



MEMORANDUM

TO: All Employees  
FROM: James Fenlon, Village Administrator  
DATE: March 27<sup>th</sup>, 2020  
RE: Families First Coronavirus Response Act and Notice of New Village of Little Chute Policies

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The pandemic spread of the COVID-19 virus (“coronavirus”) has affected our daily lives profoundly. We are now under declarations of National, State and Local States of Emergency. On Wednesday, March 18, 2020, the Families First Coronavirus Response Act (“FFCRA”) was signed into law. As a result of this new law, the Village of Little Chute brings to your attention two new workplace policies that are scheduled to take effect on April 2, 2020. The Village of Little Chute is adopting these policies in order comply with the recently enacted FFCRA, and in furtherance of our organization-wide effort to limit the spread of coronavirus among our employees and the general public while maintaining staffing and availability of emergency responders to maintain public health, order, safety, and essential services. Please find attached the Village of Little Chute’s Public Health Emergency: Family and Medical Leave Policy and the Emergency Paid Sick Leave Policy required by the FFCRA.

Both policies entitle eligible employees to paid leaves of absence necessitated by the coronavirus. Please review the policies carefully, as they contain important information regarding eligibility, rights, and responsibilities for paid and unpaid leave. The rights and responsibilities identified in the policies reflect those that are established under the applicable provisions of the FFCRA. The benefits available under these policies take effect beginning April 2, 2020 and sunset on December 31, 2020. Please note that, unless you are notified of revisions to other Village of Little Chute policies, they will remain in full force and effect.

Further guidance on the FFCRA is forthcoming from the appropriate governmental agencies. When that guidance is issued, we may be required to make changes to these policies. We will provide you with those changes. In the meantime, we strongly encourage you to familiarize yourself with the Emergency Paid Sick Leave Policy and the Public Health Emergency: Family and Medical Leave Policy.

Please direct all related inquiries to me. I am happy to discuss these policies and how they may affect your unique circumstances.

## **FAMILIES FIRST CORONAVIRUS RESPONSE ACT: PUBLIC HEALTH EMERGENCY**

### **FAMILY AND MEDICAL LEAVE POLICY ADDENDUM TO THE VILLAGE OF LITTLE CHUTE 'S FMLA POLICY**

The Emergency Family and Medical Leave Expansion Act (“EFMLEA”), an amendment to the federal Family and Medical Leave Act (“FMLA”), is part of the Families First Coronavirus Response Act (“FFCRA”). The goal of the EFMLEA is to allow for use of up to twelve weeks of federal FMLA leave during the COVID-19 crisis. The law permits an eligible employee to take leave when the employee is unable to work (or telework) due to a need for leave to care for the son or daughter (under 18 years of age) of the 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.

The Village of Little Chute endeavors to provide and maintain a safe and healthy workplace and is equally committed to complying with all applicable laws. Accordingly, the Village of Little Chute has established this EFMLEA Policy Addendum to our FMLA policy to ensure that employees are informed of their rights and responsibilities as they relate to family and medical leave provided under the EFMLEA. Leave under the EFMLEA provides one additional reason for leave protected under the FMLA. There is variance between some provisions of the EFMLEA and the FMLA however, so we recommend careful review of this Policy. Should you have any questions about this Policy, please contact the Village Administrator.

#### **A. ELIGIBILITY AND REQUESTS FOR LEAVE**

Employees who have been employed by the Village of Little Chute for at least 30 calendar days and who are eligible under this Policy may be entitled to leave under this Policy. Eligible employees with a qualifying need related to a public health emergency, as described in Section B below, may be eligible for up to 12 weeks of EFMLEA leave. This 12-week entitlement, however, will be reduced by FMLA leave otherwise taken by an employee under the Village of Little Chute’s FMLA Policy.

Eligible employees must provide the Village of Little Chute with notice of their need for leave under this Policy as soon as reasonably practicable. Notice should be provided either orally, telephonically, or in writing, including e-mail to the Village Administrator of the Village of Little Chute, or the Village of Little Chute Finance Director in his absence. Requests for leave should not be conveyed via voicemail unless circumstances prevent other forms of communication. The failure to provide notice of your need for leave may result in an unauthorized absence from work.

Employees who are classified as emergency responders are not eligible for leave or the benefits available under this policy, or the FFCRA pursuant to Section 3105 of the FFCRA. The Village of Little Chute has classified the following positions as emergency responders for purposes of this policy:

- Village of Little Chute Administrator

- Finance Director
- Village Clerk
- Police Chief
- Police Captain
- Police Lieutenants
- Police Officers
- Police Detectives
- All sworn law enforcement personnel
- Fire Chief
- Battalion Chiefs
- Fire Lieutenants
- Firefighters
- All firefighting personnel
- Public Works Director
- DPW Operations Manager
- Street, Utility, and Park Foreman
- DPW/DPRF Laborers
- Village Engineer
- Engineering Technicians
- Facilities Superintendent

The nature of the work performed by these employees, the possible need for additional staffing, and the exigent and dire circumstances that may exist when these employees are needed most necessitates their availability as emergency responders. The Village of Little Chute may amend this list of emergency responders at any time.

## **B. QUALIFYING NEED RELATED TO A PUBLIC HEALTH EMERGENCY**

The EFMLEA entitles an eligible employee to seek leave to when the employee is **unable to work (or telework)** due to a need to care for the son or daughter (under 18 years of age) of the employee, if the child's 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. COMPENSATION AND BENEFITS DURING LEAVE**

Protected leave under this Policy may consist of a combination of both unpaid and paid leave periods. The first 10 workdays for which an employee takes leave under this Policy are unpaid. While not required, employees may elect to substitute any accrued paid leave benefits available to the employee to cover the first 10 workdays of unpaid leave, including but not limited to, any paid sick leave to which the employee is entitled under the Emergency Paid Sick Leave Policy. To substitute paid leave for the otherwise unpaid period, the employee must satisfy all requirements for taking the accrued leave.

Any leave under this Policy taken after 10 workdays is paid as required by law. For each day of leave the employee takes after 10 workdays, the employee will be compensated in an amount equal to two-thirds of the employee's regular rate of pay multiplied by the number of hours the employee would normally be scheduled to work. In no event shall pay while on EFMLEA leave exceed \$200 per day, and \$10,000 in the aggregate.

During an approved leave of absence under this Policy, the Village of Little Chute will continue to make available to the employee the same insurance benefits which are available to similar employees who are not on leave. The employee on leave will continue to have responsibility to contribute his or her portion of any employee-paid premium during leave. If the employee is paid during the leave period, then the premium will be deducted from the employee's pay. If the leave is unpaid, then the employee is responsible for arranging with the Finance Director the payment of his or her share of the premium during the period of leave.

Upon termination from employment, any remaining premium amounts due from the employee for unpaid coverage will be deducted from the employee's final check, if permitted by law. The failure to make timely premium payments may result in the loss of benefits.

No employee will lose any accrued seniority or benefits while on this protected leave; however, additional seniority and benefits will not accrue during any unpaid period of leave.

#### **D. VERIFICATION OF NEED**

For EFMLEA leave under this Policy, a health care provider certification will not be required. The employee may need to provide information supporting the need for EFMLEA Leave. That information may include information that demonstrates the basis for the need to care for the son or daughter under age 18 that makes the employee unable to work (or telework) in circumstances when the child's school or place of care is closed or the child care provider of such son or daughter is unavailable due to a public health emergency. Among other considerations, the Village of Little Chute will assess whether spouses or other family members are available to provide needed care thus eliminating the employee's need for the EFMLEA Leave.

Employees who wish to take a medical leave of absence for a serious health condition, for the employee or to provide needed care for an eligible family member, may seek leave under the Village of Little Chute's standard FMLA policy. This addendum would not be applicable to such leave. See the FMLA Policy for the procedures for requesting FMLA leave under the Village of Little Chute policy including certification requirements for FMLA leave.

#### **E. RETURNING FROM EFMLEA LEAVE**

Where possible, employees on EFMLEA leave should provide the Village of Little Chute with at least 2 weeks' written notice of their intent to return to work. However under no circumstances may an employee provide fewer than 2 workdays' notice of their intent to return to work, if returning early. Any employee who returns from leave within 12 weeks, or the lesser amount of leave that was available to that employee due to other use of FMLA leave, will be reinstated to the same or an equivalent position with equivalent benefits, pay and other terms and conditions

of employment. The Village of Little Chute cannot guarantee reinstatement to employees whose leave extends beyond 12 weeks in any 12-month period, except to the extent necessary to comply with applicable state or federal laws. An employee will not have any greater right to employment than he/she would have if FMLA leave had not been taken.

If due to economic conditions or other changes in the operating conditions of the Village of Little Chute a position no longer exists, the Village of Little Chute will make a reasonable offer to restore employee to equivalent employment; or if no such position exists, the Village of Little Chute will continue to consider the employee for equivalent employment that may arise for one year following the conclusion of leave.

## **F. NONDISCRIMINATION AND NO RETALIATION**

The Village of Little Chute strictly prohibits any form of discrimination or retaliation in the administration of this Policy. The requesting or taking of leave under this Policy will not be used against an employee in any employment decision, including in the determination of raises, employment opportunities, or discipline. Similarly, leave under this Policy will not serve as a negative factor or count against any employee for purposes of meeting the Village of Little Chute's attendance requirements.

It is unlawful for the Village of Little Chute to interfere with, restrain, or deny the exercise of, or the attempt to exercise, employees' rights established under the FFCRA, the EFMLEA, or this Policy. The Village of Little Chute will not retaliate against individuals because of their participation in or commencement of an action, proceeding, or investigation related to leave entitlement under the FFCRA or this Policy or for opposing any practice made unlawful by the FFCRA. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer in such cases.

## **G. EXPIRATION OF BENEFIT**

In accordance with the EFMLEA, benefits pursuant to the EFMLEA and this policy expire on December 31, 2020.

## **H. QUESTIONS**

If you have any questions regarding the operation or interpretation of this Policy, please contact the James Fenlon at 920-423-3850 or [james@littlechutewi.org](mailto:james@littlechutewi.org).

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT**  
**EMERGENCY PAID SICK LEAVE POLICY**

In response to the public health crisis created by the pandemic spread of the COVID-19 virus (“coronavirus”), the Families First Coronavirus Response Act (“FFCRA”) was signed into law effective March 18, 2020. As part of the FFCRA, the Emergency Paid Sick Leave Act (“EPSLA”), established paid sick leave entitlement for eligible employees during an absence for qualifying reasons, as set forth below.

The Village of Little Chute desires to provide and maintain a safe and healthy workplace and is equally committed to complying with all applicable laws. Accordingly, the Village of Little Chute provides paid sick leave benefits to eligible employees in accordance with the EPSLA. This Policy is intended to provide employees with information regarding your rights and responsibilities as they relate to the paid sick leave afforded under the EPSLA. Should you have any questions about this Policy, please contact the James Fenlon, Village Administrator.

**A. EMPLOYEE ELIGIBILITY**

Eligible employees may receive emergency paid sick leave benefits, regardless of their length of employment with the Village of Little Chute, provided that a qualifying reason for leave exists and is adequately communicated to the Village of Little Chute as soon as practical. Paid sick leave under this Policy is available for immediate use for any of the qualifying reasons identified in Section B.

~~Employees who are classified as emergency responders are not eligible for paid sick leave or the benefits available under this policy or the FFCRA pursuant to Section 5102 of the FFCRA. The Village of Little Chute has classified the following positions as emergency responders for purposes of this policy:~~

- ~~● Village of Little Chute Administrator~~
- ~~● Finance Director~~
- ~~● Village Clerk~~
- ~~● Police Chief~~
- ~~● Police Captain~~
- ~~● Police Lieutenants~~
- ~~● Police Officers~~
- ~~● Police Detectives~~
- ~~● All sworn law enforcement personnel~~
- ~~● Fire Chief~~
- ~~● Battalion Chiefs~~
- ~~● Fire Lieutenants~~
- ~~● Firefighters~~
- ~~● All firefighting personnel~~
- ~~● Public Works Director~~
- ~~● DPW Operations Manager~~

- ~~Street, Utility, and Park Foreman~~
- ~~DPW/DPRF Laborers~~
- ~~Village Engineer~~
- ~~Engineering Technicians~~
- ~~Facilities Superintendent~~

The nature of the work performed by these employees, the possible need for additional staffing, and the exigent and dire circumstances that may exist when these employees are needed most necessitates their availability as emergency responders. The Village of Little Chute may amend this list of emergency responders at any time.

## **B. QUALIFYING REASONS FOR PAID SICK LEAVE**

Employees may use emergency paid sick leave under this Policy if the employee is unable to work (or telework) due to any of the following reasons:

- i. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- ii. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- iii. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- iv. The employee is caring for an individual who is subject to an order or has been advised by a health care provider to self-quarantine;
- v. The employee is caring for a son or daughter of the employee and 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; and
- vi. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Leave available under this Policy may only be used for reasons permitted by this Policy unless otherwise required by law.

## **C. REQUESTING PAID SICK LEAVE**

Employees may request leave under this Policy either orally or in writing, including email. Requests for leave should not be conveyed via voicemail unless circumstances prevent other forms of communication. Requests for paid sick leave should be directed to the Village Administrator. An employee seeking such leave should notify the Village of Little Chute or the need for leave as soon as practical after the employee becomes aware of the need for paid sick

leave but no later than the first workday (or portion of such workday) that the employee receives EPSLA Paid Sick Leave.

The notice to the Village of Little Chute and request for leave must identify the need for leave as identified in Section B(i) – (vi) above.

An employee may request leave as follows, or on a designated form prepared by the Village of Little Chute:

*Dear Administrator,*

*I am requesting leave pursuant to the Emergency Paid Sick Leave Policy. My need for leave is based on Section (B)(INSERT SPECIFIC PROVISION) as identified in the Policy. I will need leave from \_\_\_\_\_, 2020 until \_\_\_\_\_, 2020.*

*Sincerely,  
Eligible Employee*

The Village of Little Chute may follow up with an employee requesting such leave to obtain additional information and to advise you of other benefits available to you including FMLA and EFMLEA benefits.

## **D. DURATION OF PAID SICK LEAVE**

Eligible full-time employees are entitled to 80 hours of emergency paid sick leave under this Policy. Eligible part-time employees are entitled to a number of hours equal to the number of hours that they work, on average, over a 2-week period. If your hours of work are variable, the average bi-weekly hours you worked over the prior 6 months will be used. Unused paid sick leave under this Policy will not carryover from one year to the next and such leave expires no later than December 31, 2020. On an employee's separation from employment, any unused paid sick leave under this policy is not paid to the employee.

## **E. COMPENSATION DURING LEAVE**

When taking paid sick leave under sections B(i)-B(iii) above, employees are entitled to receive their regular rate of pay as compensation during a period of absence. However, in no event shall such paid sick time pay exceed \$511 per day and \$5,110 in the aggregate.

When taking paid sick leave under Sections B(iv) - B(vi) above, employees are entitled to receive two-thirds of their regular rate of pay as compensation during such leave. However, in no event shall such paid sick time exceed \$200 per day and \$2,000 in the aggregate.

The eligible employee receives an aggregate maximum of 80 hours total if full-time and prorated downward for non-full-time employees.



## **F. EFFECT ON EXISTING POLICIES**

This Policy is not intended to replace any existing leave or paid time off policies maintained by the Village of Little Chute. Paid sick leave provided under this Policy is made available to eligible employees in addition to any leave or paid time off benefits provided under any of the Village of Little Chute's existing policies.

Eligible employees may first use paid sick leave under this Policy for any of the qualifying reasons identified in Section B above before using other accrued paid leave which may be available to the employee under any of the Village of Little Chute's existing policies. The Village of Little Chute is prohibited by law from requiring employees to first use other unused and accrued paid time off benefits to which employees may be entitled under other existing policies prior to using emergency paid sick leave under this Policy.

## **G. NONDISCRIMINATION AND NO RETALIATION**

The Village of Little Chute strictly prohibits any form of discrimination or retaliation in the administration of this Policy. The requesting or taking of leave under this Policy will not be used against any employee in any employment decision, including in the determination of raises, employment opportunities, or discipline. Similarly, paid sick leave under any section of this Policy will not serve as a negative factor or count against any employee for purposes of meeting the Village of Little Chute's attendance requirements.

It is unlawful for the Village of Little Chute to interfere with, restrain, or deny the exercise of, or the attempt to exercise, employees' rights established under the EPSLA, or this Policy. The Village of Little Chute will not retaliate against individuals because of their participation in or commencement of an action, proceeding, or investigation related to paid sick leave entitlement under the EPSLA, or this Policy or for opposing any practice made unlawful by the EPSLA.

## **H. EXPIRATION OF BENEFIT**

In accordance with the EPSLA, the paid emergency sick leave benefits under the EPSLA and in this Policy expire on December 31, 2020.

## **I. QUESTIONS**

If you have any questions regarding the operation or interpretation of this Policy, please contact the Village Administrator at 920-423-3850 or [james@littlechutewi.org](mailto:james@littlechutewi.org).