



TOWN OF FRIDAY HARBOR
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TO: Town Employees
FROM: Duncan Wilson, Town Administrator
DATE: 02/26/2018
RE: **EMPLOYEE PAID SICK LEAVE NOTIFICATION**

This is to notify you that Town of Friday Harbor employee policies comply with, and in most cases exceed, the state's new paid sick leave law that went into effect January 1, 2018. **No employee benefits will be reduced or otherwise negatively impacted by this law.**

Per the new law, employees in the state of Washington are entitled to the following benefits. Town employees will continue to receive more than these minimums:

- Paid sick leave accrued at the rate of one (1) hour per every 40 hours worked;
- Annual carryover of unused accrued sick leave of 40 hours; and
- Use of accrued paid sick leave 90 calendar days after the start of employment.

Employees may use accrued paid sick leave for the following:

- To care for yourself or a family member as defined in RCW 49.46.210;
- When you or a family member are the victim of sexual assault, domestic violence, or stalking; and
- In the event the Town of Friday Harbor or your child's school or daycare is closed by order of a public official for any health-related reason.

In addition, employers in the state of Washington are prohibited from discriminating or retaliating against employees for the use of paid sick leave for authorized purposes or for exercising any of their rights under the Minimum Wage Act (RCW 49.46). Use of paid sick leave cannot count as an absence that may lead to or result in discipline. Employers may not require employees to find replacement workers to cover their hours as a condition of taking paid sick leave.

The Town's employee handbooks are being revised to incorporate this information. In the meantime, please refer to the enclosed draft policy which is to go under Council review this coming month, or contact me if you have questions.

DRAFT

8.2 SICK LEAVE

Sick leave provides eligible employees with a measure of financial protection by allowing time off with pay when they are unable to work due to illness, injury, or health condition, or the need to seek medical diagnosis or preventative medical care for themselves or a family member as defined below. Sick leave is solely intended as a form of income protection. It is not to be considered as paid time off owed to an employee nor will unused sick leave be paid at termination except as defined below. Sick leave compensation is based on the employee's regular hourly rate of pay.

8.2.1 Sick Leave Accrual: All full-time employees accrue sick leave benefits at the rate of eight (8) hours for each calendar month of continuous employment. New full-time employees who begin their first day of work on or before the 15th of the month will be credited with eight (8) hours of sick leave at the end of their first month. New full-time employees who begin after the 15th of the month will be credited with four (4) hours of sick leave at the end of their first month. Part-time employees accrue sick leave benefits on a pro-rata basis according to hours budgeted. Temporary and seasonal employees accrue one (1) hour sick leave for every forty (40) regular or overtime hours worked.

Employees accrue but may not use sick leave during their initial ninety (90) calendar days of employment unless authorized by the Town Administrator in writing. Employees are not allowed to use sick leave on days they are not scheduled to work. Employees do not accrue sick leave benefits during a leave without pay; sick leave accrual for the calendar month during such leave will be pro-rated based on compensated hours within the total work month.

8.2.2 Allowable Uses of Sick Leave: Sick leave covers those situations in which an employee is absent from work due to any of the reasons listed below.

For purposes of this section, "family member" includes the employee's spouse or registered domestic partner, child (biological, adopted, foster, or stepchild, or for whom employee stands in loco parentis, is legal guardian, or is defacto parent—regardless of child's age or dependency status), parent and parent of spouse or registered domestic partner (biological, adoptive, de facto, foster, or stepparent, legal guardian, or person who stood in loco parentis when employee was a minor), sibling, grandparent, and grandchild.

- (a) The employee's need for preventative medical or dental care or for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;

- (b) The employee's need to care for a family member who needs preventative medical or dental care or needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
- (c) The closure of employee's place of business or child's school or place of care by a public official for health reasons;
- (d) Leave that qualifies under the state's Domestic Violence Leave Act;
- (e) The employee's potential to jeopardize the health of others by exposing them to a contagious disease;
- (f) The employee's use of a prescription drug which impairs job performance or safety.

8.2.3 Notice of Sick Leave: Employees are required to give reasonable notice of a sick leave absence. If leave is foreseeable, employees must provide notice five (5) calendar days prior or as early as is practicable. If leave is unforeseeable, employees must provide notice prior to the start of their shift unless it is not practicable to do so. If domestic violence leave is taken and an emergency precludes advance notice, the employee must provide notice by the end of the first day that the leave starts. Another person can provide notice on the employee's behalf if impracticable for the employee to provide it themselves.

8.2.4 Verification of Sick Leave: When an employee is absent in excess of three (3) consecutive workdays, a doctor's note may be required. An explanation of the health condition will not be required unless the leave is also covered by another law permitting medical inquiry. The employee will have ten (10) calendar days to provide verification. This does not preclude fitness for duty certification. If verification imposes an unreasonable burden or expense on the employee, the employee must provide an explanation for this and state that the leave was for an authorized purpose. Within ten (10) calendar days the employer will waive verification, mitigate the burden, or reject the assertion. If unresolved, Labor and Industries may be consulted or the employee may file a complaint. If use is proven to be unauthorized, payment for sick leave shall be withheld but no sick leave hours will be deducted from the employee's accrual.

If time off for recovery is called for and will exceed three (3) consecutive workdays, a physician's note is required and the guidelines above shall apply. The physician's note shall be signed by the employee's physician, returned to the Town, and attached to the employee's monthly time sheet.

When sick leave is exhausted, employees who require more time off due to illness or injury may, with their Department Head's prior approval, use vacation, compensatory time, floating holiday, or leave without pay.

8.2.5 Employees will not be discriminated or retaliated against for exercising their right

to use authorized paid sick leave or any other lawful rights under the Minimum Wage Act. Authorized paid sick leave will not count as an absence that may lead to or result in employee discipline. Employees will not be required to find a replacement worker to cover their hours as a condition of taking paid sick leave. If an employee feels they are being discriminated or retaliated against for exercising their Minimum Wage Law rights, they may contact the Town Administrator. If the employee is not satisfied with the Town's response, they may contact the Washington State Department of Labor and Industries at toll free (866)219-7321 or email ESgeneral@Lni.wa.gov.

8.2.6 Maximum annual sick leave carryover is eight hundred and twenty (820) hours.

Upon separation from employment any unused sick leave shall be forfeited. If the employee has ten (10) or more years of service with the Town, the employee shall be paid at their regular rate of pay for 25% of their accumulated sick leave up to a maximum of 205 hours (.25 x 820 hours earned). This does not apply to those employees who previously opted for an alternative sick leave payout program.

If rehired within twelve (12) months of separation, previously unused paid sick leave will be reinstated less any amount recompensed at separation as explained above; and the previous period of employment will count toward the initial 90 days of employment required prior to the use of paid sick leave.

RCW

RCW 49.46.210

Paid sick leave—Authorized purposes—Limitations—"Family member" defined.

(1) Beginning January 1, 2018, every employer shall provide each of its employees paid sick leave as follows:

(a) An employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee. An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

(b) An employee is authorized to use paid sick leave for the following reasons:

(i) An absence resulting from 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;

(ii) 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; and

(iii) 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.

(c) An employee is authorized to use paid sick leave for absences that qualify for leave under the domestic violence leave act, chapter 49.76 RCW.

(d) An employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment.

(e) Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

(f) An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

(g) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. If an employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

(h) An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(i) For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established in this chapter or his or her normal hourly compensation. The employer is responsible for providing regular notification to employees about the amount of paid sick leave available to the employee.

(j) Unused paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over paid sick leave in excess of forty hours.

(k) This section does not require an employer to provide financial or other reimbursement for accrued and unused paid sick leave to any employee upon the employee's termination, resignation, retirement, or other separation from employment. When there is a separation from employment and the employee is rehired within twelve months of separation by the same employer, whether at the same or a different business location of the employer, previously accrued unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick leave under subsection (1)(d) of this section.

(2) For purposes of this section, "family member" means any of the following:

(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; or

(g) A sibling.

(3) An employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee.

(4) An employer may not discriminate or retaliate against an employee for his or her exercise of any rights under this chapter including the use of paid sick leave.

[2017 c 2 § 5 (Initiative Measure No. 1433, approved November 8, 2016).]

NOTES:

Intent—Effective date—2017 c 2 (Initiative Measure No. 1433): See notes following RCW 49.46.005.

ALSO:
per AWC presentation by Summit Law Group:
If we require
1) reasonable notice of absence
2) verification of reason for absence
Then details must be spelled out in
written policy.