

ORDINANCE NO. 16-15

AN ORDINANCE PERTAINING TO PERSONNEL POLICIES AND PROCEDURES, AMENDING SECTION 17-1-2-102, DIVISION 17-1-1, ARTICLE 7-1, AND AMENDING SECTIONS 17-1-6-163 AND 167, DIVISION 17-1-6, ARTICLE 17-1, CHAPTER 17, LAWTON CITY CODE 2015, BY MODIFYING THE DEFINITION OF TERMINAL LEAVE, CREATING AND DEFINING HISTORICAL SICK LEAVE AND NEW SICK LEAVE CATEGORIES, ESTABLISHING A MAXIMUM CREDIT OF NEW SICK LEAVE HOURS AN EMPLOYEE MAY ACCRUE, ESTABLISHING A METHOD AND FORMULA FOR COMPENSATING EMPLOYEES FOR NEW SICK LEAVE HOURS ACCRUED IN EXCESS OF THE MAXIMUM CREDIT, DETERMINING COMPENSATION FOR UNUSED NEW AND HISTORICAL SICK LEAVE UPON SEPARATION FROM EMPLOYMENT, AND LIMITING ELIGIBILITY FOR TERMINAL LEAVE TO EMPLOYEES HIRED ON OR BEFORE JUNE 19, 2016; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

ORDINANCE

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lawton, Oklahoma, that:

Section 1. Section 17-1-1-102 is hereby amended to read as follows:

17-1-1-102 - Definitions.

...

64. "Terminal leave" means leave taken by an employee immediately prior to retirement from city employment and extending to the established retirement date. Only an employee's accrued vacation and historical sick leave may be used as terminal leave.

...

Section 2. Section 17-1-6-163 is hereby amended to read as follows:

17-1-6-163 - Sick leave, on the job injury leave and bereavement leave.

- A. Records of individual sick leave shall be kept current by the human resources department and shall reflect earned sick leave in hours and all sick leave taken.
- B. Regular employees shall accrue sick leave at the rate of 3.6923 hours per biweekly payroll period. Regular employees on an authorized leave of absence without pay shall not accrue sick leave during such time as they are absent from work on leave without pay.
- C. Regular part time employees shall accrue sick leave at the rate 1.8461 hours per biweekly payroll period. Regular part-time employees on an authorized leave of absence without pay

shall not accrue sick leave during such time as they are absent from work on leave without pay.

D. ~~Ordinary~~ Sick Leave.

For illness or injury that occurred off the job or as provided in Section 164 of this chapter, the following shall apply:

1. The employee may use all accrued sick leave, after which time the employee must use vacation time or take leave without pay. The manner in which additional time off will be allowed shall be the sole responsibility of the city manager or the city manager's designated representative.

For any period in excess of twenty-four (24) work hours for continuous absence for regular employees, the supervisor may require a doctor's certificate of illness prior to allowing the individual to return to work.

3. When regular employees use forty (40) hours of continuous sick leave, the supervisor may require a physical examination of the employee, at the employee's expense prior to allowing the employee to return to work.
4. The supervisor may require an employee, at the employee's expense, to submit a doctor's certificate of illness, or may require a physical examination, attesting to the necessity of the employee being absent from work because of illness for any subsequent injury or illness if the employee has taken twelve (12) days of ordinary sick leave in the immediately preceding twelve-month period.
5. In the event a supervisor has reason to believe that an employee is misusing sick leave privileges, the supervisor shall require the employee to provide a doctor's certificate of illness for any future illnesses regardless of the length of illness. In such event, the supervisor shall give written notice to the employee, stating the reasons supporting the belief that sick leave privileges have been misused. Failure by the employee to provide the requested doctor's certificate shall be grounds for disciplinary action.
6. Sick leave may be used by an employee in the event the employee determines it is necessary to stay home to attend to any other member of the immediate family who is ill. Sick leave may also be used in the case of a death in the immediate family. If the employee's absence due to caring for such family member exceeds the times set out in b, c or d above, the supervisor may require similar evidence of illness or physical condition to be provided regarding the member of the immediate family.
7. If an employee becomes ill and cannot report for work, the employee must contact the employee's supervisor at least within the first ten minutes of the employee's regular reporting time, unless otherwise instructed by the supervisor. Failure to report within such time will cause the absence to be charged to leave without pay. Emergency situations which might prohibit compliance with reporting shall be taken into consideration by the supervisor.
8. ~~A regular employee may accrue an unrestricted number of sick leave hours during the employee's term of employment.~~

- ~~89.~~ Except for normal retirement where terminal leave is requested, sick leave cannot be used for compensation during employment immediately prior to separation from city employment.
- ~~10.~~ ~~Except for normal or early retirement as defined, employees who separate from employment with the city will be compensated for all accrued but unused sick leave as follows: The employee's accrued number of sick leave hours will be multiplied times 2.5 percent times the total number of years of service for the employee times the hourly rate of pay the employee was receiving immediately prior to the separation of employment. Employees who are terminated from employment shall receive no compensation for accrued sick leave benefits.~~
- ~~11.~~ ~~Upon the death of an employee, the employee's estate shall be reimbursed for all unused sick leave accrued after January, 1971, in accordance with Subsection D.10. of this section.~~
- ~~12.~~ ~~Upon normal or early retirement of an employee who has not requested terminal leave, the employee will be reimbursed for all accrued but unused sick leave in accordance with subsection D.10. However, in anticipation of retirement, an employee may request that accrued sick leave be converted to terminal leave to be used immediately prior to the employee's retirement date.~~
913. Because many diseases are communicable, a supervisor may require an employee to go home if in the supervisor's opinion the individual is not only jeopardizing the individual's health, but also greatly increasing the possibility of affecting the health of other employees. Such absence will be charged against accrued new sick leave, if available and then charged against historical sick leave, if available; if not, it will be charged to vacation leave or leave of absence without pay.

E. Historical Sick Leave/New Sick Leave Accruals and Compensation

1. All employees' accrued sick leave as of June 19, 2016, shall be defined and categorized as historical sick leave. Sick leave accruals from June 20, 2016 forward shall be defined and categorized as new sick leave and in no event will new sick leave accrued on or after June 20, 2016 be added to historical sick leave balances accrued as of June 19, 2016.
2. After historical sick leave balances are established on June 19, 2016, an employee with historical sick leave balances and new sick leave accruals will use new sick leave accruals prior to using historical sick leave for illness or injury that occurred off the job or as provided in Section 164 of this chapter. Usage of historical sick leave that diminishes historical sick leave balances established June 19, 2016, shall permanently reduce the employee's historical sick leave balance. In no event will historical sick leave balances be replenished by new sick leave accruals.
3. Effective June 20, 2016, a regular employee may accrue new sick leave to a maximum credit of five hundred seventy-six (576) hours:

- a. Each year (fiscal year, July 1 – June 30) new sick leave accrued in excess of the maximum credit of five hundred seventy-six (576) hours shall be redeemed in the form of additional compensation;
- b. For regular employees, the payment will be computed on the basis of two thousand eighty (2,080) hours divided into the annual salary of each employee, times the number of new sick leave hours in excess of the above maximum credit;
- c. Payment will be made in June.
- 4. Except for normal or early retirement as defined, employees who separate from employment with the city will be compensated for all accrued but unused sick leave as follows: The employee's accrued number of historical and new sick leave hours will be multiplied times 2.5 percent times the total number of years of service for the employee times the hourly rate of pay the employee was receiving immediately prior to the separation of employment.
- 5. Employees who are terminated from employment shall receive no compensation for accrued historical sick leave or new sick leave.
- 6. Upon normal or early retirement of an employee who has not requested terminal leave or is otherwise not eligible to request terminal leave pursuant to Section 17-1-6-167, the employee will be compensated for all accrued but unused sick leave in accordance with subsection E(4) above.
- 7. Upon normal or early retirement of an employee who has requested terminal leave and is qualified for terminal leave pursuant to Section 17-1-6-167, the employee may request that historical sick leave be converted to terminal leave to be used immediately prior to the employee's retirement date as set forth in Section 17-1-6-167, and will be compensated for accrued but unused new sick leave in accordance with subsection E(4) above. In no event will new sick leave be used for terminal leave.
- 8. Upon the death of an employee, the employee's estate shall be reimbursed for all unused sick leave accrued after January, 1971, in accordance with subsection E(4) above (for new sick leave accruals and for historical sick leave balances, if applicable).

FÆ. On the Job Injury Leave.

- 1. An employee who incurs an injury or occupational illness arising out of and in the course of employment with the City of Lawton may be entitled to up to ninety (90) days of on-the-job injury leave, also referred to as "on duty injury leave." This benefit provides full salary continuation in lieu of the lower temporary total disability (TTD) benefits prescribed by the state workers' compensation law. There will be no charge against the employee's accrued leave balances. The employee will receive this benefit if the following prerequisites are met:

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Section 3. Section 17-1-6-167 is hereby amended to read as follows:

17-1-6-167 - Terminal leave.

- A. A regular full-time employee after establishing a date of retirement from City of Lawton employment may elect to use accrued vacation and historical sick leave as terminal leave. The employee must provide a request for terminal leave to his/her department director not less than thirty (30) days from the date the terminal leave is to begin. The request must specify the date of retirement and the date the requested terminal leave is to begin.
- B. The amount of terminal leave authorized will not exceed the total amount of historical sick leave, flexible leave and vacation leave hours that the employee has accrued at the time the request is submitted. All vacation and flexible leave hours must be used before historical sick leave hours can be taken.
- C. Once the request for terminal leave is accepted and the retirement date is established, the request cannot be rescinded. If unforeseen circumstances prior to the date the terminal leave is scheduled to begin result in an employment using an amount of accrued leave sufficient to cause leave balances to be less than that required to cover the period of terminal leave requested, the employee will be required to adjust the effective date of the terminal leave or the date of retirement accordingly.
- D. An employee's accrued vacation leave balance must be exhausted before accrued historical sick leave may be used as terminal leave.
- E. While on terminal leave, an employee will not accrue additional sick or vacation leave, flexible holidays, or longevity benefits.
- F. Employees in terminal leave status will continue to be paid through the city's payroll system for a maximum of eighty (80) hours per pay period. Compensation will not include any pay for shift differential. All employee benefits, except as noted in this section, will be continued until the established retirement date.
- G. Employees hired on or after June 20, 2016 are not eligible for terminal leave. Only employees hired on or before June 19, 2016 that are eligible for normal or early retirement, and that have a balance of accrued historical sick leave may request terminal leave as detailed above.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

Section 5. Effective Date. The provisions of this ordinance shall become effective June 19, 2016.

ADOPTED and APPROVED by the Council of the City of Lawton, Oklahoma this 10th day of May, 2016.

FRED L. FITCH, MAYOR

ATTEST:

TRACI L. HUSHBECK, CITY CLERK

APPROVED as to form and legality this _____ day of _____, 2016.

FRANK V. JENSEN, CITY ATTORNEY