

ORDINANCE 63 - 17

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE III, PERSONNEL RULES AND REGULATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has established personnel rules and regulations, including regulations concerning notice given of intent to resign; and

WHEREAS, the City desires to update certain sections of the personnel rules and regulations to provide parity between the union and non-union employees, to clarify certain regulations, and to amend the definition of family as it applies to bereavement leave .

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, is hereby amended as follows:

CHAPTER 2 ADMINISTRATION

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Article III: Personnel Rules and Regulations

Division 5. Voluntary Separations

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§§ 2-29.2 Resignation.

An employee who intends to resign shall present the reasons therefor in writing to the city not less than 14 calendar days prior to the effective date of the resignation. Once an employee's notice of resignation has been accepted by the city, the employee shall not have the right to withdraw the resignation, unless the department head, in his or her sole discretion, consents to the withdrawal of the resignation in writing. An employee who submits a written resignation shall not have the right to appeal the decision of a department head not to allow withdrawal of the resignation.

Any non-bargaining unit employee who does not fully comply with the provision for written notice for intended resignation stated herein shall forfeit any and all accumulated leave time and shall not receive payment for any unused accrued leave. The City Manager, City Attorney, or City Auditor, in their sole discretion, may waive this penalty when an employee employed in their respective offices or otherwise under their respective authority demonstrates extenuating circumstances that do not reasonably allow the employee to comply with written notice at least 14 calendar days prior to the date of resignation.

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DIVISION 11. - ATTENDANCE AND LEAVE

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§ 2-35.5 - Annual leave.

- (a) *Accrual.* Full-time employees with regular or probationary status shall earn leave according to the following table:

0 through 5 years of service	16.67 hours per month
6 through 10 years of service	20.00 hours per month
11th year of service	20.72 hours per month
12th year of service	21.36 hours per month
13th year of service	22.00 hours per month
14th year of service	22.72 hours per month
15th or more years of service	23.36 hours per month

The maximum number of hours accrued by an employee that may be carried over to the next fiscal year is 400.

(b) *Required use.*

- (1) ~~An employee who has been employed by the city for five years or less and who has accrued at least 360 hours of leave at the beginning of a fiscal year shall be required to use all accrued annual leave exceeding 360 hours of leave during that fiscal year. Any employee who fails to use all accrued annual leave exceeding 360 hours as of September 30 shall forfeit those hours as of September 30 of every fiscal year. Such employees shall not be eligible for any annual leave buy-back payment for annual leave exceeding 360 hours.~~
- (~~2~~1) An employee who has been employed by the city for five years or less and who has an accrued balance of at least 400 hours of leave at the beginning of a fiscal year shall be required to use 80 hours of leave during that fiscal year. Employees with six through ten years of continuous service and who have accrued at least 360 hours of leave at the beginning of a fiscal year shall be required to use at least 160 hours of leave during that fiscal year. Employees with 11 through 15 years of continuous service and who have accrued at least 360 hours of leave at the beginning of a fiscal year shall be required to use at least 144 hours of leave during that fiscal year. Employees with 16 or more than five years of continuous service who have accrued at least 360 400 hours of leave at the beginning of a fiscal year shall be required to use at least 120 hours of leave during that fiscal year. Employees who have accrued less than 360 400 hours of leave at the beginning of a fiscal year, but who reach the 360-400 hours limit during that year shall be required to use a certain number of hours of that leave during that year. The number of hours that must be used shall be based on a prorated amount of the minimum-use hours listed above herein. Any employee who fails to use the required hours of annual leave during the fiscal year shall lose those unused hours, except as provided in subsection (b)(~~3~~2) below. By no later than the month of December following the end of the prior fiscal year, any employee who has accrued more than 360 hours of leave shall be paid for the hours of leave in excess of 360. The City shall deduct any unused leave hours that are required to be used from an employee who has an accrued balance of more than 400 hours of leave at the end of a fiscal year. The remaining accrued balance of leave time in excess of 400 hours shall be paid (after the deduction of unused hours required to be used) by no later than the month of December following the end of the prior fiscal year.
- (~~3~~2) If the City Council finds that, due to a declared emergency during any fiscal year, it is impractical to enforce the required use provisions within that fiscal year as required in subsection (b)(1) ~~and (2)~~ above, the City Council may extend the date for required leave use to a date that is not later than October 31 of the next fiscal year. Upon request by the City Manager, City Council may further extend the date for required leave use until January 31 of the next fiscal year for only those employees who are prevented from using their required leave hours during the initial extension period through October 31 due to being required to work as a result of the declared emergency.

(c) *Scheduled and unscheduled leave.* Leave which is requested and approved prior to the day in which it is taken by the employee shall be considered to be scheduled leave. Leave which is requested and approved on the day it is taken by the employee shall be considered to be unscheduled

leave. Unless otherwise required by the policies or procedures of the department, unscheduled leave shall be requested no later than 30 minutes after the start of the employee's work shift. An employee's excessive use of unscheduled leave may be grounds for disciplinary action.

- (d) *Unauthorized absence.* An employee's failure to obtain approval for leave shall result in the hours of absence being without pay. An employee's unauthorized absence also may be grounds for disciplinary action. However, a department head shall not unreasonably withhold approval of an employee's request for leave.

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§ 2-35.7 - Bereavement leave.

When an employee experiences a death in the employee's family, the employee shall be entitled to bereavement leave with pay for a period not to exceed five consecutive working days, in the event of a death in the employee's immediate family. Such funeral leave shall not be deducted from the employee's accumulated annual leave. For purposes of this section, ~~IMMEDIATE FAMILY~~ shall mean an individual's spouse, children (including step children), parents (including step parents), siblings (including step siblings and half siblings), grandchildren (including step grandchildren) and grandparents (including step grandparents) of the employee and of the employee's spouse. For purposes of this section, *FAMILY* includes an employee's spouse or registered domestic partner, as well as the children, parents, siblings, grandchildren, grandparents, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law of the employee, employee's spouse or registered domestic partner, any person over whom the employee, employee's spouse, or registered domestic partner serve as the legal guardian, and any person who serves as the legal guardian over an employee, employee's spouse, or registered domestic partner. Any generation of the relationship (i.e. great grandparent, or great great grandparent), and step relative and half relative of a relationship named above (i.e. step sister or half sister) shall be considered *FAMILY* of the employee, employee's spouse or registered domestic partner. Such bereavement leave shall not be deducted from the employee's accumulated annual leave.

Upon the city's request, an employee requesting bereavement leave may be required to furnish proof of death, date of burial and relationship.

To be considered a registered domestic partner for purposes of this section, the employee must register the domestic partnership with the City and identify the domestic partner in accordance with City policy.

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DIVISION 13. - COMPENSATION AND PAYMENT OF EXPENSES

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§ 2-37.12 - Temporary transfer (out-of-classification) pay.

- (a) Subject to the concurrence of the Director, a department head may temporarily transfer an employee to another classification with a higher pay grade for up to six months under the following conditions:
- (1) The position temporarily being filled is an authorized, budgeted position; and
 - (2) The position temporarily being filled is vacant or the employee occupying such position is absent from duty for a period of one week or more (five consecutive ~~working days~~ or four consecutive days when the normal length of scheduled days are 10 or more hours).
- (b) No position shall be temporarily filled pursuant to § 2-37.12(a) for more than six months unless the City Manager or the City Manager's designee first obtains the approval of City Council for good cause shown. If, after a six-month period, it is determined that it is necessary to continue to fill the position with an employee acting out-of-classification, City Council may grant one or more extensions for additional three-month increments, until such time as the position no longer needs to be temporarily filled. City Council shall approve any and all extensions of each incremental three-month period only for good cause shown.

- (c) The rate of pay of an employee who is temporarily transferred to a classification with a higher pay grade shall increase by 5% per pay grade up to a 10% maximum, or to the minimum of the pay grade into which he or she is temporarily transferred, whichever is greater.
- (d) The rate of pay for an employee who is temporarily transferred to another classification shall not be less than the minimum or more than the maximum of the pay grade into which he or she is temporarily transferred.

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SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 5th DAY OF March, 2018.



JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


COVIELLO	<u>Aye</u>	NELSON	<u>Aye</u>
GUNTER	<u>Aye</u>	STOKES	<u>Aye</u>
CARIOSCIA	<u>Aye</u>	WILLIAMS	<u>Aye</u>
STOUT	<u>Aye</u>	COSDEN	<u>Aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 21st DAY OF March, 2018.



REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
Personnel Rules Changes
11/22/17
11/30/17