

RESOLUTION NO. 20 - 18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS EXCLUDING EMERGENCY FIRST RESPONDERS FROM THE DEFINITION OF ELIGIBLE EMPLOYEE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Greg Abbott, Governor of Texas issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, the commissioner of the Texas Department of State and Health Services (DSHS), Dr. John Hellerstedt, has determined COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, on March 24, 2020, the Mayor of the City of Commerce executed, a declaration of a public health disaster; and

WHEREAS, on March 24, 2020, Governor Abbott extended his order relating to continuity of essential services and activities during the COVID-19 disaster (Executive Order GA-14) until at least April 30, 2020.

WHEREAS, on March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (FFCRA), which created the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA); and

WHEREAS, the FFCRA grants the Secretary of Labor authority to issue regulations as necessary, to carry out the purposes of the Act, including to ensure consistency between the EPSLA and the EFMLEA; and

WHEREAS, on April 1, 2020 the FFCRA became effective; and

WHEREAS, on April 1, 2020 the Department of Labor issued regulations (Part 826 of Title 29 of the Code of Federal Regulations) to define terms for the EPSLA and EFMLEA; and

WHEREAS, 29 C.F.R. 826.30(c)(2) defines “emergency responders” who may be excluded from the EPSLA and EFMLEA under the FFCRA as “anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19”; and

WHEREAS, Section 3105 of the EFMLEA permits employers of an employee who is an emergency responder to exclude such employee from the definition of “eligible employee” under section 3102 of the EFMLEA; and

WHEREAS, Section 5102 of the EPSLA permits employers of an employee who is an emergency responder to exclude such employees from the definition of “employee” under section 5110 of the EPSLA; and

WHEREAS, the Council wishes to exclude emergency responders, as defined in 29 C.F.R. 826.30(c)(2), from the definition of “eligible employee” under section 3102 of the EFMLEA and “employee” under section 5110 of the EPSLA in order to maintain staffing levels to ensure continuity of essential operations during a public health emergency for the protection, safety and general welfare of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

SECTION 1: Findings Incorporated. The findings recited above are incorporated as if fully set forth in the body of this Resolution.

SECTION 2: Ratification. The City Council hereby excludes emergency responders, as defined in 29 C.F.R. 826.30(c)(2), from the definition of “eligible employee” under section 3102 of the EFMLEA and “employee” under section 5110 of the EPSLA.

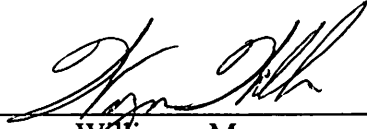
SECTION 3: Ending Date. This Resolution shall remain in effect until December 31, 2020, the ending date of the FFCRA.

SECTION 4: Savings/Repealing. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provision of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 5: Effective Dates. This Resolution shall be in force and effect immediately upon final passage until the ending date, and it is so resolved.

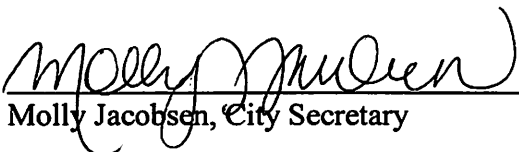
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS on this the 21st day of April, 2020.

CITY OF COMMERCE



Wyman Williams, Mayor

ATTEST:



Molly Jacobsen, City Secretary