



**OFFICE OF THE MAYOR
CITY OF COVINGTON**

Joseph U. Meyer
Mayor

Covington City Hall
jumeyer@covingtonky.gov

**EXECUTIVE ORDER
CITY OF COVINGTON, KENTUCKY**

EXECUTIVE ORDER NO. 2021-EO-43

LOCAL ADOPTION OF THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

WHEREAS, in March 2020 President Trump signed into law the "Families First Coronavirus Response Act" (FFCRA) to assist with the impact of COVID-19, employees may be eligible for additional leave under the law, specifically under the Emergency Paid Sick Leave Act (EPSLA) and Emergency Family Medical Leave Expansion Act (EFMLEA); and

WHEREAS, on March 19, 2020, Mayor Joseph U. Meyer signed Executive Order 2020-EO-01, declaring a state of emergency in the City of Covington due to the outbreak of COVID-19 virus, a public health emergency; and

WHEREAS, applicable Kentucky laws authorize a mayor to exercise emergency powers to efficiently and effectively provide for the health, safety and welfare of citizens; and

WHEREAS, Covington locally adopted the FFCRA, the EPSLA, and the EFMLEA via Covington Executive Order No. 2020-EO-09 on March 31, 2020; and

WHEREAS, the federal laws regarding this special leave expired December 31, 2020, however the Consolidated Appropriations Act, 2021" (the "Relief Bill") authorizes employers to voluntarily continue to provide such leave at their own discretion; and

WHEREAS, the City of Covington wishes to extend the benefits authorized by the Relief Bill.

NOW and therefore, I, Joseph U. Meyer, pursuant to the authority vested in me as Mayor of the City of Covington, Kentucky by KRS Chapter 39A, KRS 39B, and in furtherance of the declaration set forth in Executive Order 2020-EO-01, hereby order:

1. Pursuant to the City's authority under the Stimulus Bill to voluntarily extend the benefits in the expired **Emergency Paid Sick Leave Act (EPSLA)**, all employees are eligible for two weeks of paid leave at their regular rate of pay for certain qualifying circumstances, as further outlined below and in the attachment hereto. Eligible full-time employees may receive up to eighty (80) hours of paid sick leave. Eligible part-time employees will receive pay based on the average number of hours worked over the last six months. Pursuant to the voluntary extension of the EPSLA provisions, employers have the option to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave. In addition to the requirements of this Section, eligibility determination for healthcare providers and emergency responders shall include the criteria in Section 4 of this Executive Order.

The qualifying circumstances under which the employee may receive this leave are if the employee is unable to work (or telework) as the employee is:

- (1) Subject to a federal, state or local quarantine or isolation order related to COVID-19;
- (2) Advised by a healthcare provider to self-quarantine due to COVID-19 concerns;
- (3) Experiencing COVID-19 symptoms and seeking medical diagnosis;
- (4) Caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a healthcare provider to self-quarantine due to COVID-19 concerns (caring for another who is subject to an isolation order or advised to self-quarantine as described above is not limited to only family members).
- (5) Caring for the employee's child if the child's school or place of care is closed or the child's care provider is unavailable due to COVID-19 precautions; or
- (6) Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

2. Pursuant to the City's authority under the Stimulus Bill to voluntarily extend the benefits in the expired **Emergency Family Medical Leave Expansion Act (EFMLEA)**, an employee that has been employed for thirty (30) days or more is eligible for up to twelve (12) weeks of job-protected leave to allow the employee, who is unable to work or telework, to care for the employee's child (under 18 years of age) if the child's school or place of care is closed or the childcare provider is unavailable due to a public health emergency, as further outlined below and in the attachments hereto. Pursuant to the voluntary extension of the EFMLEA provisions, employers have the option to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave. In addition to the requirements of this Section, eligibility determination for healthcare providers and emergency responders shall include the criteria in Section 4 of this Executive Order.

- (1) The first 10 days of EFMLEA-qualified leave are unpaid. An employee may either be eligible for Emergency Paid Sick Leave as outlined in paragraph 1 or may take other paid leave concurrently with the EFMLEA.
- (2) Beginning the third week of EFMLEA, an eligible employee shall be paid according to the following:
 - i. Full-time employees at two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled. The EFMLEA limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.
 - ii. Employees who work a part-time or irregular schedule are entitled to be paid based on the

average number of hours the employee worked for the six months prior to taking Emergency FMLA. Employees who have worked for less than six months prior to leave are entitled to the employee's reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.

- (3) The City will return the employee to their prior position in accordance with the restoration requirements of the FMLA.
- (4) The City's FMLA leave policy is otherwise unchanged and any EFMLEA leave will count toward the employee's total twelve (12) weeks of job-protected FMLA leave.

3. The leave amount available to each eligible employee under Covington Executive Order No. 2020-EO-09 is not replenished or renewed by this Order. The applicable period of use is merely extended until March 31, 2021. Employees who previously exhausted the amount of leave available under the FFCRA pursuant to City of Covington Executive Order No. 2020-EO-09 will not be eligible for additional leave.

4. The City Manager shall determine which employees are eligible for continued work or telework based on the needs and capacity of the City.

5. In accordance with applicable laws, the definition of employees for purposes of application of the EPSLA and EFMLEA shall not include "emergency responders" employed by the City of Covington. Notwithstanding this exclusion, City of Covington emergency responders are *not* excluded from EPSLA and EFMLEA benefits based on the above-listed qualifications (2), (3), (4), and (6). Further, City of Covington emergency responders will be excluded from the definition of employees for above-listed qualifications (1) and (5), but with respect to qualification (1) the exclusion of emergency responders shall not apply if any applicable federal, state, or local quarantine order includes emergency responders.

6. Covington Executive Order No. 2020-EO-09 is hereby terminated effective December 31, 2020, consistent with the expiration of all mandatory FFCRA provisions.

7. To the extent any local employment policies conflict with federal and/ or state law, federal and/ or state law will supersede said local policies.

8. The above-listed policy changes shall temporarily amend and supersede any relevant policies within the City's personnel policy manual, adopted by Commissioners' Order No. ORD-181-19.

9. All other employee ordinances, policies and rules shall remain in force, including collective bargaining agreements that are not altered or amended by virtue of these policy changes being based on federal law revisions.

This Order shall remain in effect until March 31, 2021 or terminated by the issuance of another Executive Order.

THIS ORDER IS EFFECTIVE JANUARY 15, 2021 AND SHALL REMAIN IN EFFECT THROUGH MARCH 31, 2021 OR IF RESCINDED BY ANOTHER EXECUTIVE ORDER BEFORE THIS DATE.

[Signature Page Follows]

Signed on this the 15th day of January, 2021,

Joseph U Meyer
Joseph U. Meyer, Mayor

Attest:

Margaret M Nyhan
Margaret M. Nyhan, City Clerk

1-15-21
Date

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

This act was implemented to provide expanded qualifying reasons for Family and Medical Leave (under the EFMLEA) and Paid Sick leave (under the EPSLA) to employees who are impacted by COVID-19 Pandemic which was passed on March 18, 2020 with an Effective date of 4/1/2020 and expires on December 31, 2020.

In accordance with applicable laws, the definition of employees for the purposes of administering EPSLA and EFMLEA shall not include “emergency responders” employed by the City of Covington. Notwithstanding this exclusion, City of Covington emergency responders are not excluded from the EPSLA and EFMLEA benefits based on the listed qualifications (2), (3), (4) and (6). Further, the City of Covington emergency responders will be excluded from the definition of employees for the listed qualifications (1) and (5), but with respect to qualification (1) the exclusion of emergency responders shall not apply if any applicable federal, state, or local quarantine order includes emergency responders.

This act only applies to absences as a result of COVID-19 and contains two components.

- Emergency Paid Sick Leave
- Emergency Family and Medical Leave

Emergency Paid Sick Leave Act

All employees employed at the time this bill becomes effective are eligible. Employees hired on or after 4/1/2020 will be eligible upon hire.

Amount of Paid Sick Leave: Full-time employees will receive 80 hours or two-weeks of paid sick leave while part-time employees are entitled to the number of hours that they work in a typical two-week period. There is no accrual period.

Emergency Family and Medical Leave Expansion Act

This applies to all employees who are 18 years of age or older and have been employed at least 30 days with the City of Covington.

If eligible, you will have the right to take up to 12 weeks of job-protected leave under the FFCRA/EFMLEA. Please note that the 12 weeks of leave will take into account any FMLA leave that was taken in the preceding 12 months.

ELIGIBLE ABSENCES FOR PAID SICK TIME:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine because of COVID-19.
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
4. The employee is caring for an individual subject or advised to quarantine or isolation.
5. The employee 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.

6. The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

If you are on Emergency Sick and FMLA for the approved reasons the pay and duration of the leave based on the specific reasons above is listed here:

Reason	Pay	Duration	
#1	Paid emergency sick leave for Full-Time employees and Part-Time employees will be paid their average salary over a two-week period.	Two-weeks with a maximum of 80 hours	Maximum Salary amount allowed is \$511 per day and \$5,110 in aggregate over a 2 - week period. Minimum Salary is Minimum Wage
#2	Paid emergency sick leave for Full-Time employees and Part-Time employees will be paid their average salary over a two-week period.	Two-weeks with a maximum of 80 hours Non-emergency FMLA if eligible under the Non-Emergency FMLA policy and the use of accrued sick, personal, and personal days	Maximum Salary amount allowed is \$511 per day and \$5,110 in aggregate over a two - week period. Minimum Salary is Minimum Wage
#3	Paid emergency sick leave for Full-Time employees and Part-Time employees will be paid their average salary over a two-week period.	Two-weeks with a maximum of 80 hours Non-emergency FMLA if eligible under the Non-Emergency FMLA policy and the use of accrued sick, personal, and personal days	Maximum Salary amount allowed is \$511 per day and \$5,110 in aggregate over a two - week period. Minimum Salary is Minimum Wage
#4	Paid Emergency sick leave based on 2/3 of your regular salary for Full-time and Part-time will be 2/3 of their average salary over a two-week period.	Two-weeks with a maximum of 80 hours Non-emergency FMLA if eligible under the Non-Emergency FMLA policy and the use of accrued sick, personal, and personal days	Maximum Salary amount allowed is \$200 per day and \$2,000 in aggregate over a two - week period. Minimum Salary is Minimum Wage
#5	Two-weeks of paid emergency leave based on 2/3 of your regular salary for Full-time and Part-time will be 2/3 of their average salary over a two-week period 2/3 of sick leave.	Two-weeks with a maximum of 80 hours Up to 10 weeks minus any previously taken Non-Emergency FMLA during the previous 12 months	Maximum Salary amount allowed in total for Emergency Sick and FMLA is \$200 per day and \$12,00 Emergency FMLA

#6	Paid Emergency sick leave based on 2/3 of your regular salary for Full-time and Part-time will be 2/3 of their average salary over a two-week period.	80 hours or two-weeks Non-emergency FMLA if eligible under the Non-Emergency FMLA policy and the use of accrued sick, personal, and personal days	Maximum Salary amount allowed is \$200 per day and \$2,000 in aggregate over a two - week period. Minimum Salary is Minimum Wage
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Intermittent leave is allowed for if your leave is for #5 – caring for a son or daughter whose school or place of care is closed, or the childcare provider is unavailable.

Employees should provide reasonable notice after the first workday (or partial day) that the employee receives paid sick time.

A posting notice will be provided to each City location where employees typically gather and sent via email on or before 4/1/20.

This Emergency sick leave will run concurrently with the Emergency and Non-Emergency Family Medical Paid Leave.

Emergency sick leave does not accrue nor is it payable if unused if you leave your employment prior to 12/31/20.

How to request Emergency Family Leave:

1. You can request leave by completing the attached request form and providing the necessary documentation if your leave is COVID-19 related as stated in the above information. We will review the information and send you and your supervisor a notice indicating whether the Emergency leave is applicable and approval for your safety as well as other staff members.
2. If we have knowledge of your leave and know that it is related to COVID-19, the Human Resources Department will send you a notice. This notice will include a designation form and request for documentation if applicable. We will automatically apply any leave taken for an eligible COVID-19 reason to the Emergency Sick Leave and Family Medical Leave. Upon return you will need to provide a return to work release from a healthcare provider to return back to work.

In either situation, you should be prepared to provide documentation releasing you back to work when you return. Without a release, you will not be permitted to return. You will not be allowed to return without the release.