

RESOLUTION NO. 2017-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON RELATING TO EMPLOYEE BENEFITS; ADDING PAID SICK LEAVE FOR ALL EMPLOYEES REGARDLESS OF THEIR EMPLOYEE STATUS, AND DIRECTING THE MAYOR, OR DESIGNEE, AND THE HUMAN RESOURCES DIRECTOR TO MAKE ANY CHANGES TO POLICY OR PROCESS NEEDED TO IMPLEMENT THESE CHANGES, AND TO NEGOTIATE SUCH CHANGES IN APPLICABLE POLICIES AND COLLECTIVE BARGAINING AGREEMENTS; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE OF JANUARY 1, 2018.

WHEREAS, the Washington State legislature recently passed legislation providing for paid sick leave benefits for all employees; and

WHEREAS, the new legislation requires that all employers in the State of Washington provide one hour of sick leave for every 40 hours that an employee works; and

WHEREAS, the Issaquah City Council has determined that paid sick leave, as required by the State legislature, promotes public health, family stability, and economic security and, thereby, benefits the City as an employer, and the community; and

WHEREAS, the requirements of this legislation will impact current sick and safe leave policies and will extend paid leave to employees in temporary positions; and

WHEREAS, benefit changes are subject to the requirements of collective bargaining and must be negotiated with represented employees; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. New Sick and Safe Leave Policy. A new Sick and Safe Leave Policy is hereby adopted as an amendment to Section 7 of the City of Issaquah Personnel Policies as attached as Exhibit A.

Section 2. Amendments to Existing Personnel Policies. The Mayor, or designee, and Human Resources Director are hereby authorized and directed to negotiate and agree to any changes to existing sections of the City's Personnel Policies and Exempt Employee Benefits Handbook that are needed to carry out the provisions of this resolution.

Section 3. Collective Bargaining Agreements. The Mayor, or designee, and Human Resources Director are also authorized and directed to transmit memoranda of understanding to the unions representing various collective bargaining unit of City employees as the City's offer to extend paid sick leave benefits as required by the State of Washington and to execute the memoranda of understanding that will grant represented employees benefits as provided herein.

Section 3. Severability. If any section, sentence, clause or phrase of this resolution or section of the City of Issaquah Personnel Policies adopted hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this resolution or the adopted section.

Section 4. Effective Date. Any benefits created, or any changes to policy, resulting from this resolution, shall be effective January 1, 2018 and will not be impacted by employee status or representation.

PASSED by the City Council this 18th day of December, 2017.


STACY GOODMAN, COUNCIL PRESIDENT

APPROVED by the Mayor this 18th day of December, 2017.


FRED BUTLER, MAYOR

ATTEST:


CHRISTINE L. EGGERS, CITY CLERK

APPROVED AS TO FORM:


JAMES E. HANEY, CITY ATTORNEY

RESOLUTION NO: 2017-17
AGENDA BILL NO: AB 7508

Exhibit A: Sick & Safe Leave Policy

EXHIBIT A

7.3 Sick and Safe Leave (“SSL”)

Paid SSL is available for employees to care for their own health and safety, and for the health and safety of their family members as described in detail below.

7.3.1

Leave Accrual

- a) All non-exempt employees in part-time, non-regular positions shall accrue paid SSL at the rate of one (1) hour per forty (40) hours worked, beginning from their date of hire.
- b) Non-exempt employees in regular and limited term positions represented by a bargaining unit, shall accrue SSL in accordance with their collective bargaining agreement’s provisions for accruing sick leave.
- c) Non-exempt employees not represented by a bargaining unit, and employees in non-exempt limited term positions not represented by a bargaining unit, shall accrue SSL leave in accordance with the Vacation/Sick Leave schedule selected by the employee; the sick leave accrual rates are reproduced below:

SICK LEAVE SCHEDULE 1			SICK LEAVE SCHEDULE 2		
Days Per Year	Hrs Per Month	Hours Per Year	Days Per Year	Hrs Per Month	Hours Per Year
12	8.00	96	8	5.33	64

- d) Exempt employees, and exempt status limited term employees, shall accrue SSL in accordance with the Sick Leave Schedules outlined in the Exempt Employees Benefits Handbook.

7.3.2

Accrual Year

The leave accrual year for SSL is December 16 to December 15.

7.3.3

Carry Over of Paid SSL Time

Any paid SSL accumulated during the accrual year, but unused as of December 15 in any year, shall be carried over to the succeeding year up to the following maximums:

- For part-time, non-regular positions, forty (40) hours of SSL will carry over to the succeeding year.

- For represented non-exempt and limited term employees, the amount of SSL time carried over will be consistent with the amount stated in the applicable collective bargaining agreement. If no amount is stated in the collective bargaining agreement, or if the specified amount is fewer than forty (40) hours, then forty (40) hours of SSL will carry over to the succeeding year.
- Non-exempt employees in non-represented positions, and non-exempt, limited term employees in non-represented positions, may carry over SSL in accordance with the amount of sick leave carryover specified in the City of Issaquah Personnel Policies.
- Exempt employees in regular and part-time regular positions and limited term exempt employees, will carry over SSL in accordance with the Exempt Employees Benefits Handbook's provisions for sick leave carryover.

7.3.4

SSL Conversion and Cash Out

For employees in part-time, non-regular positions, there is no option for SSL conversion or cash out. For these employees, hours in-excess of the 40-hour maximum carry over will be forfeited.

For represented employees in non-exempt, regular status and limited term positions, SSL conversion will be consistent with the applicable collective bargaining agreement's provisions regarding conversion and cash out of sick leave.

For non-represented, non-exempt staff in regular and part-time regular positions, and for non-exempt limited term employees who are not represented by a bargaining unit, sick leave may be converted in accordance with the following:

- Employees with 240 hours of sick leave may convert an amount of SSL hours equivalent to one-third (1/3) of their unused sick leave accrued between December 16 of the past calendar year through December 15th of the current calendar year to straight pay or to paid vacation, as long as the conversion does not cause the sick leave balance to go below the 240-hour base. Sick leave hours eligible for conversion by the above calculation will be converted in full. Conversion to paid vacation requires approval of the employee's Department Director, and must be submitted to the Finance Department no later than December 15th of each calendar year.
- Employees who reach 480 hours sick leave base may convert an amount of SSL hours equivalent to one-half (1/2) of their unused sick leave accrued between December 16 of the past calendar year through December 15th of the current calendar year to straight pay or to paid vacation. Sick leave hours eligible for conversion by the above calculation will be converted in full. Conversion to paid vacation requires approval of the employee's Department Director, and must be submitted to the Finance Department no later than December 15th of each calendar year.

For exempt staff in regular and limited term positions, SSL may be converted or cashed out in accordance with the Exempt Employees Benefits Handbook's provisions for cashing out or carrying over sick leave.

7.3.5

Eligibility Requirements

Regular, part-time regular, and limited term employees in either exempt or non-exempt positions are eligible to use SSL from their date of hire and may use paid SSL as it accrues.

Employees in part-time, non-regular positions will accrue SSL from the date of hire, but shall not be eligible to use accrued SSL until ninety (90) days after their date of hire.

7.3.6

Reasonable Notice for the Use of Paid Leave

Employees must provide reasonable notice of an absence from work for which they will be using SSL for an absence resulting from: 1) an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition or an employee's need for preventive medical care; 2) to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care; or 3) when the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason. Such reasonable notice must be provided to the employee's immediate supervisor or the supervisor's designee. Any information provided will be kept confidential). The reasonable notice requirement is not intended to interfere with an employee's lawful use of paid SSL.

- **Foreseeable Use**

If an absence is foreseeable, the employee must provide notice to their supervisor at least ten (10) days prior to the leave, or as early as practicable before the first day that SSL is used. If possible, notification should include the expected duration of the absence.

When foreseeable leave is requested to address issues related to domestic violence, the employee must give advance oral or written notice to their supervisor as soon as possible.

- **Unforeseeable Use**

If an absence is unforeseeable, the employee must contact their supervisor as soon as possible before the required start of their shift, unless it is not practicable to do so. In the event it is impracticable for an employee to provide notice to their employer, a person on the employee's behalf may provide notice to the employer.

a) If possible, the notification should include the expected duration of the absence.

In unforeseeable circumstances regarding domestic violence, sexual assault, or stalking, the employee or a designee must give oral or written notice to the supervisor no later than the end of the day of the first day that the employee takes such leave.

7.3.7

Authorized Uses of SSL

Employees are eligible for paid SSL for the following reasons:

- a) An absence resulting from an employee's mental or physical illness, injury, physical or mental disability or health condition;
- b) To accommodate the employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition;
- c) An employee's need for preventive medical care, including bona fide optical and dental appointments;
- d) Quarantine of an employee by a physician for exposures to a contagious disease;
- e) In the event of a death in the employee's immediate family, an employee may be granted leave of absence not to exceed seven consecutive calendar days. Such leave is not included in any family or medical leave period for which the employee is eligible (*see Section 7.4, Family and Maternity Disability Leave*);
- f) When an employee participates in a funeral ceremony, the employee may be granted a reasonable time off to perform such duty;
- g) Use of a prescription drug which impairs job performance or safety;
- h) Actual periods of temporary disability related to pregnancy or childbirth (*see Section 7.4, Family and Maternity Disability Leave*);
- i) To attend the birth of and/or to care for a newborn child of an employee (*see Section 7.4, Family and Maternity Disability Leave*);
- j) To provide care for a family member with a mental or physical illness, injury, or health condition;
- k) To provide care for a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition;
- l) To care for a family member who needs preventive medical care;
- m) Closure of the employee's place of business or the employee's child's school/place of care by order of a public official for any health-related reasons;
- n) If the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking. Authorized use of SSL for domestic violence, sexual assault or stalking includes:
 - Seeking legal or law enforcement assistance or remedies to ensure the health and safety of the employee and their family members including but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault or stalking.
 - Seeking treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual, assault, or stalking.
 - Attending health care treatment for a victim who is a member of the employee's family.
 - Obtaining, or assisting a family member in obtaining, services from: a domestic violence shelter; a rape crisis center; or a social services program for relief from domestic violence, sexual assault or stalking.

- To obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault or stalking in which the employee or a family member of the employee was a victim of domestic violence, sexual assault or stalking.
- Participating, for the employee or for a family member, in: safety planning; or temporary or permanent relocation; or other actions to increase the safety from future incidents of domestic violence, sexual assault or stalking.

7.3.8

Family Member Defined

When using paid SSL for any of the purposes in Section 7.3.7(a)-(d) and (f)-(m), the following definition of family member shall apply:

- a) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;
- b) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
- c) A spouse;
- d) A registered domestic partner;
- e) A grandparent;
- f) A grandchild;
- g) A father-in-law;
- h) A mother-in-law;
- i) A son or daughter-in-law;
- j) A sibling; or
- k) Other relative or person living in the household of the employee with whom the employee has a familial relationship.

When using paid SSL for any of the purposes in Section 7.3.7(n), "family member" means any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship.

When using paid SSL for the purposes in Section 7.3.7(e), "immediate family" means a child, spouse, parent, or parent-in-law.

7.3.9

Increments of Use for SSL

Employees may use SSL in 15 minute increments.

7.3.10

Rate of Pay When Using SSL

Paid SSL will be compensated at the hourly rate that an employee would have earned during the time that the employee used SSL.

Calculation of overtime shall be based on FLSA rules, therefore, use of paid SSL shall not count towards the overtime calculation.

7.3.11

Responsibility for Workplace Safety

The City is responsible for providing a safe work environment and has the right to send an employee home or not allow an employee to continue to work for health and/or safety reasons. Such mandatory leave may be applied City-wide by declaration of the Mayor or may be applied to an individual employee upon approval of the Department Director or designee. Any employee not allowed working for health or safety reasons will have their time charged to SSL (if the reason for mandatory leave fits within the criteria for SSL), then vacation, compensatory time, and finally, leave without pay.

7.3.12

Verification for Absences Exceeding Three Days

Employees seeking to use or using paid SSL for authorized purposes for more than three (3) consecutive days that an employee is required to work, may be required to provide verification that establishes or confirms that the use of SSL is for an authorized purpose. For example, if an employee is required to work on Mondays, Wednesdays, and Fridays, and then the employee uses SSL for any portion of those three work days in a row. If the employee uses SSL again on the following Monday, the employee would have absences exceeding three days for which the employee is required to work.

- a) When an employee or the employee's family member is sick for more than three (3) consecutive days for which the employee is required to work, acceptable verification may include:
 - A doctor's note or a signed statement by a health care provider indicating that the use of SSL is necessary for one or more of the purposes described in Section 7.3.7; or
 - A written or oral statement from the employee indicating that the use of SSL is necessary for one or more of the purposes described in Section 7.3.7.

- b) When an employee or a member of the employee's family has been a victim of domestic violence, sexual assault, or stalking, the employee may provide any one of the following documents or any combination thereof, to verify the use of leave:
 - A written statement that the employee, or a member of the employee's family, is a victim of domestic violence, sexual assault, or stalking, and that the leave was taken to address related issues;
 - A police report indicating that the employee or a member of the employee's family was a victim of domestic violence;
 - Evidence from a court or prosecuting attorney showing that the employee or a member of the employee's family appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;
 - A court order of protection;

- Documentation from any of the following persons from whom an employee or a member of the employee’s family sought assistance in addressing the domestic violence situation indicating that the employee or a member of the employee’s family is a victim:
 - 1) An advocate for victims of domestic violence, sexual assault, or stalking;
 - 2) An attorney;
 - 3) A member of the clergy; or
 - 4) A medical professional.

- c) When an employee is absent due to the closure by a public official of a school attended by the employee’s child, or a place of care for the employee’s child, due to health-related reasons:
 - A copy of the notice received by the employee regarding the closure.

Verification must be provided within ten (10) calendar days of the first day that SSL is used to care for either the employee or a family member.

Verification does not require that the information provided explain the nature of the condition in order to use SSL, unless otherwise required by law. Any information provided through the verification will be treated in a confidential manner consistent with applicable privacy laws.

7.3.13

Unreasonable Burden or Expense for Verification

If an employee believes that obtaining verification for use of SSL would result in an unreasonable burden or expense, the employee may contact the Human Resources Director, either verbally, or in writing.

In that communication, the employee must indicate that the absence in question is for an authorized purpose and explain why verification would result in an unreasonable burden or expense. If this communication is in writing, the employee may use the Verification of Authorized Use of Paid Sick Leave Form, or send an email to the Human Resources Director.

Within ten (10) calendar days of receiving the request, the Human Resources Director will work with the employee to identify an alternative for the employee to meet the verification requirement in a way that does not result in an unreasonable burden or expense. Possible options may include:

- City-provided transportation;
- Sharing the cost of getting a note from a medical provider;
- Providing a note of explanation in lieu of other forms of verification; or
- Exempting the employee from the verification requirement based on the explanation provided.

The City may choose not to pay an employee for SSL taken in-excess of three (3) consecutive days until verification is provided.

7.3.14

Payroll

Employees will be notified of their SSL balance each month by way of their pay stub. Pay stubs can be accessed at any time through ESS. This information will include:

- Accrued SSL since the last pay period;
- Used SSL since the last pay period;
- Current balance of SSL available for use; and
- Donations via shared leave, if applicable.

7.3.15

Consequences for Falsifying or Misrepresenting

Abuse of SSL by falsification or misrepresentation of information shall be cause for disciplinary action up to and including termination.

7.3.16

Separation from Employment

When an employee in a part-time, non-regular status position separates from employment, there will be no financial or other reimbursement given to the employee for any accrued and unused SSL at the time of separation.

Employees in other positions will be reimbursed for accrued and unused SSL upon separation from employment as follows:

- Employees in regular, non-exempt, and non-exempt, limited term positions will be reimbursed in accordance with the amounts stated in their collective bargaining agreement.
- Unrepresented employees in regular, non-exempt positions, and those in limited term, non-exempt positions not represented by a bargaining unit, with five (5) years or more of service, who leave the City in good standing, may receive 1% of accrued and unused sick leave hours per year of service (to a maximum of 25% of the accrued and unused sick leave hours). Sick leave hours eligible for cash out under the above calculation will be cashed out in full; however, at the time the employee separates from employment, the terms for reimbursement must be mutually agreed upon in writing by both the employer and the employee.

Exempt employees will be reimbursed in accordance with the Exempt Employees Benefits Handbook's provisions regarding reimbursement for sick leave.

7.3.17

Reinstatement of Employment

If a non-exempt or part-time non-regular employee is rehired by the City within twelve (12) months after the date the employee separates from employment, the City will reinstate the employee's accrued, unused SSL except for any hours of SSL previously provided to the employee through financial or other reimbursement at the time of separation, as long as the value of the SSL was established and paid at a rate that was at least equal to the employee's normal hourly compensation.

When a part-time non-regular employee separates from employment and is rehired by the City within twelve (12) months of separation, an employee who reached the ninetieth (90th) calendar day of employment prior to separation shall have their previously accrued, unused SSL balance available for use upon rehire. If the employee did not reach the ninetieth (90th) calendar day of employment prior to separation, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use SSL.

If the period of time that a part-time non-regular employee separates from employment extends into the following leave accrual year, the City will not reinstate more than forty (40) hours of the employee's accrued and unused paid SSL.

Upon rehire, the City will provide notification to non-exempt and part-time non-regular employees of the amount of accrued and unused SSL available for use by the employee.

When a non-exempt employee in a regular, part-time regular, or limited term position terminates employment with the City and is rehired within seven (7) years, the employee's previous sick leave accruals may be restored after two (2) years of regular re-employment with the City. It is the employee's responsibility to request the reinstatement of any unpaid sick leave balance.

7.3.18

Shared Leave

The purpose of shared leave is to permit City employees in regular and part-time regular positions, to come to the aid of a fellow City employee who is experiencing or has an immediate family member who is experiencing a serious, prolonged or critical nature medical condition which has caused or is likely to cause the employee to take unpaid leave for a prolonged period of time generally considered to be at least fifteen (15) consecutive workdays. Medical conditions or illnesses that are considered to be routine, short term or sporadic shall not be considered for voluntary shared leave purposes. Examples of short term non-qualifying illnesses include such things as contagious disease (flu); chronic allergies or conditions; short term recurring medical or therapeutic treatments; and normal pregnancy. These examples are illustrative and not all inclusive. Each case must be examined on its conformity to policy intent and must be handled consistently and equitably. Employees who receive shared leave and are qualified for FMLA leave will be placed on FMLA leave and will use the donated leave concurrently while being on FMLA leave. The City will consider whether the employee is expected to return to City employment in deciding whether to grant a request for shared leave.

- An employee's Department Director may permit an employee to receive shared leave if:

- a) At the time of the employee's request, the employee shall have used a minimum of 40 hours of their own accrued leave towards the event for which the employee is requesting shared leave. In addition to having used the minimum of 40 hours, the employee has exhausted or will exhaust all of their accrued leave of all types during the term of the event.
 - b) The employee has abided by the City's SSL policy prior to the use of shared leave.
 - c) The use of shared leave will not significantly increase the City's costs, except for those costs which would otherwise be incurred in the administration of this program or which would otherwise be incurred by the employee's department.
 - d) The medical condition is not job related.
 - e) The employee has provided proper medical documentation and has completed the FMLA paperwork for Director approval.
 - f) The employee's request is not greater than 240 hours.
- Shared leave requests greater than 240 hours must be submitted to the department director and approved by the City Administrator or designee. The employee must still meet all of the criteria listed in sections 7.9.1 and 7.9.2. Requests approved by the City Administrator or designee will be forwarded to the Human Resources Department.
 - An employee requesting shared leave must submit a Shared Leave Request to his/her Department Director in writing and may be required to provide appropriate medical justification and documentation for the leave and the time which the employee can reasonably be expected to be absent. If approved by the Director, the request shall be forwarded to Human Resources by the Director for City-wide notification and implementation. The request sent out on behalf of the employee shall include the employee's name and department.
 - Employees have the option of donating vacation leave or a "roving" or "incentive" holiday. All donations of leave shall be voluntary and shall be intended as a gift without compensation. Transfers of donated leave shall be in full one (1) hour increments. In no event shall a transfer of leave be approved which would result in reducing an employee's total vacation leave in a calendar year to less than ten (10) days. The department director shall determine that no significant increase in City costs will occur as the result of a donation of leave.
 - Leave may be transferred from employees from one department to an employee of the same or different department. Department Directors may choose to allow requests to be limited to their department only. **Donated leave shall be transferred on an hour-for-hour basis regardless of rate of compensation.**
 - An employee on shared leave shall continue to be classified as a City employee and shall receive the same salary and benefits as would otherwise be received if using accrued leave. The employee's salary rate shall not change as a result of being on shared leave, nor under any circumstances shall the employee's pay and benefits exceed the total of salary and benefits which the employee would have received in a regular pay status. If an employee is able to work

part-time under this program, he shall receive pro-rated vacation and SSL accruals which must be used prior to receiving donated leave.

- Employees are limited to receiving a maximum of 480 hours of donated leave per serious health event which shall be tracked by the Finance Department. The Finance Department shall adjust accrued leave balances of the donor and recipient of the shared leave. Donated leave may only be used for the event that has been requested and approved by the City Administrator or Department Director. Donated leave may only be used for the time period requested by the employee and approved by the City. At the end of the approved leave request, any donated hours in excess of the original request will be returned to the employee who donated hours. Records of all donated leave shall be maintained in the event any leave is returned at a later date.
- The Department of Retirement Systems (DRS) **does not** recognize shared leave as reportable compensation or time counted towards years of service.
- The use of shared leave shall be monitored by the Human Resources Department to ensure equivalent treatment for all City employees. Inappropriate use or treatment of shared leave may result in disciplinary action as well as the cancellation of the donated leave or use of shared leave.

7.3.19

Retaliation Prohibited

Any discrimination or retaliation against an employee for lawful exercise of SSL rights is not allowed. Employees will not be disciplined by the City for the lawful use of SSL. The City will not interfere with, restrain or deny the exercise of any employee rights provided by RCW 49.46 or City of Issaquah Personnel policies.

If an employee feels they are experiencing discrimination or retaliation as a result of using SSL, the employee may contact the Human Resources Director.