

## **RESOLUTION NO. 2817**

A RESOLUTION OF THE CITY OF SALISBURY TO CHANGE THE EMPLOYEE HANDBOOK SECTION 0504 SICK LEAVE TO BECOME COMPLIANT WITH THE STATE OF MARYLAND HEALTHY WORKING FAMILIES ACT.

**WHEREAS**, the City of Salisbury has an Employee Handbook; and

**WHEREAS**, the Human Resources Department has reviewed the Employee Handbook in conjunction with the requirements of the newly passed legislation by the State Legislature covering sick and safe leave, namely the Maryland Healthy Working Families Act; and

**WHEREAS**, the Human Resources Department recommends making changes to the Employee Handbook due to changes to the law in order for the City of Salisbury sick leave provisions to comply with the newly enacted State law; and

**WHEREAS**, the recommended changes have been discussed with the Mayor and presented to the City Council for review and approval.

**NOW, THEREFORE**, BE IT RESOLVED by the City of Salisbury, Maryland that the Employee Handbook is amended as follows:

Section 0504 Sick Leave shall be deleted in its entirety and replaced with the following replacement Section:

### **0504 Sick Leave**

- A. Regular full-time City employees are credited with one sick leave day (1 day equals 7 hours for 35 hour per week employees and 8 hours for all other full-time employees) per month worked following the first full month of service after the month of hire.**
- B. Part-time employees, unless excluded from coverage under the new Healthy Working Families Act, as amended, which took effect on or about February 11, 2018, earn one hour of sick leave for every 30 hours of time worked and may carry over the unused balance to the next fiscal year. Sick leave is credited on the first day of the month.**
- C. No sick leave will be credited on the first day of any month if the employee has not reported to work during the preceding month due to any cause other than vacation or on-the-job injury. In the case of absence due to on-the-job injury, sick leave will accrue for the first six months of the absence. No sick leave will accrue beginning on the seventh month of the absence.**
- D. At no time will sick leave be paid out in cash in lieu of time off, except upon Retirement as explained herein.**

- E. A City employee may use sick leave for the employee or for a family member defined as follows: a biological child, an adopted child, a foster child, or a stepchild of the employee; a child for whom the employee has legal or physical custody or guardianship; a child for whom the employee stands in loco parentis, regardless of the child's age; a biological parent, an adoptive parent, a foster parent, or a stepparent of the employee or of the employee's spouse; the legal guardian of the employee; an individual who acted as a parent or stood in loco parentis to the employee or the employee's spouse when the employee or the employee's spouse was a minor; the spouse of the employee; a biological grandparent, an adopted grandparent, a foster grandparent, or a step grandparent of the employee; a biological grandchild, an adopted grandchild, a foster grandchild, or a step grandchild of the employee; or a biological sibling, an adopted sibling, a foster sibling, or a stepsibling of the employee, all leave being subject to approval by the employee's supervisor. A doctor's note or other necessary written documentation is required to document all appointments tied to sick leave and should be requested as far in advance as is possible, no later than 7 days before leave, unless there is an emergency situation, in which case said note shall be submitted with the sick leave request less than 7 days or upon return to work if advanced notice was reasonably unable to be provided. Sick leave may be used as explained in paragraph F. All sick leave for family members that meet covered family members under the Family Medical Leave Act (FMLA) shall run concurrently with the time covered under the FMLA and an employee shall be deemed as using FMLA time.**
- F. Earned sick leave may be used as follows: to care for or treat the employee's mental or physical illness, injury, or condition; to obtain preventive medical care for the employee or employee's family member; to care for a family member with a mental or physical illness, injury, or condition; for maternity or paternity leave; or if, the absence from work is necessary due to domestic violence, sexual assault, or stalking committed against the employee or the employee's family member; and the leave is being used (1) by the employee to obtain for the employee or the employee's family member: (A) medical or mental health attention that is related to the domestic violence, sexual assault, or stalking; (B) services from a victim services organization related to the domestic violence, sexual assault, or stalking; or (C) legal services or proceedings related to or resulting from the domestic violence, sexual assault, or stalking; or (2) during the time that the employee has temporarily relocated due to the domestic violence, sexual assault, or stalking. If the need to use earned sick leave is foreseeable, an employee shall provide advance notice of 7 days before the date the earned sick leave would begin. If the need to use earned sick leave is not foreseeable, an employee shall provide notice to their immediate supervisor as soon as practicable and comply with the City's notice or procedural requirements for requesting or reporting other leave. The City may deny a request to take earned sick leave if an employee fails to provide the required notice and the employee's absence will cause disruption to the City in connection with the employee's duties. The maximum amount of sick leave that can be used for the above reasons is the greater of eight days or 64 hours of work in a fiscal year for family members as identified in E.**

- G. In the event that sick leave encompasses more than two consecutive work days or 64 hours in a 12 month period, a certified doctor's explanation will be required to receive sick leave pay. A doctor's note or an appropriate form of documentation is required if a sick leave day is taken on the work day immediately preceding or immediately following a holiday.**
- H. Although providing a sick leave benefit for bona fide illnesses, the City retains a right to discipline employees, transfer employees or terminate employees whose resultant pattern of absences prevents the employee from effectively performing the essential functions of the job. The City further reserves the right to request that an employee undergo a physician's examination by a physician selected by the City, at the expense of the City, to verify that an employee can continue to perform the essential functions of the job without danger of injury to the employee or coworkers. The City also reserves the right to require that employees remain accountable during all periods of absence, including the requirement that employees report to their department upon request to discuss their status in person with their supervisor.**
- I. Any regular full-time City employee that does not use any sick leave days during a fiscal year will receive one additional paid Recognition Day (see Section 0507) to be used in the following fiscal year. Upon Retirement, as defined by the applicable Maryland State Retirement Plan, an employee shall be paid up to 25% of all accrued sick leave days up to a maximum of thirty days. Payment will be based upon the rate of pay immediately preceding retirement. An employee, who dies while in service, and who was eligible for retirement through length of service or age, is also entitled to payment of up to 25% of all accrued sick days up to a maximum of thirty days, and their beneficiary shall receive such compensation under the formula given in the preceding sentence.**
- J. Advanced Sick Leave**

**A regular full-time employee may be advanced sick leave not in excess of 96 hours in a twelve-month period in cases of serious disability or ailments and when the situations so require. This advanced sick leave may be in addition to the accumulated sick leave to the credit of the employee. The following requirements must be observed if sick leave is advanced:**

- 1. The period of absence from duty on account of an illness must be for a period of at least five or more consecutive work days, except that a lesser amount of sick leave may be advanced to supplement accumulated leave to cover a continuous period of absence of five or more work days. Every case of advanced sick leave will be supported by a certificate of a practicing physician stating the nature of the illness and necessity for advanced sick leave.**
- 2. The total amount of sick leave advanced shall not at any time or for any one**

case exceed the 96 hours in excess of the accumulated sick leave to the credit of the employee. Sick leave advances shall be reviewed by the employee's supervisor who shall consider both mitigating and aggravating circumstances and forward a recommendation to the department director. The director shall approve or disapprove the request. Any sick leave that is extended under this condition must be paid back at the same rate that is accumulated.

3. Any sick leave, which is advanced and not paid back, by subsequent accumulated sick leave, must be repaid to the City at the time the employee ceases employment with the City. The amount to be repaid will be that number of advanced hours still outstanding times the hourly rate of the employee at the time such advanced leave was taken. Such amount may be offset against any amounts otherwise due to the employee, and/or the City may recover any such amounts from the employee, which the employee shall pay within 30 days after cessation of employment.
4. Before advanced sick leave can be approved, an employee must have utilized all available earned paid leave.
5. Any advanced sick leave must be reported in writing on an Employee Action Form to the Finance Department for purpose of payroll.

**K. Sick Pool**

The City of Salisbury has developed a Sick Pool for regular full-time employees. The purpose of a Sick Pool is to allow regular full-time City employees to "pool" sick leave together to be used by participating employees that have depleted all of their accrued leave time and are out of work due to a Family Medical Leave Act qualifying Serious Health Condition.

The Sick Pool is a voluntary program. Any employee who enrolls in the program will be charged with a sick day, but the day will be noted as a pool donation, therefore the employee will still be eligible for the up to 8 hours of Recognition Day time if no other sick time is used within the fiscal year.

**1. Regular Full-Time Employees**

The City Sick Leave Pool will be developed through the voluntary contribution of one workday's sick leave hours by eligible employees electing to do so during a stated open enrollment period, with the pool to take effect on January 1 of each year. Contribution must be available for the deduction on December 31 annually.

- a. **The City Sick Leave Pool may be used by eligible employees who have contributed to it and:**
  - i. **Have a qualifying Serious Health Condition as determined by the Family Medical Leave Act;**
  - ii. **Have exhausted their normal sick leave, annual leave, holiday leave, personal leave, compensatory time and any other leave time available to him or her;**
  - iii. **Have submitted the completed Request for Sick Pool Form to the Human Resources Department; and**
  - iv. **Have had the request reviewed and approved by the Director of Human Resources.**
- b. **During the open enrollment period of each year those eligible employees who have used no more than five non-physician documented working days of sick leave during the preceding twelve months depending on hire date may:**
  - 1. **Accumulate their sick leave in a normal manner, or**
  - 2. **Contribute one workday's hours of sick time (not to exceed 8 hours) to the City Sick Leave Pool and accumulate the rest in a normal manner.**
- c. **A maximum of 120 hours per calendar year may be requested by an employee from the City Sick Leave Pool.**

**2. Newly Hired Regular Full-Time Employees**

**All newly hired regular full-time employees will be eligible to join the Sick Pool after the completion of their probationary period. A new employee will have 30 days from the end of their probation to enroll in the Sick Pool and donate one day's pay to the pool.**

**L. Employee to Employee Donation Program**

**Effective November 1, 2008, regular full-time employees may donate annual, personal and/or sick leave to other regular full-time employees who have a serious and prolonged medical condition and who have exhausted all of their leave. A serious and prolonged medical condition is defined as determined by the Family Medical Leave Act. The only rule for eligibility of the regular full-time employee to request employee to employee donated time is the FMLA condition.**

**The Human Resources Department will solicit donations, not the employee. The appropriate forms must be completed and submitted to the HR Department for review and final approval from the Director of Human Resources.**

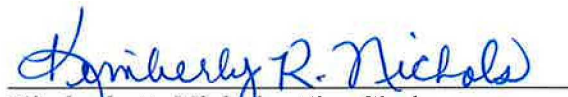
**Any unused donated leave time will automatically be forfeited to the City Sick Leave Pool – not returned to any employee.**

**A maximum of 240 hours per calendar year may be requested by an employee from the employee to employee donation program.**

**Regular Full-Time Employees may utilize both the Sick Leave Pool and the Employee to Employee Donation Program for a maximum donation of 360 hours per calendar year.**


THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the City of Salisbury held on the 12<sup>th</sup> day of March, 2018, and is to become effective immediately upon adoption.

**ATTEST:**

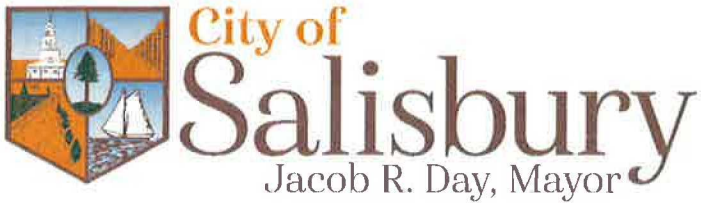
  
Kimberly R. Nichols, City Clerk

  
John R. Heath, President  
Salisbury City Council

APPROVED BY ME THIS 13<sup>th</sup> day of MARCH, 2018.

  
Jacob R. Day, Mayor





**DATE:** February 21, 2018

**TO:** Alison Pulcher, Deputy City Administrator

**FROM:** Jeanne Loyd, Director of Human Resources

**SUBJ:** Changes Required Sick and Safe Leave Policy

Effective February 11, 2018 Maryland's Healthy Working Family's Act went into effect and the City of Salisbury will now be required to provide Sick and Safe Accrued Leave to all employees.

We will need to comply with the law and I have provided the necessary draft for our Employee Handbook. I am requesting that this legislation be included on an upcoming Council Meeting.