two (2) weeks unpaid leave when they are unable to work (including teleworking) due to their need to care for a Child because their Child's School or Place of Care has been closed or Child Care Provider is unavailable due to COVID-19 related reasons.

1. Eligibility Criteria

All current, regular full-time and part-time employees who have been employed with the City of Shoreline for at least thirty (30) calendar days and are actively scheduled for work are eligible for leave under this policy.

2. Compensation and Rate of Pay

- a. The first ten (10) days (two weeks) are unpaid public health emergency leave (PHEL). The remaining ten (10) weeks of EFMLA leave are paid at two-third (2/3) of the employee's regular pay rate for the number of hours they would otherwise be scheduled to work.
- b. The maximum payment under EFMLA is \$200 per day and \$10,000 total for the entire duration of the EFMLA leave, unless the employee is supplementing the leave with their accrued leave banks.

3. Pay Supplementation

An employee may elect to supplement PHEL with the Emergency Paid Sick Leave, earned leave accruals from City of Shoreline Paid Supplemental

Leave, or COVID-19 Leave Donation Pool in accordance with existing policies, up to their normal regular earnings.

4. Increments and Intermittent Use

An employee may take EFMLA leave intermittently and in any increment agreed to by their supervisor. Employees and supervisors are expected to be flexible in scheduling wherever possible.

5. Job Restoration

Upon returning to work at the end of EFMLA leave, an employee will be placed in the same, or equivalent, position with equivalent pay and benefits. An exception to this would be if there was a reduction in workforce (layoff) that occurred during the employee's period of leave and the employee would otherwise have been laid off as a result of the reduction in workforce.

6. Interaction with Other Leave Benefits

- a. Where allowable by law or City of Shoreline policy, EFMLA will run concurrent with FMLA and other leave benefits.
- b. EFMLA is part of an employee's regular FMLA leave entitlement. Accordingly, if an employee has already used FMLA for other purposes during the FMLA leave year, the amount of available EFMLA leave will be reduced by the amount of FMLA leave already taken.

7. Requesting Leave

- a. An employee must notify Human Resources of the need and specific reason for EFMLA leave. A leave request form for this purpose is available through Human Resources at:
<https://cityofshoreline.sharepoint.com/covid19/SitePages/Home.aspx>
- b. If an employee is not capable of submitting the leave request form, Human Resources will accept verbal notification until it is reasonably practicable for the employee to submit a leave request form.
- c. Documentation supporting the need for EFMLA leave will be required and may include:
 - i. The name and age of the Child/Children being cared for.
 - ii. The name of the School, Place of Care, or Child Care Provider that closed or became unavailable due to COVID-19 related reasons.

- iii. A written statement that no other suitable person is available to care for the Child/Children during the period of requested leave. For a Child/Children over age 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.

8. Duration of Benefits

EFMLA leave will be available until 11:59 pm Local Time, March 31, 2021.

E. Benefits and Accruals while on EPSL Leave or EFMLA Leave

1. While an employee is on EPSL or EFMLA leave, the City of Shoreline will continue to maintain health benefits during the leave period at the same level and under the same conditions as if the employee had continued work.
2. When such leave is paid, the City will continue to make payroll deductions to collect the employee's share of the health benefit premiums, if any. When such leave is unpaid, the employee is responsible for making payments, if applicable.
3. If the employee has elected additional health benefits, the City will continue making payroll deductions for these additional health benefits while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such additional health benefits by timely paying the employee's portion of the premiums, as per instructions from payroll. If the employee does not continue making required payments, the benefit coverage for these elected additional health benefits will discontinue.
4. Employees will continue to accrue vacation and sick leave according to City policy during the period that the employee is in paid status. Employees in unpaid status shall not be entitled to and shall not accrue any of the benefits of the City, except as provided by policy or as required by law.

