

City of Harrisburg

Office of the Mayor

**Mayoral Executive Order No. – 2020**

**EXECUTIVE ORDER**

**OF ERIC PAPENFUSE, IN HIS**

**OFFICIAL CAPACITY AS MAYOR OF CITY OF HARRISBURG**

**WHEREAS**, I, Eric Papenfuse, Mayor of the City of Harrisburg, situated in Dauphin County, Pennsylvania, having been duly vested with full Executive powers and authority for and on behalf of the City of Harrisburg, state and declare the following:

**WHEREAS**, as a direct response to the COVID-19 health crisis and consistent with the declarations and invocations of emergency powers by the President of the United States and the Governor of the Commonwealth of Pennsylvania, on March 16, 2020, this Office issued a Mayoral Declaration of Public Health COVID-19 Disaster Emergency, in accordance with the Emergency Management Service Code, 35 Pa. C.S. § 7501, et seq.; and

**WHEREAS**, in order to assist the mitigation of this expansive national crisis, Congress enacted certain emergency legislation, including the ***Families First Coronavirus Response Act***,116 P.L. 127, 2020 Enacted H.R. 6201, 116 Enacted H.R. 6201, 134 Stat. 178 (“the FFRCA”), the provisions of which take effect on or about April 1, 2020; and

**WHEREAS,** the Emergency Family And Medical Leave Expansion Act (“the EFMLEA”) and the Emergency Paid Sick Leave Act (“the EPSLA”), as part of the FFCRA, serve to create and supplement existing federal leave rights for private and public employees by adding certain COVID-19 qualifying events that allow for new sick and family medical leave options in the course of this crisis; and

**WHEREAS**, the United States Secretary of Labor has been authorized to regulate certain exclusions for health care workers and emergency responders from the provisions of the EFMLEA in order to ensure that vital public services continue; and

**WHEREAS**, Section 5102(a) of the EPSLA likewise provides that employers may properly exclude employees who serve as health care providers or emergency responders from certain new or supplemental categories of leave; and

**WHEREAS**, the Secretary of Labor, through the United States Department of Labor’s Wage and Hour Division, issued general guidance on identifying public employees who qualify as “emergency responders” under both provisions of the FFCRA, advising that an emergency responder would include any employee who is needed to limit the spread of COVID-19, including but not limited to law enforcement officers, fire fighters, emergency medical services personnel, public health personnel, emergency management personnel, public works personnel, persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals whose work is necessary to maintain the operation of any facility that would be used to perform those functions; and

**WHEREAS**, in accordance with the employer obligations set forth in the FFCRA, I hereby find that City staff serving in those above-described capacities and positions to be vital, necessary and essential personnel in the City’s ongoing fight against the COVID-19 pandemic, and whose services are required to provide for the health, safety and welfare of the general public; and

**WHEREAS,** consistent with the guidance from the United States Department of Labor and in order to assure the City’s continuing ability to provide vital, necessary and essential public services throughout this crisis, I hereby declare and direct that the City of Harrisburg elects to exempt any City employee now serving or who hereinafter shall be tasked to serve in the capacity of an emergency responder in the course of the COVID-19 public health crisis from the general provisions of the FFCRA that are subject to exclusion by any determination, guidance or regulation of the U.S. Department of Labor or by this statutory election, including but not limited to the specific provisions of the EPSLA.

**AND SO NOW**, **FOR THE PURPOSE OF CONTINUING TO MAINTAIN THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC AND OF OUR CITY STAFF IN THE COURSE OF THE COVID-19 PUBLIC HEALTH CRISIS IN THE CITY OF HARRISBURG,** **I DO HEREBY ORDER AND DIRECT THE FOLLOWING**:

1. **ON BEHALF OF THE CITY OF HARRISBURG, I HEREBY ELECT AND DECLARE** that the City shall be exempt from the mandates for additional Sick and Family Medical Leave benefits as those may otherwise apply to “emergency responders” under the *Family First Coronavirus Response Act.*

2. **I HEREBY FURTHER ORDER AND DIRECT** that for the purpose of implementing the FFCRA, the City hereby adopts the above-cited guidance of the United States Secretary of Labor as promulgated by and through the agency’s Wage and Hour Division.

3. **ACCORDINGLY, THE CITY HEREIN ACKNOWLEDGES, CONCURS AND HOLDS** that for the sole and exclusive purposes of the FFCRA, a City “emergency responder” shall be any person employed by or otherwise acting on behalf of the City who works in the capacity of law enforcement officer, fire fighter, emergency medical services personnel, public health personnel, emergency management personnel, public works personnel, or person whose skill or training includes operating any specialized equipment or who otherwise possesses other necessary skills to provide aid in this declared emergency, including those additional employees assigned to the maintenance or operation of any facility that City emergency responders shall require to be operational for their work.

4. **I HEREBY FURTHER AUTHORIZE AND DIRECT** that the Business Administrator and the Director of Human Resources coordinate with all Departments and Bureaus to identify those City positions and staff who shall be designated as emergency responders under the FFCRA during the course of the COVID-19 crisis, which designation shall be done in a manner consistent with the guidance of the U.S. Secretary of Labor. Nothing herein shall be deemed to restrict any later addition, deletion or modification of an initial emergency responder designation as changes in circumstances, conditions and duties during this crisis may require.

5. **I HEREBY FURTHER AUTHORIZE AND DIRECT** that the Business Administrator, together with the Director of Public Works and the Director of Facilities Management, identify the essential positions and assignments of City staff that shall be necessary to aid in this declared emergency by virtue of the required or acquired specialized skills of the position or assignment; to identify those positions and staff whose work shall be necessary to maintain the operation of any facility that would be used to perform the functions of our emergency responders; and to designate those employees to be emergency responders under the FFCRA.

6. **I HEREBY DIRECT** that the Business Administrator and the Director of Human Resources promptly prepare and deliver a notification to each Department and Bureau Director of the complete list of City emergency responders.

7. **I HEREBY DIRECT** that the Business Administrator and the Director of Human Resources prepare and deliver prompt notification to each City employee of his or her exempt or non-exempt status under the FFCRA.

8. **I HEREBY DIRECT** that the Bureau of Human Resources shall be responsible to create, maintain and post a complete and accurate list of the City’s designated emergency responders under the FFCRA.

9. **I HEREBY DIRECT** that the Bureau of Human Resources shall deliver, as soon as practicable, to the President of each collective bargaining unit a list of their respective union members designated to be FFCRA emergency responders.

10. **I HEREBY FURTHER DECLARE AND DIRECT** that nothing herein shall be deemed intended to disqualify or otherwise diminish the rights of any City employee to request and secure any form of leave otherwise authorized under any pre-COVID-19 City policy, including but not limited to qualified periods of Family and Medical Leave.

*[remainder of page intentionally left blank]*

 **IN WITNESS WHEREOF, I, ERIC PAPENFUSE, MAYOR OF CITY OF HARRISBURG** have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2020.

**WITNESS:**

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **ERIC PAPENFUSE**

 **MAYOR OF CITY OF HARRISBURG**

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

 On this, the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2020, before me, a Notary Public, the undersigned officer, personally appeared **ERIC PAPENFUSE, Mayor of City of Harrisburg,** known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

 IN WITNESS WHEREOF, I hereunto set my hand and official seal.

 NOTARY PUBLIC