

DELIVERED SEP 09 2021

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2021-**67**

Introduced By: Mr. Bortolotto, Mr. Meany, and Mr. Grech

**AN ORDINANCE
AMENDING ORDINANCE NO. 2017-84
PASSED TO AMEND SECTION 139.04 "SICK LEAVE"
OF THE MIDDLEBURG HEIGHTS CODIFIED ORDINANCES**

WHEREAS, legislation was passed by Ordinance No. 2017-84 to award sick leave on a bi-weekly basis; and

WHEREAS, a scrivener's error was discovered in Section 139.04(n)(2)(A)(4), the percentage used in calculating the payment was previously 50% and was inadvertently listed as 52% in Ordinance No. 2017-84.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That to correct the scrivener's error Section 139.04 is hereby amended to read as follows:

139.04 Sick Leave

- (a) Effective January 1, 2018, all regular full-time officials and employees of the City who are not covered by collective bargaining agreements shall be entitled to receive and accumulate paid sick leave benefits pursuant to this section.
- (b) "Sick leave" means an absence with pay necessitated by:
 - (1) Illness or injury to the employee;
 - (2) Exposure by the employee to contagious disease communicable to other employees; and
 - (3) Serious illness or injury in the employee's immediate family.
- (c) All full-time employees shall earn sick leave at the rate of 4.62 hours bi-weekly and may accumulate such sick leave to an unlimited amount. However, an employee shall not earn sick leave unless he or she is in full pay status.
- (d) An employee who is to be absent on sick leave shall notify his or her supervisor of such absence and the reason therefor within one-half hour after the start of his or her work shift each day he or she is to be absent.
- (e) Sick leave may be used in segments of not less than one hour.
- (f) Before an absence may be charged against accumulated sick leave, the department head may require, for cause, such proof of illness, injury or death as may be satisfactory to him or her, or may require the employee to be examined by a physician designated and paid for by the City. In any event, an employee absent for three or more consecutive days must supply a physician's report at the employee's expense, to be eligible for paid sick leave, unless such physician's report is waived by the department head.

(g) If the employee fails to submit adequate proof of illness, injury or death upon request, or if, upon such proof as is submitted or upon the report of a medical examination, the department head finds that there is not satisfactory evidence of illness, injury or death sufficient to justify the employee's absence, such leave may be considered an unauthorized leave and shall be without pay.

(h) Any abuse of sick leave or the patterned use of sick leave shall be just and sufficient cause for discipline as may be determined by the department head.

(i) The department head may require an employee who has been absent due to personal illness or injury, prior to and as a condition of his or her return to duty, to be examined by a physician designated and paid for by the City, to establish that he or she is capable of performing his or her normal duties and that his or her return to duty will not jeopardize the health and safety of other employees.

(j) When the use of sick leave is due to illness or injury in the employee's immediate family, "immediate family" shall be defined to include only the employee's spouse, children, stepchildren residing with the employee or parents residing with the employee.

(k) An employee who transfers from one department to another department of the City shall be allowed to transfer his or her accumulated sick leave to the new department, provided that his or her amount of accumulated sick leave shall not exceed the accumulation limit in effect in his or her new department.

(l) Any employee of the City who has accumulated sick leave earned from employment by the State or any other political subdivision of the State and who has become employed by the City within ten years from his or her termination from such other public employer shall be allowed to transfer such accumulation to his or her sick leave accumulation with the City, provided that such sick leave accumulation shall be limited to the existing maximum accruable amount in effect at the time of transfer.

(m) Upon the retirement of a full-time employee who has not less than ten years of continuous service with the City, such employee shall be entitled to receive a cash payment equal to his or her daily rate of pay at the time of retirement multiplied by one-third of the total number of accumulated but unused sick hours earned by the employee, as certified by the Finance Director, the maximum permitted under the following schedule:

- 10 years of continuous service – 1/3 not to exceed 85 days
- 15 years of continuous service – 1/3 not to exceed 95 days
- 20 years of continuous service – 1/3 not to exceed 105 days
- 25 years of continuous service – 1/3 not to exceed 115 days
- 30 years of continuous service – 1/3 not to exceed 125 days

- (n) (1) All regular full-time officials and employees of the City, and those employees covered by collective bargaining agreements, shall be entitled to receive and accumulate paid sick leave benefits pursuant to this section.
- (2) Any employee whose sick time bank exceeds 120 days by June 30, of any year, will be eligible for a cash payment in July of the following year in accordance with the following schedule:
- A. Unused sick leave accrued between July 1, 2001, and June 30, 2002, or any July 1 to June 30 thereafter, may be converted to a lump sum payment in accordance with

the following schedule. The benefit shall be paid during the month of July following the accrual year.

1. Less than 15 years of continuous service with the City, an amount equal to 35 percent of the unused sick time exceeding 120 days;
2. June 30, after 15 years of continuous service with the City, an amount equal to 40 percent of the unused sick time exceeding 120 days;
3. June 30, after 20 years of continuous service with the City, an amount equal to 45 percent of the unused sick time exceeding 120 days;
4. June 30, after 25 years of continuous service with the City, an amount equal to 50 percent of the unused sick time exceeding 120 days;
5. June 30, after 30 years of continuous service with the City, an amount equal to 55 percent of the unused sick time exceeding 120 days;
6. June 30, after 35 years of continuous service with the City, an amount equal to 60 percent of the unused sick time exceeding 120 days;

- B. Payment for sick leave shall be made at the employee's rate of pay at the time of conversion. The daily rate shall be calculated by dividing the annual rate of pay by 260. The hourly rate will be determined by dividing the daily rate by the number of hours in that employee's workday.
- C. If the sick time conversion is not elected, any accrued but unused sick time will be used or paid at the time of retirement in accordance with the provisions of Section 139.04(b).

- (3) Years of continuous service shall be determined as of June 30 preceding the accrual year. Years of service accumulated by any officer or employee in one department or division who transfer to another department or division shall count towards continuous service. Employment with the State or any other political subdivision of the State shall count towards continuous service provided the employee is employed by the City within ten years from his or her termination from such other public employer. Purchased service credit shall count towards longevity of service. Each three years served as a part-time officer or part-time employee of the City shall count as one year of continuous service for the purpose of the annual conversion program. (Ord. 1995-39. Passed 4-25-95; Ord. 1997-29. Passed 3-11-97; Ord. 2001-41. Passed 5-8-01; Ord. 2001-42. Passed 5-8-01. Ord. 2017-84. Passed 11-14-17.)

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 9/14/21

David Bortolotto
President of Council

Presented to Mayor: 9/15/21

9-16-2021 Matthew Lamb
Mayor

Attest: M. Meola
Clerk of Council

Approved On: 9-16-2021

	Yea	Nay
Bortolotto	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ali	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sage	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Meany	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McGregor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ference	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grech	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2021-67 adopted by the Council of the City of Middleburg Hts., on 9/14/21 was posted for a period of fifteen days, beginning 9/16/21 and remained so posted for fifteen days at the two posting places as designated by Charter.
Mary Ann Meola
Clerk

CERTIFICATE

I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. 2021-67 passed on the 14th day of September 2021 by said Council.

Mary Ann Meola
Clerk of Council