

0-10-34

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 7-003 OF THE NON-UNIFORMED EMPLOYEES' POLICY AND PROCEDURE MANUAL REGARDING SICK LEAVE BONUS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

WHEREAS, Ordinance No. 7690 adopted by the City Council on February 28, 2005, codified by reference as §2-151 of the North Little Rock Municipal Code, established policies and procedures for non-uniformed employees ("Personnel Manual"), which was amended by Ordinance No. 8115 on November 10, 2008 and by Ordinance No. 8249 on April 12, 2010; and

WHEREAS, Section 7-003 regarding Sick Leave Bonus (which was attached to Ordinance No. 8249 as Exhibit "B") needs to be corrected to reflect that FMLA absences shall be counted in the number of sick leave absences for calculating eligibility for bonus payments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Personnel Manual adopted pursuant to Ordinance No. 7690 (codified by reference as § 2-151 of the North Little Rock Municipal Code), and amended pursuant to Ordinances No. 8115 and No. 8249, is hereby amended as follows:

Policy No. 7-003: Sick Leave Benefits is hereby revised as shown in Exhibit "A" attached hereto and incorporated by reference to reflect that FMLA absences *shall* be counted in the number of sick leave absences for purposes of calculating eligibility for bonus payments.

***Editor's Note: The only revision to Policy No. 7-003 (Exhibit "A") appears on Page 3 under "Sick Leave Bonus".***

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: That the City Council has determined that the interests of the City and City employees can best be served by the adoption of this ordinance;

THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

\_\_\_\_\_

\_\_\_\_\_  
Mayor Patrick H. Hays

SPONSOR:

ATTEST:

\_\_\_\_\_  
Mayor Patrick H. Hays

\_\_\_\_\_  
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED 11:39 A.M. \_\_\_\_\_ P.M.

BY C. J. Carter

DATE 5-4-10  
Diane Whitbey, City Clerk and Collector

North Little Rock, Arkansas  
RECEIVED by Bobbi Dudley

## EXHIBIT "A"

(Corrected Exhibit "B" to Ord. 8249)

### SECTION 7. LEAVES & TIME OFF BENEFITS POLICIES & PROCEDURES

7-003: SICK LEAVE BENEFITS  
Effective: 2/28/05

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## SICK LEAVE BENEFITS

### Eligible Employees

Full-time, regular employees are eligible to accrue sick leave benefits starting on the date of hire at the rate of one and two-thirds (1-2/3) days (13 hours 20 minutes) per month twenty (20) days per year, with no limit on maximum accumulation.

### Permitted Uses of Accumulated Sick Leave Benefits

Accumulated sick leave benefits may be authorized for use by the department head for the following reasons:

- *Employee Incapacity.* Employees may be approved to use accumulated sick leave benefits when they are incapacitated and unable to work due to non-work related illness or injury, or for medical, dental and optical appointments, treatments or examinations or for absences when they are released by a medical provider to return to work but with temporary work restrictions requiring a temporary reduced or intermittent work schedule.
- *Care for Immediate Family Members.* Up to a maximum of five (5) days per calendar year of accumulated sick leave benefits may be approved to provide compensation during absences to care for a member of the employee's immediate family (as defined below) when it is necessary for the employee to personally care for the family member while he/she is incapacitated, or to personally accompany the immediate family member to medical, dental and optical appointments, examinations or treatments. To be eligible for paid sick leave during such absences, the employee must provide sufficient information for the supervisor or department head to determine that the employee's absence is necessary to accompany the immediate family member for medical, dental or optical examinations or treatments, including the type of assistance or care the employee provided, or will provide, to the immediate family member, and to determine if such absence is FMLA-qualifying

Employees are expected to make every effort to plan ahead and schedule all routine, non-emergency appointments early in the day before work, or at the end of the day, or as otherwise directed by their supervisor or department head.

Employees with routine appointments scheduled early in the work day or during the work day, or who require immediate medical treatment, are expected to report to work following the appointment or treatment unless they or their family member are incapacitated and unable to work and the extended absence is medically recommended as necessary. The department head (or authorized designate) may require the employee to provide medical verification certifying the employee's need to be absent for the duration of the absence.

### **Scheduling Non-Emergency Appointments**

Before making routine, non-emergency medical, dental or optical appointments employees are expected to consult with their department head or supervisor before making the appointments as far in advance as possible to ensure that absences can be planned at times to least affect the work schedule of the employee and/or the department. Failure to do so may result in denial of leave.

### **Medical Verification of the Need for Leave**

Employees must provide medical verification in a form approved by the City of the need for medical leave for any sick leave absence lasting or expected to last in excess of three (3) working days. **Forms are available in each department and in the Human Resources Department for employees' use.** If the City disagrees with the medical opinion provided by the employee's medical provider, the City, at its expense, may require a second medical opinion. In the event the first and second medical opinions differ, the City may acquire, at its expense, a third medical opinion. The medical provider for the third medical opinion will be selected jointly by the City and the employee. The third medical opinion will be binding on both parties.

### **Return to Work Fitness for Duty Release.**

A medical fitness for duty release is required for all employees who return to work from medical leave of any kind that exceeds three (3) working days.

### **Restrictions on Use of Accumulated Sick Leave Benefits**

- Sick leave benefits shall not be used to provide compensation during absences caused by on-the-job injuries or illnesses. Workers' Compensation Benefits provide the exclusive remedy for on-the-job injuries and illnesses.
- Employees released by a medical provider to return to work with or without temporary work restrictions, are no longer eligible to use accumulated sick leave benefits because they are no longer incapacitated or unable to work.
- Employees who refuse temporary light duty that is available and permissible within the employee's medically-prescribed temporary work restrictions are not eligible to use accumulated sick leave benefits to remain off work. However, employees on designated FMLA leave who are medically released to return to work with temporary work restrictions may lawfully decline an offer of a temporary light duty assignment. However, the remainder of the employee's FMLA leave entitlement will be unpaid unless the employee has other accumulated paid leave available.
- Employees absent from their City job who are found working for another employer are not eligible to use sick leave benefits.

### **Misrepresentations**

False claims of sickness in order to avoid work and draw paid sick leave benefits will not be tolerated. When it is found that an employee has falsely misrepresented the reasons for an absence, appropriate action will be taken that may include, but is not limited to, denial of paid leave benefits, charging available annual or personal leave in lieu of sick leave benefits, or disciplinary action including discharge.

## Immediate Family Definitions

### Paid Sick Leave Benefits

Immediate family for purposes of paid sick leave benefits is spouse, child, parent, sibling, grandparent, parents-in-law, and if living under the same roof with the employee, any relative or relative by marriage for care of a family member.

### FMLA Leave Entitlements

The FMLA defines immediate family as child, spouse, or parent. During FMLA leave involving an employee's child, spouse or parent, the current policy maximum of five (5) days per year of the employee's accumulated paid sick leave benefits will be substituted to provide compensation.

### FMLA Sick Leave Bonus

Employees who exceed the number of minimum absences required to obtain the attendance bonus (regardless of whether the absences are FMLA qualified) will **not** be eligible to receive the bonus.

### Eligibility for Payment of Unused Accumulated Sick Leave

Employees who retire, resign or die while in service are eligible for payment of unused accumulated sick leave after completion of ten (10) years service at the regular rate of pay in effect at the time of resignation, retirement, or death up to the maximum shown in the schedule below. Employees discharged for cause shall not receive payment for unused sick leave. If an employee dies in service, the employee's beneficiary is entitled to receive payment for unused sick leave and annual leave that the employee would have been entitled to receive if upon resignation or retirement.

Payments for unused accumulated sick leave are limited to the years of service and amounts shown in the following schedule.

YRS.OF SERVICE	RATE OF PAYMENT FOR UNUSED SICK LEAVE UPON RETIREMENT, RESIGNATION OR DEATH AFTER COMPLETION OF 10 YEARS' SERVICE.
10 years	100% of accumulated sick leave up to maximum of 480 hours (60 days)
20 years	100% of accumulated sick leave up to 480 hours (60 days) plus 50% of the accumulated sick leave in excess of 60 days, not to exceed a maximum payment of 720 hours (90 days).

### Sick Leave Bonus

Upon the accumulation of sixty (60) days of sick leave, employees are eligible to receive a bonus payment for sick leave earned, but not used, during the following calendar year as indicated by the following table. Absences that have been designated as FMLA leave shall be counted in the number of sick leave absences for purposes of calculating eligibility for bonus payments.

**Method of Calculation**

PREVIOUS YEAR'S SICK LEAVE USE	PAYMENT FOR PREVIOUS YEAR'S UNUSED SICK LEAVE ACCUMULATION
0 – 3 days (0-24 hours)	\$10/day for remainder of yearly accumulation (Maximum: \$200.00)
4 – 6 days (25-48 hours)	\$5/day for remainder of yearly accumulation (Maximum: \$80.00)
7 or more days (49 or more hours)	- 0 -

If an employee uses any part of a day over 3 days (24 hours) or 6 days (48 hours), it is considered the next category for purposes of calculating the amount of the sick leave bonus payment.

**Maximum Payable**

Sick leave bonus shall not exceed \$200.00 per year. Payment shall be made on or before January 31 of each year following the year in which the sick leave was earned and not used.