

ADMINISTRATIVE ORDER NO. 21-15-01-F
of the
City Manager

ADOPTION OF SICK LEAVE ADMINISTRATIVE RULE R-4.582.

The City Manager of the City of Eugene finds that:

A. Pursuant to the authority contained in Sections 2.019 and 4.582 of the Eugene Code, 1971, on December 31, 2014, I issued Administrative Order No. 21-15-01 proposing the adoption of Administrative Rule R-4.582 to implement the provisions of Sections 4.570 through 4.584 of the Eugene Code, 1971, regarding sick leave provisions.

B. In preparing Administrative Rule R-4.582, I have considered: (a) the Sick Leave Task Force report dated June 18, 2014; (b) similar ordinances adopted by other cities; and (c) input from a broad array of stakeholder perspectives including representatives of the business community, labor organizations and other workers, and advocates (both supporters and opponents).

C. Notice of the proposed Rule adoption was given by providing copies to the Mayor and City Councilors, making copies available to any person who had requested such notice, and by publication of the Notice in the Register Guard Newspaper on January 6, 7, 8, 9, and 10, 2015. The Notice advised that written comments would be received until 5:00 p.m. on January 21, 2015. Approximately 15 people and entities submitted written comments on the proposed rules.

D. In response to comments and other review by staff, a number of changes have been made to the proposed rules. Comments and responses will be summarized below. It is important to note that although these rules are being adopted as permanent rules, it is anticipated that additional changes will be made in the next several months as people work with these rules, and as Portland gains experience with its rules – rules which were used as a starting point for these rules.

E. Many comments identified (1) ambiguities in the proposed language, (2) sections that could tie better to existing federal and state statutes and (3) places where additional detail could be in helpful. In response, the final rules include a number of revisions including the following:

- Clarified that the requirements and protections in the administrative rules were minimums and consequently, nothing in the rules prevented employers from granting greater protections or benefits to employees. A new subsection was added at the beginning of the administrative rule with a heading “Rules Do Not Preempt Employer Policies that Provide Greater Benefits.”

- Clarified definitions, including the definition of employee, volunteers, Paid Time Off, and Retaliatory Personnel Action.
- Aligned some sections more closely to FMLA and state wage and hour laws;
- Added language from Portland's administrative rules to address shifts of an indeterminate length and when sick time must be paid.
- Clarified that use of sick leave shall be in one-hour increments, except that there would be a two-hour minimum for an employee who uses sick leave because he or she is sick (unless an employer allowed for a smaller amount). If an employee has an appointment or is caring for a family member, it is entirely possible that an employee would not need to be out for more than an hour. On the other hand, if an employee chooses to stay home because the employee is ill, then a two-hour minimum is reasonable.
- Clarified when and where notices must be posted by employers.
- Linked the record-keeping requirements more closely to the burden-of-proof-shifting provisions in the ordinance.

F. Several people requested that provisions be added to address enforcement, such as which agency would be doing enforcement, what the penalty structure might look like, and what steps would be taken before civil penalties would be imposed. The City is negotiating with BOLI to act as the City's agent for implementation and enforcement of the sick leave ordinance and these rules. Until that contract is finalized, rules cannot be adopted addressing enforcement. Following execution of the contract, proposed rules will be formulated and published on enforcement, the public will be provided an opportunity to comment on those proposed rules, and then the rules related to enforcement will be finalized.

G. Some comments requested changes to the proposed rules that were inconsistent with the provisions of the ordinance and therefore could not be made. For example, one commenter requested that "on-call" employees be exempted from the rules; the sick leave ordinance, however, contains no such exemption. Another commenter requested the rules provide that sick leave granted by these rules be in addition to any vacation benefits granted by a collective bargaining agreement; such a provision would conflict with the requirements of section 4.576(6) related to paid time off policies that provide employees with leave that equals or exceeds the requirements of the ordinance. One commenter requested that part-time employees be limited to carrying over a pro-rata share of the 40 hour maximum (for example, a ½ time employee could only carry over 20 hours); such a change would conflict with the express language of the code that allows employees to carry over 40 hours. Finally, one commenter requested that the 240 hour requirement for employees working for businesses located outside the city allow those employees to use sick leave in advance of having worked the 240 hours if it is anticipated that the employee would work that many hours in a year; however, section 4.578(1)(b) explicitly provides that employees based outside the city are "eligible to use sick leave only after . . . the employee has performed work inside the city for that employer totaling at least 240 hours in a year."

H. Some people suggested hypothetical situations which assumed that either employers or employees would abuse the system and asked for rules to protect against such abuses. Other people pointed to provisions that the Eugene copied from Portland's administrative rules and suggested changes to those provisions. Portland's ordinance and

administrative rules were presented to Eugene as a model for us to follow. The Council chose to vary some of the provisions from Portland's ordinance and these rules reflect the Eugene Council's policy choices. Other than making these rules consistent with the Council's policy choices, these rules generally follow or copy Portland's provisions. As Portland and BOLI gain experience with Portland's provisions, we may receive information suggesting that changes to these rules should be adopted. Additionally, if some of the hypothetical abuses mentioned by other commenters actually do occur, then changes to the rules could be proposed and additional comments taken.

BASED UPON the above findings and the findings in Administrative Order No. 21-15-01, which are adopted, and pursuant to the authority contained in Sections 2.019 and 4.582 of the Eugene Code, 1971, Sick Leave Administrative Rule R-4.582 is adopted to provide as follows:

**SICK LEAVE
Administrative Rule R-4.582**

R-4.582-A GENERAL PROVISIONS.

1. **Construction of Rules.** These Rules shall be liberally construed to promote the purposes of Sections 4.570 through 4.584 of the Eugene Code, 1971 ("the Ordinance").

2. **Rules Do Not Preempt Employer Policies that Provide Greater Benefits.** Nothing in these Rules is intended to limit employer policies that provide for greater accrual or use of sick time by employees, or that extend other protections to employees.

3. **Definitions.** In addition to the definitions contained in Section 4.574 of the Eugene Code, 1971, the following words and phrases shall mean:

City. The City of Eugene, Oregon, or the area within the territorial City limits of the City of Eugene, Oregon, and such territory outside this City over which the City has jurisdiction or control by virtue of ownership or any Constitutional or Charter provisions, or law.

Consecutive Days. Consecutive calendar days, not including scheduled days off. For example, if an employee is scheduled to work Monday, Wednesday, and Friday only, and the employee uses sick time for all three days, the employee has used sick time for three consecutive days.

Employee. Any individual who renders personal services to an employer where the employer either pays or agrees to pay for the personal services, or suffers or permits the individual to perform the personal services, but not including services rendered under a work training program that does not include job placement administered under state or federal assistance laws or work performed in a work-study program that provides students in secondary or post-secondary educational institutions with employment

opportunities for financial and/or vocational training. "Employee" includes home care workers as defined by ORS 410.600(8).

"Employee" does not include:

- a. An independent contractor;
- b. Railroad workers exempted under the Federal Railroad Insurance Act;
- c. Workers in the building and construction industry whose terms and conditions of employment are covered by a collective bargaining agreement; or
- d. Volunteers performing work for no compensation or without expectation of compensation.

Employer. Any person who employs another person, but does not include:

- a. The United States Government;
- b. The State of Oregon, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary; or
- c. Any political subdivision of the State of Oregon or any county, city, district, authority, public corporation or public entity other than the City of Eugene.

Family Member. The spouse or domestic partner of an employee, the biological, adoptive, or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee, or a person with whom the employee was or is in a relationship of in loco parentis. As used herein:

- a. "Domestic Partner" means an individual joined in a domestic partnership.
- b. "Domestic Partnership" means a civil contract described in ORS 106.300 to 106.340 entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon.

Health Care Provider. A physician, podiatrist, dentist, psychologist, optometrist, naturopath, registered nurse, nurse practitioner, direct entry midwife, licensed practical nurse, social worker, or chiropractic physician who is primarily responsible for providing health care to an employee or a family member of an employee and who is performing within the scope of the person's professional license or certificate.

Home Care Service. Assistance with activities of daily living, activities of community inclusion, and self-management provided by a home care worker or personal support worker.

Home Care Worker. “Home Care Worker” as defined by ORS 410.600(8).

“Paid Time Off” or “PTO.”

A bank of time, including time accrued in regular increments according to an established formula, provided by an employer to an employee, that the employee can use to take paid time off from work for the purposes covered by the Ordinance or these Rules, as well as for any other purpose authorized by an employer.

Regular Rate of Pay. “Regular rate” as that term is defined by OAR 839-020-0030(2)(b).

Retaliatory Personnel Action:

a. Any discharge, suspension, demotion, or other adverse employment action or threat of adverse employment action against an employee for the exercise of any right guaranteed under the Ordinance or these Rules; or

b. Interference with, or punishment for, participating in any manner in an investigation, proceeding or hearing under the Ordinance or these Rules.

c. Adverse employment actions based on use of sick time not covered in the Ordinance or these Rules are not retaliatory personnel actions under the Ordinance or these Rules. For example, a disciplinary action for absences that exceed the amount of accrued leave is not an adverse employment action.

Sick Leave. Time off from working using sick time.

Sick Time. Time that has been accrued and may be used by an employee for purposes described in the Ordinance or these Rules, and that is calculated at the same regular rate of pay as the employee normally earns during hours worked and is provided by an employer to an employee at the accrual rate described in the Ordinance or these Rules.

Year. Any consecutive 12-month period of time that is normally used by an employer for calculating wages and benefits, including a calendar year, tax year, fiscal year, contract year, or the year running from an employee’s anniversary date of employment.

R-4.582-B EMPLOYEES.

1. **Working in the City.** Employees who perform work in the City are covered by the Ordinance and these Rules regardless of where their employer is located. For example, employees who travel to the City and make a stop as a purpose of conducting their work (e.g., to make pickups, deliveries, or sales calls) are covered by the Ordinance and these Rules for all hours that they perform work in the City.

2. **Telecommuting.** An employee who performs work for an employer by telecommuting is covered by the Ordinance and these Rules for the hours the employee is physically located in the City, even if the employer is physically located outside the City. Conversely, an employee who performs work for an employer by telecommuting is not covered by the Ordinance or these Rules for the hours the employee is not physically located in the City, even if the employer is physically located in the City.

3. **Work Outside the City.** Employees who perform work outside the City, even if the employer is based in the City, are not covered by the Ordinance or these Rules for hours worked outside the City.

4. **Traveling Through the City.**

a. Employees who travel through the City but do not stop in the City as a purpose of their work are not covered by the Ordinance or these Rules for the time spent traveling through the City.

b. Employees who travel through the City and only make incidental stops (e.g. purchasing gas, eating a meal, or changing a flat tire) are not considered to be making a stop as a purpose of their work.

c. An employer may make a reasonable estimate of an employee's time spent working in the City for purposes of leave accrual and use. Documentation of how the reasonable estimate was derived may include, but is not limited to, dispatch logs, delivery addresses and estimated travel times, or historical averages.

5. **Temporary Workers.**

a. Temporary workers are covered by the Ordinance and these Rules if they perform work in the City.

b. A temporary worker supplied by a staffing agency or similar entity shall be considered an employee of the staffing agency for all purposes of the Ordinance and these Rules.

R-4.582-C ACCRUAL OF SICK TIME.

1. **Start of Accrual.** Employees shall begin to accrue sick time on the date provided by Section 5 of Ordinance No. 20537, or at the commencement of their employment, whichever is later.

2. **Rate of Sick Time Accrual.** Employers shall provide employees with a minimum of one hour of paid sick time for every 30 hours of work performed by the employee within the City. Employers are not required to provide sick time accrual during hours spent on paid or unpaid leave.

3. **Salaried Employees.** Salaried employees who are exempt from overtime under the Fair Labor Standards Act and/or state wage and hour laws will be presumed to work 40 hours each work week for purposes of accruing sick time, unless their regular work week is less than 40 hours, in which case sick time is earned and accrued based on their regular work week.

4. **Overtime.** Overtime hours shall be included in hours worked for employees covered by the Fair Labor Standards Act and/or state wage and hour laws.

5. **Frontloading.** An employer's provision of sick time in advance of accrual shall be permissible frontloading, provided that the frontloading otherwise meets the requirements of the Ordinance or these Rules for accrual, use, and carryover.

6. **Maximum Accrual of Sick Time.** Employees may accrue a maximum of 40 hours of sick time in a year under the Ordinance and these Rules. Employers may allow greater accrual.

7. **Carryover of Accrued and Unused Sick Time.** Employees may carry over up to 40 hours of unused sick time to the following year. Employers that provide frontloaded sick time are not required to allow an employee to carry over accrued hours.

8. **Use After Carryover.** An employee may use not more than 40 hours of sick time per year regardless of how many hours of unused sick time the employee carries over from the previous year. For example, an employee carries over 40 hours of unused sick time from one year to the next year. The employee uses 40 hours of sick time in the new year. The employee may accrue additional sick time in the new year but may not use more sick time until the following year.

9. **Existing Policy.** Employers that have adopted and are implementing sick leave or paid time off ("PTO") policies that provide their employees with leave that equals or exceeds the requirements of the Ordinance shall be deemed in compliance with the accrual and use sections of the Ordinance and these Rules.

10. **Existing PTOs.** Employers with PTO policies that provide their employees with 40 hours of paid time off to use for any purpose, shall not be required to offer employees additional sick leave if the employees have exhausted their PTO for purposes other than for sick leave.

R-4.582-D QUALIFYING ABSENCES.

1. **Diagnosis, Care, or Treatment.** An employee may use sick time for the diagnosis, care, or treatment of the employee or the employee's family member's mental or physical illness, injury, or health condition, including preventive health care. For example, sick time may be used for pre-natal visits and routine medical and dental visits.

2. **Domestic Violence, Harassment, Sexual Assault, or Stalking.** An employee may use sick time if the employee needs leave for any of the purposes set out in ORS 659A.272. For example, sick time may be taken to seek legal or law enforcement assistance or remedies, medical treatment, counseling, the services of a victim services provider, or to relocate or secure an existing home for the employee or the employee's minor child or dependent.

3. **Work, School, or Child Care Closure.** An employee may use sick time if either the employee's place of business or the employee's child's school or day care is closed by order of a public official due to a public health emergency.

4. **Employee Excluded From Workplace for Health Reasons.** An employee may use sick time if any law or regulation requires the employer to exclude the employee from the workplace for health reasons.

R-4.582-E USE OF SICK TIME.

1. **Time Period.**

a. Employees based inside or outside the City may not use sick time during the first 90 calendar days of employment.

b. In addition to the limitation contained in subsection a. above, for employees based outside the City, employees must have worked 240 hours in a year within the City and after the date specified in Section 5 of Ordinance No. 20537, to be eligible to use sick time accrued under Ordinance No. 20537.

c. Employees do not need to reestablish eligibility in subsequent years unless they change employers or are separated from their employer for more than six months.

2. **Location of Use.** Employees may use their sick time only during times that they are scheduled to perform work in the City.

3. **Increments and Coverage.**

a. Employees shall use sick time accrued under the Ordinance and these Rules in increments of one hour. However, if an employee is using sick leave because

the employee is ill, then the minimum amount of accrued sick leave used shall be two hours unless a lesser amount is allowed by the employer.

b. Employers may not require an employee to take off a full shift as a condition to using sick time, except when it is physically impossible for an employee to commence or end work partway through a shift, the entire time an employee is absent may be counted against an employee's sick time.

c. Sick time is available to employees to use at the end of the pay period in which it was accrued if the employee meets all other criteria for use of sick time. Employers may not make sick time available only at some other future point in time.

d. Unless an employee chooses to use other available leave, an employee must use sick time hours when absent for a qualifying reason as defined in Rule R-4.582-D.

4. **Rate of Pay.** When using paid sick time, an employee shall be compensated at the same regular rate of pay as the employee would have earned during the time the paid leave is taken.

a. **Shifts of Indeterminate Length.** For employees who are scheduled to work a shift of indeterminate length (e.g., a shift that is defined by business needs rather than a specific number of hours), the employer may choose to determine payment for sick time based on hours worked by a replacement employee in the same shift or, alternatively, based on similarly situated employees who worked that same or similar shift in the past.

b. **Payment of Sick Time.** Sick time must be paid no later than the payday for the next regular payroll period after the sick time was used by the employee. However, if the employer has asked for documentation of use of sick time, the employer is not obligated to pay sick time until the employee has provided documentation verifying that the absence was for a qualifying reason as defined in Rule R-4.582-D.

5. **Shift Trading.**

a. If the employer allows shift trading, and if an appropriate shift is available, an employee may choose to work different hours or shifts without using available sick time for the missed hours or shifts.

b. An employer may not require an employee to find a replacement worker for his or her shift as a condition for the employee's use of sick time, nor work an alternative shift in lieu of using accrued sick time.

6. **Transferred Employees.** If an employee is transferred by an employer to a separate division, entity, or location of the employer, the employee is entitled to all sick time accrued prior to the transfer.

7. **Successor Employers.** Unused sick time shall be retained by the employee if the employer sells, transfers, or otherwise assigns the business or the stock of the business to another employer and the employee continues to work for the new employer.

8. **Breaks in Service.**

a. When an employee is separated from employment and rehired by the same employer within six months of separation, previously unused sick time shall be reinstated. The previous period of employment shall be counted for purposes of determining the employee's eligibility to use sick time. For example, the hours worked during the previous period of employment shall count towards the 240-hour requirement for eligibility under Rule R-4.582-E.1.

b. When an employee is separated from employment after becoming eligible to use sick time and is rehired by the same employer within six months of separation, the employee is not subject to the 90 calendar day waiting period under Rule R-4.582-E.1.

R-4.582-F EMPLOYEE NOTICE.

1. **Notice Policy and Procedures.**

a. An employer may require an employee to provide reasonable notice of an absence for sick time.

b. Reasonable notice means compliance with an employer's written policy or standard for an employee to notify the employer of the employee's use of sick time. The policy or standard may include notice by calling a designated phone number, applying a uniform call-in procedure or by using another reasonable and accessible means of communication.

c. If an employer does not have a written policy or standard for providing reasonable notice, the employer must establish such policy or standard in writing before requiring such notice.

2. **Notice for Foreseeable Leave.**

a. If the reason for sick leave is a foreseeable absence, such as a pre-scheduled medical appointment, the employee shall provide written notice as soon as practicable, in advance of the leave, or as otherwise provided in the employer's written policy.

b. When an employee uses sick time for a foreseeable absence, the employee shall make a reasonable effort to schedule the leave in a manner that does not unduly disrupt the operations of the employer. For example, the employee should make a

reasonable attempt not to schedule medical appointments during peak work hours, when work is time-sensitive or when mandatory meetings are scheduled.

c. The employee shall inform the employer of any change in the expected duration of the sick leave as soon as is practicable.

3. **Notice for Unforeseeable Leave.** If the reason for sick leave is unforeseeable, the employee shall provide notice before the start of the employee's shift or as soon as is practicable. In all cases, whether and when an employee can practicably provide notice depends upon the individual facts and circumstances of the situation.

4. **Failure to Provide Notice.** An employer may deny sick time to an employee if the employee fails to provide notice under Rule R-4.582-F.1. through 3. or if the employee fails to make a reasonable effort to schedule leave in a manner that does not unduly disrupt the operations of the employer under Rule R-4.582-F.2.b.

R-4.582-G EMPLOYEE DOCUMENTATION.

1. Documentation.

a. When an employee uses sick time for more than three consecutive days, an employer may require reasonable documentation that the sick time is being used for a qualifying absence as defined in Rule R-4.582-D.

b. For purposes of subsection a. above, an employer, including an employer with a PTO policy, may require any one of the following types of reasonable documentation:

(1) A signed statement by a health care provider indicating that sick time is necessary;

(2) Documentation that the employee or the employee's minor child or dependent is a victim of domestic violence, harassment, sexual assault, or stalking, which may consist of:

(a) A copy of a police report indicating that the employee or the employee's minor child was a victim of domestic violence, harassment, sexual assault, or stalking;

(b) A copy of a protective order or other evidence from a court, administrative agency, or attorney that the employee appeared in or was preparing for a civil, criminal, or administrative proceeding related to domestic violence, harassment, sexual assault, or stalking; or

(c) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy, or victim services provider that the employee or the employee's minor child or dependent was undergoing treatment or counseling, obtaining services, or relocating as a result of domestic violence, harassment, sexual assault, or stalking; or

(3) A personal statement signed by the employee that he or she is using sick time for a qualifying absence. An employee's signed statement does not need to be in an affidavit format or notarized but shall be legible if handwritten and shall make clear the employee's identity and, if applicable, the employee's relationship to the family member and the general purpose for which sick time is being used. For example, an employee may notify his employer that he needs to take sick leave to care for his sick child; the employee does not need to indicate the nature of the child's illness.

2. Confidentiality.

a. If the employer obtains health information about an employee or an employee's family member, such information shall be treated as confidential to the extent provided by law.

b. All records and information kept by an employer regarding use of sick time for purposes related to domestic violence, harassment, sexual assault, or stalking, including the fact that the employee has requested or obtained use of sick time, are confidential and may not be released without the express written permission of the employee, unless otherwise required by law.

c. Nothing in this subsection 2 is intended to override any legal requirement that an employer has concerning maintaining health records and information.

3. Payment for Documentation.

a. **Second Opinion.** An employer may not require an employee to obtain the opinion of a second health care provider for the purpose of medical verification of the use of sick time.

b. **Cost of Verification.** If an employer requires documentation of the purpose for the use of sick time, the employer shall pay the cost of any verification by the health care provider that is not covered by insurance or another benefit plan. Nothing in this subsection 3.b. is intended to override the provisions of ORS 659A.306.

4. **Documentation for Suspected Sick Time Abuse.** If an employer suspects sick time abuse, including patterns of abuse, the employer may require documentation from a health care provider verifying the employee's need to use sick time. Indications of a pattern of abuse include, but are not limited to, repeated use of unscheduled sick time on or adjacent to weekends,

holidays, vacation, or pay day, regardless of whether the employee has used sick time for more than three consecutive days.

5. Failure to Provide Documentation. If the employee fails to provide documentation as required by this section, and provided that the employer has requested such documentation from the employee, then the employer may deny the use of sick time for the absence taken until the employee provides documentation verifying that the absence was for a qualifying reason as defined in Rule R-4.582-D. Such documentation must be provided within the time required by ORS 659A.168.

R-4.582-H EMPLOYER NOTICE AND POSTING REQUIREMENTS.

1. Employers physically located in the City shall provide and post written notice to all employees based in the City of their entitlement to sick time; the amount of sick time and the terms of its use guaranteed under the Ordinance and these Rules; the prohibition of retaliation against employees who request or use sick time; and an employee's right to file a complaint if sick time as required by the Ordinance and these Rules is denied by the employer, or if an employee is retaliated against for requesting or taking sick time.

a. Employers shall provide the written notice required by Rule R-4.582-H.1. to employees no later than the end of the employer's first pay period in July, 2015, or, for new employees, the end of the first pay period for those employees. The written notice shall be in English and, if applicable, any additional language or languages the employer normally uses to communicate with its employees. The written notice may be provided in any way that complies with the terms of this section, including in pay stub statements, through accessible online programs, and by electronic delivery.

b. Employers shall display a poster with the information required by Rule R-4.582-H.1. in an area accessible to, and regularly frequented by, employees. Employers with more than one work location are required to display these posters at each worksite. The poster shall be in English and, if applicable, any additional language or languages the employer normally uses to communicate with its employees.

2. Unless employer makes available to employees a self-serve portal that allows employees to access accrued sick time balances at any time, then, at a minimum, all employers, both those located inside the City and outside the City, shall provide written notification annually to each employee, including any employees located outside the City who have accrued sick time under Rule R-4.582-C, of the amount of accrued and unused sick time available for use by that employee.

3. At an employer's request, for purposes of providing notice to employees, the City shall provide the employer with a form containing the information required by Rule R-4.582-H.1. In the alternative, an employer may create the notice.

R-4.582-I EMPLOYER RECORDS.

1. Employers are not required to maintain specific records under the Ordinance or these Rules. However, if an employer complies with the recordkeeping protocols listed below, and provides those records in response to a complaint of a violation of Section 4.576 or subsection (1) of Section 4.578 of the Eugene Code, 1971, then the burden shall be on the City or its agent to establish a violation of those provisions. If an employer chooses not to keep records consistent with those recordkeeping protocols, and a complaint is filed alleging that the employer has violated Section 4.576 or subsection (1) of Section 4.578 of the Eugene Code, 1971, then the burden shall be on the employer to demonstrate compliance with the requirements of those sections.

Records shall be retained for a period of at least two years:

- a. The name, address, and occupation of each employee;
- b. The amount of sick time or PTO accrued and used by each employee; and
 - (1) For hourly employees, the hours actually worked in the City during each pay period by each employee; or
 - (2) For salaried employees who work in the City on a regular basis, the hours of a normal work week for each employee; or
 - (3) For salaried employees who work in the City on an occasional basis, the hours actually worked in the City during each pay period by each employee; or
 - (4) For employers that choose to front-load their employees' sick time or PTO, the amount of sick time or PTO front-loaded and the dates on which the sick time or PTO is available to the employee to use.

2. **Access.** Employers shall allow access to such records by the City or any entity that is delegated authority to enforce the Ordinance or these Rules.

R-4.582-J RETALIATION.

1. It is unlawful for an employer to take any retaliatory personnel action against any person for exercising rights or attempting to exercise rights guaranteed by the Ordinance or these Rules.

2. Authorized use of sick time under the Ordinance or these Rules shall not be used as a reason for taking an adverse employment action against an employee under an employer's absence control policy. For example, an employer cannot take an employee's authorized sick

leave into account when rating that employee's attendance record for the purpose of awarding a benefit, such as a raise, premium, or bonus.

3. If the employer determines that the employee used sick time for an impermissible purpose, including a pattern of abuse, or that the employee's documentation of the need to take sick time was falsified or untrue, the employer's action against the employee for these acts shall not constitute a retaliatory personnel action under the Ordinance or these Rules.

R-4.582-K RELATIONSHIP TO OTHER LAWS.

1. The Ordinance or these Rules are not intended to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick time, whether paid or unpaid, or that extends other protections to employees.

2. **Relationship to Other PTO.**

a. Except for PTO, an employee may not use sick time while on any other paid leave provided by the employer, unless allowed by the employer. For example, an Employee may not use sick time while receiving worker's compensation benefits unless the employer permits such use.

b. An employee's use of sick time may qualify for concurrent leave under federal, state or other local laws, such as leave under the Oregon Family Leave Act or the federal Family Medical Leave Act.

R-4.582-L GRACE PERIOD.

No civil penalties will be imposed for non-compliance with the Ordinance or these Rules prior to three months following the date specified in section 5 of Ordinance No. 20537. However, employers found to be in violation will be responsible for compensating the employee in accordance with the City's determination.

31st
Dated this 30th day of January, 2015.



Jon R. Ruiz
City Manager