

## **SICK LEAVE RULES AND REGULATIONS**

### **A. PURPOSE**

The City recognizes that, in addition to leave time for vacation and to attend to personal matters, from time to time, employees may need time off from work to recover from illness or injury. It is imperative that employees understand that the sick leave benefit is not intended to be used as additional PTO leave, as defined in the City's Paid Time Off Leave Rules And Regulations. Rather, this benefit is intended to be used, and may only be used, as defined herein.

### **B. SCOPE**

These rules and regulations shall apply to all employees in all City departments, except School Department employees.

### **C. DEFINITIONS**

The following words when used in these regulations shall have the following meaning:

1. Sick Leave – shall mean absence from duty as a result of disability arising out of sickness or injury of the employee for which no payment is made under the Workers' Compensation Act, General Laws, Chapter 152, or the injured-on-duty provisions of General Laws Chapter 41, §111F. (For maternity leave questions, see section on Family and Medical Leave.)
2. Employee – shall mean all employees of the City of Worcester, including salaried officials and officers, but excluding School Department employees.
3. Non-bargaining unit employees – shall mean all employees not represented by a bargaining unit certified by the Commonwealth or recognized by the City.
4. Overtime - shall mean payment at one and one-half (1 1/2) times regular rate.

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

Every permanent, full time employee, including those employees on the EM and CM pay schedule, will earn 6.75 hours of sick leave credit per month for regularly scheduled 40 hours per week for the month for a total of 81 hours annually. Temporary employees or "pool" employees do not earn sick leave. For purposes of computing sick time leave, a day will not exceed eight hours, and a week will not exceed forty hours. Holidays and all paid leave days will be considered days worked. Sick leave credit will continue to accrue while on paid sick leave status. No employee will earn more than 81 sick leave hours in any calendar year. Earned sick leave is credited on the first day of the month following its accrual and will be added to any unused portion of sick leave previously credited. Part time, permanent employees working at least 20 hours per week will earn and accrue sick leave on a pro-rated basis.

#### **E. MONTHLY SICK LEAVE ACCUMULATION**

New employees will earn sick leave credit the first day of the month after completing a full calendar month of service. For each day during the month in which the employee is in a non-pay status, 1/4 hour will be deducted from the total authorized 6.75 hours for that month.

#### **F. ACCUMULATION OF SICK LEAVE CREDIT; MAXIMUM AMOUNTS**

Earned sick leave shall be credited on the first day of the month following its accrual, and shall be added to any unused portion of sick leave previously credited. Sick leave shall not be credited in anticipation of accrual. No employee shall be allowed to accumulate unused sick leave credit in excess of 160 days for CM/EM employees and 140 days for other employees.

#### **G. SICK LEAVE USAGE**

An employee disabled from performing their regular duties as a result of sickness or accident must, as soon as he is aware of his inability to work, notify their department head or the department head's designated assignee of such disability. The department head will not grant sick leave in anticipation of credit.

Earned sick leave shall be granted for the employee's:

1. Personal injury or illness;
2. Personal medical, mental, dental or optical consultation or treatment;
3. Exposure to contagious diseases where there is reason to believe there exists actual danger that the disease may be transmitted to others during the course of official duties;
4. Pregnancy, miscarriage, personal childbirth, and recovery therefrom.

If there is reason to believe certain health factors of an employee pose a threat to the good health and well-being of the employee or others, the department head may direct the employee to utilize sick leave and to seek medical attention.

The department head or designated representative shall determine if the employee is making proper use of the authorized sick leave benefits. Proof of illness, including a certificate from a doctor who regularly treats the illness may be required.

An employee shall be subject to disciplinary action if he/she engages in outside employment at any time within a calendar day during which he/she has used sick leave. There are three exceptions to this rule:

1. When sick leave in an amount less than 4 (four) hours has been used by an employee for the sole purpose of obtaining personal medical, mental, dental or optical consultation or treatment.
2. When sick leave is used pursuant to the Family Medical Leave Act.
3. When the employee is using family sick time to care for a family member.

## **H. FAMILY SICK LEAVE**

Of the 81 hours accrued annually, an employee may use up to five (5) days annually for the illness of a parent, child, or someone within the employee's household. Family sick days do not carry over from year to year. Unused family sick days will remain a part of the employee's overall sick leave accrual for his/her own illness or injury.

## **I. EXTENDED FAMILY SICK LEAVE**

An employee who has accrued four hundred (400) or more sick hours may utilize any sick hours in excess of 400 hours to care for a family member. The family member must be covered by the provisions of the Family and Medical Leave Act ("FMLA") and the family member's medical condition must satisfy the requirements of the FMLA. If the employee drops below 400 sick hours, they will no longer be eligible for extended family sick leave.

## **J. COMPUTATION OF SICK LEAVE USE**

Absence of an employee disabled from sickness or accident payable under these rules shall be charged against the employee's sick leave credit, provided that no employee will be charged in excess of 5 days for time lost during any one week period.

Sick leave shall not be used if it results in credit for more than 8 hours pay in any one day. Whenever an employee works more than 8 hours in any one day, the use of sick leave for another day within that 40 hour work week will not affect the employee's overtime hours worked in excess of the 8 hours in one day. Examples are as follows:

1. If an employee calls in sick for their regular shift (7 a.m. to 3 p.m.), but then works later that same day from 4 p.m. to 8 p.m., he does not receive overtime pay for the hours he worked. He receives 4 hours sick leave and 4 hours regular pay.
2. If an employee works 8 hours on Monday at regular pay and 4 hours overtime that same day; works their regular 8 hours Tuesday, Wednesday, Thursday and calls in sick on Friday, he receives 32 hours regular pay, 8 hours sick leave, and 4 hours overtime pay.

## **K. EARNING OF SICK LEAVE WHILE IN SICK LEAVE STATUS**

Notwithstanding the provision of any policy to the contrary, all persons entitled to sick leave pursuant to this policy shall earn sick leave credit while being in the status of paid sick leave.

## **L. USE OF SICK LEAVE WHILE RECEIVING WORKERS' COMPENSATION**

When an employee is receiving compensation for sickness or injury pursuant to Chapter 152 (Workers' Compensation Act), and the amount of such compensation is less than their regular weekly pay, he may, upon written request, receive paid sick leave in accordance with Chapter

152, §69 to the extent that he has unused sick leave credit; provided, however, that the sum of such paid sick leave and the compensation received pursuant to Chapter 152 shall not exceed the employee's regular weekly pay. While on workers' compensation, an employee does not continue to accrue sick leave credit.

#### **M. VERIFICATION OF ILLNESS**

##### **1. Absences of Four Days or Less**

An employee, upon return to duty after any absence as a result of sickness or accident payable under these rules for 4 days or less may be required if asked by the department head to furnish the department with a written certificate stating the nature of their disability, its duration, and if applicable, the name and address of the physician providing medical attention.

##### **2. Absences of Five or More Days**

If the disability exceeds 5 days, the employee shall submit a letter from their attending physician or surgeon stating that the employee was under the doctor's care and was seen within the time period that they were out. In the event an employee is disabled beyond the duration documented in the original certificate, he shall submit a new letter unless the disability lasts more than 10 calendar days, in which case the employee shall submit a new letter for each 10 day interval. Employees on Family Medical Leave Act will submit certification as permitted by the Act.

#### **N. EXAMINATION BY CITY PHYSICIAN**

An employee entitled to payment under the rules shall submit to an examination by the City Physician, if such examination is requested by the head of the department, Chief Human Resources Officer, or the City Manager. A report of such examination by the City Physician will be forwarded to the requesting authority.

#### **O. DENIAL OF SICK LEAVE**

Failure of an employee to comply with the notice provisions of these rules and regulations, or failure of the employee to furnish the certificates required, or failure of the employee to submit to an examination by the City Physician, if requested under these rules shall, if the department head determines such failure is willful, be sufficient grounds for denying paid sick leave.

An employee shall not be entitled to sick leave for any accident or sickness causing disability as a result of their own willful act or misconduct, or if the employee was engaged in any business, trade, profession or outside employment during the hours he was scheduled to work for the City.

The head of a department, upon learning that an employee is carried in sick leave status in violation of these rules, or that the employee is entitled to workers' compensation under the provisions of the General Laws, Chapter 152, or Chapter 41, §111F (injured-on-duty) shall, forthwith, cause the employee's status on the payroll to be corrected.

**P. TERMINATION OF CITY SERVICE**

Sick leave payments, earned sick leave credit, and sick leave accumulation will automatically cease upon an employee's resignation, retirement, death, or permanent separation, and no monetary allowance or adjustment, except as provided below, will be made for earned sick leave credit or accumulations.

**Q. CONVERSION TO ADMINISTRATIVE LEAVE UPON RETIREMENT**

An employee who is eligible to retire under the provisions of Chapter 32 may, at the time of their retirement, convert their earned sick leave in excess of 100 days, up to 160 days for CM/EM employees and 140 days for other employees, to administrative leave at a rate of seventy-five percent (75%) of their then remaining time, e.g., an employee with 140 days of sick leave may convert forty (40) of those days to thirty (30) days of administrative leave. The City shall payout this administrative leave in the employee's final paycheck.

For employees subject to a collective bargaining agreement, the terms of said agreement will apply.

**R. EXHAUSTION OF SICK LEAVE**

No portion of sick leave credit will be credited to PTO leave of any employee. However, in most cases, where an employee disabled because of sickness or accident payable under these rules has no sick leave credit, the City will require the employee to remain on the payroll using PTO leave. If an employee has exhausted all available paid leave, he may, at the City's discretion, continue on a leave without pay. In the event that an employee is to be carried on the payroll in a "no-pay" status, he must make application in writing, on a Request for Leave of Absence form, to be approved by the department head and the Chief Human Resources Officer. Requests by department heads for a leave of absence must be approved by the City Manager. The rules set forth herein are subject to the FMLA and/or Massachusetts Maternity Leave Act.

**S. SICK LEAVE FOR EXTENDED ILLNESSES**

If, prior to the first day of an extended illness, an employee with 10 years of service has accumulated at least 70 days of accumulated sick leave, then upon the exhaustion of all sick leave and other paid leaves; the employee shall be compensated at 50% of their regular weekly salary or wage until the first anniversary date of the extended illness.

For employees with at least 5 years of service and at least 35 days of accumulated sick leave prior to their extended absence, upon exhaustion of their sick leave, they will be compensated at 50% of their regular weekly salary or wages up until the six month anniversary of their absence.

Weekly earnings shall not include payments for overtime or holiday pay in lieu of holiday leave.

This subsection shall not apply to any employee in a collective bargaining agreement unit unless specifically provided for in the bargaining agreement.

Employees subject to this section shall accrue sick leave at the same rate as specified in Section D.

**T. SICK LEAVE INCENTIVE PROGRAM FOR EXECUTIVE MANAGEMENT (EM & CM EMPLOYEES):**

In January of each year, employees on the EM and CM schedule who used five or less sick leave days during the prior calendar year, shall have the option to convert up to seven unused sick days minus the number of sick days actually used during the prior calendar year at the rate of 75% of their then current pay.

**U. SICK LEAVE RECORDS**

The head of each department shall maintain a permanent individual record which shall show, with respect to each employee, the monthly sick leave credited, the amount of unused sick leave at the expiration of the preceding leave year, and the dates on which such leave has been taken during the current year. This record shall be made available for the inspection of the employee, and any duly authorized agent of the Auditing Department or the Human Resources Department. It shall not otherwise be open for inspection.

**V. TRANSFER OF SICK LEAVE**

Upon the appointment of any employee from any City department to any other City department, including the School Department, the head of the department from which the employee is leaving shall prepare an abstract of the leave record for the employee as of the last day that such employee was carried in a pay status on the payroll for such department. The department shall forward such abstract to the head of the department to which such employee has been appointed. The head of the department to which such employee has been appointed shall enter the information contained in the abstract in the leave record for their department, and shall credit such employee with any unused sick leave credit as of the date of the commencement of service in such department.

**W. MISUSE OF SICK LEAVE**

***The City of Worcester is committed to providing sick leave for its employees, to be used in the case of an actual disability, illness, or illness prevention. The City takes the misuse and/or abuse of this benefit very seriously, and such conduct will result in discipline, up to and including the termination of employment.***

In no event shall earned days for illness or accident be construed or used as additional PTO allowance. The City has no obligation to grant leave to an employee that has used all of his or her sick leave accrual, unless the employee is on an approved leave pursuant to the Family & Medical Leave Act.

Sick leave cannot be used as an excuse to be late for work without advance notice of a proper use, and except in an emergency, employee must notify their employer before using sick leave.

The City will determine whether an employee is abusing sick leave by reviewing their use of sick leave. In some cases, one instance of sick leave will be deemed misuse, and in others, it may be the result of a pattern of behavior. Examples of sick leave abuse include, but are not limited to, the following:

1. Employee uses an excessive amount of sick leave with no history of chronic or FMLA qualifying condition.
2. Employee has a pattern of calling in sick to extend PTO leaves and/or weekends.
3. Employee calls in sick one time in July, but is later discovered to have gone to the beach for the day.

#### **X. EFFECTIVE DATE**

These regulations shall become effective January 1, 2024, and shall supersede all previous versions.

#### **Y. INTERPRETATION**

Questions on interpretation of these rules shall be directed to the Chief Human Resources Officer.

#### **Z. MODIFICATION**

The City Manager reserves the right to make such modifications and amendments to these regulations as, in his/her opinion, are deemed necessary or proper.

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