



**WILMA QUAN**  
City Manager

**EMERGENCY ORDER 2020-10**

**RELATING TO EMPLOYEE LEAVE/PAY DURING EMERGENCY**

As the Director of Emergency Services pursuant to Fresno Municipal Code Section 2-505, and by the powers invested in me by Fresno Municipal Code Section 2-506, I hereby issue the following orders, to be effective immediately and for so long as the City's declared emergency is in effect related to COVID-19:

1. In order to prevent the transmission of COVID-19 and in accordance with the Mayor's Proclamation of a Local Emergency on March 16, 2020, and with the State of California and Local Health Department directives, which includes the Governor's COVID-19 directives, some City employees have been impacted by a reduction in City services, the need to care for a child due to school closures, the need to care for an individual related to COVID-19, or the necessity to isolate due to age or a health condition.
2. Pursuant to Local and State Directives, City of Fresno Employees perform essential services necessary to maintain the public health, safety and welfare.
3. Notwithstanding anything that may be to the contrary in this Order, during the declared local emergency, all employees of the City are considered Disaster Service Workers and may be called to report to work at any time, and may be assigned to perform any duty of the City.
4. To the extent possible without compromising the maintenance of essential City services, the City will provide such leave benefits outlined and expressed by the Families First Coronavirus Response Act (FFCRA) or other accrued paid leave. The leave benefits outlined herein will be available commencing on April 1, 2020. See **Exhibits A and B**.
5. The Director of Emergency Services reserves the right to order any City Employee to work in order to maintain the public, health, safety, and welfare, even if such employee is currently on an approved leave that is not protected by another statute such as FMLA/CFRA. When ordered to return to work the employee will be performing essential governmental services. Such employee will not be considered an emergency responder for the purpose of being considered an exempt employee under the FFCRA unless they directly perform or support

City of Fresno

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emergency responder work. Other than for the exemption from the FFCRA, an employee will not be considered an emergency responder, unless previously designated as such, and shall not be entitled to, or have the ability to claim entitlement to, any other benefits, rights or status as provided to emergency responders under other laws, MOU's, regulations, policies or agreements.

6. All leave/pay provided for under this Order must be approved and coordinated through each Employee's supervisor. The Director of Emergency Services may delegate to the Department Heads determinations regarding which employees are necessary to maintain the public, health, safety, and welfare, as provided for in Section 5 above.
7. Beginning April 1, 2020, having been approved by the Employee's supervisor, Employees unable to work or Telework as a result of COVID-19 may use the leave benefits outlined in this Order.
8. City Employees who are required to remain home and who are not ill during this Emergency should attempt to Telework if possible and if approved. Such employees shall adhere to Emergency Order 2020-07.
9. City Employees impacted by Shelter in Place orders will be assessed to determine the following:
  - a. The employee's role in fulfilling essential services for the City.
  - b. The ability of the employee's tasks to be completed either via teleworking, an alternative schedule, or other method to provide the essential service.
  - c. These employees, unless ill, may be required to report to work regardless of other factors which would otherwise qualify them for leave.
10. City Employees who are not ill, who are found to be fulfilling essential services and for which work is available, will be required to work, either at the City or by Telework, unless permitted to stay home in this Order.
11. For purposes of the emergency leave/pay application, the following definitions will apply:
  - a. Telework – the practice of working from home or other approved location in accordance with the Emergency Telework Guidelines outlined in Emergency Order 2020-07;
  - b. Full-time Employee – for the purposes of this policy, a Full-time employee is a regular employee within the competitive service, or a contract employee whose regular schedule is 40 hours per week;
  - c. Part-time Employee – for the purposes of this policy, a Part-time employee is an employee holding a permanent position for which the regularly scheduled work week is less than 40 hours per week;
  - d. Temporary Employee – for the purposes of this policy, a Temporary employee is an employee appointed to a limited position in City service.
  - e. COVID Leave – Leave as outlined in FFCRA - Emergency Paid Sick Leave Act time or the equivalent as outlined below amounting to 80 hours (or 112 hours for a 56-hour

employee) of paid time as provided by the FFRCA. A City Employee will only be entitled to the 80 hours (or 112 hours if applicable) once, regardless of the qualifying reasons that may apply;

- f. Emergency FMLA – Leave as outlined in FFRCA - Emergency Family Medical Leave Act time, and without compromising essential services of the City for emergency responders, an employee needs to care for a dependent child due to a school or daycare closure;
  - i. For purposes of this leave, dependent child is a biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis, who is under the age of 18 or 18 or older and who is incapable of self-care because of a mental or physical disability.

## 12. Leave/Pay:

- a. For any City Employee who is quarantined or isolated as the result of a federal, state or local directive, and who is not able to Telework or is only able to Telework for a portion of their regular schedule, shall be eligible to receive COVID Leave and other leaves/pay as follows:
  - 1) A Full-time Employee will receive 80 hours of COVID Leave to be used for those hours in which the employee is unable to work or Telework up to \$511/per day and no more than \$5,110 in the aggregate. Thereafter, the Full-time Employee will be eligible to use sick leave or other accrued leave as applicable. Once the Full-time Employee has exhausted all available leaves, the Full-time employee may request a sick/annual leave advance up to 80 hours.
  - 2) A Part-time or Temporary Employee will receive COVID Leave in an amount equal to the average work hours over a two work week period, but in no case will such average exceed 80 hours and up to \$511/per day and no more than \$5,110 in the aggregate. Thereafter, the Part-time or Temporary Employee may utilize accrued leave. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two-week work period.
- b. For any City Employee who is advised by a health care provider to self-quarantine due to COVID-19, who is sick due to COVID-19, or who is experiencing COVID-19 symptoms and awaiting or seeking a medical diagnosis, shall be eligible to receive COVID Leave and other leaves/pay as follows:
  - 1) A Full-time Employee will receive 80 hours of COVID Leave to be used for those hours in which the employee is unable to work or Telework up to \$511/per day and no more than \$5,110 in the aggregate. Thereafter, the Full-time Employee will be eligible to use sick leave or other accrued leave as applicable. Once the Full-time Employee has exhausted all available leaves, the Full-time employee may request a sick/annual leave advance up to 80 hours.
  - 2) A Part-time or Temporary Employee will receive COVID Leave in an amount equal to the average work hours over a two work week period, but in no case will such

average exceed 80 hours up to \$511/per day and no more than \$5,110 in the aggregate. Thereafter, the Part-time or Temporary Employee may utilize accrued leave. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two-week work period.

- c. For any City Employee who is caring for an individual who is quarantined or isolated as the result of a federal, state or local directive, who is sick due to COVID-19, or who is experiencing COVID-19 symptoms and awaiting or seeking a medical diagnosis shall be eligible to receive COVID Leave and other leaves/pay as follows:
  - 1) A Full-time Employee will receive 80 hours of paid sick leave not to exceed \$200 per day and \$2,000 in the aggregate. Employees who use this leave will be able to coordinate other leave benefits in order to make up any loss in pay during use of the 80 hours above. Thereafter, the Full-time Employee will be eligible to use sick leave or other accrued leave as applicable. Once the Full-time Employee has exhausted all available leaves, the Full-time employee may request a sick/annual leave advance up to 80 hours.
  - 2) A Part-time or Temporary Employee will receive COVID Leave in an amount equal to the average work hours over a two work week period, but in no case will such average exceed 80 hours. The dollar amount of this leave shall not to exceed \$200 per day and \$2,000 in the aggregate. Thereafter, the Part-time or Temporary Employee may utilize accrued leave. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two-week work period.
  
- d. For any City Employee not currently ordered to work as an emergency responder and who is caring for a dependent child, as defined above pursuant to Emergency FMLA, due to a school or daycare closure shall be eligible to receive COVID Leave, Emergency FMLA and other leaves/pay as follows:
  - 1) A Full-time Employee will receive 80 hours of COVID Leave at 2/3 their regular pay in an amount not to exceed \$200 per day and \$2,000 in the aggregate. These 80 hours will run concurrently with the first 10 days of unpaid leave under the FFRCA - Emergency Family Medical Leave Act Time. Thereafter, starting on the 11<sup>th</sup> day of Emergency FMLA leave, the Full-time Employee will be eligible to use paid Emergency FMLA. During the 10 weeks, the Full-time Employee will be eligible to receive 2/3 of their average monthly earnings not to exceed \$200 per day and \$10,000 in the aggregate. Employees who use this leave will be able to coordinate other leave benefits in order to make up any loss in pay during this time, unless otherwise granted by the Director of Emergency Services due to unique circumstance involving such employee. Thereafter, the employee may use any other accrued leave as applicable.
  - 2) A Part-time or Temporary Employee will receive COVID Leave at 2/3 their regular pay in an amount equal to the average work hours over a two work week period, but in no case will such average exceed 80 hours. The dollar amount of this leave

shall not exceed \$200 per day and \$2,000 in the aggregate. The COVID Leave will run concurrently with the first 10 days of unpaid leave under the FFRCA - Emergency Family Medical Leave Act Time. Thereafter, starting on the 11<sup>th</sup> day of Emergency FMLA leave, the Part-time or Temporary Employee will be eligible to use Emergency FMLA. During the 10 weeks, the Part-time or Temporary Employee will be eligible to receive 2/3 of their average monthly earnings not to exceed \$200 per day and \$10,000 in the aggregate. Employees who use this leave will be able to coordinate other leave benefits in order to make up any loss in pay during this time, unless otherwise granted by the Director of Emergency Services due to unique circumstance involving such employee. Thereafter, the employee may utilize any accrued leave time.

13. Full-time and part-time employees may be eligible for other State benefits related to disability, paid family leave, and/or unemployment due to a loss or reduction in paid working hours. This information and online applications can be found at: [https://www.edd.ca.gov/about\\_edd/coronavirus-2019/faqs.htm](https://www.edd.ca.gov/about_edd/coronavirus-2019/faqs.htm)
14. Both COVID Leave and Emergency FMLA will cease to be available after December 31, 2020. Neither leave has any cash value, nor can they be cashed out or banked for later use and are only available due to the special circumstances currently being faced by the City and the Nation.
15. Nothing in this order shall be deemed to confer any contractual obligations, property rights, or assume any City liability.
16. Any Employee who was on leave as of March 16, 2020, or who is placed on leave, for any non-COVID related reason, is not entitled to COVID Leave or Emergency FMLA.
17. Any Employee who violates this Order may be subject to disciplinary action, up to and including termination.
18. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED.

Director of Emergency Services



March 31, 2020

2:30pm

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Wilma Quan  
City Manager

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Date

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Time

## Exhibit A - Full Time Employee Leaves During COVID-19 Emergency Order

Full-Time Employee Situation	Leaves From March 16-20, 2020	Effective April 1, 2020 COVID-19 Leave Time	Effective April 1, 2020 after COVID-19 Leave Time is used	Effective April 1, 2020 Emergency Family Leave Act Pay
Employee is medically vulnerable and/or age 65+. They are unable to telework for all or part of their workday.	Paid Administrative Leave for hours telework is not available.	Employee may request use of their accrued and available leave banks, or borrow from future Sick/Annual Leave banks if exhausted up to 80 hours. See Emergency Order 2020-05	Employee may request use of their accrued and available leave banks, or borrow from future Sick/Annual Leave banks if exhausted up to 80 hours. See Emergency Order 2020-05	N/A
Employee is not working or reduced working hours due to closure or reduction of City services. They are unable to telework for all or part of their workday.	N/A	Employees may use their own sick, vacation, personal, or comp time. Once all leaves expended, may request a sick/annual leave advance up to 80 hours.	Employees may use their own sick, vacation, personal, or comp time. Once all leaves expended, may request a sick/annual leave advance up to 80 hours.	N/A
Employee is advised to self-quarantine, is sick with COVID-19 or is experiencing symptoms, and/or is awaiting diagnosis.	Employee may use their own sick, vacation, or other paid leave.	Up to 80 hours at regular rate (112 hours for 56-hour Fire Personnel) up to \$511/day and \$5,110 in the aggregate.	Employees may use their own sick, vacation, personal, or comp time. Once all leaves expended, may request a sick/annual leave advance up to 80 hours.	N/A
Employee is <u>caring for an individual</u> who is quarantined or isolated per a directive, who is sick with COVID-19, who is experiencing symptoms and is unable to telework for all or part of their workday.	Employee may use their own sick, vacation, or other paid leave.	Up to 80 hours not to exceed \$200/day and \$2,000 total. Can coordinate with other leaves to make up difference to reach full pay.	Employees may use their own sick, vacation, personal, comp time or family compassion. Once all leaves expended, may request a sick/annual leave advance up to 80 hours.	N/A
Employee is <u>caring for a dependent child</u> due to closure of school or childcare.	Employee may use their own annual, vacation, holiday or comp time.	Up to 80 hours at 2/3 regular pay not to exceed \$200/day and \$2,000 total.	See Emergency FMLA Column	1 <sup>st</sup> 10 days are unpaid, starting on the 11 <sup>th</sup> day, up to 10 weeks pay at 2/3 regular pay not to exceed \$200/day and \$10,000 total..

As Disaster Services Workers, all employees may be required to report to work whether in their usual capacity, or elsewhere in the City as needed, unless otherwise permitted by law. Whenever possible, employees should telework or alter their schedule to continue their duties. Employees on paid administrative leave are expected to be available by phone during regular working hours. The information in this chart is subject to change. See Emergency Order 2020-09 for full order and details.

## Exhibit B – Part-time or Temporary Employee Leaves During COVID-19 Emergency Order

Part-time or Temporary Employee Situation	Leaves from March 16-20, 2020	Effective April 1, 2020 COVID-19 Leave Time	Effective April 1, 2020 after COVID-19 Leave Time is used	Effective April 1, 2020 Emergency Family Leave Act Pay
Employee is medically vulnerable and/or age 65+. They are unable to telework for all or part of their workday	Paid Administrative Leave for hours telework is not available.	Employee may use their accrued and available leave banks, or borrow from future Sick/Annual Leave banks if exhausted up to 80 hours. See Emergency Order 2020-05	Employee may use their accrued and available leave banks, or borrow from future Sick/Annual Leave banks if exhausted up to 80 hours. See Emergency Order 2020-05.	N/A
Employee is not working or reduced working hours due to closure or reduction of City services. They are unable to telework for all or part of their workday	N/A	Employee may use their own accrued leave until expended. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two week period	Employee may use their own accrued leave until expended. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two week period	N/A
Employee is advised to self-quarantine, is sick with COVID-19 or is experiencing symptoms, and/or is awaiting diagnosis.	Employee may use any accrued available leave.	Eligible for two weeks pay. Time calculated as the average the employee would normally work in a two-week period, or if their hours vary, it is the average over the past six months. Total hours not to exceed 80) up to \$511/day and \$5,110 in the aggregate.	Employee may use their own accrued leave until expended. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two week period	N/A
Employee is <u>caring for an individual</u> who is quarantined or isolated per a directive, who is sick with COVID-19, who is experiencing symptoms and is unable to telework for all or part of their workday.	Employee may use any accrued available leave.	Two weeks hours as calculated above, not to exceed 80 hours. The dollar amount of this leave not to exceed \$200/day and \$2,000 total.	Employee may use their own accrued leave until expended. Part-time employees may request a sick/annual leave advance equal to the average work hours over a two week period	N/A
Employee is <u>caring for a dependent child</u> due to closure of school or childcare.	Employee may use any accrued available leave.	Two weeks hours as calculated above, not to exceed 80 hours. The dollar amount of this leave not to exceed \$200/day and \$2,000 total.		1 <sup>st</sup> 10 days are unpaid, starting on the 11 <sup>th</sup> day, up to 10 weeks pay at 2/3 regular pay not to exceed \$200/day and \$10,000 total. Two weeks pay calculated same as COVID-19 leave time.

For COVID-19 Leave and Emergency FMLA time for Part-time or Temporary employees, eligible hours is either the average an employee would normally work in a two week period, or the average over the past 6-months. As Disaster Services Workers, all employees may be required to report to work whether in their usual capacity, or elsewhere in the City as needed, unless otherwise permitted by law. The information in this chart is subject to change. See Emergency Order 2020-09 for full order and details.