

SUBCHAPTER 4
VACATIONS

350-40. Vacations. 1. DEFINITIONS.

a. "Active service" means the time spent as an appointed employee on the city payroll in a position qualifying for fringe benefits or an appointed employee of the redevelopment authority of the city of Milwaukee. For this time spent to count as active service for vacation purposes, the time, together with any furlough time, shall be continuous from the date of appointment. Active service shall also include the time an employee taking a military leave would have spent on the city payroll in a position qualifying for fringe benefits if he or she had not taken a military leave. Active service shall also include the time an employee or a public official appointed under s. 62.51, Wis. Stats., spent on the city payroll as an elected official.

b. "Anniversary date" means the date an employee completes 12 months of active service in a position qualifying for fringe benefits following appointment to the city of Milwaukee. After completion of the first 12 months of active service an employee's anniversary date shall not change.

c. "Pay-period year" means the 26 consecutive pay periods ending within a single calendar year.

2. ELIGIBILITY. General vacation eligibility requirements shall be as follows:

a. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, an employee shall be eligible to receive vacation benefits immediately upon employment.

b. Usage of vacation shall be based on an annual pay-period year.

3. TIME EARNED FOR ANNUAL VACATION PERIOD. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the following time is earned for an annual vacation period:

a. Full Time Employees.

a-1. Full time employees, except the executive director of the employees' retirement system, the fire chief, the chief of police and public officials appointed under s. 62.51, Wis. Stats., and their deputies, shall earn vacation time on an annual pay-period-year basis in the following manner:

a-1-a. 3.7 hours per pay period for employees who have completed less than 4 years of active service.

a-1-b. 5.3 hours per pay period for employees who have completed at least 4 years but less than 9 years of active service.

a-1-c. 6.8 hours per pay period for employees who have completed at least 9 years but less than 14 years of active service.

a-1-d. 8.4 hours per pay period for employees who have completed at least 14 but less than 21 years of active service.

a-1-e. 9.9 hours per pay period for employees who have completed at least 21 years of active service.

a-1-f. 10.5 hours per pay period for employees who were on the payroll, or leave of absence or working toward year-round employment as of January 1, 1964.

a-1-g. 10.8 hours per pay period for employees who were on the payroll, or leave of absence or working toward year-round employment as of January 1, 1963.

a-1-h. Effective pay period 13, 2007, if it becomes necessary to recruit a fair labor standards act-exempt employee at a vacation rate above the minimum of 3.7 hours per pay period, the department of employee relations, with the concurrence of the chair of the committee on finance and personnel, may authorize vacation at the rate of 5.3 hours per pay period which will provide a third week of vacation. A listing of appointments made under this provision shall be provided to the committee on finance and personnel.

a-1-i. Transitional vacation accounts shall be created and maintained according to guidelines developed by the department of employee relations.

a-2. Public officials appointed pursuant to s. 62.51, Wis. Stats., as well as the executive director of the employees' retirement system, the fire chief and the chief of police, shall earn vacation time for a fiscal year on a pay period basis in the following manner:

a-2-a. Officials who have completed less than 9 years of active service shall earn 5.3 hours per pay period.

a-2-b. Officials who have completed at least 9 years but less than 14 years of active service shall earn 6.8 hours per pay period.

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a-2-c. Officials who have completed at least 14 years of active service shall earn 8.4 hours per pay period.

a-2-d. Officials who have completed at least 21 years of active service shall earn 9.9 hours per pay period.

a-3. Employees holding positions represented by a certified bargaining unit will be governed by the schedule provided in the labor agreement between the city and their union.

b. **Part-time Employees.**

Employees who work an average of 20 hours per week on a year-round basis in a position which is budgeted as half-time or more shall be able to earn, according to their years of service as provided in par. a, vacation on a prorated basis.

c. **Administration.**

c-1. The heads of departments, bureaus, authorities, commissions or other bodies under the control of the common council shall arrange and designate the earned vacation as provided in this subsection, except for those employees excluded from benefits under s. 350-237.

c-2. The amount of vacation time taken during a fiscal year, except for separation from service as provided in sub. 4 shall be limited to the maximum noted in par. a. These maximums are not guarantees; an employee is not entitled to any greater vacation with pay than that which he or she has earned.

4. UNEARNED TIME DEDUCTIBLE. Vacation taken before the full amount has been earned shall be considered time owed the city until it is earned. At the discretion of the department head, an employee may borrow up to 80 hours of vacation before it is earned provided that the total number of vacation hours he or she takes in that pay period year does not exceed the number of hours that the employee would earn in vacation in that pay-period year under sub. 3. In no case may an employee's vacation account balance exceed 80 negative hours. Any employee who leaves the service of the city due to resignation, retirement, termination, discharge, layoff or death will have the compensation for vacation time owed the city deducted from the final paycheck.

5. MAXIMUM VACATION BALANCES. The maximum amount of vacation employees can maintain in their vacation accounts shall be as follows:

a. 176 hours for employees who have completed less than 4 years.

b. 216 hours for employees who have completed 4 years of service but less than 9 years of service.

c. 256 hours for employees who have completed 9 years of service but less than 14 years of service.

d. 296 hours for employees who have completed 14 years of service but less than 21 years of service.

e. 336 hours for employees who have completed at least 21 years of service.

f. 352 hours for employees described in sub. 3-a-1-f.

g. 360 hours for employees described in sub. 3-a-1-g.

7. REINSTATEMENT AFTER RESIGNATION.

a. When an employee who has resigned from the city service applies for reinstatement, the city service commission may grant that employee credit for prior service with the city for vacation purposes if the situation should warrant that action.

b. When a former city employee who has resigned from the city service is reinstated to city employment in a position subject to s. 63.27, Wis. Stats., the former employee may be granted credit for prior service with the city for vacation purposes if the situation should warrant that action in accordance with the policy of the city's civil service commission as if the position was subject to the civil service commission.

8. DEPARTMENTAL APPROVAL. Vacations may be divided into 2 or more periods if thought advisable by the respective department heads. The department heads shall determine when such vacation periods shall be granted, the practical considerations involved in the efficient operation of the department and give consideration to the convenience of the employees.

10. VACATION RECORDS. The director of employee relations, in checking payrolls or accounts of salaries and wages of officers and employees in the city departments, bureaus, authorities, boards, commissions or other bodies shall check and keep a record of the time allowed to employees for vacations and shall make certification to the comptroller that

the total time allowed for vacation to any one employee during any fiscal year is in accordance with the vacation allowance set forth in this section. Where the vacation allowance with pay exceeds that set forth in this section, the director of employee relations shall withhold certification to such payrolls or accounts of salaries or wages in the manner provided in s. 350-112.

11. ADMINISTRATION. Uniform administration, interpretation and enforcement shall be vested in the director of employee relations, except that as to fire and police personnel, the fire and police commission shall have the same power and responsibility.

12. EARNED VACATION UPON SEPARATION. Any employee who leaves the service of the city due to resignation, retirement, layoff or death or who takes military leave shall be paid for earned vacation time that has accumulated. Discharged employees shall not be entitled to pay for accumulated vacation time. Employees eligible for payment of earned vacation upon separation from city service shall be paid in cash for such earned vacation. No request by an employee to use vacation time to extend the employee's time on the city payroll shall be granted.

15. POLICE AND FIRE DEPARTMENTS.

a. Members of the Police Force.

a-1 Special Service Credit. Police department employees in active service and in the following position classifications shall have time spent on duty disability pension included as years of service for computing current and prospective vacation benefits:

- a-1-a Chief of police.
- a-1-b Assistant chief of police.
- a-1-c Deputy chief of police.
- a-1-d Police commander.

a-2. Police Heroism. The chief of police is authorized to establish departmental rules in accordance with city ordinances for granting additional vacation and off-days to members of the police force who demonstrate outstanding merit in the apprehension of criminals and meritorious acts of heroism and bravery beyond the call of duty. No more than 14 additional off-days shall be granted to any one member of the police force in a calendar year.

a-3. The amount of vacation earned by a member of the police force in 1998 for use in 1999 shall be placed in a transitional vacation account (TVA). TVA hours may be scheduled with the approval of the chief. A member of the police force may not borrow vacation hours until all of his or her TVA hours have been exhausted.

b. Members of the Fire Department.

b-1 Special Service Credit. Fire department employees in active service and in the following position classifications shall have time spent on duty disability pension included as years of service for computing current and prospective vacation benefits:

- b-1-a Fire chief.
- b-1-b Assistant fire chief.
- b-1-c Deputy chief of fire.
- b-1-d Battalion chief.
- b-1-e Chief dispatcher of fire alarm and telegraph.

b-2. Time Earned Per Week. Employees in active service during a fiscal year and whose normal hours of work exceed 40 hours per week shall be entitled to vacation with pay during that fiscal year at the following rates:

b-2-a. 3.7 hours per pay period for employees who have completed fewer than 6 years of active service.

b-2-b. 5.6 hours per pay period for employees who have completed 6 years but fewer than 11 years of active service.

b-2-c. 8.4 hours per pay period for employees who have completed 11 years but fewer than 19 years of active service.

b-2-d. 10.2 hours per pay period for employees who have completed 19 years or more years of active service.

b-3. Time Earned per Week; Noncivilian Management. Noncivilian management employees of the fire department in active service during a fiscal year and whose normal hours of work average 40 hours per week shall be entitled to vacation with pay during that fiscal year at the following rates:

b-3-a. 3.4 hours per pay period for employees who have completed fewer than 6 years of active service.

b-3-b. 5 hours per pay period for employees who have completed 6 but fewer than 11 years of active service.

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b-3-c. 6.5 hours per pay period for employees who have completed 11 but fewer than 19 years of active service.

b-3-d. 8 hours per pay period for employees who have completed 19 or more years of active service.

b-4. Employees on Injury Leave. An employee on authorized injury leave as a result of a duty-incurred injury may use vacation scheduled during the period of the leave, provided he or she notifies his or her immediate supervisor orally of this fact prior to the start of the vacation and indicates the time when the vacation is to be used.

b-5. Employees on Sick Leave. An employee on authorized sick leave may use vacation scheduled during the period of the leave, provided he or she notifies his or her immediate supervisor orally of this fact prior to the start of the vacation and indicates the time when the vacation is to be used.

b-6. Scheduling. The assignment and scheduling of vacations with pay shall be controlled by the fire chief.

b-7. Administration. Administration and control of this subsection shall be under the fire chief.

350-42. Suburban Service to be Recognized When Municipality is Consolidated.

Whenever employees of any suburban community are taken into the service of the city because of consolidation of municipalities, the length of time during which they have been employed by such suburban community shall be taken into account by determining eligibility for vacations, and for vacations of increased length, in like manner as though such service had been rendered to the city.

350-45. Accrued Time-Off Donor Program.

1. ESTABLISHED. There is established a city-wide accrued time-off donor program administered by the department of employee relations to provide income protection to eligible employees who have exhausted all accrued time off and are suffering from a serious health condition as defined under the federal family and medical leave act and are unable to work full-time or to eligible employees who have exhausted all accrued time-off with immediate family members who are suffering from a serious health condition as defined under the federal family and medical leave act.

"Immediate family" in this section means a spouse, registered domestic partner as provided in s. 350-245, child or step-child.

2. DONATION RULES.

a. Employees interested in donating accrued time-off shall complete a "Notification of Intent to Donate Time" form developed by the department of employee relations.

b. Each request to donate time shall specify only one employee to receive the donation. A separate "Notification of Intent to Donate Time" form must be completed for each employee to whom time is being donated..

Employees may donate accrued time in whole-hour increments only.

d. The decision to donate time cannot be rescinded once the "Notification of Intent to Donate Time" form has been received by the department of employee relations.

e. Employees donating time shall not have any accrued time returned if the employee to whom time is donated does not utilize the entire donation. The city shall take efforts to ensure that loss of donations due to non-utilization are kept to a minimum.

f. The employee donating time shall be notified by his or her department when the donation has been approved by the department of employee relations.

g. The types of leave eligible for donation shall be limited to vacation, compensatory time off and time-off in lieu of holidays.

3. RECIPIENTS' ELIGIBILITY CRITERIA AND RULES.

a. Eligible employees may receive donations of 2,080 hours per illness from qualified city employees regardless of department or union affiliation.

b. Employees qualified to receive donations of time, or their appropriate authorized agents, must complete an "Application for Accrued Time-Off Donor Program" form, which shall be available from the department of employee relations.

c. The employee, or his or her authorized agent, shall be responsible for completing the applications and obtaining a physician's statement certifying that the employee or the employee's immediate family member is suffering from a serious health condition as defined under the federal family and

medical leave act that meets the program's medical requirements.

d. No determination regarding eligibility to receive donated time-off shall be made until the department of employee relations has received a completed application and physician's statement certifying that the employee or employee's immediate family member is suffering from a serious health condition as defined under the federal family and medical leave act or the applicable family and medical leave act certification establishing the employee or employee's immediate family member suffers from a serious health condition as defined under the federal family and medical leave act. An employee shall not be eligible to receive donated time-off unless and until he or she has exhausted all of his or her own accrued time-off. Although the decision of the department of employee relations respecting eligibility shall be final, employees who are denied this benefit shall be entitled to a written explanation as to why they did not qualify for participation in the program.

e. The city of Milwaukee reserves the right to require the employee to obtain, at his or her own expense, if not covered by the employee's health insurance provider, a second opinion from a physician of the employee's choice as to the nature of the physician's diagnosis and prognosis contained in the physician's statement.

f. Employees eligible to participate in the program and receive donations of time shall be so notified by the department of employee relations.

g. Donations of time shall be credited to a special account for the employee established by the city for this purpose. If the employee does not utilize the entire donation, any remaining time shall revert to the city. Donated time may only be used to cover absences during the period this policy is in effect.

h. Employees receiving donations of time may request, in writing, to be notified of the names of employees who donate time for their use.

i. Payments received under this program are considered other income and, under current internal revenue service guidelines, are to be included in the employee's W-2 reporting.

4. PARTICIPATION BY EMPLOYEE UNIONS. a. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect and consistent with city bargaining obligations, all city employees shall be eligible to participate in this program.

b. Disputes arising from the administration of this benefit shall not be subject to any challenge.

c. This program shall constitute the sole means by which employees may donate and receive time-off in cases of serious health condition as defined under the federal family and medical leave act.

5. WORKFORCE NOTIFICATION. Upon confirmation of eligibility, and at the recipient employee's request, the department of employee relations shall provide each department with pertinent information regarding the recipient employee for the purpose of communicating the need for donations to other employees.

6. REPORT. The department of employee relations shall report quarterly to the finance and personnel committee of the common council detailing program administration and utilization, including the number of requests, approvals and denials.

350-46. Incentive Program.

There is established a city incentive program administered by the department of employee relations to provide employees with additional benefits for completing city-approved activities.

For the legislative history of Chapter 350, contact the Municipal Research Library.

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