

RESOLUTION NO. 17-1108

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, ADOPTING THAT CERTAIN DOCUMENT ENTITLED "POLICY NO. 715 EARNED PAID SICK LEAVE, DATED SEPTEMBER 12, 2002, REVISED EFFECTIVE JULY 1, 2017"; AMENDING THE TOWN OF CHINO VALLEY PERSONNEL POLICY AND ADMINISTRATIVE GUIDELINE MANUAL, BY AMENDING POLICY 100 PERSONNEL POLICIES AND GUIDELINES DEFINITIONS; REPEALING POLICY NO. 715 SICK LEAVE, DATED SEPTEMBER 12, 2002, IN ITS ENTIRETY; AND ADOPTING NEW POLICY NO. 715 EARNED PAID SICK LEAVE, DATED SEPTEMBER 12, 2002, REVISED EFFECTIVE JULY 1, 2017; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

WHEREAS, on November 8, 2016, the Arizona voters approved Proposition 206 "The Fair Wages and Healthy Families Act", substantially changing Arizona State law regarding accrual and use of earned paid sick leave for Arizona employees; and

WHEREAS, the current provisions of the Town of Chino Valley Personnel Policies and Guidelines related to sick leave for Town employees are not in compliance with the provisions of Proposition 206; and

WHEREAS, the Chino Valley Town Council desires to provide Town employees with sick leave benefits that are in compliance with Arizona state law,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Chino Valley, County of Yavapai, Arizona, that the *Town of Chino Valley Personnel Policy and Administrative Guideline Manual* is hereby amended as follows:

1. Policy 100 Personnel Policies and Guidelines Definitions is amended to read as follows (additions in ALL CAPS; deletions in strikethrough):

* * *

Sick Leave. SEE POLICY NO. 715, SECTION III(A) DEFINITIONS~~Time off with pay granted to qualified employees by the Town in the event of illness or medical treatment.~~

* * *

2. Policy No. 715 Sick Leave, dated September 12, 2002 is deleted in its entirety.

3. Policy No. 715 Earned Paid Sick Leave, dated September 12, 2002, Revised Effective July 1, 2017, as set forth in Exhibit A to this Resolution, is hereby adopted and incorporated into the *Town of Chino Valley Personnel Policies and Administrative Guideline Manual*.

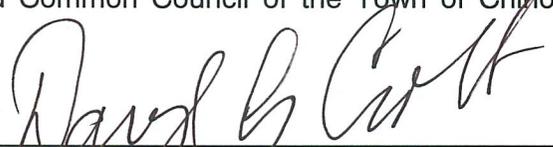
4. Policy No. 715 Earned Paid Sick Leave, dated September 12, 2002, Revised Effective July 1, 2017, shall become effective July 1, 2017.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

BE IT FURTHER RESOLVED that the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety of the Town of Chino Valley, and an emergency is hereby declared to exist. This Resolution shall be in full force and effect from and after its passage, adoption and approval by the Common Council of the Town of Chino Valley.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 27th day of June, 2017.



Darryl L. Croft, Mayor

ATTEST:



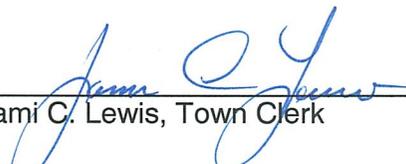
Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:



Phyllis L.N. Smiley, Town Attorney

I hereby certify the above foregoing Resolution No. 17-1108 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on June 27, 2017, and that quorum was present thereat and that the vote thereon was 7 ayes and 0 nays and 0 abstentions. 0 Council members were absent or excused.



Jami C. Lewis, Town Clerk

The following exhibits are attached hereto and incorporated herein:

- A. Policy No. 715 Earned Paid Sick Leave, dated September 12, 2002, Revised Effective July 1, 2017

EXHIBIT A
POLICY NO. 715
EARNED PAID SICK LEAVE

EARNED PAID SICK LEAVE

- I. **PURPOSE:** Provide income protection for employees who, for the reasons set forth in this Policy, are absent from work.
- II. **SCOPE:** This policy applies to all employees, including temporary and seasonal employees.
- III. **POLICY AND GUIDELINES:**
 - A. **Definitions:** For purposes of this policy the following definitions apply.
 1. *Abuse:* An offense prescribed in Section 13-3626, Arizona Revised Statutes.
 2. *Domestic Violence:* As defined in Section 13-3601, Arizona Revised Statutes.
 3. *Earned Paid Sick Leave:* Time away from work taken by an employee using accrued Earned Paid Sick Time.
 4. *Earned Paid Sick Time (“EPST”):* Time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in A.R.S. § 23-373 and this Policy No. 715. In no case shall this hourly amount be less than that provided under the Fair Labor Standards Act of 1938 (29 United States Code Section 206(a)(1)) or A.R.S. § 23-363.
 5. *Family Member:*
 - a. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
 - b. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee’s spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee’s spouse or domestic partner was a minor child;

- c. A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;
 - d. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
 - e. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- 6. *Sexual Violence*: An offense prescribed in: (a) Title 13, Chapter 14, Arizona Revised Statutes, except for Sections 13-1408 and 13-1422; or (b) Sections 13-1304(A)(3), 13-1307, 13-3019, 13-3206, 13-3212, 13-3552, 13-3553, 13-3554, or 13-3560, Arizona Revised Statutes.
 - 7. *Stalking*: An offense prescribed in Section 13-2923, Arizona Revised Statutes.
 - 8. *Year*: A regular and consecutive 12-month period beginning with the date of hire for the individual employee.

B. Accrual of Earned Paid Sick Time:

- 1. An employee regularly scheduled to work between 20 and 40 hours per week shall accrue EPST at a rate of .0462 hours for every hour worked, not to exceed 96 hours of EPST per year.
- 2. An employee who works fewer than 20 hours per week shall accrue EPST at a rate of .0334 for every hour worked, not to exceed 40 hours per year.
- 3. EPST shall begin to accrue at the commencement of employment.
- 4. Unused EPST shall be carried over to the following year, but shall not exceed 96 hours for employees regularly scheduled to work between 20 and 40 hours per week and 40 hours for all other employees.
- 5. If an employee voluntarily terminates employment, he shall not be compensated for the first 192 hours of unused EPST but shall receive compensation at the rate of 25% of his current hourly wage for accrued EPST over 192 hours. Employees who are terminated for cause by the Town shall forfeit accrued EPST, and shall not be compensated for any accrued EPST.

6. Any employee rehired by the Town within nine (9) months of separation of employment with the Town shall have all accrued, unused EPST at the time of his separation reinstated and may use the balance immediately upon rehire. For purposes of this section, EPST hours compensated at separation of employment shall be considered "used".

C. Use of Earned Paid Sick Time: EPST Leave may be taken for a variety of uses, as set forth in Arizona Revised Statutes, § 23-373, including:

1. The employee's: (a) mental or physical illness, injury or health condition; (b) need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or (c) need for preventive medical care;
2. Care of a family member: (a) suffering from a mental or physical illness, injury or health condition; (b) who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or (c) who needs preventive medical care;
3. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or
4. Absence necessary due to domestic violence, sexual violence, abuse or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:
 - a. Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual violence, abuse or stalking;
 - b. Services from a domestic violence or sexual violence program or victim services organization;
 - c. Psychological or other counseling;
 - d. Relocation or taking steps to secure an existing home due to domestic violence, sexual violence, abuse or stalking; or
 - e. Legal services, including but not limited to preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual violence, abuse or stalking.

5. Employees shall make a reasonable effort to schedule routine doctor and dental appointments in a manner that is least disruptive to Town operations. An employee may be requested by the Town to provide documentation of health care practitioner appointments. An employee who is on sick leave shall not engage in any gainful employment with any other employer.
 6. EPST is available for use by the employee as it is accrued, but must be accrued before it can be used. Part-day absences shall be rounded up to the nearest quarter hour for calculation of how many hours have been used. EPST shall not be used to supplement an employee's hours to exceed the number of hours he is normally scheduled to work each work week.
 7. EPST shall be paid only for periods when the employee would normally be scheduled to work.
 8. EPST may be taken in increments of one-quarter (1/4) hour.
 9. If an employee is entitled to benefits or payments under worker's compensation or disability coverage, the Town shall pay the difference between the worker's compensation or disability benefits or payments received by the employee and the employee's regular rate of compensation. The foregoing payment shall be taken from the employee's accrued EPST balance until the EPST time is exhausted. It will then be taken from the employee's accumulated vacation or compensation accruals. When all paid leave has been exhausted, the employee shall have leave without pay until such time as the job is declared vacant pursuant to Policy No. 1115.
 10. An employee off work with a sickness or injury and who receives funds from worker's compensation or disability coverage as provided above, and wishes to use EPST and other leave accruals should contact the Human Resources Department to establish the amount of accruals to be used.
- D. Abuse of EPST Leave: Taking EPST Leave under false pretenses is a violation of trust essential to the employer/employee relationship and is subject to disciplinary action, up to and including dismissal.
- E. Notice Requirements:
1. An employee who knows in advance that he will be absent using EPST shall give his supervisor advance notice in writing, including the probable start date and duration of the absence. If a sudden illness or other emergency situation requiring use of EPST makes it impossible for an employee to request EPST leave before the workday begins, he should notify his Supervisor within one (1) hour of the start of the workday or make other arrangements acceptable to the Supervisor. Absence without notice is grounds for disciplinary action, up to and including dismissal.

2. While on EPST Leave, the employee shall notify his supervisor within one (1) hour of the start of each workday that he will not be coming to work and shall make every effort to advise the supervisor of his expected date of return to work.
 3. Before an absence may be charged against his accrued EPST, the employee shall complete a Request for Leave and have it authorized by his supervisor or Department Head prior to the end of his first day of return from EPST leave.
- F. Proof of Need for Absence: An employee absent for three (3) or more consecutive days shall provide reasonable documentation that the EPST has been used for a purpose covered under Section C Use of EPST Leave.
1. In case of absence for health-related reasons, a note from a health care practitioner certifying that the employee was unable to work for health reasons shall be considered reasonable. Department Heads also may require proof of illness for absences of less than three days in cases where an employee has compiled a poor attendance record or exhibited a pattern of absences or is absent directly before or after a holiday, vacation, or compensatory time off.
 2. In cases of an absence due to domestic violence, sexual violence, abuse or stalking, one the following types of documentation shall be considered reasonable documentation:
 - a. Police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual violence, abuse or stalking;
 - b. A protective order; injunction against harassment; a general court order; or other evidence from a court or prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual violence, abuse or stalking;
 - c. A signed statement from a domestic violence or sexual violence program or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual violence, abuse or stalking;
 - d. A signed statement from a witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization;
 - e. A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is a victim of domestic violence, sexual violence, abuse, or stalking; or

- f. An employee's written statement affirming that the employee or the employee's family member is a victim of domestic violence, sexual violence, abuse or stalking, and that the leave was taken for one of the purposes under Subsection C Use of EPST Leave, above. The written statement does not need to be in an affidavit format or notarized, but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member.
 3. Any documentation provided is not required to explain the nature of the health condition or the details of the domestic violence, sexual violence, abuse or stalking.
 4. If an employee is absent from work for health reasons for a period of more than three calendar days, he may be required to submit a written release, without restrictions, or with restrictions, if a light duty position is available, from a qualified physician prior to returning to work.
 5. An employee who is absent and uses EPST for any part of the last scheduled day before or first scheduled day back from vacation, holiday, or personal day, shall provide reasonable documentation that the EPST has been used for a purpose covered under Subsection C Use of EPST Leave.
- G. Conversion of Sick Time to Vacation Time. On December 31st of each calendar year, an employee who has accrued sick leave in excess of 192 hours may convert to vacation time an amount equal to 25% of unused EPST hours accrued during the calendar year, provided that after such conversion the employee shall have a minimum of 192 hours of EPST available for his use and no more than 320 hours of vacation time accrued.