

ORDINANCE NO. 26-21

**AN ORDINANCE AMENDING THE PERSONNEL POLICY
MANUAL FOR THE CITY OF AVON BY ADDING
SECTION 6.11 (ATTENDANCE INCENTIVE -TRIAL PROGRAM)
AND AMENDING SECTION 7.5 (ATTENDANCE/ABSENCE ABUSE)
AND DECLARING AN EMERGENCY**

WHEREAS, Council, on December 23, 2008, passed Ordinance No. 176-08 adopting the City's Personnel Policy Manual; and

WHEREAS, a recent review of attendance figures citywide necessitated a review of the City's existing Attendance/Absence Abuse Section 7.5 of the Personnel Policy Manual by the Administration; and

WHEREAS, said review resulted in proposed changes to said policy and the adoption of an Attendance Incentive program on a trial basis (Section 6.11); and

WHEREAS, Council finds the Administration's reasoning for these proposed changes to the City's Personnel Policy Manual to be compelling and notes the consent of all the City's collective bargaining units (which is not required) to these amendments and therefore the proposed amendments to the City's Personnel Policy Manual should be adopted and doing so would be in the best interests of the health, safety and welfare of the citizens of Avon in having City employees fully engaged in serving the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 – That the proposed addition to the Personnel Policy Manual, Section 6.11 (Attendance Incentive (Trial) Program) is hereby adopted in its entirety as set forth in the attached Exhibit A which is incorporated herein by reference.

Section 2 - That Section 7.5 of the Personnel Policy Manual which currently reads as follows:

Section 7.5 Attendance/Absence Abuse

- A. Employees shall not abuse, excessively use, or show a pattern of sick leave usage. Sick leave abuse may include, but is not limited to:
1. Consistent¹ usage of sick leave in conjunction with scheduled time off of any type;
 2. Consistent usage of sick leave following scheduled or unscheduled overtime assignments;
 3. Consistent usage of sick leave as it is earned, resulting in an extremely low balance of sick leave as compared to time in service;
 4. Consistent usage of sick leave for periods of one (1) work day or less;

1 "Consistent" usage under this policy commences with the third occurrence.

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5. Consistent usage of sick leave for non-specific illness (e.g., headache, backache, upset stomach, flu, etc);
 6. Excessive use of sick leave in an amount of at least two (2) occurrences totaling twenty-four (24) hours (thirty-one [31] hours for Department of Fire shift employees) or more in any three (3) month period.
- B. Absence(s) due to the serious illness, injury, or health condition of an employee or an employee's immediate family member, where the presence of the employee is medically or reasonably necessary, and as verified by an acceptable licensed medical practitioner's statement, where such absences are charged against an eligible employee's family and medical leave, shall not be counted toward the twenty-four (24) hour benchmark. Additionally, sick leave taken and approved pursuant to Article 24, Section 7, of the AFSCME agreement shall not be charged against the twenty-four (24) hour benchmark for those eligible bargaining unit employees. Necessary medical appointments that cannot reasonably be scheduled outside of normal working hours will not be construed as consistent usage under Item 4 herein. Documentation of such medical appointments must be provided immediately upon return to work. The Employer may require a second medical opinion where deemed appropriate.
- C. When utilizing sick leave or unpaid leave, it is the responsibility of the employee to request that the leave be charged against family and medical leave, and/or to provide sufficient and necessary information and documentation to the Employer so that the leave (family and medical leave) may be properly charged.

shall be amended to read as follows: (New Language in Bold Print)

Section 7.5 Attendance/Absence Abuse

- A. Employees shall not abuse, excessively use, or show a pattern of sick leave usage **that is abusive as defined under C below.** ~~Sick leave abuse may include, but is not limited to:~~
- ~~B. Absence(s) due to the serious illness, injury, or health condition of an employee or an employee's immediate family member, where the presence of the employee is medically or reasonably necessary, and as verified by an acceptable licensed medical practitioner's statement, where such absences are charged against an eligible employee's family and medical leave, shall not be counted toward the twenty-four (24) hour benchmark. Additionally, sick leave taken and approved pursuant to Article 24, Section 7, of the AFSCME agreement shall not be charged against the twenty-four (24) hour benchmark for those eligible bargaining unit employees. Necessary medical appointments that cannot reasonably be scheduled outside of normal working hours will not be construed as consistent usage under Item 4 herein. Documentation of such medical appointments must be provided immediately upon return to work. The Employer may require a second medical opinion where deemed appropriate.~~
- ~~C. When utilizing sick leave or unpaid leave, it is the responsibility of the employee to request that the leave be charged against family and medical leave, and/or to provide sufficient and necessary information and documentation to the Employer so that the leave (family and medical leave) may be properly charged.~~

- B. Sick leave abuse can be defined as the use of sick leave for purposes other than those permitted by applicable policy and/or applicable collective bargaining agreements. Examples of such include but are not limited to the following: calling in sick when the employee is able to work; reporting illness in the immediate family when such illness does not exist; excessive use of sick leave as defined in D below; reporting off sick to participate in some other activity or take care of personal business unrelated to the reasons for reporting off sick; failure to follow the rules and regulations regarding use of sick leave and notification procedures.**
- C. In addition to B above, certain types of sick leave use that can suggest a pattern of sick leave usage that constitutes sick leave abuse include, but are not limited to:**
1. Consistent¹ usage of sick leave in conjunction with scheduled time off of any type (e.g., vacation, holidays, personal leave, Kelly days, etc.);
 2. Consistent usage of sick leave following scheduled or unscheduled overtime assignments;
 3. Consistent usage of sick leave as it is earned, resulting in an extremely low balance of sick leave as compared to time in service;
 4. Consistent usage of sick leave for periods of one (1) work day or less;
 5. Consistent usage of sick leave for non-specific illness (e.g., headache, backache, upset stomach, flu, etc);
- D. 6 Excessive use of sick leave will be determined based upon the totality of the circumstances but will be brought to the attention of the employee if the employee utilizes sick leave in an amount of at least two (2) occurrences totaling twenty-four (24) hours (thirty-six ~~one~~ [36 34] hours for Department of Fire shift employees) or more in any three (3) month period.**
- E. Necessary medical appointments that cannot reasonably be scheduled outside of normal working hours will not be construed as consistent usage under Item 4 in Section B above. The Employer may require a second medical opinion where deemed appropriate.**
- F. Absences charged against an employee's Family and Medical Leave will not be considered by the Employer when determining whether sick leave abuse has occurred. When utilizing sick leave or unpaid leave, it is the responsibility of the employee to request that the leave be charged against family and medical leave, and/or to provide sufficient and necessary information and documentation to the Employer so that the leave (family and medical leave) may be properly charged. This does not prevent the Employer from designating leave as family and medical leave if the Employer has sufficient information to do so.**
- G. Employees should be notified of potential attendance/ absentee problems by their supervisors at the earliest possible time.**
- H. When the unauthorized use of or abuse of sick leave by an employee is substantiated, the employee's department head or designee shall begin corrective and progressive discipline.**

1 "Consistent" usage under this policy commences with the third occurrence.

I. Medical documentation shall not be required to verify non-FMLA absences unless and until corrective and progressive discipline has begun.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to add Section 6.11 establishing an Attendance Incentive (Trial Program) and amend Section 7.5 Attendance/Absence Abuse of the Personnel Policy Manual for all City employees to increase the amounts for Meals Expense Reimbursement; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: March 22, 2021 DATE SIGNED: March 22, 2021

By: Brian Fischer
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR March 23, 2021

[Signature]
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

POSTED: March 24, 2021
In Five Places as
Provided by Council

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Prepared by:
John A. Gasior, Esq.
Law Director

SECTION 6 – ABSENCE

- 6.1 Holidays**
- 6.2 Vacation**
- 6.3 Sick Leave**
- 6.4 Sick Leave Conversion**
- 6.5 Bereavement Leave**
- 6.6 Military Leave**
- 6.7 Jury Duty (Civil Leave)**
- 6.8 Leave of Absence Without Pay**
- 6.9 Disability Leave**
- 6.10 Family and Medical Leave**
- 6.11 Attendance Incentive (Trial Program)**

- A. City administrators, legislators, and employees are responsible for the provision of quality, efficient, and cost effective services to our City residents.

Regular and predictable attendance by all employees supports the provision of quality, efficient, and cost effective services.

Unplanned employee absence negatively impacts departmental operations, staffing and the provision of services, as well as employee morale.

- B. City employees are fortunate to have a variety of paid leaves made available to them, and in most cases are required to request the use of such leave in advance. While it is recognized that emergencies and sudden illness or injury may occasionally arise, the City seeks to recognize and support employees who demonstrate regular and predictable attendance.

C. **Attendance Incentive Bonus Program**

Eligibility

The Attendance Incentive Program (AI program or program) addressed herein shall be effective commencing with the April 1 through June 30, 2021, calendar quarter.

The program shall apply only to full-time employees who have completed the initial probationary period. Such employee will become eligible commencing with the first day of the applicable calendar quarter that follows the month during which initial probation was completed. The Trial Program shall apply only to non-bargaining unit employees and those bargaining unit employees whose Union / bargaining unit has formally reached an agreement with the City to opt in to participation in the program.

D. **Program Parameters**

A non-probationary employee will be eligible to be awarded incentive bonus hours each applicable calendar quarter as follows:

The employee has used eight hours or less of sick leave.

Any use of sick leave and/or leave without pay counts towards usage for purposes of this policy, including usage which is medically documented and/or approved under FML. Use of any leave without pay (LWOP) during the quarter will disqualify the employee from the receiving the Attendance Incentive.

Attendance Incentive hours will be awarded based on the following formula:

Sick Leave Hours Used in Quarter	0	2	4	6	8
Incentive Bonus Hours Earned	6	4.8	3.6	2.4	1.2
% of Incentive Earned	100%	80%	60%	40%	20%

Attendance Incentive Bonus (AI) Hours will be awarded on or about the tenth (10th) of the month following the completion of the applicable quarter.

Full Year Bonus. An employee who uses twenty-four (24) hours or less of sick leave for the entire calendar year, and has no LWOP, will be awarded an extra six (6) AI hours in January of the following year. An employee may not accrue more than thirty (30) AI hours at any one time.

E. Use of Leave and Conversion to Cash.

1. **Use.** Once awarded, AI hours may be requested in one-half (1/2) hour increments. Requests for use of AI hours shall normally be submitted at least seven (7) calendar days in advance of the date(s) being requested and approval is subject to operational needs. Where extenuating circumstances exist, the Department Head/designee may waive the advance notice request.
2. **Conversion.** An employee may convert AI hours to "cash," on a one for one (1:1) basis, and in an amount not to exceed thirty (30) hours in any calendar year. Conversion must be requested in writing to the Department Head/designee and the Department of Finance. "In writing" as used herein shall mean through any applicable timekeeping system. AI time conversion to cash will occur only in the first pay of December of the calendar year.

Alternatively, an employee may request that AI hours be converted to sick leave on a one for one (1:1) basis, and in an amount not to exceed thirty (30) hours in any calendar year. Such conversion must be requested in writing to the Department Head/designee and the Department of Finance.

3. Any AI hours not used or converted by December 31 of the applicable calendar year will be lost.

AI hours will not be paid out at time of separation from employment or retirement.

Original Adoption Date

Revision Date