

RESOLUTION NO. 15-2020

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLUTE, TEXAS APPROVING THE PANDEMIC EMERGENCY LEAVE POLICY**

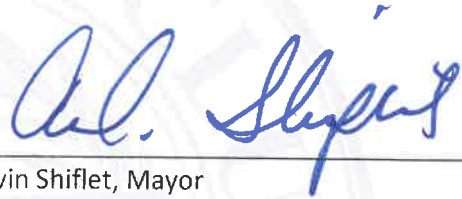
**WHEREAS**, the City of Clute along with the rest of the World is facing the imminent threat posed by the COVID 19 Pandemic; and

**WHEREAS**, the United States Department of Labor has adopted new regulations regarding Employee Leave resulting from this Pandemic under the direction of the recently adopted Families First Coronavirus Response Act; and

**WHEREAS**, these new regulations compel the City to modify our existing Policies and Procedures for a period of time in response to the Pandemic.

**NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLUTE, TEXAS** that the City Council of the City of Clute, Texas hereby approves and adopts the City's Pandemic Emergency Leave Policy attached hereto.

This resolution duly passed this 9<sup>th</sup> day of April, 2020.



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Calvin Shiflet, Mayor  
City of Clute, Texas

ATTEST:



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Rosie Poitevint, City Clerk  
City of Clute, Texas



Pandemic Disaster  
Employee Leave Policy  
Creation Date: 04/01/2020  
Expiration Date: 12/31/2020

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## **PURPOSE**

To comply with the Families First Coronavirus Response Act (which includes Family Medical Leave Expansion and Emergency Paid Sick Leave) and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This policy will be in effect from April 1, 2020, until December 31, 2020 and is eligible for any full-time or part-time employee currently employed by the city. The City of Clute's existing FMLA leave policy still applies to all other reasons for leave outside of this policy. In the event this policy is in conflict with any local, state or federal laws, the federal or state or local laws take precedent.

## **EMERGENCY PAID SICK LEAVE ACT (EPSLA)**

In accordance with the Emergency Paid Sick Leave Act (EPSLA), an employee is eligible for up to 80 hours of paid sick leave. This leave is in addition to and separate from an employee's sick leave they accrue on a monthly basis. Emergency Paid Sick Leave is limited to 80 hours for full-time employees and to the number of average hours worked in a two-week period for part-time employees, and ends when the leave has been exhausted; the need causing the employee's eligibility for the leave ends, or on the expiration of the law (December 31, 2020), whichever is earlier.

## **REASONS FOR EMERGENCY PAID SICK LEAVE:**

For the purpose of this policy, and in accordance with Emergency Paid Sick Leave Act, an employee is eligible to receive paid sick leave for the following reasons:

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 a family member subject or advised to self-quarantine or isolation;
5. The employee is caring for a son or daughter whose school or place of care is closed, or childcare is unavailable, due to COVID-19 related reasons; or
6. Employee is experiencing substantially similar condition specified by Department of Health and Human Services.

### COORDINATION OF PAY

Employees may receive Emergency Paid Sick Leave at the employee's regular rate of pay.

Full-Time employees – may receive up to a maximum of 80 hours of Emergency Paid Sick Leave

Part-Time employees – may receive the number of hours that the employee works, on average, over a two-week period of Emergency Paid Sick Leave.

Employees are required to provide appropriate medical documentation to support the usage of leave for this policy.

If the employee needs more time than what is allowed by the EPSL Act, then the employee may use his or her accrued leave time (e.g. sick leave, vacation, personal, floating holiday, holiday bank (PD), and comp-time (PD)). When all time has been exhausted the employee may be allowed to go into negative sick hours, if the need is present.

### CARRYOVER

Paid emergency sick leave under this policy will not be provided beyond December 31, 2020. Any unused emergency paid sick leave will not carry over to the next year or be paid out to employees.

### EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT

EFMLEA-Emergency Family Medical Leave Expansion Act: This expands the current FMLA provisions to cover employees who have worked for the City for only 30 days as of April 1, 2020 rather than the required one year under FMLA.

### ELIGIBILITY:

Eligible employees who are unable to work (or telework) due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19. Emergency Responders, as defined by the Department of Labor, are not eligible for this leave.

Emergency Responder includes but is not limited to law enforcement officers, communication specialists, emergency medical services personnel, paramedics, public works personnel, emergency management personnel, and persons with skills in operating specialized equipment or individuals whose work is necessary to maintain the operation of the facility.

### DURATION OF LEAVE

Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy. This leave may be taken intermittently by those employees who are able to work part of their regular work schedule or telecommute.

### PAY DURING LEAVE

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued paid vacation, sick or personal leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act. After the first 10 days, leave will be paid at regular pay rate for a period of two weeks. At the beginning of the fifth week, the employee's pay will be paid at a rate of two-thirds ( $\frac{2}{3}$ ) of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work; however, pay will not exceed \$200 per day, and \$10,000 in total. An employee can choose to use his/her accrued leave to make up the remaining 1/3 pay. Any unused portion of this pay will not carry over to the next year.

### EMPLOYEE STATUS AND BENEFITS DURING LEAVE

While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. If the amount of the check is not adequate to cover employee premiums, the employee must make up the difference in premium.

### PROCEDURE FOR REQUESTING EMERGENCY PAID SICK LEAVE (EPSLA) or EMERGENCY FAMILY MEDICAL LEAVE

All employees requesting Extended FMLA Leave must provide written notice to Human Resources by completing necessary paperwork of the need for leave to their department's Director as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. The Department Director can obtain paperwork from the Human Resource Department.

The notice the employee provides must include the reason for leave, and if possible, the expected duration.

When applicable, employees are also required to provide appropriate documentation for any school or day care closures.

Employees who are on leave per the reasons outlined within this policy, must contact their supervisor on a weekly basis, or as soon as practical, to provide updated work status information.

The employee may not take leave, or refuse to work, simply to avoid possible exposure to a causative agent in the workplace. Employees who may have a disability that creates an increased risk associated with the emergency are encouraged to notify Human Resources to discuss possible accommodations in accordance with the Americans with Disabilities Act.

### EMPLOYEE STATUS AFTER LEAVE

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms.

### ENFORCEMENT

Employees who are found to be in violation of any part of this policy or falsification of any information or documentation related to this policy, may be subject to disciplinary action as outlined in the Employee Policy Manual.