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City of Willoughby Hills

Council
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ORDINANCE NO. 2014-64 – AS AMENDED

Amended November 13, 2014

Amended January 8, 2015

AN ORDINANCE AMENDING PART ONE – ADMINISTRATIVE CODE, TITLE FIVE – ADMINISTRATIVE, CHAPTER 157 – GENERAL EMPLOYMENT PROVISIONS, SECTION 157.07 – SICK LEAVE, BY THE ESTABLISHMENT OF SUBSECTION (j) VOLUNTARY SICK LEAVE DONATION OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS AND REPEALING CONFLICTING LEGISLATION.

WHEREAS, the City of Willoughby Hills currently provides an option for all full-time union employees to participate in a Voluntary Sick Leave Donation Program; and

WHEREAS, in the event a union employee has exhausted his or her accumulated sick leave due to an extended use, the Mayor may approve the transfer of sick leave to this employee from other employees who wish to voluntarily donate a portion of his or her unused accumulated sick leave; and

WHEREAS, the Administration of the City of Willoughby Hills would like to extend a similar opportunity to all non-union employees by establishing a **Voluntary Sick Leave Donation Program**; and

WHEREAS, the intent of the **Voluntary Sick Leave Donation Program** would be to allow all full-time non-union employees the ability to voluntarily provide assistance to their co-workers who are in critical need of leave due to the serious illness or injury of the employee or a member of the employee's immediate family; and

WHEREAS, in establishing such a program the definition of "immediate family" as provided in Rule 123:1-47-01 of the Ohio Administrative Code was applied; and

WHEREAS, Rule 123:1-47-01 of the Ohio Administrative Code provides that "immediate family" shall mean an employee's spouse or significant other ("significant other" as used in this definition means one who stands in place of a spouse and who resides with the employee), parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings, or a legal guardian or other person who stands in the place of a parent (in loco parents).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. The existing **Section 157.07 – Sick Leave**, of the Codified Ordinances of the City of Willoughby Hills is hereby amended to read and provide in its entirety as follows:

“157.07 SICK LEAVE.

(A) Each full-time employee of the City, or any department thereof, whether paid on a salary or an hourly rate basis, shall be entitled for each completed eighty (80) ours of regular straight time service, to sick leave of four and six-tenths (4.6) hours. However, in computing the total of eighty (80) hours, no deduction shall be made for absence of an employee due to illness of or injury to the employee, which illness or injury shall be established by the evidence required by paragraph (D) or due to paid vacations or

legal holidays. Overtime hours worked by any employee shall not be included in the calculation of sick leave credit.

(B) Compensation to be allowed for such day of sick leave actually taken by an employee of the city paid at an hourly rate shall be on the same basis to which the employee would have been entitled as compensation for his usual service if it had been performed on such days. The daily sick leave pay of a salaried employee shall be computed by dividing the annual salary of such employee by the number of work days in a calendar year.

(C) Unused sick leave may be accumulated for a total of one hundred fifty (150) work days (1200 hours maximum), provided that additional sick leave may, in individual cases upon recommendation by the Mayor, be granted for a period not to exceed an additional ninety (90) work days.

(D) When approved by Mayor, an employee of the City may use sick leave as provided for in subsection (A) hereof for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, and to illness or death in the employee's immediate family. Immediate family shall mean an employee's spouse or significant other ("significant other" as used in this definition means one who stands in place of a spouse and who resides with the employee), parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings, or a legal guardian or other person who stands in the place of a parent (in loco parents). However, no employee shall be entitled to sick leave, or compensation therefore, unless he first furnishes an affidavit satisfactory to the department head showing the duration of his absence, and that such absence was a result of one of such causes and, in addition, if the department head so requires, a certificate of the attending physician likewise satisfactory to the department head, confirming the facts recited in such affidavit. If such absence extends for more than seven consecutive days, such an affidavit and such a certificate, if the department head required the latter, shall be furnished on each seventh day of the absence. Nothing contained in this section shall be construed to authorize sick leave with pay for any sickness or accident resulting from moral turpitude, intoxication or use of narcotics.

(E) Except as provided in subsection (F) hereof, sick leave credit shall be effective only during the time an employee remains in the employ of the City and no employee shall be entitled to compensation in any form for any unused sick leave credit remaining upon the termination of his employment with the City. However, the previously accumulated sick leave of an employee whose employment with the City has been terminated may, with the approval of the Mayor, be placed to his credit in the event of his re-employment by the City within a period of three years from the date of his last employment by the City.

(F) Upon the retirement, death or injury resulting in total and permanent disability to perform the work for the City for which the employee was employed, of any employee of the City, there shall be paid an amount representing any previously accumulated sick leave at the employee's then current rate of compensation as follows:

(1) In case of retirement, to the employee;

(2) In case of death, to the employee's surviving spouse, if any, who was living with the employee or dependent upon him for support at the time of his death, or if there is no such surviving spouse, to the dependent children, including adopted children, of the employee or for their use to their legal guardian or guardians or to the person or persons who, as determined by the Mayor, were dependent upon the employee for support or for their use to their legal guardian or guardians or to the person or persons with whom they are living. The determination of the Mayor as to the person or persons entitled to receive any payment in accordance with this subsection shall be final and neither the Mayor nor the City nor any other officer or employee thereof shall be required to see to the proper expenditure of any such payments.

(3) In case of injury resulting in total and permanent disability to perform the work for the City for which the employee was employed, to the employee or for his use to the guardian or conservator of his estate, if any, or to the person or persons having custody and care of the employee, if any, provided that the determination of the Mayor as to the person or persons entitled to receive any

payment in accordance with this subsection shall be final and neither the Mayor nor the City nor any other office or employee thereof shall be required to see to the proper expenditure of any such payment.

(G) An employee of any public agency who transfers his employment from such public agency to the City shall be credited with the unused balance of his accumulated sick leave with the public agency, provided that the balance is evidenced to the satisfaction of the Mayor by an appropriate certificate or letter from an appropriate official of the public agency.

(H) All employees of the City shall be entitled to any accumulation of sick leave presently credited to them in accordance with the provisions of any prior ordinance of the City, from which accumulation there shall be deducted any sick leave actually taken by such employee.

(I) Each permanent employee who has accumulated in excess of ninety (90) days sick leave shall be entitled to receive payment for the excess of those days at the ratio of one day for each three sick leave days so accumulated, such payment to be made upon written request to the Director of Finance, and upon such request, the City shall make such payment at the current rate of the then current rate of compensation for such employee on the next scheduled payroll date. The City shall, without written request, pay for accumulated sick days in excess of one hundred-fifty (150) days that have accrued in the previous year at the ratio of one day of pay for each three sick leave days so accumulated. This payment shall be made at the time of the next regular payroll in January at the then current rate of compensation for such employee.

(J) Voluntary Sick Leave Donation. The intent of the leave donation is to allow employees to voluntarily provide assistance to their co-workers who are in critical need of leave due to the serious illness or injury of the employee or a member of the employee's immediate family.

- (1) An employee may receive donated leave, up to the number of hours the employee is scheduled to work each pay period or as provided in paragraph (1)(d) of this rule, if the employee who is to receive donated leave:
 - (a) Or a member of the employee's immediate family has a serious illness or injury;
 - (b) Has no accrued leave;
 - (c) Has not been approved to receive other state-paid benefits, and
 - (d) Has applied for any paid leave, workers' compensation, or benefits program for which the employee is eligible. An employee who has applied for these may use donated leave to satisfy the waiting period for such benefits, when applicable. After the waiting period, donated leave may be used up to an amount equal to the benefit for which the employee applied, (i.e. seventy percent for disability leave benefits) while the employee's application s pending approval.
- (2) Employees may donate leave if the donating employee:
 - (a) Voluntarily elects to donate leave and does so with the understanding that donated leave will not be returned;
 - (b) Donates a minimum of eight hours; and
 - (c) Retains a combined leave balance of at least eighty hours. Leave shall be donated in the same manner in which it would otherwise be use.
- (3) The leave donation program shall be administered on a pay period by pay period basis. Employees using donated leave shall be considered in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Leave accrued by an employee while using donated leave shall be used, if necessary, in the following pay period before additional donated leave may be received. Donated leave shall not count toward the probationary period of an employee who receives donated leave during his or her probationary period. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.

- (4) Employees who wish to donate leave shall certify:
 - (a) The name of the employee for whom the donated leave is intended;
 - (b) The number of hours to be donated;
 - (c) That the employee will have a minimum combined leave balance of at least eighty hours, and;
 - (d) That the leave is donated voluntarily and the employee understands that the donated leave will not be returned.
- (5) The City of Willoughby Hills shall ensure that no employees are forced to donate leave. The City of Willoughby Hills shall respect an employee’s right to privacy; however, appointing authorities may, with the permission of the employee who is in need of leave or a member of the employee’s immediate family, inform employees of their co-worker’s critical need for leave. The City of Willoughby Hills shall not directly solicit leave donations from employees. The donation of leave shall occur on a strictly voluntary basis.

SECTION 2. All Ordinances or parts thereof in conflict with the provisions of this Ordinance be, and they are hereby, repealed as of the effective date of this Ordinance.

SECTION 3. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 4. This Ordinance shall be in full force and take effect at the earliest time permitted by law.

PASSED: _____, 2015

Raymond C. Somich
President of Council

Submitted to the Mayor for his approval
on this _____ day of _____, 2015

Approved by the Mayor

ATTEST:

_____, 2015

Victoria Ann Savage, CMC
Clerk of Council

Robert M. Weger
Mayor