

EXHIBIT A

ORDINANCE NO. 36-20

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) POLICY

FAMILY AND MEDICAL LEAVE EXPANSION AND EMERGENCY SICK LEAVE

Effective April 1, 2020, and ending on December 31, 2020, eligible employees will be entitled to limited use Expanded Family and Medical Leave (EFML or “Public Health Emergency Leave”) and Emergency Paid Sick Leave (EPSL) as described herein.

I. Family and Medical Leave Expansion – EFML or “Public Health Emergency Leave”

The Employer’s Family and Medical Leave (FML) Policy is hereby amended to include Expanded Family and Medical Leave (EFML) for an eligible employee who is unable to work (or telework) because of a qualifying need related to “Public Health Emergency Leave,” as defined herein.

Traditional Family and Medical Leave will remain available to all employees otherwise entitled to such leave under existing Employer policy, and its provisions are only changed herein insofar as the application of the new Family and Medical Leave Expansion provisions for the “Public Health Emergency Leave” benefit described herein.

- A. An eligible employee is entitled to take up to twelve (12) weeks of Expanded Family and Medical Leave (EFML or Public Health Emergency Leave), provided the employee has not utilized any Traditional FML prior to the need for EFML, and provided such leave is for a qualifying need related to the COVID-19/Coronavirus public health emergency. Any combined Traditional FML and EFML shall not exceed twelve (12) weeks. An employee becomes eligible for EFML public health emergency leave after being employed for at least thirty (30) calendar days by the Employer.
- B. Public Health Emergency Leave is applicable only for a qualifying need related to a public health emergency. The only qualifying need related to a public health emergency recognized by this policy is where an eligible employee is unable to work (or telework) due to a need for leave to care for the employee’s son or daughter under eighteen (18) years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.
- C. Public Health Emergency Leave will consist of unpaid leave for the first ten (10) days a qualified employee takes public health emergency leave. An employee may elect to substitute any accrued vacation leave, personal leave, or sick leave for unpaid leave during the first ten (10) days of public health emergency leave and/or Emergency Paid Sick Leave as described herein.
- D. After the first ten (10) days of public health emergency leave, the Employer shall provide paid leave for each day of public health emergency leave requested and remaining of the employee’s overall FMLA entitlement after deducting leave for the ten (10) days taken under section I. C. and any previous traditional FML taken.

1. Full Time Employees. The amount of pay that an eligible full-time employee may receive, as provided in the previous paragraph, will be calculated based on an amount that is not less than two-thirds (2/3) of an employee's regular rate of pay; and the number of hours the employee would otherwise be normally scheduled to work.
2. Part Time Employees. The amount of pay that an eligible part-time employees or employees with varying schedules may receive will be calculated based upon an amount that is not less than two-thirds (2/3) of an employee's regular rate of pay and the number of hours the employee would otherwise be normally scheduled to work.

To the an extent that the Employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken public health emergency leave or other leave, the Employer shall use the following in place of such number:

- a. If the employee worked over the past six (6) months, a number equal to the average number of hours that the employee was scheduled per day over the six (6) month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.
 - b. If the employee did not work over the past six (6) months, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.³
3. Regardless of whether the employee is full-time, part-time, seasonal, or otherwise, in no event shall any pay in this policy for public health emergency leave exceed \$200 per day and \$10,000 in the aggregate (hourly rate equivalent of \$25.00 based upon an eight hour day).

E. In any case where an employee has the necessity for public health emergency leave and the need is foreseeable, an employee shall provide the Employer with such notice of leave as soon as is practicable. The Employer will provide a form for such request that the employee must fill and return to the Employer as soon as is practicable. A failure to provide practicable notice may result in the employee being absent without approved leave.

F. Special Rule for Emergency Responders

An Employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of the provisions in the amendments made under of section 3102 of this Act.

Pursuant to the Family and Medical Leave Expansion Act, and in the best interests of the citizens of Avon, the Employer has elected to exclude emergency responders from the application of Public Health Emergency Leave. Thus, any such employees are not

eligible for receiving Public Health Emergency Leave. If an employee meets the definition of an emergency responder and is in need of leave, please contact the Department Head or Human Resources to discuss any other leave options that may be available.

- G. Under the Family and Medical Leave Expansion Act, the requirements that an Employer restore an employee who returns from FMLA leave to his or her position or an equivalent one do not apply to Employers with fewer than 25 employees if certain conditions are met:
1. the employee takes public health emergency leave;
 2. the employee's position no longer exists due to economic conditions or other changes in the Employer's operating conditions that affect employment and are caused by the COVID-19/Coronavirus emergency;
 3. the Employer makes reasonable efforts to restore the employee to an equivalent position; and
 4. if the Employer cannot restore the employee to an equivalent position, the Employer makes reasonable efforts to contact the employee if an equivalent position becomes available during the "contact period." The "contact period" is one year from either (a) the date public health emergency leave ends, or (b) the date that is 12 weeks after public health emergency leave starts, whichever is earlier

II. Definitions

- A. "Child care provider" means a provider who receives compensation for providing child care services on a regular basis.
- B. "Eligible Employee" means an employee who has been employed for at least thirty (30) calendar days by the Employer with respect to whom leave is requested.
- C. "Emergency Responder:" under the FFCRA, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state's or territory's or the District of Columbia's response to COVID-19.

- D. “Employer” means the City of Avon, Ohio.
- E. “Public Health Emergency” means an emergency with respect to COVID–19 declared by a Federal, State, or local authority.
- F. “Public Health Emergency Leave” means a particular type of Family and Medical Leave that is in part unpaid and paid that qualified employees may utilize in response to the COVID-19/Coronavirus pandemic.
- G. “Qualifying need related to a public health emergency” means that, for the purposes of the Family and Medical Leave Expansion Act, the employee is unable to work (or telework) due to a need for leave to care for the son or daughter under eighteen (18) years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.
- H. “School” means an elementary school or secondary school as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

III. Emergency Paid Sick Leave Act

- A. The Employer’s Sick Leave Policy is hereby amended to include Emergency Paid Sick Leave to eligible employees who are unable to work (or telework) due to a need for leave because:
 - (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 due to concerns related to COVID–19.
 - (3) The employee is experiencing symptoms of COVID -19 and seeking a medical diagnosis.
 - (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
 - (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions.
 - (6) The employee is 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.

The Emergency Paid Sick Leave Act includes an exception that an Employer of an employee who is a health care provider or an emergency responder may elect to exclude such employees

from the application of the subsection regarding Emergency Paid Sick Leave. The definition for emergency responder is the same as set forth in the definitions section above, Section II (C).

The Employer has elected, pursuant to the Emergency Paid Sick Leave Act, and in the best interests of the citizens of Avon, to exclude emergency responders from the application of Emergency Paid Sick Leave. Thus, any such employees are not eligible for receipt of Emergency Paid Sick Leave. If an employee meets the definition of an emergency responder and is in need of leave, please contact the Department Head or Human Resources to discuss any other leave options that may be available.

- B. A full-time employee shall be entitled to emergency paid sick leave of up to eighty (80) hours. Part-time employees will be entitled to a number of hours equal to the number of hours that such employee works, on average, over a two (2) week period.

The paid sick leave under this policy shall be available for immediate use by the employee for the purposes described in this policy, regardless of how long the employee has been employed by the Employer.

Emergency Paid Sick Leave under this policy will be in addition to any accrued sick leave credited to an employee under the Employer's Sick Leave Policy, and the use of Emergency Paid Sick Leave will not be deducted from an employee's existing sick leave accrual.

- C. Emergency paid sick leave will be calculated for full-time employees based upon the number of hours the employee would otherwise be normally scheduled to work.

For part-time employees or employees with varying schedules, and to the extent that the Employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken public health emergency leave or other leave, the Employer shall use the following in place of such number:

- a number equal to the average number of hours that the employee was scheduled per day over the six (6) month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.

- if the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

- D. Compensation for Emergency paid sick leave for any use described in section III (A)(1),(2), or (3) above will be calculated for full-time employees based upon the employee's regular rate of pay, the minimum wage found in the FLSA, or the minimum wage of the State of Ohio, at whichever rate is the greater of those three rates.

With respect to any emergency paid sick leave provided for any use described in section III (A)(4),(5), or (6) above, "partial paid emergency sick leave," the employee's required

compensation under this subparagraph shall be two-thirds of the amount described in Section I (D) of this policy.

Additionally, regardless of the employee's full or part-time status, in no event shall such Emergency paid sick leave exceed:

- Five hundred eleven dollars (\$511.00) per day and five thousand one hundred ten dollars (\$5,110.00) in the aggregate (hourly rate equivalent of \$63.88 based upon an eight hour day) for a use described in III (A)(1),(2), or (3) as referenced above regarding qualifying reasons for emergency sick leave; and

- Two hundred dollars (\$200.00) per day and two thousand dollars (\$2,000.00) in the aggregate (hourly rate equivalent of \$26.38 based upon an eight hour day) for a use described in section III (A)(4),(5), or (6) as referenced above regarding qualifying reasons for emergency sick leave.

An employee requesting EPSL leave under section III (A)(4),(5), or (6) above may choose to supplement unpaid portions of EPSL with available vacation, personal leave, and/or compensatory time. Accrued and unused City provided sick leave may also be used to supplement unpaid portions of EPSL under 4 or 6 above if otherwise eligible for use of sick leave under an applicable collective bargaining agreement of City Personnel Policy.

- E. An eligible employee may first use the emergency paid sick leave provided under this policy for the purposes described in this policy, and the Employer will not require an employee to use other paid leave provided by the Employer before the employee uses the emergency paid sick leave under this policy.
- F. Paid sick leave provided to an employee under this policy shall cease beginning with the employee's next scheduled shift immediately following the termination of the need for paid sick leave under this policy.
- G. Any employee requesting such leave provided in this section shall provide notice to the Employer as soon as is practicable that the employee requires the need for leave. The Employer will provide a form for the employee to complete designating the request for leave, and the type of leave to be requested. A failure to provide practicable notice may result in the employee being absent without approved leave.
- H. The Employer will not require, as a condition of providing Emergency Paid Sick Leave under this policy, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick leave.
- I. Paid sick leave under this section shall not carry over from one (1) year to the next.

- J. After the first workday (or portion thereof) an employee receives paid sick leave under this policy, the Employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick leave.
- K. The Employer will post and keep posted in conspicuous places on the premises of the Employer where notices to employees are customarily posted, a notice of the requirements described in the Act as prepared or approved by the Secretary of Labor.

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)
FFCRA REQUEST FOR LEAVE FORM**

EFFECTIVE APRIL 1, 2020, AND ENDING ON DECEMBER 31, 2020, EMPLOYEES WILL BE ENTITLED TO LIMITED USE, EXPANDED LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA). AS A RESULT, ANY EMPLOYEE REQUESTING LEAVE UNDER THIS ACT SHALL COMPLETE THIS FORM IN ACCORDANCE WITH THE EMPLOYER'S FAMILIES FIRST CORONAVIRUS RESPONSE ACT POLICY.

Employee Name: _____
Department: _____

Date: _____
Classification: _____

LEAVE REQUESTED (please check):

EXPANDED FAMILY AND MEDICAL LEAVE (EFML)

Beginning Date/Time of Leave: _____
Ending Date/Time of Leave: _____

EFML will consist of *unpaid leave for the first ten (10) days* in which a qualified employee takes Public Health Emergency Leave. Is the employee requesting to substitute available/accrued leave during this time? Yes No

If yes, specify the type of leave requested for substitution:

Vacation Emergency Paid Sick Leave (EPSL)
 Comp Time Other (please specify) _____

After the initial ten (10) days, remaining leave under this policy will be paid at two-thirds (2/3) of the employee's regular rate of pay, for the number of hours the employee would otherwise be normally scheduled to work (not to exceed two hundred dollars [\$200.00]). Is the employee requesting to supplement the remaining unpaid leave with other available accrued leave? Yes No

If yes, specify the type of leave requested:

Vacation Other (please specify)
 Comp Time

EMERGENCY PAID SICK LEAVE

Beginning Date/Time of Leave: _____
Ending Date/Time of Leave: _____

Reason for Leave (please check):

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

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- 2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- 3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- 4. The employee is caring for an individual who is subject to an order as described in (1) or has been advised as described in (2) above.
- 5. The employee is caring for a son or daughter whose school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
- 6. The employee is 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.

If (1), (2), or (3) is checked, an employee will be paid at the employee's regular rate of pay, for the number of hours the employee would otherwise be normally scheduled to work (not to exceed five hundred and eleven dollars [\$511.00] per day).

If (4), (5), or (6) is checked, an employee will be paid at two thirds (2/3) of the employee's regular rate of pay, for the number of hours the employee would otherwise be normally scheduled to work (not to exceed two hundred dollars [\$200.00] per day).

Is the employee requesting to supplement the remaining unpaid leave with other available accrued leave? Yes No

If yes, specify the type of leave requested:

- Vacation Sick (only if eligible, excludes #5)
- Comp Time Other (please specify) _____

I certify all statements herein to be complete and true. Falsification is cause for discipline up to and including termination of employment.

Signature of Employee _____ Date _____

Signature of Department Head/Designee _____ Date _____

Approved Not Approved Reason: _____

Appointing Authority Signature _____ Date _____