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|-------|---------------------|
| I. | Policy |
| II. | Purpose |
| III. | Procedure |
| IV. | Forms/Instructions |
| V. | Additional Contacts |
| VI. | Definitions |
| VII. | Responsibilities |
| VIII. | Scope |
| IX. | Related Information |
| X. | Authorization |

WORKERS COMPENSATION LEAVE

I. POLICY

The Town participates in a workers' compensation program at no cost to employees. If an employee is accidentally injured or contracts an occupational disease, as defined by the North Carolina Workers' Compensation Act, in the course of their employment with the town, the employee's authorized medical expenses related to the injury or disease will be paid through the program. All claims are managed in accordance with the North Carolina Workers' Compensation Statutes and the North Carolina Industrial Commission, as provided in the General Statutes of North Carolina, Chapter 97.

II. PURPOSE

The purpose of this policy is to provide workers' compensation lost wage and medical benefits to employees who suffer work related injuries and illness and to manage the injured employee's return to work.

III. PROCEDURE

A. When an Injury/Illness Occurs on the Job

(1) Report: Employees are responsible for immediately reporting to the supervisor any accident or injury that occurs at work or on the job. Failure to report a work-related injury or illness could result in denial of the employee's workers' compensation claim or disciplinary action.

(2) Seek Medical Attention: Unless emergency treatment is necessary, employees must seek treatment for work related injuries from the healthcare provider(s) designated by the Town. Under the North Carolina workers' compensation law, the Town has the right to direct medical care for employees who suffer work related injuries or illnesses. Violation of this procedure may result in denial of workers' compensation benefits.

(3) Document: The employee must immediately (within 24 hours) provide any written documentation, including work restrictions, to his or her supervisor. Any subsequent change in his or her restrictions or work status must be reported to the supervisor immediately. The employee must follow the restrictions imposed by the designated healthcare provider.

(4) Communicate: The employee must communicate with their supervisor and human resources at the conclusion of the visit to the designated healthcare provider to discuss whether the employee will return to work that day.

B. Workers Compensation Coverage

(1) Time of Injury: No leave is charged on the day of injury if the designated healthcare provider instructs the employee not to return to work. The employee will be paid for their normal work day. If the employee decides not to return to work, without instructions from the designated healthcare provider, they must use accrued leave time in the following order: (1) compensatory (2) vacation (3) sick leave.

(2) Initiate Coverage: If the designated healthcare provider determines that the employee cannot return to work due to the injury, the employee is considered to be subject to the conditions of North Carolina's Workers' Compensation law.

- a. **Family Medical Leave Act (FMLA):** When an employee qualifies for workers compensation; FMLA will run concurrently with workers' compensation leave during a work-related injury/illness. FMLA will begin on the eighth day (8) after the initial workers compensation seven (7) day waiting period.

Cross Reference: FMLA Policy

C. Conditions of North Carolina's Workers Compensation Law

(1) Lost Time Compensation Overview: North Carolina's Workers' Compensation law provides medical and disability compensation including a weekly compensation benefit for time lost from work which is a percentage of the employee's average weekly wage up to a maximum established annually by the North Carolina Industrial Commission. Benefits are provided to employees through the worker's compensation insurance provider if the injury/illness meets their eligibility guidelines.

(2) Waiting Period: There is a seven (7) calendar day waiting period where no compensation for lost time will be provided. During the seven (7) calendar day waiting period, employees must use leave in the following order: (1) compensatory time, (2) vacation (3) sick leave in order to receive pay.

(3) Waiting Period for Multiple Absences Related to the Same Injury: There is only one seven (7) calendar day waiting period for each separate workers' compensation injury/illness claim even if multiple leaves of absence are required for the treatment for the same injury.

(4) Lost Time Compensation Starting Point: On day eight (8) of the absence, the employee will begin receiving weekly disability benefits if the claim is approved by the workers compensation provider. Disability benefits will be provided directly from the workers' compensation insurance provider to the employee.

(5) Lost Time Compensation Supplement: The employee has the option to supplement weekly payments to cover other expenses normally paid through payroll deductions and to supplement the remaining one-third of salary, except employees may not exceed their regular salary using this provision. The employee must use paid leave in the following order: (1) compensatory time, (2) vacation and (3) sick. Once all leave is exhausted, the employee will receive only the weekly disability benefit from the workers' compensation insurance provider.

(6) Maintenance of Benefits: While the employee is on leave, the Town will continue to pay the employers' share of medical and disability insurance. Employees are responsible for any deductions they have withheld from their paycheck including dependent healthcare premiums, dental insurance, voluntary disability coverage, 401(k), child support and other miscellaneous deductions.

(7) Sick and Vacation Accrual: If an employee is in paid status sick and vacation will continue to accrue. If the employee is in unpaid status accruals will not continue. Weekly payments from the workers compensation carrier do not count as paid time.

(8) Holiday Pay: If an employee is in paid status the day before and day after a town-recognized holiday falls, the employee is entitled to holiday pay. Otherwise, if the employee is in unpaid status, the employee is not entitled to holiday pay. Weekly payments from the workers compensation carrier do not count as paid time.

*Cross Reference: Health Insurance
Coverage and Payment Policy*

a. Retroactive Compensation for Waiting Period: Employees will receive retroactive disability pay for the days missed during the seven (7) calendar day wait period once they have been out of work twenty-one (21) calendar days or more. This payment is provided directly from the workers' compensation insurance provider.

b. Eligibility: Employees out of work fewer than twenty-one (21) calendar days are not eligible to receive retroactive disability pay for the seven (7) calendar day wait period.

(8) Purchasing Retirement Credit for a Period of Workers' Compensation: After the initial seven (7) waiting period while on workers' compensation leave he/she will be considered on "hold" status with the North Carolina Local Government Retirement System (LGERS). LGERS allows a purchase of retirement credit if an employee has received a benefit for a period of time under the North Carolina Workers' Compensation Act. Employees should work with the Human Resources to submit applicable forms to the North Carolina Retirement System to pursue this option.

D. Return to Work

(1) Notice: The employee is responsible for communication with the town about work restrictions and their schedule to return to a regular or modified work duty schedule information.

Cross Reference: Return to Work/Modified Duty Policy

(2) Report to Work: Once the Town is in receipt of the designated healthcare provider's release to return to regular or modified work duty, employees must report for their next scheduled work day.

(3) Modified Duty: If the designated healthcare provider determines that the injured employee cannot return to his or her job without restrictions, a modified work assignment (also referred to as light duty) of the regular job or reassignment to a different job will be made if possible. The modified duty assignment will end when any of the following occur: the employee is released to pre-injury job status by the designated healthcare provider, the workers compensation case is closed, the employee has accepted an alternate position, or the employee reaches maximum medical improvement. If the employee declines a modified duty assignment that meets all the restrictions set forth by the designated healthcare provider, the workers' compensation disability benefit will cease and in some cases, the employee may be terminated consistent with applicable law.

(4) FMLA: If the employee was on Family and Medical Leave prior to the workers' compensation claim then per FMLA regulations, section 825.207 (e), "If the healthcare provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employer's offer of a "light duty job." As a result the employee may lose workers' compensation payments, but is entitled to remain on Family and Medical Leave until the employee's Family and Medical Leave entitlement is exhausted.

(5) Maximum Medical Improvement: If the employee reaches maximum medical improvement but cannot return to the original job, Human Resources will work directly with the employee regarding other available options. If there is no position available and separation occurs, the town will assist the employee in obtaining all available benefits.

(6) Questions: Employees who have questions should contact the Human Resources.

IV. FORMS/INSTRUCTIONS

NCIC Form 18 (voluntary to be filled out by employee, but be provided to employee by workers compensation vendor)

NCIC Form 19 (required to be submitted by supervisor)

V. ADDITIONAL CONTACTS

VI. DEFINITIONS

A. Employee: Full time, part-time or temporarily employed in the town's service and on the Town of Davidson payroll.

B. Injury/Illness: Injury and personal injury shall mean only injury by accident arising out of and in the course of employment, and shall not include a disease in any form, except where it results naturally and unavoidably from the accident.

C. Pay Status, Full-Time Positions: A full-time employee is considered to be in "pay status" if the employee's work hours and/or use of paid leave for a pay period are equivalent to at least 50% of regular working week. Weekly payments from the workers compensation carrier do not count as paid time.

D. Pay Status, Part-Time Positions: A part-time employee is considered to be in "pay status" if the employee's work hours and/or use of paid leave for a pay period is equivalent to at least 50% of the employee's regular working week. Weekly payments from the workers compensation carrier do not count as paid time.

E. Unpaid Status: An employee is considered to be in unpaid status if the employee's work hours and/or use of paid leave for a pay period are less than 50% of that employee's regular working week.

E. Maximum Medical Improvement (MMI): A point at which the employee's condition is unlikely to improve further and/or has reached his or her pre-incident condition.

F. Designated Healthcare Provider: A healthcare provider identified by the town or insurance carrier for treatment and care of injured employees.

G. Healthcare Provider: For non-workers compensation injuries: a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; any other person determined by the Secretary of Labor to be capable of providing healthcare services.

H. Modified Duty: Duties or work assignment for an injured employee on a temporary basis, and that is medically approved by the designated health care provider.

I. Serious Injury: Injuries that result in fatality, possible fatality, or are of an incapacitating nature such as broken bones, head injuries, unconsciousness, or paralysis.

VII. RESPONSIBILITIES

Employee Responsibility:

- Employees are responsible for immediately reporting to their supervisor any accident or injury that occurs at work or on the job.

- Employees are responsible for cooperating with Human Resources in coordination treatment, recovery and return to work phases of the workers' compensation process.
- Unless an emergency, employees cannot seek medical treatment for work related injuries from healthcare providers other than those designated by the town or insurance provider.
- Employees must immediately provide any written documentation, including work restrictions, to his or her supervisor.
- If the designated healthcare provider instructs the employee to remain out of work for any length of time, the employee must forward written documentation to his or her supervisor immediately (in person, by fax, or email)
- The employee must follow the physical restrictions imposed by the designate healthcare provider.
- All employees should understand their benefits and responsibilities under the workers' compensation system.

VIII. SCOPE

As of October 23, 2017 this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

IX. RELATED INFORMATION

- A. North Carolina Workers' Compensation Act (1929 c. 120, s.1; 1979, c.714 s,1.):** The town provides Workers' Compensation insurance to town employees. The insurance carrier makes all decisions related to compensable injuries or illnesses and makes payments for benefits and to employees for those injuries and illnesses deemed compensable. North Carolina Industrial Commission establishes benefits, which includes weekly disability compensation, the maximum weekly benefit and reimbursable expenses.
- B. Coordination with Additional Policies:** Depending on the circumstances of the employee's situation, the provisions of this policy may interact with other provisions in the Family Medical Leave Act of the personnel policy as well as health insurance and disability benefits offered by the town (see below lists). Employees should consult with the Human Resources for more information.

X. AUTHORIZATION



Jamie Justice
Town Manager