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## **AGENDA MEMO**

Needs Legal Review: Yes  
Council Meeting Date: December 19, 2018  
Agenda Item: Proposed Resolution 2018-12-479 Revising Personnel Policy Revising  
Washington Paid Sick Leave Policy  
Presented By: Jan Brending, Clerk Treasurer

### **ACTION REQUIRED:**

Approval of Resolution 2018-12-479 Amending Personnel Policy by Amending Section  
4.12.1 Washington Paid Sick Leave (WSPL) Policy..

### **PROPOSED MOTION:**

Motion to Approve Resolution 2018-12-479, Amending Personnel Policy by Amending  
Section 4.12.1. Washington Paid Sick Leave (WSPL) Policy.

### **Why is it a legislative issue:**

The council approves all resolutions and any changes to policies.

### **Explanation of issue:**

The City Council has a proposed memorandum of understanding with the union that amends  
the Washington Paid Sick Leave (WPSL) policy by clarifying that accrued sick leave is  
subject to payment upon death and retirement.

The proposed resolution amends the city's personnel policy as it relates to Washington Paid  
Sick Leave (see page 7 of the policy).

### **Budget:**

The proposal does not change past practices therefore there is no change in the  
budget.

### **Staff Recommendation:**

Staff recommends the council approve Resolution 2018-12-479 amending the personnel  
policy by amending the Washington Paid Sick Leave (WSPL) policy.

**RESOLUTION 2018-12-479**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SALMON,  
WASHINGTON, AMENDING PERSONNEL POLICY BY AMENDING SECTION 4.12.1  
WASHINGTON PAID SICK LEAVE (WSPL) POLICY**

**WHEREAS**, the City has approved a Memorandum of Understanding with AFSCME  
Local 1533 W Bargaining units regarding the city's sick leave policy; and

**WHEREAS**, the City of White Salmon desires to amend its personnel policy to update  
its sick leave policy; and

**NOW THEREFORE**, be it hereby resolved that the Personnel Policy is amended by  
amending the attached Section 4.12.1 Washington Paid Sick Leave (WPSL) Policy.

**ADOPTED** by the Council of the City of White Salmon, Washington. Dated this 19<sup>th</sup>  
day of December, 2018.

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David Poucher, Mayor

**ATTEST:**

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Jan Brending, Clerk Treasurer

**APPROVED AS TO FORM:**

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Kenneth Woodrich, City Attorney

#### **4.12.1 Washington Paid Sick Leave (WPSL) Policy (Adopted May 16, 2018)**

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##### **A. Purpose**

The Minimum Wage and Paid Sick Leave Initiative 1433 (codified as RCW 9.46.210) passed on November 8, 2016, requires that beginning January 1, 2018, employers provide paid sick leave to employees in Washington State. As a result, the City of White Salmon is adopting a Washington Paid Sick Leave (WPSL) policy. Washington Paid Sick Leave is available for employees to care for themselves and their family members as described in this policy or by Collectively Bargaining Agreement if applicable.

##### **B. Paid Sick Leave Accrual and Availability**

###### **1. Accrual**

- a. All employees, including part-time, seasonal, and temporary, shall accrue 0.025 hours of Washington Paid Sick Leave per hour worked (one hour of Washington Paid Sick Leave per every 40 hours worked).
- b. Employees are not entitled to accrue paid sick leave for hours paid while not working (such as vacation, paid holidays, or while using paid sick leave).
- c. Full-time employees, including those covered by collectively bargained agreements, shall not accrue more than 8 hours of sick per month, i.e. accrual of Washington Paid Sick Leave is not in addition to the 8 hours of sick leave provided in the city's personnel policy and in the respective collectively bargained agreements.
- d. For purposes of tracking Washington Paid Sick Leave, the appropriate hours will be recorded as they are earned in each pay period. For full-time employees, including those covered by collectively bargained agreements, Washington Paid Sick Leave hours will be deducted from the regular sick leave hours accrued. For example, a full-time employee earns 4 hours of sick leave in a pay period. The employee worked 88 hours within the pay period and would have accrued 2.2 hours of Washington Paid Sick Leave ( $88 \times 0.025 = 2.2$ ). The employee will see 2.2 hours of Washington Paid Sick Leave accrual and 1.8 hours of regular sick leave accrual on their paycheck.
- e. Hours worked include overtime and call out. However, employees do not earn Washington Paid Sick Leave at 1.5 times the regular accrual rate. The accrual rate regardless of the type of hour worked (regular, overtime, or call out) is 0.025 per hour worked.

###### **2. Availability**

- a. All part-time, seasonal, and temporary employees are entitled to use their accrued, unused Washington Paid Sick Leave beginning on the 90<sup>th</sup> calendar day after the start of their employment.
- b. All full-time employees, including those covered by collectively bargained agreements may use Washington Paid Sick Leave as it is accrued.

**C. Authorized Uses of Paid Sick Leave**

1. Care of the employee or the employee's family member
  - a. Employees may use their accrued, unused Washington Paid Sick Leave to care for themselves or a family member (definition below) for:
    - Mental or physical illnesses, injuries, or health conditions;
    - The need for medical diagnosis, care, or treatment of mental or physical illnesses, injuries, or health conditions; or
    - The need for preventive medical care.
  - b. For the use of paid sick leave for an employee's family member, family member is defined as:
    - 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;
    - A parent; including 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;
    - A spouse;
    - A registered domestic partner;
    - A grandparent;
    - A grandchild; or
    - A sibling.
2. Closure of the City of White Salmon or the employee's child's school or place of care
  - a. Employees may use their accrued, unused Washington Paid Sick Leave when the City of White Salmon has been closed by order of a public official for any health-related reason; or

- b. When an employee's child's school or place of care has been closed by order of a public official for any health-related reason.

Please see the definition of “child” in Section C.1.b.

3. To address issues related to domestic violence, sexual assault, or stalking
- a. Employees may use their accrued, unused Washington Paid Sick Leave to:
- Seek 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;
  - Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking;
  - Attend health care treatment for a victim who is the employee's family member;
  - Obtain, or assist the employee's family member(s) 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.
  - 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 the employee's family member was a victim of domestic violence, sexual assault, or stalking.
  - Participating, for the employee or for the employee's family member(s), 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.
- b. For purposes of leave related to domestic violence, sexual assault, or stalking, family member has the following definition:
- 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.

**D. Reasonable Notice for Use of Washington Paid Sick Leave**

**1. Foreseeable Use**

If an employee's absence is foreseeable, the employee must provide notice to their supervisor at least ten (10) days, or as early as practicable, before the first day of Washington Paid Sick Leave is used. If possible, notification should include the expected duration of the absence.

**2. Unforeseeable Use**

If an employee's absence is unforeseeable, the employee must contact their supervisor as soon as possible before the required start of their shift.

a. As a best practice, and if circumstances allow, employees should provide notice as soon as the employee learns of the need for Washington Paid Sick Leave.

b. In the event it is not practicable to provide notice of an unforeseeable absence, a person on the employee's behalf may provide such notice.

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

**3. Reasonable Notice for Use of Washington Paid Sick Leave for Domestic Violence Leave – Foreseeable Use**

An employee must give advance oral or written notice to their supervisor as soon as possible for the foreseeable use of Washington Paid Sick Leave to address issues related to the employee or the employee's family member being a victim of domestic violence, sexual assault, or stalking.

**4. Reasonable Notice for Use of Washington Paid Sick Leave for Domestic Violence Leave – Unforeseeable Use**

If an employee is unable to give advance notice because of emergent or unforeseen circumstances related to the employee or the employee's family member being a victim of domestic violence, sexual assault, or stalking, the employee or their designee must give oral or written notice to their supervisor no later than the end of the first day that the employee using Washington Paid Sick Leave for domestic violence leave.

**E. Verification of Absences Exceeding Three Days**

1. If an employee has used Washington Paid Sick Leave for an authorized purpose for more than three (3) consecutive days during which the employee is

scheduled to work, the employee may be required to provide verification that establishes or confirms that the use of Washington Paid Sick Leave is for an authorized purpose.

2. For the care of the employee or the employee's family member, acceptable verification may include:
  - a. A doctor's note or a signed statement by a health care provider indicating that the use of Washington Paid Sick Leave is for care of the employee or their family member for an authorized purpose.
3. When an employee or the employee's family member has been a victim of domestic violence, sexual assault, or stalking, the employee's choice of any one or more of the following documents satisfies the verification requirement:
  - a. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking;
  - b. Evidence from a court or prosecuting attorney showing that the employee or the employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault or stalking;
  - c. A court order of protection;
  - d. Documentation from any of the following persons from whom an employee or employee's family member sought assistance in addressing the domestic violence situation indicating the employee or the employee's family member is a victim:
    - An advocate for victims of domestic violence, sexual assault, or stalking;
    - An attorney;
    - A member of the clergy; or
    - A medical professional.
4. In the event the City of White Salmon or the employee's child's school or place of care, is closed by order of a public official for any health-related reason, acceptable verification may include:

- a. Written notice of closure by order of a public official that the employee received regarding the employee's child's school or place of care.
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- 5. Verification must be provided within ten (10) calendar days of the first day an employee used Washington Paid Sick Leave to care for either the employee or a family member.
  - 6. Verification does not require that the information explain the nature of the condition in order to use Washington Paid Sick Leave, unless otherwise required by law.
  - 7. Any information provided through the verification process will be treated in a confidential manner consistent with applicable privacy laws.
  - 8. Unreasonable Burden or Expense for Verification
    - a. If an employee believes that obtaining verification for use of Washington Paid Sick Leave would result in an unreasonable burden or expense, the employee must contact the City Clerk Treasurer in writing.
    - b. Within ten (10) calendar days of receiving the employee's request, the City Clerk Treasurer 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.
    - c. The City may choose not to pay an employee for Washington Paid Sick Leave taken for such absences until verification is provided.
    - d. An employee has the right to contact the City Clerk Treasurer if the employee believes the proposed alternative still results in an unreasonable burden or expense.
    - e. If an employee is not satisfied with the alternatives, the employee may consult with the Washington Department of Labor & Industries.

Online: [www.lni.wa.gov/WorkplaceRights](http://www.lni.wa.gov/WorkplaceRights)

Call (toll-free): 1-866-219-7321

Visit: [www.lni.wa.gov/Offices](http://www.lni.wa.gov/Offices)

Email: [ESgeneral@lni.wa.gov](mailto:ESgeneral@lni.wa.gov)



**F. Washington Paid Sick Leave Increments of Use**

The City of White Salmon requires employees to use Washington Paid Sick Leave in increments of fifteen (15) minutes.

**G. Rate of Pay for Use of Washington Paid Sick Leave**

1. Employees shall be paid their “normal hourly compensation” for each hour of Washington Paid Sick Leave used.
2. “Normal hourly compensation” is the hourly rate that an employee would have earned for the time during which the employee used Washington Paid Sick Leave.
3. Normal hourly compensation does not include tips, gratuities, service charges, holiday pay, or other premium rates unless the appropriate collectively bargained agreement allows for such considerations.

**H. Carryover of Accrued, Unused Washington Paid Sick Leave to the Next Year**

1. Carryover Requirements
  - a. Accrued, unused Washington Paid Sick Leave balances of 40 hours or less shall carry over to the following year.
  - b. For example, if an employee has 25 hours of accrued, unused Washington Paid Sick Leave at the end of the year, all 25 hours shall carry over to the following year.
  - c. If an employee carries over accrued, unused Washington Paid Sick Leave to the following year, accrual of Washington Paid Sick Leave in the subsequent year would be in addition to the hours accrued in the previous year and carried over.
  - d. The City of White Salmon will require the part-time, seasonal and temporary employees to forfeit accrued, unused Washington Paid Sick Leave in excess of 40 hours at the end of a year.
2. Definition of Year  
The accrual year is January 1 – December 31.

**I. Separation and Reinstatement**

**1. Separation**

If an employee separates from employment, there will be no financial or other reimbursement to the employee for accrued, unused Washington Paid Sick Leave balances available at the time of separation.

**2. Reinstatement of Paid Sick Leave Hours upon Rehire**

- a. The City of White Salmon shall reinstate an employee's previously accrued, unused Washington State Paid Sick Leave balance if it rehires an employee within 12 months of separation.
- b. Upon rehire, the City of White Salmon shall provide notification to the employee of the amount of accrued, unused Washington Paid Sick Leave available for use by the employee.
- c. If an employee is rehired within 12 months of separation, the employee will not be required to wait another 90 calendar days to use their accrued, unused Washington Paid Sick Leave if the employee met that requirement during the previous period of employment.
- d. If an employee did not meet the 90-day requirement for the use of Washington Paid Sick Leave prior to separation, the previous period of time the employee worked for the City of White Salmon will count towards the 90 days for purposes of determining the employee's eligibility to use Washington Paid Sick Leave.

**3. Retirement and Death**

**The City of White Salmon shall buyout 25% of accumulated Washington Paid Sick Leave for retirement and 25% of accumulated Washington Paid Sick Leave for death. Employees shall be capped at 1000 hours of total leave (regular and Washington Paid Sick Leave) for buyout.**

**J. Retaliation Prohibited by Law**

1. Any discrimination or retaliation against an employee for the lawful exercise of Washington Paid Sick Leave rights is not allowed. The City of White Salmon will not discriminate or retaliate against an employee for the lawful exercise of Minimum Wage Act rights.
2. The City of White Salmon may not require, as a condition of an employee taking Washington Paid Sick Leave, that the employee search for or find a replacement

worker to cover the hours during which the employee is on Washington Paid Sick Leave.

3. If an employee feels they are being discriminated or retaliated against for the exercise of their Minimum Wage Act rights, the employee may contact the City Clerk Treasurer.
4. If an employee is not satisfied with the City Clerk Treasurer's response, the employee may contact the Washington State Department of Labor & Industries.

Online: [www.lni.wa.gov/WorkplaceRights](http://www.lni.wa.gov/WorkplaceRights)

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Email: [ESgeneral@lni.wa.gov](mailto:ESgeneral@lni.wa.gov)

#### **H. Required Notification**

1. Initial Notification of Rights
  - a. At the start of employment, the City of White Salmon will provide employees with notice of their Washington Paid Sick Leave rights. This notice will include information regarding:
    - An employee's entitlement to Washington Paid Sick Leave;
    - The rate at which the employee will accrue Washington Paid Sick Leave;
    - The authorized purposes under which an employee may use Washington Paid Sick Leave; and
    - That retaliation by the City of White Salmon for the employee's lawful use of Washington Paid Sick Leave and other rights provided under the Minimum Wage Act is prohibited.
2. Ongoing Notification
  - a. At least once a month, the City of White Salmon will provide notice to its employees of:
    - The amount of Washington Paid Sick Leave accrued since notice was last made;
    - The amount of Washington Paid Sick Leave reductions since notice was last made; and
    - The total amount of unused Washington Paid Sick Leave available for use by the employee.

- b. The City of White Salmon may satisfy ongoing notification requirements by providing this information in regular payroll statements.

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**I. Contact Information**

Employees with questions about the Washington Paid Sick Leave policy may contact the City Clerk/Treasurer.