



TOWN OF PALM BEACH

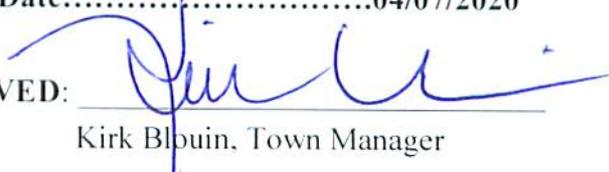
Administrative Procedure

Procedure No.:.....1-20-7

Effective Date:.....04/01/2020

Revised Date:.....04/07/2020

APPROVED: _____


Kirk Blouin, Town Manager

TITLE: EMERGENCY FMLA LEAVE AND SICK PAY PURSUANT TO THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT OF 2020

OBJECTIVE: To comply with the Federal Families First Coronavirus Response Act, effective April 1, 2020

RESPONSIBILITY:

The Director of Human Resources, or designee, is responsible for the administration of this procedure.

PROCEDURE:

- I. Pursuant to the Federal Families First Coronavirus Response Act signed by the President of the United States on March 18, 2020, the Act shall take effect April 1, 2020 and shall continue until December 31, 2020.

- II. The Act includes the Emergency Paid Sick Leave Act (EPSL) and Emergency Family and Medical Leave Expansion Act (EFMLA).
 - A. The provisions of these Acts are provided in addition to any existing Town benefits provided.
 - B. The provisions of this policy in its entirety are effective April 1, 2020 and ending on December 31, 2020.
 - C. These benefits may be requested when an employee is unable to work (or work remotely) for one or more of the qualifying events identified herein.
 - D. The Town will not discharge or otherwise take retaliatory and/or discriminatory action against any employee who is granted leave and receives benefits in accordance with this policy.
 - E. The paid leave benefits described herein are required per Federal law and considered as an unfunded mandate for the Town.

III. Emergency Family and Medical Leave Expansion (EFMLA)

- A. Any EFMLA provided is not independent from, and shall count toward, any leave taken under the Family Medical Leave Act in place prior to the enactment of EFMLA.
- B. Eligibility:
 - 1. Health care providers and emergency responders are ineligible to receive EFMLA.
 - 2. Eligible employee means an employee who has been employed for at least 30 calendar days by the Town/.
- C. Qualifying Leave Related to a Public Health Emergency
 - 1. Employee is unable to work (or remote work) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider (defined by the Federal Emergency Family and Medical Leave Expansion Act) of such son or daughter is unavailable, due to a public health emergency.
 - 2. The term ‘public health emergency’ means an emergency with respect to COVID–19 declared by a Federal, State, or local authority.
- D. Paid Leave Provisions:
 - 1. Unpaid leave for initial 10 days.
 - 2. After 10 days, employees can receive up to 10 weeks of paid emergency family medical leave (PEFML) at 2/3 their regular rate of pay (capped at \$200 per day and \$10,000 in aggregate).

- a) Regular rate of pay for full-time employees is based on 80 hours of work per pay period.
 - b) Regular rate of pay for part-time (including regular part-time) or temporary employees equals the average number of work hours over a six (6) month period. This is calculated by adding all compensation that was part of the regular rate of pay over the prior six months (or lesser period of time worked) and dividing that sum by all hours worked in the same period.
 3. Employees may elect to use Emergency Paid Sick Leave (EPSL) or Town accrued pandemic personal leave, sick, compensatory, annual, or other available leave such as personal, administrative, or floating holiday leave (Town leave to be used in that order if elected), during the initial 10 day period or to supplement any difference between PEFML and their regular rate of pay.
- E. Notice Requirements:
1. Notice of EFMLA shall be requested using the Emergency Family Medical Leave Act Request form.
 2. Prior notice of the need for leave of at least one-calendar day is preferred, but not required.
 3. Once EFMLA benefits are active, the employee shall notify their supervisor regarding the continued need for said leave on the preceding Friday, not later than 5:00pm, of each week.
 4. This leave can be taken on an intermittent basis.
- F. Employment Protections:
1. An employee who completes a period of qualified EFMLA leave and who is able to return to full duty, performing the essential functions of the position with or without a reasonable accommodation, will be returned to the same position held prior to the leave. If the same position is not available, the employee will be returned to a position equivalent in pay, benefits, and any other terms and conditions of employment.
 2. Leave will not result in the loss of any previously accrued seniority or employment benefits, but neither will any benefits accrue during the leave.
 3. Health care benefits will continue through an employee's leave.
 - a) If any portion of an employee's EFMLA leave is unpaid, they will be required to pay the employee portion of their insurance premiums accumulated during the unpaid leave period. Payment will begin the

first pay period the employee returns to work from the unpaid FMLA leave.

- b) The Town is entitled to recover insurance premiums paid on behalf of the employee who fails to return from leave, unless failure to return is a result of the continuation, recurrence, or onset of a serious health condition, or something else beyond the employee's control. This is subject to certification by the health care provider.

IV. **Emergency Paid Sick Leave Act (EPSL)**

A. Eligibility:

- 1. Any employee of the Town, who is scheduled for work but is unable to work (or work remotely) due to one of the reasons listed below, is covered by this benefit regardless of the length of employment.

B. Qualifying Reasons for Use:

- 1. When an employee cannot work due to one of the following reasons, they may be eligible for EPSL.
 - a) A Federal, State, or local quarantine or isolation order related to COVID-19;
 - b) Being advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 - c) Experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 - d) Caring for an individual who is subject to an order as described in reason for use (a) above or has been advised as described in reason for use (b);
 - e) Caring for a child of such employee if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions;
 - f) 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. Paid Leave Provisions:
 - a) For reasons IV(B)(1) a – d and f above, a full-time employee is eligible for up to 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that he employee works on average over a two-week period.

- b) For reason IV(B)(1) e above, A full-time employee is eligible for up to 12 weeks of 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.
- c) Paid leave (EPSL) for reasons IV(B)(1) a –c listed above will be at 100% of employee’s regular rate of pay, capped at \$511 per day and \$5,110 in the aggregate for covered reasons.
- d) Paid leave (EPSL) for reasons IV(B)(1) d –f listed above will be at 2/3 of employee’s regular rate of pay, capped at \$200 per day and \$2,000 in the aggregate for covered reasons.
- e) An employee may first use EPSL before using any other Town provided paid leave. If the employee elects to use Town leave to supplement any difference between EPSL and their regular rate of pay, the Town leave shall be used in this order: pandemic personal leave, sick, compensatory, annual, or other available leave such as personal, administrative, or floating holiday leave.
- f) Regular rate of pay for full-time employees is based on 80 hours of work per pay period.
- g) Regular rate of pay for part-time (including regular part-time) or temporary employees equals the average number of work hours over a six (6) month period. This is calculated by adding all compensation that was part of the regular rate of pay over the prior six months (or lesser period of time worked) and dividing that sum by all hours worked in the same period
- h) Paid leave provided under EPSL does not carryover from one year to the next. Employees are not entitled to reimbursement for unused EPSL upon termination, resignation, retirement, or other separation from employment.

C. Notice Requirements:

- 1. Prior notice of the need for leave of at least one calendar day is preferred, but not required.
- 2. Once EPSL benefits are being paid, the employee shall notify their supervisor regarding the continued need for said leave on the preceding Friday, not later than 5:00pm, of each week.
- 3. This leave can be taken on an intermittent basis.

4. The Town reserves the right to obtain documentation for leave requested as necessary.

ATTACHMENTS

- Emergency Family Medical Leave Act Request Form
- Emergency Paid Sick Leave Request Form