



## ADMINISTRATIVE REGULATION

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Effective Date: April 7, 2020

Administrative Regulation: 3-1 Emergency category

Revision Date: NA

Supersedes: April 1, 2020

Approved By: William H. Ashton II

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Subject: COVID-19 Temporary Additional Leave Benefits-Families First Coronavirus Response Act

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### I. Purpose

The purpose of this Administrative Regulation is to provide additional emergency leave benefits during and related to the COVID-19 pandemic, pursuant to the federal Families First Coronavirus Response Act (FFCRA), effective April 1 through December 31, 2020.

Temporary emergency leave provisions are, therefore, established during the COVID-19 pandemic, on the effective date of this A.R.

This regulation applies to all regular status, part-time flexible, and temporary employees, except the following:

- A. Directors
- B. All employees of the Herndon Police Department, except the Administrative Assistant and Parking Enforcement Official.
- C. All employees of the Public Works-Operations facility.

Any aspects of leave not covered in this temporary regulation are covered in AR 1-25-Leave. The Payroll/HR department will give guidance for proper application and hours recording. No usage of leave under this act shall push any employee into an overtime or comp time status. Increments of half work days or greater will be used for purposes of timekeeping under this act.

This regulation may be amended, modified or voided at any time that the federal law changes or that the town exercises other legal considerations for its employees.

### II. Qualifying Conditions Under FFCRA

- A. An employee is qualified to take leave when he or she is unable to work or telework, because the employee:
    - 1. is subject to a federal, State, or local quarantine or isolation order related
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- to COVID-19;
  2. has been advised by a health care provider to self-quarantine related to COVID-19;
  3. is exhibiting COVID-19 symptoms and is seeking a medical diagnosis;
  4. is caring for an individual subject to No. 1 or 2 above;
  5. is caring for his or her child<sup>1</sup> because of school or child-care service closure or a childcare provider is unavailable due to COVID-19 related reasons; or
  6. is experiencing other substantially similar conditions, as determined by the U.S. Department of Health and Human Services.
- B. The employee's leave status and pay is determined by the specific qualifying criteria, as defined under Sections III and IV below.

### III. Emergency Paid Sick Leave

Emergency Paid Sick Leave, up to two weeks, or 80 hours per employee and the equivalent scheduled hours for part-time, part-time flexible, and temporary employees, as needed on a case-by-case basis, will be provided, as follows:

- A. 100% of the gross that an employee would have been paid, for qualifying reasons under A., 1-3 above, not to exceed a total of \$5,110 for two weeks, or up to \$511 daily.
- B. 2/3 of the gross that an employee would have been paid, for qualifying reasons under II. A., 4-6 above, not to exceed a total of \$2,000 for two weeks, or up to \$200 daily.

### IV. Emergency Family and Medical Leave Expansion Act (E-FMLA)

- A. Eligible employees—with at least 30 days of town employment—are entitled to 12 weeks of job protected leave to care for their children for the qualifying reason under II. A., 5 above.

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<sup>1</sup> On March 28, 2020, the U.S. Department of Labor's Wage and Hour Division (WHD) published guidance in the form of questions and answers to provide information to employees and employers about how each will be able to take advantage of the protections and relief offered by FFCRA. According to Answer 40. **Who is a son or daughter?**

"Under the FFCRA, a "son or daughter" is your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. For additional information about in loco parentis, see Fact Sheet #28B: Family and Medical Leave Act (FMLA) leave for birth, placement, bonding or to care for a child with a serious health condition on the basis of an "in loco parentis" relationship.

In light of Congressional direction to interpret definitions consistently, WHD clarifies that under the FFCRA a "son or daughter" is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability."

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- B. The 12 weeks of job-protected leave include two weeks of unpaid leave, followed by 10 weeks of paid E-FMLA leave. Eligible employees may elect to utilize their own personal sick or annual leave for the initial two weeks.
1. The 10 weeks of paid E-FMLA are paid at 2/3 of the gross that an employee would have been paid for a total not to exceed \$12,000 or up to \$200 daily for employees who have been employed by the Town for more than 30 calendar days.
  2. An employee on paid E-FMLA may supplement the 2/3 pay with personal annual leave or earned compensatory time.

### V. Exclusions

The employees listed in Section I above have been excluded pursuant to the FFCRA which provides that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such an employee from paid sick leave or expanded family and medical leave. 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.

### VI. Travel

The town has adopted the CDC recommendations for travel. Employees are not authorized for nonessential work-related travel, until or unless as determined by the Town Manager. Employees are advised to avoid non-essential travel to highly affected locations, as designated by the CDC, or upon determination by the town manager. Employees who travel to these locations must disclose to Human Resources the locations they visited and traveled through. The town will require a social separation from the Herndon workforce of 14 calendar days after returning. A doctor's note releasing an employee to return to work will be required prior to return.

### VII. Symptomatic Employees

An employee who is symptomatic of COVID-19, is not to report to work until cleared in accordance with health department protocols.

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### VIII. Telework

- A. Employees who have the ability to work remotely may do so, in accordance with AR 1-37, Telework Policy, as determined by their department head.
- B. An employee who is teleworking may also avail himself or herself of the temporary emergency leave benefits under the FFCRA in combination with hours of telework, as approved by their department head.

### IX. General Precautions

Supervisors are responsible for assuring that general current protocols for proper hygiene are followed in their work environments, that proper sanitizing products are provided to employees, and that workstations and surfaces are routinely cleaned and sanitized. Employees are responsible for following current recommended hygienic practices to prevent the spread of germs. As with any sickness, employees should stay home if exhibiting symptoms. The CDC recommends that employees who appear to have acute respiratory illness symptoms (i.e. cough or shortness of breath) upon arrival to work or become sick during the day be separated from other employees and sent home immediately.



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William H. Ashton II  
Town Manager