

**RESOLUTION NO. 2023-46**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, AMENDING THE CITY OF VENICE PERSONNEL PROCEDURES AND RULES, 2020 EDITION, BY AMENDING SECTION 2.4, SICK LEAVE, AND SECTION 2.5, DISCRETIONARY LEAVE ISSUES; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Sec. 50-35 of the City Code of Ordinances provides that amendments to the City of Venice Personnel Procedures and Rules may be made and adopted by resolution; and

**WHEREAS**, city council wishes to amend the City of Venice Personnel Procedures and Rules, 2020 edition, as previously amended.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA**, as follows:

**SECTION 1.** The whereas clauses above are ratified and confirmed as true and correct.

**SECTION 2.** Section 2.4, Sick Leave, of the City of Venice Personnel Procedures and Rules, 2020 edition, is hereby amended as follows:

**2.4 SICK LEAVE**

In order to help protect employee income in the time of illness, the city provides employees with a sick leave program. Under this benefit, employees accumulate eight (8) hours of sick leave at the end of the month for any month in which they are on paid status for at least eighty (80) hours. For the purpose of this section, paid status includes vacation leave, holiday pay hours, sick leave, compensatory leave and supplemented workers compensation.

Sick leave may be used for illness, disability or related conditions. Sick leave may be used to cover absences made necessary by illness in an employee's immediate family. For the purpose of this section, the employee's immediate family is defined as the employee's spouse, father, mother, son, daughter, stepchild or as determined by the director of human resources.

Sick leave is a privilege, and therefore must be used only for legitimate illness. When an employee is ill and cannot report for work, the employee or a family member must notify the employee's supervisor no later than the time the employee is regularly required to report to work. If an employee fails to contact their supervisor, the leave will be considered unauthorized leave and may result in the loss of sick leave pay. The city reserves the right to require a written physician statement as proof of illness for receipt of sick leave benefits.

Sick leave benefits may not be granted if it is requested for scheduled workdays just before or

after holidays or vacations unless satisfactory evidence of illness is furnished to the employee's supervisor. Employees, who become ill on their scheduled vacation, may utilize sick leave benefits in lieu of vacation leave with proof of physician's certification referencing the duration of the illness.

Sick leave benefits may not be abused. Employees who abuse sick leave will be subject to disciplinary action. Any use of this privilege, except for legitimate illness or disability, will be treated as falsification of time records and subject to immediate disciplinary action.

It is a management responsibility to monitor employees' attendance and seek to identify sick leave abuse. The Human Resources department will distribute data showing non-FMLA and Workers' Compensation related sick leave absences on a quarterly basis. Armed with this information, it is incumbent upon city supervisors to identify and act upon sick leave abuse.

Methods used to identify sick leave abuse:

Quantitative Analysis

•Where X = number of sick days and Y = number of incidents. Z = X x Y. A higher Z number indicates greater cause for concern.

E.g. Employee A uses 10 sick days consecutively in a year. X = 10. Y = 1. Z = 10 x 1 = 10.

Employee B uses 10 sick days non-consecutively in a year. X = 10. Y = 10. Z = 10 x 10 = 100.

Employee B shows greater cause for concern.

Frequent Use in a Rolling 12-month period

•Use of unscheduled instances of sick leave may be considered excessive if there are five instances in a rolling 12-month period. An instance comprises one period of consecutively scheduled work shifts missed due to unplanned absence, excluding absences covered by FMLA or Workers' Compensation.

E.g. Employee A is scheduled to work Monday through Friday and is absent on Tuesday and Wednesday, This is considered one instance. However, absence on Tuesday and Thursday is considered two instances.

Patterns Examples of sick leave abuse include the following:

- Regularly taking one or two sick leave days each month.
- Creating a pattern by taking sick leave before or after weekends, the first or last day of the normal workweek, if the workweek is other than Monday through Friday, and/or before or

after a holiday and/or a vacation.

- Evidence of Dishonesty

- Calling in too ill to perform normal duties but not too ill to do other things.

- An employee telling co-workers of a plan to take a day off, and then calling in sick that day.

- Long Tenure with Minimal Sick Leave Accrued

- Being employed for six (6) months or more and having minimal sick leave accumulated (disregard use of FMLA and WC sick leave when considering this factor).

### Sick Leave Value

The city will document in each non-bargaining employee's personnel file the number of hours of each employee's sick leave accrual as of September 30, 2013. From October 1, 2013 onward, only these documented hours may be used for the purposes of cash-ins as described below. Hours accumulated from October 1, 2013 onward may be used as described above but will have no cash-in value. Hours used from October 1, 2013 onward will be drawn from the bank of hours accumulated before October 1, 2013.

### Sick Leave Incentive/Cash-in Policy

As an incentive to limit abuse of sick leave, up to 90 days (equivalent to 720 hours) of sick leave may be accumulated at which time employees who are covered under a collective bargaining agreement may cash-in up to 30 days (equivalent to 240 hours) as follows:

- Employees hired before 10/1/1993 will receive 50% of their current straight hourly rate
- Employees hired on or after 10/1/1993 will receive 25% of their current straight hourly rate

The employee who is covered under a collective bargaining agreement must request this cash-in on the city-approved form, and the city shall endeavor to process payment during the next available pay period. Employees who are covered under a collective bargaining agreement and who are separated for any reason will receive payment for any unused sick leave pursuant to their hire date and the above outlined percentages. Non-bargaining employees that accumulate more than seven hundred and twenty (720) sick leave hours in any one year shall be compensated as follows:

- Employees hired before 10/1/1993 will receive 50% of their current straight hourly rate
- Employees hired on or after 10/1/1993 will receive 25% of their current straight hourly rate

The payments to the employee shall be made within the first payroll period in December of each year.

Non-bargaining employees may choose to have a portion or the entire amount of the sick leave pay up to the limit permitted by applicable tax law for the respective plan (without endangering the tax status of that plan) paid into the City of Venice non-bargaining retirement plan or other similar plan. Final sick leave pay is defined as the number of sick leave hours multiplied by the employee's straight hourly rate or equivalent at the time of separation as determined by the finance department multiplied by 50% for employees hired before 10/1/1993 or 25% for employees hired on or after 10/1/1993.

**SECTION 3.** Section 2.5, Discretionary Leave Issues, of the City of Venice Personnel Procedures and Rules, 2020 edition, is hereby amended as follows:

## **2.5 DISCRETIONARY LEAVE ISSUES**

### Donation of Leave

Employees may elect to voluntarily donate either sick or vacation leave on a case-by-case basis upon approval by the director of human resources. The donated time may only be utilized as sick leave for serious medical conditions that have been approved as FMLA related. An employee may elect to donate a maximum of forty (40) hours to each eligible receiving employee per calendar year. In order to be eligible to receive donated leave the employee receiving the donated time must utilize all their leave accruals (compensatory, sick and vacation) prior to utilizing any donated time and have no counseling or disciplinary action on file in relation to unauthorized absence or sick leave abuse in the 12 months prior to the date of donation of leave. Donated time will only be used as necessary, in the order that donations were received. Any donated time not subsequently needed/used as sick leave will be returned to the vacation appropriate accrual bank of the donor involved. Employees will be eligible to receive time donations up to 29 calendar days from first date of absence. City-provided Short Term Disability insurance may provide an additional benefit after 30 calendar days. Donated time may not be used after Short Term Disability payments have started, if applicable.

### Emergency Request

In extenuating emergency circumstances, employees who are covered under a collective bargaining agreement may request payment of leave accrued on a case-by-case basis, taking into account the nature of the designated emergency and the departmental budget. The employee who is covered under a collective bargaining agreement must specify the nature of the emergency condition and submit the request to their department head for initial recommendation. If the department head determines that the funds are available in the department budget and it is a bona fide emergency, the request will be forwarded to the director of human resources and the city manager for approval. Payment will be based on the cash-in options within these procedures and rules for employees who are covered under a collective bargaining agreement.

In extenuating emergency circumstances that would qualify as a hardship distribution under the IRS regulations 401(k), non-bargaining employees may request payment of leave accrued on a case-by-case basis, based on the cash-in options within these procedures and rules for non-bargaining employees in section 2.2, vacation leave and section 2.4, sick leave, taking into account the nature of the designated emergency and the departmental budget. However, in the case of emergency requests there shall be no option for the employee to have part or whole of the payment paid into a retirement plan. The non-bargaining employee must specify the nature of the emergency condition and submit the request to their department head for initial recommendation. If the department head determines that the funds are available in the department budget and it is a bona fide emergency, the request will be forwarded to the director of human resources and the city manager for approval.

#### Community Service

Upon prior written approval by the director of human resources and the city manager, employees may request leave with pay for authorized community service activities.

#### 'No Pay' Status

Any proposed use of unpaid status for any length of time by any employee is subject to prior authorization by the Director of Human Resources.

**SECTION 4.** This Resolution shall take effect immediately upon its adoption.

**APPROVED AND ADOPTED AT A REGULAR MEETING OF THE VENICE CITY COUNCIL HELD ON THE 12<sup>TH</sup> DAY OF DECEMBER 2023.**

ATTEST

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Nick Pachota, Mayor

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Kelly Michaels, MMC, City Clerk

I, Kelly Michaels, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of a Resolution duly adopted by the City Council of said city at a meeting thereof duly convened and held on the 12th day of December 2023, a quorum being present.

WITNESS my hand and the official seal of said City this 12th day of December 2023.

(SEAL)

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Kelly Michaels, MMC, City Clerk

Approved as to form:

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Kelly Fernandez, City Attorney