

Adopted By Resolution  
Ordinance No. 25

Ordinance 2009-25

Adopted

AN ORDINANCE OF THE CITY OF ST. PETE BEACH AMENDING ORDINANCE 2005-02 THAT ADOPTED THE CITY OF ST. PETE BEACH PERSONEL RULES AND REGULATIONS MANUAL, 2005 EDITION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, PINELLAS COUNTY, FLORIDA DOES ORDAIN:

Section 1. That the City of St. Pete Beach Personnel Rules and Regulations Manual is hereby amended and changes incorporated herein by the attached Exhibit "A".

Section 2. This ordinance shall become effective upon final reading and approval by the Commission.

\_\_\_\_\_  
Michael Finnerty, Mayor

FIRST READING: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
FINAL READING: \_\_\_\_\_  
PUBLIC HEARING: \_\_\_\_\_

I, Theresa B. McMaster, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Theresa B. McMaster, City Clerk

# Exhibit "A"

## Section 14 - Hours of Work and Overtime

### 14.05 Hours Counted

Full Hours of absence due to ~~paid holidays~~, paid conference/training time, ~~and~~ approved paid vacation, or jury duty will be counted as hours worked for the purpose of determining eligibility for overtime. No other time except actual hours worked shall be counted.

## Section 16 - Vacation

### 16.01 Eligibility and Accrual

All employees who are eligible to accrue vacation leave are eligible to use such leave after six (6) months of employment, or reemployment, with the City. Vacation leave begins to accrue on the day a person begins their employment with the City.

- A. Vacation leave for full-time regular employees is accrued in increments based on years of continuous service.

<u>Completed Continuous Months of Service</u>	<u>Normal Annual Vacation Accrual</u>
0 through <del>4th year</del> <u>59 months</u>	80 work hours
<del>5th 60 through 9th year</del> <u>119 months</u>	120 work hours
<del>10th through 14th year</del> <u>120+ months</u>	<del>152 work hours</del> <u>160 work hours</u>
<del>15th through 19th year</del>	<del>160 work hours</del>
<del>20 years and more</del>	<del>8 additional hours per year, to a maximum of 40 hours (total 200 hours)</del>

### 16.02 Accumulation/~~Cash Out~~

- A. Regular full-time employees may accumulate vacation time up to the following maximum hours and must take the following minimum hours as vacation each calendar year.

Years of Continuous Service	Maximum Hours Accumulation	Maximum Vacation Hours
Less than 15 years	280	40
15 or more years	400	80

- B. ~~Employees who as of December 31 have accrued more than the maximum and have taken the minimums set forth in (A) above, will be paid up to eighty (80) hours and any excess hours over eighty (80) shall be lost.~~

- C. ~~Employees shall be required to notify their Department Director in writing of their election prior to the end of the calendar year. Failure to notify the Department Director shall cause the employee to lose any accumulated vacation over the allowable limits.~~

**Section 17 - Sick Leave**

17.07 Sick Leave Award

In an effort to encourage use of paid sick leave only when absolutely necessary and as an incentive for good attendance, all full-time employees shall be eligible for additional vacation leave ~~or pay at their straight time rate at the time of the award.~~

The award, if any will be based on the employee's use of sick leave during the prior anniversary year (according to the initial date of hire) and is based on the schedule below.

<u>Sick Leave Used</u>	<u>Vacation Hours Awarded</u>
None	32
1 hour	31
2 hours	30
3 hours	29
4 hours	28
5 hours	27
6 hours	26
7 hours	25
8 hours	24
9 hours	23
10 hours	22
11 hours	21
12 hours	20
Etc.	

For each sick hour used, one (1) hour sick award shall be subtracted to a maximum thirty-two (32) hours.

**Section 19 - Family Medical Leave Policy**

**(Policy rewritten by City Labor Attorney to include Federal mandate covering armed forces personnel, effective January 16, 2009)**

~~19.01 Eligibility and Reasons~~

~~Employees who have worked for the City for at least twelve (12) months and at least 1,250 hours during the preceding twelve (12) months may take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the following reasons:~~

- ~~A. The birth of a son/daughter of an employee and to care for the child;~~
- ~~B. The placement of a son or daughter with an employee for adoption or foster care (entitlement to leave for birth, placement for adoption or foster care of a son or~~

~~daughter expires twelve (12) months from the date of the birth or placement of a child);~~

- ~~C. In order to care for the employee's spouse, son, daughter or parent who has a serious health condition;~~
- ~~D. A serious health condition which renders the employee unable to perform the functions of the employee's position.~~

~~Son or daughter means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: (1.) under eighteen (18) years of age; or (2.) eighteen (18) years of age or older and incapable of self care because of a mental or physical disability.~~

#### ~~19.02 Serious Health Condition~~

~~A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either: (1.) in-patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this policy defined to mean the inability to work attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from), or any subsequent treatment in connection with in-patient care; or (2.) continuing treatment by health care provider.~~

#### ~~19.03 Intermittent Leave~~

~~In the case of unpaid leave for a serious health condition, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. If intermittent or reduced hours leave is required, the City may in its sole discretion temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates that type of leave.~~

#### ~~19.04 Verification~~

~~The City will require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one (1) or more of the essential functions of the employee or the employee's ill family member, be supported by a certification issued by the health care provider of the employee or the employee's ill family member.~~

~~In accordance with the DOL rules (Department of Labor), the City may request, at the City's expense, a second or third health care provider's opinion from a healthcare provider of the City's choice for leave taken because of a serious health condition. The City may also require subsequent recertification from the employee's health care provider on a reasonable basis, in accordance with DOL rules, which normally will not be more than every thirty (30) days. No second or third opinion will be required upon recertification.~~

#### ~~19.05 Children~~

~~In the case of unpaid leave for the birth or placement of a child, or foster care, intermittent leave or working a reduced number of hours is not permitted unless both the City and employee agree.~~

#### ~~19.06 Health Insurance Premiums~~

- ~~A. During family leaves of absence (FMLA), the City will continue to pay its portion of the health insurance premiums and maintain the employee's coverage under the health plan in the same manner as if the employee had been continuously employed during the entire leave period; provided the employee continues to pay his share of the premiums.~~
- ~~B. Should the employee fail to continue to pay his share of the premium, notices of proposed insurance cancellation and the opportunity to pay the premium as required by the FMLA will be provided before the cancellation.~~
- ~~C. Employees will be advised well in advance of any changes in premiums so they will have ample opportunity to make arrangements to continue to pay their share of the premiums during the FMLA leave. To avoid required reimbursement, appropriate certification from a health care provider may be required if the employee does not return to work because of a serious health condition.~~
- ~~D. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the City for the City's portion of health insurance premiums during the family leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his job or circumstances beyond the control of the employee.~~

#### ~~19.07 Accrual~~

~~During FMLA leave, accrual of employment benefits, such as vacation pay, medical leave, seniority, etc., shall continue. Pension benefits will be determined in accordance with DOL rules, but employees shall be required to make the pension contributions required, if any, under the City sponsored pension plan covering them. Employment benefits to which an employee may be entitled on the day on which the Family and Medical Leave of Absence begins will not be lost because of such leave, except for those paid leave days substituted for leave taken under this policy as described above. Upon return from FMLA leave, employees are entitled to any changes in benefit plans not dependent upon seniority or accrual during the leave period. [See Section 21.05].~~

~~Employees will not be disqualified from bonuses based upon attendance or safety for which they qualified prior to leave because of the taking of FMLA leave.~~

#### ~~19.08 Relationship to Paid Leave~~

A. ~~Employees may be required to substitute accrued paid leave for FMLA leave. In this case, paid leave will run concurrently with FMLA leave.~~

B. ~~Leave covered by workers' compensation and/or disability coverage will run concurrently with the FMLA leave when the reason for the leave is covered by the FMLA; however, the City will not require nor will it allow the use of paid leave at the same time.~~

#### ~~19.09 Return from FMLA Leave~~

~~With the exception of certain key employees, employees who return to work from family leave of absence within or on the business day following the expiration of the leave are entitled to return to their job or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Designation of key employee status and whether such status will affect the employee's right to reinstatement will be made at the time the employee requests leave, or at the commencement of leave, whichever is earlier, or as soon as practicable thereafter if such determination cannot be made at that time.~~

#### ~~19.10 Application~~

~~Applications by the employee for family leave must be submitted in writing at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If thirty (30) days notice is not practicable, such as a lack of knowledge of approximately when leave will be required to begin, a change in circumstances or a medical emergency, notice must be given as soon as practicable. All applications should be on approved forms which are available from the Personnel Office.~~

#### ~~19.11 Counting FMLA Leave~~

~~To the extent allowed by law, in the event an absence is for a reason covered by the FMLA, the City reserves the right to count it as FMLA leave whether the employee has applied for it or not. When this occurs, the employee will be promptly notified if required by law.~~

#### ~~19.12 Coordination~~

~~Absences due to sickness or injury, whether paid or unpaid, including absences for work-related sickness or injury that are also covered by the FMLA will be considered as FMLA leave.~~

#### ~~19.13 Employee Obligations~~

~~During FMLA leave, employees must periodically report on their medical status and intent to return to work. Upon taking such leave, the employee will be advised of the reporting requirements. When the employee gives unequivocal notice of his/her intent~~

~~not to return to work, the employment relationship will be terminated, and the employee's entitlement to continue leave, maintenance of health benefits, and reemployment will cease.~~

#### ~~19.14 Medical Evidence Upon Return to Work~~

~~All employees of the City whose FMLA leave was taken because of the employee's own serious health condition must obtain and present certification from the employee's health care provider that the employee is able to resume work before the employee will be allowed to return to work.~~

#### ~~19.15 Failure to Cooperate~~

~~Employees who fail to provide information to the City as allowed by law, may have their leave delayed and be subject to discipline up to and including discharge as permitted by law.~~

### **(New Section 19)**

#### 19.01 Eligibility and Reasons

Employees, who have worked for the City for at least twelve (12) months, and for at least 1,250 hours during the preceding twelve (12) months, may:

- A. Take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the following reasons:
1. The birth of the employee's child and to care for the newborn child;
  2. The placement of a child with the employee for adoption or foster care;
  3. In order to care for the employee's spouse, child or parent who has a serious health condition;
  4. Because of a serious health condition which renders the employee unable to perform the essential functions of the employee's position.
  5. Because of a qualifying exigency (as defined below) arising out of the fact that the employee's spouse, child (of any age) or parent is a retired or reservist member of the military on active duty or has been notified of an impending call or order to active duty in support of a contingency operation. Leave under this subsection is not available for an employee whose family member is on active duty as a member of the Regular Armed Forces.
- B. Take up to twenty-six (26) weeks of unpaid leave in a single twelve (12) month period in order to care for the employee's spouse, child (of any age), parent or next of kin who is a military service member who is undergoing medical treatment,

recuperation, or therapy, or who is in outpatient status, or who is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces.

## 19.02 Definitions

The following definitions apply for purposes of this Policy:

- A. Serious Health Condition -- A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either: (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., the inability to work, attend school or perform other regular daily activities), or any subsequent treatment in connection with the inpatient care; or (2) continuing treatment by health care provider, as defined by the FMLA and the pertinent regulations.
- B. Serious injury or illness – A “serious injury or illness” means an injury or illness incurred by a military servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.
- C. Child – Except as otherwise noted in this policy, “child” means a biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis (in the place of a parent) and who is either under the age of eighteen (18) or, if older than the age of eighteen (18), is incapable of self care because of a mental or physical disability.
- D. Parent – Parent means a biological, adoptive, step or foster parent, or any other individual who stood in loco parentis (in the place of a parent) to the employee when the employee was a child. Parent does not include parents “in law.”
- E. Next of Kin – The “next of kin” of a military servicemember means the nearest blood relative other than the servicemember’s spouse, parent or child, in the following order of priority (unless the servicemember has specifically designated in writing another blood relative as his nearest blood relative for purposes of military caregiver): (1) blood relatives who have been granted legal custody of the servicemember, (2) brothers and sisters, (3) grandparents, (4) aunts and uncles and (5) first cousins.
- F. Qualifying exigency –A “qualifying exigency” includes leave taken for any of the following reasons : (1) to address any issue resulting from an impending call to active duty deployment on less than seven days’ notice, (2) to attend military events and related activities (such as a military ceremony, briefing, family support program, etc.), (3) to make arrangements relating to childcare and school activities, (4) to make financial and legal arrangements, (5) to attend counseling,

(6) to spend time with a covered military member who is on a short-term, temporary rest and recuperation leave during the period of deployment, (7) to attend post-deployment activities (such as a military ceremony, event, reintegration briefing, etc.), and (8) any other exigency agreed upon by the City and employee.

### 19.03 Measuring The Twelve Month Period And Counting FMLA Leave

- A. For leave taken for any of the reasons listed in Section 1(A), the twelve (12) month period in which eligible employees may take twelve (12) weeks of leave will be calculated using a "rolling" twelve month period measured backward from the date an employee uses any FMLA leave. At any time when a need for FMLA leave arises, the amount of FMLA that an employee would be entitled to use is measured by counting how much FMLA leave the employee has used during the prior twelve months. If during that prior twelve month period the employee has already used 12 weeks of FMLA leave, the leave is exhausted. If the employee has not used twelve weeks of FMLA leave during the prior twelve month period, he or she is entitled to the balance of the twelve weeks that has not been used. For example, if an employee used four weeks of FMLA leave beginning 2/1/94, four weeks beginning 6/1/94, and four weeks beginning 12/1/94, the employee would not be entitled to any additional leave until 2/1/95. However, beginning on 2/1/95, the employee would be entitled to four weeks of leave, on 6/1/95 the employee would be entitled to an additional four weeks of leave, etc.
- B. For leave taken for the reason listed in Section 1(B), the single twelve (12) month period for calculating leave needed to care for a military servicemember begins when the employee first starts taking leave for that reason and ends twelve (12) months after that date. Leave under Section 1(B) may not exceed twenty-six (26) weeks in any single twelve (12) month period when combined with other FMLA-qualifying leave under any section of this policy.
- C. For leave taken for the birth of a child or placement of a child for adoption or foster care, the entitlement to leave under this policy expires twelve (12) months from the date of the child's birth or placement.
- D. If both spouses work for the City, the combined leave shall not exceed twelve (12) weeks in a twelve (12) month period if the leave is taken for the birth of the employee's child, or to care for the child after birth, for the placement of a child with the employee for adoption or foster care, or to care for the employee's parent with a serious health condition.
- E. If both spouses work for the City the combined leave shall not exceed twenty-six (26) weeks of leave during the single twelve (12) month period described in Section 3(B) above if the leave is taken for the birth of the employee's child, or to care for the child after birth, for the placement of a child with the employee for adoption or foster care, to care for the employee's parent with a serious health condition, or to care for a servicemember with a serious injury or illness.

- F. To the extent allowed by law, in the event an absence is for a reason covered by this policy, the City reserves the right to count it as FMLA leave whether the employee has requested FMLA leave or not. Leaves covered by workers' compensation and/or a disability plan will also be counted as FMLA leave to the extent the leave qualifies under this policy.

#### 19.04 Intermittent Leave Or Leave On A Reduced Schedule Basis

- A. In the case of leave based upon a serious health condition or a servicemember's serious injury or illness, leave may be taken intermittently or on a reduced schedule basis, but only if such leave is medically necessary and the medical need can be best accommodated by intermittent leave or a reduced schedule. If intermittent leave or leave on a reduced hours basis is required for planned medical treatment, the employee is required to make reasonable efforts to schedule the treatment so as not to unduly disrupt the City operations.
- B. In the case of leave for the birth or placement of a child in adoption or foster care, intermittent leave or working a reduced schedule is not permitted unless the City, in its sole discretion, elects to allow it.
- C. In the case of leave based upon a qualifying exigency, leave may be taken intermittently or on a reduced schedule basis.
- D. If intermittent leave or leave on a reduced hours leave is required or provided, the City may, in its sole discretion, temporarily transfer the employee to another position for which the employee is qualified with equivalent pay and benefits that better accommodates that type of leave.

#### 19.05 Employee Notice And Certification Requirements

- A. For leave that is foreseeable, the employee must provide the City with at least thirty (30) days' notice. If the need for leave is not foreseeable, the employee is required to provide the City with as much notice as is practicable once the need for leave becomes known. Requests for leave should be on approved forms which are available from the human resources department.
- B. The City will require that leave based upon a serious health condition, or a servicemember's serious injury or illness, be supported by a medical certification from a health care provider. In accordance with applicable regulations, the City may request, at the City's expense, a second opinion from a health care provider of the City's choice (as well as a third opinion if the second opinion conflicts with the first opinion). The City will require that medical certification be submitted showing that a request for intermittent leave or leave on a reduced schedule basis is medically necessary.
- C. The City may require subsequent medical recertification of an ongoing condition from the employee's health care provider every six (6) months in conjunction with an absence, or more often to the extent permitted by applicable law.

- D. The City will require that leave based upon a qualifying exigency also be supported by a certification and supporting documentation, including a copy of the military member's active duty orders or other similar documentation.
- E. Certification forms to be completed under this section are available from human resources. If an employee's certification or recertification is deemed by the human resources to be incomplete, the Human Resources Administrator will notify the employee of the deficiency and the employee will be provided seven (7) days to cure the deficiency. A failure to complete the certification may result in the denial of leave for the period of time until the completed certification is submitted.
- F. During leaves under this policy, the employee must periodically report on their medical status and intent to return to work. Upon taking such leave, the employee will be advised of the reporting requirements.
- G. For leave taken because of the employee's own serious health condition, the employee is required to furnish a medical certification from his or her health care provider advising that the employee is able to safely resume performing the essential functions of his or her position before the employee will be allowed to return to work.

#### 19.06 Health Insurance Premiums

- A. During leaves of absence under this policy, the City will continue to pay its portion of the health insurance premiums and maintain the employee's coverage under the health plan in the same manner as if the employee had been continuously employed during the entire leave period, provided the employee continues to pay his or her share of the premiums.
- B. Should the employee fail to continue to pay his or her share of the premium, notices of proposed insurance cancellation and the opportunity to pay the premium as required by the FMLA will be provided before the cancellation.
- C. The employee will be advised in advance of any changes in premiums so that he or she will have ample opportunity to make arrangements to continue to pay his or her share of the premiums during the FMLA leave.
- D. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the City for the employee portion of health insurance premiums during the family leave as permitted by law, unless the employee does not return due to a serious health condition which prevents the employee from performing his job or circumstances beyond the control of the employee. To avoid required reimbursement, appropriate certification from a health care provider may be required if the employee does not return to work because of a serious health condition.

#### 19.07 Accrual

During any period of leave under this policy, accrual of employment benefits, such as vacation pay, medical leave, seniority, etc., shall continue. Pension benefits will be determined in accordance with applicable regulations, but employees will be required to make the pension contributions required, if any, under any City sponsored pension plan covering them. Employment benefits to which an employee may be entitled on the day on which the FMLA leave of absence begins will not be lost because of such leave, except for those paid leave days substituted for unpaid leave taken under this policy as described below. Upon return from FMLA leave, employees are entitled to any changes in benefit plans not dependent upon seniority or accrual during the leave period.

Employees will not be disqualified from bonuses based upon attendance or safety for which they qualified prior to leave because of the taking of FMLA leave.

#### 19.08 Substitution Of Accrued Paid Leave

- A. For unpaid leaves under this policy, the City will require employees to substitute any accrued paid leave (including vacation, sick, personal leave, etc.) that he or she may have. This means that the employee's FMLA leave under this policy will run concurrently with the use of any accrued paid leave. The employee will be notified of the designation when the leave begins.
- B. Where the leave is not unpaid but the employee is not receiving his or her full pay (such as when on workers' compensation leave or leave under a disability plan), accrued paid leave may be used to supplement the employee's pay to bring him or her up to their full salary, to the extent that both the City and the employee agree.

#### 19.09 Job Restoration Upon Return from FMLA Leave

With the exception of certain key employees, employees who return to work from FMLA leave of absence within or on the business day following the expiration of the leave are entitled to return to their job or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Designation of key employee status and whether such status will affect the employee's right to reinstatement will be made at the time the employee requests leave, or at the commencement of leave, whichever is earlier, or as soon as practicable thereafter if such determination cannot be made at that time.

#### 19.10 Failure to Cooperate

Employees who fail to provide information to, or otherwise cooperate with, the City in administering this policy, or who provide intentionally untruthful information as to the facts upon which the FMLA leave was granted, may have their leave delayed and/or be subject to discipline up to and including discharge as permitted by law.

## **Section 23 - Pension**

### 23.01 Section 457 Deferred Compensation Plan (~~eligible employees~~)

The City maintains a Section 457 Deferred Compensation Plan for eligible employees. ~~Participation is mandatory. The City will advise as to the mandatory City and employee contribution rates.~~

## **Section 26 - Education Incentives and Benefits**

### 26.01 Tuition

The City may authorize payment for tuition for courses it considers will be helpful to successful completion of the mission of the City subject to budgetary constraints as follows:

- A. The City Manager, or his designee, shall determine if the course or curriculum is related to the employee's job or contributes to the long range value of the employee to the City.
- B. If the course is reimbursable through some other source, then provisions of the City's education tuition payment plan shall not apply.
- C. Based on budgetary constraints, the City Commission shall budget a set annual amount for tuition reimbursement. Once that amount is dispersed, no other reimbursement requests will be approved.