

# CITY OF CLAYTON, OHIO

## ORDINANCE NO. O - 12 - 20 - 25

### AN ORDINANCE AUTHORIZING CARRY OVER TO 2021 OF COVID-19 RELATED EMERGENCY PAID SICK LEAVE FOR ADMINISTRATIVE, POLICE, FIRE, AND PUBLIC WORKS EMPLOYEES AND DECLARING AN EMERGENCY

**WHEREAS**, via enactment of City of Clayton, Ohio Resolution No. R-03-20-19 on March 19, 2020, the Clayton City Council ratified the declaration of emergency issued by the Mayor and City Manager in response to the COVID-19 virus; and

**WHEREAS**, City of Clayton, Ohio Resolution No. R-03-20-19 remains and continues in full force and effect and will remain in full force and effect during the period of time Governor DeWine's Executive Order 2020-01D is in effect; and

**WHEREAS**, the Federal Family First Coronavirus Response Act (FFCRA) was enacted with effective dates of April 1, 2020 – December 31, 2020 to provide emergency FMLA and emergency paid sick leave for employees for specified COVID-19 related reasons; and

**WHEREAS**, Section 3105 of the FFCRA contains a special rule allowing employers to exempt “emergency responders” from application of the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act of the FFCRA; and

**WHEREAS**, “emergency responders” as defined by the U.S. Department of Labor, includes, among others, law enforcement officers, fire fighters, emergency medical services personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and related personnel who work for such facilities whose work is necessary to maintain the operation of the facility; and

**WHEREAS**, consistent with Section 3105 of the FFCRA, the City of Clayton, Ohio Police Department, Fire Department and Public Works Department employees are exempt from the application of the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act of the FFCRA; and

**WHEREAS**, via enactment of Ordinance No. O-04-20-08 on April 16, 2020, City Council authorized emergency paid sick leave as specified below for the below enumerated COVID-19 reasons, and provided the employee is not receiving paid leave from another jurisdiction, for the Clayton Police Department, Fire Department and Public Works Department due to the fact those employees were/are deemed exempt from the application of the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act of the FFCRA:

1. *All Full Time Police Department Employees: 82.5 hours;*
2. *All Full Time Fire Department Employees: 120 hours;*
3. *All Full Time Public Works Employees: 80 hours.*

4. *All Part Time Police, Fire, and Public Works Employees: The number of hours that such employee works, on average, over a 2-week period, determined on a case by case employee basis*

*during the time period April 1, 2020 – December 31, 2020 and for the following documented reasons:*

- A. *The employee has been advised by a health care provider to self-quarantine related to COVID-19 exposure or diagnosis; or*
- B. *The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis; or*
- C. *The employee needs to care for an individual subject to reasons A or B above.*

**WHEREAS**, the Federal Family First Coronavirus Response Act (FFCRA) was enacted with effective dates of April 1, 2020 – December 31, 2020 and to date, there has been no new Federal legislation to extend the FFCRA emergency paid sick leave beyond December 31, 2020.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That employees of the City of Clayton, Ohio shall be permitted to carry over for use between January 1, 2021 and December 31, 2021, un-used emergency paid sick leave, provided the employee is not receiving paid leave from another jurisdiction, and for the following documented reasons:
  - A. The employee has been advised by a health care provider to self-quarantine related to COVID-19 exposure or diagnosis; or
  - B. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis; or
  - C. The employee needs to care for an individual subject to reasons A or B above.

The amount of un-used emergency paid sick leave under this Paragraph 1 that each employee shall be permitted to carry over is as follows:

1. All Full Time Police Department Employees: up to 82.5 hours;
2. All Full Time Fire Department Employees: up to 120 hours;
3. All Full Time Public Works Employees: up to 80 hours;
4. All Full Time Administrative Employees: up to 80 hours;
5. All Part Time Administrative, Police, Fire, and Public Works Employees: The number of hours that such employee works, on average, over a 2-week period, determined on a case-by-case employee basis.

2. The emergency paid sick leave enumerated in Paragraph 1 above is separate from and in addition to accrued paid leave. If an employee exhausts his or her emergency paid sick leave under Paragraph 1 above, then the employee, upon approval, may use other forms of accrued paid leave if additional time off is required.
3. The emergency paid sick leave enumerated in Paragraph 1 is being provided to the specified employees in response to the unique situation which has presented itself in the form of COVID-19 and is therefore intended to be and is hereby declared to be a temporary relief measure and as such, the emergency paid sick leave cannot be carried over into 2022, banked, or paid out at the end of the year or upon separation of employment for any reason.
4. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
5. That in accordance with Clayton Charter Section 4.031(B) the requirement that this enactment be read on two (2) separate days is dispensed with by affirmative vote of at least five (5) of the members of Council.
6. That, unless prompt implementation of the emergency paid sick leave enumerated in Paragraph 1 above for the specified personnel can be achieved, the health, safety and welfare of City employees and/or members of the public may be impaired by the continued spread of the COVID-19 virus and the public health, safety and welfare will be detrimentally affected. Accordingly, in accordance with Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.

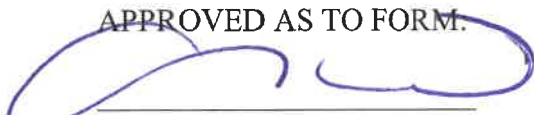
ADOPTED BY COUNCIL ON DECEMBER 17, 2020.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor (Presiding Officer of Council)

  
\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM.

  
\_\_\_\_\_  
Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

Dec. 23, 2020



CLERK