

RESOLUTION NO 2021-07

A RESOLUTION ESTABLISHING POLICIES AND PROCEDURES FOR IMPLEMENTING LEAVE AUTHORIZED BY THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT AND OTHER EMPLOYEE BENEFIT PROVISIONS IN RESPONSE TO THE COVID-19 OUTBREAK.

WHEREAS, on February 29, 2020, the Governor of Washington State issued Emergency Proclamation 20-05, declaring a state of emergency in all Washington counties due to the existence and spread of the novel coronavirus (COVID-19); and

WHEREAS, on March 18, 2020, the United States Congress approved and the President signed HR 6201, the Families First Coronavirus Response Act (FFCRA), which requires employers to provide paid leave as a result of quarantine and closures related to the COVID-19 pandemic; and

WHEREAS, the City of Electric City provides paid time off and other state mandated leave paid leave benefits to eligible employees to be used for, among other purposes, recovery from illness and care for family members; and

WHEREAS, the City of Electric City desires to provide policies and procedures for implementing leave authorized by the FFCRA.

NOW THEREFORE, be it resolved by the City Council of the City of Electric City, Washington, as follows:

Section 1. Adoption of Emergency Paid Sick Leave. All City employees shall be eligible for Emergency Paid Sick Leave, subject to the terms and conditions set forth in this Resolution.

- 1.1 Full-Time Employees: All regular full-time employees (regularly scheduled to work forty (40) hours or more per week) are eligible for up to eighty (80) hours of Emergency Paid Sick Leave.
- 1.2 Part-Time Employees: all regular part-time employees (regularly scheduled to work less than forty (40) hours per week) are eligible for up to forty (40) hours of Emergency Paid Sick Leave or the equivalent of two weeks of leave based upon the employee's regular part-time work schedule.
- 1.3 Eligible Uses of Emergency Paid Sick Leave: an employee is authorized to use Emergency Paid Sick Leave for the following reasons.

- 1.3.1 The employee has tested positive for COVID-19 or is experiencing any of the common symptoms of COVID-19, including fever, cough, or shortness of breath ("Common Symptoms").
 - 1.3.2 The employee resides with a person who has tested positive for COVID-19 or is exhibiting any of the Common Symptoms.
 - 1.3.3 The Employee is subject to a federal, state, or local COVID-19 quarantine or isolation order.
 - 1.3.4 The Employee has been advised by a health care provider to self-quarantine due to COVID-19.
 - 1.3.5 The Employee is caring for an individual who is subject to a federal, state, or local COVID-19 quarantine or isolation order.
 - 1.3.6 Employee is caring for an individual who has been advised by a health care provider to self-quarantine due to COVID-19.
 - 1.3.7 Employee is caring for employee's minor child due to closure of the child's school or unavailability of the child's childcare provider due to COVID-19.
- 1.4 Emergency Paid Sick Leave Pay. Emergency Paid Sick Leave Pay is paid at the employee's regular pay rate subject to a per day maximum of \$511 and a total aggregate of \$5,110 per employee for leave taken under subsections 1.3.1, 1.3.2, 1.3.3 or 1.3.4. Emergency Paid Sick Leave Pay is paid at two-thirds of the employee's regular pay rate subject to a per day maximum of \$200 and a total aggregate of \$2,000 per employee for leave taken under subsections 1.3.5, 1.3.6, or 1.3.7. If an employee is eligible for leave under subsections 1.3.5, 1.3.6, or 1.3.7, the employee may elect to use accrued paid leave instead of Emergency Paid Sick Leave in order to receive their full rate of pay; employees shall not be entitled to use accrued paid leave to supplement the two-thirds pay rate for leave taken under subsections 1.3.5, 1.3.6, or 1.3.7.
- 1.5 Procedures for Emergency Paid Sick Leave.
- 1.5.1 An employee that experiences any Common Symptoms while at work for the City must immediately inform their supervisor and leave the workplace. In such case, the employee shall receive paid sick leave as set forth in Section 1.4.2. An employee that experiences the Common Symptoms prior to reporting to work at the City, or who resides with a person that exhibits the Common Symptoms shall not report to work and shall call their supervisor as soon as possible.

1.5.2 An employee that reports experiencing Common Symptoms or tests positive for COVID-19, or who resides with a person who exhibits the Common Symptoms or tests positive for COVID-19, will be required to remain at home or under prescribed care until seventy-two (72) hours after the Common Symptoms resolve and at least seven (7) days after Common Symptoms first appeared (and subject to additional requirements imposed by the CDC or state or local health departments), or, if under medical care, until medically cleared to return to work at the City. For regular full-time employees who are absent from work due to conditions as set forth in this section, the first eighty (80) hours of leave shall be counted as and charged to Emergency Paid Sick Leave. For regular part-time employees who are absent from work due to conditions as set forth in this section, the first forty (40) hours (or other amount of time allowed to reach two weeks of time off based upon the employees work schedule) of leave shall be counted as and charged to Emergency Paid Sick Leave. Any absence in excess of what is covered by Emergency Paid Sick Leave will be charged to paid sick leave or other available paid leave (if any) as set forth in City Personnel Policies.

1.5.3 There shall be no cash out value associated with Emergency Paid Sick Leave if an employee leaves or otherwise separates from employment with the City during the period of availability as set forth in this Resolution.

1.5.4 In the event the need for use of Emergency Paid Sick Leave is foreseeable (i.e. due to closure of school or daycare) the employee must provide reasonable advance notice to their supervisor of the need to take Emergency Paid Sick Leave. If the need is not foreseeable, the employee must notify their supervisor as soon as possible after the need for leave is known in compliance with existing City leave notification requirements. The employee shall additionally provide information regarding the qualifying reason for the leave under Subsection 1.3 and shall provide the City with the following information where applicable:

- (1) The name of the government entity that issued the quarantine or isolation order to the employee or the individual the employee is caring for.
- (2) The name of the health care provider who advised the employee or the individual the employee is caring for to self-quarantine.
- (3) The name of the child being cared for; the name of the school, place of care, or child care provider that has closed or become unavailable; and a representation that no other suitable person will be caring for the child during the period for which the Employee takes Emergency Paid Sick Leave.

- 1.5.5 Emergency Paid Sick Leave benefits set forth in this Resolution shall be available until December 31, 2020, unless extended by the City Council. Any unused Emergency Paid Sick Leave shall be forfeited and will not be paid upon termination or separation of employment or converted to any other leave benefit. Emergency Paid Sick Leave is not eligible for donation to other City employees.
- 1.5.6 The Emergency Paid Sick Leave authorized pursuant to this Resolution is intended to meet the requirements set forth in the FFCRA and is not to be provided as a further or additional benefit. The availability of Emergency Paid Sick Leave is limited to preventing or containing the spread of COVID-19 and does not cover absences for any other reason.
- 1.5.7 The City may require an employee who uses Emergency Paid Sick Leave to provide certification that the Emergency Paid Sick Leave was used for a proper purpose as set forth in this Resolution. Any absence that is improperly charged to Emergency Paid Sick Leave will be charged to the employee's paid sick leave or other available paid leave (if any), or, if no other paid leave is available, as unpaid leave.

Section 2. Adoption of Expanded Federal Family Medical Leave Act (FMLA) Protections. City employees shall be eligible for protected leave for COVID-19 related childcare reasons under the expansion of the Federal FMLA ("Expanded FMLA Childcare Leave"), subject to the terms and conditions set forth in this Resolution.

- 2.1 Eligible Employees: All employees who have been employed for at least thirty (30) days are eligible to receive Expanded FMLA Childcare Leave.
- 2.2 Eligible Uses of Expanded FMLA Childcare Leave: an eligible employee is entitled to take up to twelve (12) weeks of protected leave if the employee is unable to work (or telework if available) based on a need to care for a child under age eighteen (18) due to closure of the child's school or unavailability of the child's childcare provider due to a public health emergency. A public health emergency means an emergency with respect to COVID-19 declared by a federal, state, or local authority.
- 2.3 Procedures for Expanded FMLA Childcare Leave.
 - 2.3.1 The first ten (10) days of Expanded FMLA Childcare Leave are unpaid but employees are allowed to use accrued paid leave or Emergency Paid Sick Leave at the employee's election.

- 2.3.2 For Expanded FMLA Childcare Leave beyond the first ten (10) days, employees must first use accrued sick paid leave, then vacation or other accrued paid leave which would apply to the purpose for Expanded FMLA Childcare Leave, which shall run concurrently with the Expanded FMLA Childcare Leave. Accrued paid leave shall be used according to applicable policies and procedures or as specified in the collective bargaining agreement. If the employee does not have accrued paid leave or exhausts accrued paid leave, the remainder of the Expanded FMLA Childcare Leave shall be paid at two-thirds of employee's regular pay, not to exceed \$200 per day and \$10,000 total per employee. Pay is calculated based on the number of hours the employees would otherwise be scheduled to work. However, there shall be no cash out value associated with Expanded FMLA Childcare Leave if an employee leaves or otherwise separates from employment with the City during the period of availability as set forth in this Resolution.
- 2.3.3 Employees must submit a request for Expanded FMLA Childcare Leave in advance where the need for use of Expanded FMLA Childcare Leave is foreseeable or as soon as possible after the need for leave is known in compliance with existing City notification requirements. The employee shall additionally provide the City with the following information:
- (1) The name of the child being cared for.
 - (2) The name of the school, place of care, or childcare provider that has closed or become unavailable; and
 - (3) A representation that no other suitable person will be caring for the child during the period for which the Employee takes Expanded FMLA Childcare Leave.
- 2.3.4 Expanded FMLA Childcare Leave benefits set forth in this Resolution shall be available until the termination of the state of emergency pursuant to RCW 43.06.210 or until rescinded by gubernatorial or legislative action, whichever comes first, unless extended by the City Council. Any unused Expanded FMLA Childcare Leave shall be forfeited and will not be paid upon termination or separation of employment or converted to any other leave benefit. Expanded FMLA Childcare Leave is not eligible for donation to other City employees.
- 2.3.5 The Expanded FMLA Childcare Leave authorized pursuant to this Resolution is intended to meet the requirements set forth in the FFCRA, and is not to be provided as a further or additional benefit. The availability of Expanded FMLA Childcare Leave is limited to preventing or containing the spread of COVI D-19, and does not cover absences for any other reason.

2.3.6 Intermittent use of Expanded FMLA Childcare Leave requires the approval of the Mayor.

Section 3. Definitions. For the purposes of this policy these words are defined as follows:

Advised by a health care provider to self-quarantine. The term “advised by a health provider to self-quarantine” means a health care provider has advised the employee to self-quarantine based on a belief that the employee has COVID-19; the employee may have COVID-19; or the employee is particularly vulnerable to COVID-19 and following the advice of a health care provider to self-quarantine prevents the employee from being able to work, either at the employee’s normal workplace or by telework.

Caring for an individual. For the purpose of caring for an individual, “individual” means an employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined. For this purpose, “individual” does not include persons with whom the employee has no personal relationship.

Child Care Provider. The term “Child Care Provider” means a provider who receives compensation for providing childcare services on a regular basis. The term includes a center based childcare provider, a group home childcare provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under State law and satisfies the State and local requirements. For the purposes of this Resolution, the eligible childcare provider need not be compensated or licensed if he or she is a family member or friend, such as a neighbor, who regularly cares for the Employee’s child.

Public Health Emergency. The term “Public Health Emergency” means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

Subject to a quarantine or isolation order. For the purposes of the EPSLA, a quarantine or isolation order includes quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by any Federal, State, or local government authority that cause the Employee to be unable to work even though his or her Employer has work that the Employee could perform but for the order. This also includes when a Federal, State, or local government authority has advised categories of citizens (e.g., of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of Employees to be unable to work even though their Employers have work for them.

Section 4. High Risk Employee Protections.

- 4.1 High Risk Employee means an employee at a higher risk for severe illness with COVID-19 as identified by the Centers for Disease Control and Prevention and the Grant County Health City who meets the following criteria:
 - 4.2.1 Employee is 60 years old or older.
 - 4.2.2 Employee has an underlying health conditions (diabetes, heart disease, lung disease, etc.); or
 - 4.2.3 Employee is otherwise immunocompromised.
- 4.2 Use of Existing, Accrued, Paid Sick Leave. High Risk Employees may use accrued paid sick leave for a leave of absence during the COVID-19 emergency. Use of paid sick leave for this purpose shall be subject to City policies regarding the use of paid sick leave.
- 4.3 Alternative Work Assignments. The City shall consider alternative work assignments to protect High Risk Employees from exposure to the COVID-19 disease including but not limited to telework, alternative or remote work locations, reassignment, and social distancing measures if requested by the High-Risk Employee. Alternative work assignments shall not create an undue burden on City operations.
- 4.4 Maintenance of Employer-Related Health Benefits. In the event that there are no alternative work assignments available to a High Risk Employee and the High Risk Employee has exhausted all paid leave, the City shall maintain all City provided health insurance benefits until the employee is deemed eligible to return to work. During any period that a High Risk Employee is unable to work, the High Risk Employee shall regularly check in with their supervisor and shall provide documentation from their health care provider to support the qualifying reason under sections 4.2.2 or 4.2.3 and their ability to return to work.

Section 5. This Resolution repeals and replaces Resolution 2021-02.

Section 6. If any section, sentence, clause or phrase of this Resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of this Resolution.

Section 7. Effective Date. This Resolution shall be effective February 9, 2021.

Section 8. Expiration Date. This Resolution and all leave provided herein shall extend until the termination of the state of emergency pursuant to RCW 43.06.210, or until rescinded by gubernatorial or legislative action, whichever comes first.

PASSED by the City Council of the City of Electric City on the 9th day of February 2021.


Diane Kohout, Mayor

ATTEST:


Peggy Nevsimal, City Clerk/Treasurer