

REQUEST FOR COUNCIL ACTION

To:	Mayor & City Council
From:	Hazel Dunsmore
Date:	01/06/2021
Subject:	Resolution 21-02 updating the Temporary COVID-19 Pandemic Policy
Applicant Presentation:	N/A
Staff Presentation:	Hazel Dunsmore, Human Resource Director

RECOMMENDATION:

Approve Resolution 21-02 updating the Temporary COVID-19 Pandemic Policy

The Draper City Temporary COVID-19 Pandemic Policy needs to be updated. This policy was created at the beginning of the coronavirus pandemic to allow telecommuting where necessary and appropriate, and to comply with the Families First Coronavirus Response Act (FFCRA) that became effective April 1, 2020. This law mandated employers to provide additional paid leave benefits. The FFCRA paid leave provisions expired on December 31, 2020.

The recent Federal Relief bill extends the emergency paid leave benefit into 2021, but made it optional for employers. Draper City would like to continue providing the two weeks of emergency paid sick leave (EPSLA) for employees who meet the eligibility requirements and **have not already used the two week maximum** amount the legislation provides. The legislation does not create additional paid leave if an employee already received emergency paid leave in 2020. The maximum benefit is still two weeks of paid leave.

The City is not opting to continue the FFCRA expanded FMLA leave which added the ability for an employee to apply for FMLA for childcare related to schools being closed. No City employees applied for this expanded FMLA in the eight months it was in place in 2020.

The proposed changes to the Temporary Pandemic Policy have been reviewed by the City Attorney and the City Manager.

SUPPORTING DOCUMENTS:

- **Proposed Resolution No. 21-XX**

**RESOLUTION NO. 21-02 OF THE DRAPER CITY COUNCIL TO UPDATE
THE TEMPORARY COVID-19 PANDEMIC POLICY.**

WHEREAS, The City Council, from time to time, reviews and adopts policies and procedures to assist in the efficient utilization of scarce City resources and the fair and uniform application of requirements and benefits to City employees; and

WHEREAS, The City Council has reviewed the proposed updates to the Temporary COVID-19 Pandemic Policy; and

WHEREAS, The City Council believes the changes to this temporary policy are in the best interest of the employees of Draper City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. The Draper City Council does hereby approve the updates to the Draper City Temporary COVID-19 Pandemic Policy as attached hereto as Exhibit “A”.

Section 2. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 3. Effective Date. This Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, THIS THE 14th DAY OF JANUARY, 2021.

DRAPER CITY

Mayor Troy K. Walker

ATTEST:

Laura Oscarson, City Recorder

VOTE TAKEN:	YES	NO
Councilmember Green	_____	_____
Councilmember Lowery	_____	_____
Councilmember Lowry	_____	_____
Councilmember Roberts	_____	_____
Councilmember Vawdrey	_____	_____
Mayor Walker	_____	_____

"EXHIBIT A "

Temporary COVID-19 Pandemic Policy

~~(Effective June 1, 2020~~

Updated effective January 1, 2021 and extended to June 30, 2021)

A. General Provisions

1. Effective ~~January 1, 2020~~ January 1, 2021 City Hall will be open to the public for limited hours. Each department is required to have coverage during the designated open hours. Departments may begin to decrease telecommuting hours worked and vary employee schedules, such as Team A and Team B working on opposite days.

While at work employees are required to observe appropriate social distancing and personal hygiene requirements, including:

- maintaining a distance of at least six-feet from other individuals;
- wearing face covering if unable to maintain 6' separation;
- washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer;
- covering coughs and sneezes; no longer shaking hands;
- not coming into work if exhibiting symptoms of COVID-19;
- follow cleaning product instructions when cleaning your work areas;
- regularly clean high-touch surfaces within the employee's work area; and
- avoid using other employee's phones, desks, offices or other work tools and equipment when possible.

Talk to your supervisor if you have specific concerns. Employees who do not follow these requirements may be subject to disciplinary action.

2. Any employee diagnosed with COVID-19 shall immediately notify their supervisor and Human Resources.
3. This policy is subject to periodic review as conditions require.
4. Definitions:

"Emergency Responder" means 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 or respond to other declared emergencies. This includes but is not limited to law enforcement officers, fire fighters, emergency medical services personnel, paramedics, emergency management personnel, and persons designated in Exhibit A attached hereto with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency.

"Heightened Risk Employees" means employees 65 years and older, employees who live in a nursing home or long-term care facility, employees of all ages with underlying medical

conditions, including lung disease or moderate to severe asthma, employees who have serious heart conditions, employees who are immunocompromised (many conditions can cause a person to be immunocompromised, and employees with severe obesity, diabetes, chronic kidney disease undergoing dialysis, or liver disease

“Quarantine or isolation order” means a quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by any Federal, State, or local government authority that cause an employee to be unable to work even though the City has work that the employee could perform but for the order. This also includes when a Federal, State, or local government authority has advised categories of citizens (e.g., of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of employees to be unable to work even though the City has work for them.

B. Employee Benefits under the Emergency Paid Sick Leave Act (“EPSLA”)

1. **Intent:** This is not a new policy. It is a continuation of EPSLA emergency paid leave and does not create additional paid leave for those who have already used the two week maximum.

It is the intent of this policy to comply with the EPSLA. Questions and issues not specifically addressed in this portion of the policy shall be resolved by reference to regulations promulgated by the Department of Labor. EPSLA provides a minimum level of benefits. The City may, at its discretion, provide a higher level of benefit.

2. **Length of Service Requirement:** All employees regardless of length of service or hours works may be eligible for this benefit.
3. **Benefit:** Employees are eligible for EPSLA sick leave if the employee is unable to work or telework (a/k/a telecommute) because the employee is:
 - Subject to a federal, state or local quarantine or isolation order related to COVID-19;
 - Advised by a health care provider to self-quarantine due to COVID-19;
 - Experiencing symptoms of COVID-19 and needs to obtain a medical diagnosis;
 - Caring for a family member quarantined for either of the first two reasons above;
 - Caring for a child under age 18 if the child’s school or place of care is closed (or the child care provider is unavailable) due to COVID-19; or
 - Experiencing any other substantially similar condition as may be specified by the Health and Human Services Secretary.
4. **EPSLA Sick Leave:** Full-time employees receive up to a maximum of 80 hours or two weeks if the employee works a non-40 hour work week, whichever is greater, of EPSLA sick leave for any combination of qualifying reasons. Part-time employees receive an amount equal to their average number of hours over a two-week period. If hours vary from week to week, look at a 6-month average or, if the part-time employee has less than 6 months tenure, use the number of hours agreed upon when the employee was hired.

If the employee cannot return to work after the ~~80 hours~~maximum amount of EPSLA sick leave has been used they will need to use their own accrued sick leave. ~~EPSLA sick leave ends December 31, 2020. Unused EPSLA sick leave cannot be carried over to 2021. If the employee or a family member test positive and the employee has already used the two-week maximum of paid leave, they will need to use their own accrued sick leave to cover additional time off.~~

5. **Rate of Pay:** EPSLA leave is paid at the employee's regular rate of pay.
6. **Application:** Employees shall apply to the Human Resources Department for this benefit by filling out a form supplied and providing any documentation to support their application, if requested.

~~C. Employee Benefits under the Emergency Family and Medical Leave Expansion Act ("EFMLEA")~~

- ~~1. **Intent:** It is the intent of this policy to comply with the EFMLEA. Questions and issues not specifically addressed in this portion of the policy shall be resolved by reference to regulations promulgated by the Department of Labor. EFMLEA provides a minimum level of benefits. The City may, at its discretion, provide a higher level of benefit.~~
- ~~2. **Length of Service Requirement and Exceptions** All employees who have worked for Draper City for at least thirty calendar days prior to applying for EFMLEA leave may be eligible for this benefit. Emergency Responders are not eligible for this benefit.~~
- ~~3. **Benefit:** Eligible employees are entitled to up to twelve weeks of EFMLEA leave if the employee is unable to work or telework (a/k/a telecommute) because the employee is:
 - ~~Caring for a son or daughter under 18 years of age because the school or place of care for such child has been closed due to a public health emergency related to COVID-19; or~~
 - ~~Caring for a son or daughter under 18 years of age because the child care provider for such child is unavailable due to a public health emergency related to COVID-19.~~~~
- ~~4. **Family Leave:** Employees may receive up to 12 weeks of EFMLEA leave. The first two weeks of family leave are unpaid, however an employee may utilize available EPSLA leave or any accrued sick or vacation leave. For weeks 3-12, the employee will be paid as outlined below.~~
- ~~5. **Rate of Pay:** EFMLEA leave for weeks 3-12 shall be paid at two thirds of the employee's regular rate of pay capped at \$200 per day or a maximum of \$10,000. An employee will be paid for the number of hours the employee normally work per week. Employees may use their own sick leave balance to make up the one third pay.~~
- ~~6. **Limitations:** An employee may only take a total of 12 workweeks for regular FMLA or expanded FMLA during the previous 12-month period. EFMLEA leave may not be used due~~

~~to an employee's own COVID-19 illness or to care for another family member with COVID-19 illness.~~

- ~~7. **Application:** Employees shall apply to the Human Resources Department for this benefit by filling out a form supplied and providing any documentation to support their application, if requested.~~

CD. Heightened Risk Employees

1. A Heightened Risk Employee can apply to telecommute. If it is not possible to telecommute or safely social distance at work, the employee should contact Human Resources to discuss options.

DE. Telecommuting Policy

Telecommuting has been an option provided as a necessity during the pandemic for employees who are able to perform their regular duties remotely. However, onsite work is still viewed as essential. ~~and remote work may no longer be available when pandemic conditions subside.~~
Employees must receive pre-approval from their Department Director.

1. Department Director responsibilities:

- a. Department Directors will approve telecommuting on a case-by-case basis, keeping in mind the business needs of the City.
- ~~b. Department Directors will sign a COVID-19 Emergency Telecommuting Agreement indicating approval to work at home.~~
- b. The form must be submitted to Human Resources. This approval remains on file with Human Resources.
- c. Department Directors will check in and monitor remote employees to ensure work responsibilities are being met.

2. Employee responsibilities:

Employee must fill out the COVID-19 Emergency Telecommuting Agreement. The employee will be paid at their regular pay for hours worked and should record hours worked and any leave taken on their timesheet as they normally do (no special pay code is necessary). If a temporary telecommuting agreement has already been filed with Human Resources it is not necessary to fill out a new one. Employee duties, obligations, responsibilities, and conditions of employment with the City remain unchanged except those obligations and responsibilities specifically addressed in this agreement. Job responsibilities, standards of performance, and performance appraisals remain the same as when working at the regular City work site. The supervisor reserves the right to assign work as necessary at any work site.

3. While telecommuting, Employee will:

- a. check in with their supervisor daily to discuss status and open issues;
- b. remain accessible during the telecommute work schedule;

- c. be available for teleconferences, scheduled on an as-needed basis;
- d. be available to come into the office if a business need arises;
- e. request supervisor approval in advance of working any overtime hours (if employee is non-exempt); and
- f. request supervisor approval to use vacation or sick, or other leave in the same manner as when working at Employee's regular work location.

4. Safety and Equipment.

- a. Draper City Information Technology personnel will check out approved equipment.
- b. Employee agrees to maintain a safe, secure, and ergonomic work environment.
- c. Internet access must be via DSL, Cable Modem, or an equivalent bandwidth network.
- d. Employee agrees to protect City-owned equipment, records, and materials from unauthorized or accidental access, use, modification, destruction, or disclosure.
- e. Employee agrees to report to Employee's supervisor any incidents of loss, damage, or unauthorized access at the earliest reasonable opportunity.
- f. Employee understands that all equipment, records, and materials provided by the City shall remain the property of the City.
- g. Draper City Information Technology personnel will check in all equipment

~~5. Telecommuting is approved on a temporary basis. Employee agrees to return City-owned equipment, records, and materials within 3 days of termination of this agreement.~~

Exhibit A