

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Discussion of the Affordable Care Act and Revisions to the Personnel Policies		
<b>DEPARTMENT:</b>	Human Resources		
<b>PRESENTED BY:</b>	Paula Itaoka		
<b>ACTION:</b>	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

**PROBLEM/ISSUE STATEMENT:**

The Affordable Care Act Employer Mandate requires that in 2015, under certain circumstances, employees who average 30 or more hours a week become eligible for health coverage. This mandate impacts the City's current policy regarding extra help. This staff report provides an overview of how the current policy is impacted and recommends changes to the Employee Handbook to prevent those impacts.

**RESOURCE/FINANCIAL IMPACT:**

The recommended changes to the Employee Handbook have no financial impact. However, a decision to decline the recommendations may have a financial impact equal to the cost of providing health coverage to extra help employees who average more than 30 hours a week in certain circumstances. Using 2014 rates, the cost to cover an extra help employee under the rules of the mandate is estimated at \$652 a month.

**RECOMMENDATION**

No action is required at this time as this is a discussion item only. However, when a resolution is brought back to Council on October 13 that amends Chapter 3 of the Employee Handbook to create Employment Status Definitions for extra help employees, staff recommends that Council adopt this resolution.

Approved By: City Manager **DT** City Attorney **JA-T**

## **INTRODUCTION**

The federal Affordable Care Act Employer Mandate (the mandate) requires that the City identify employees who average 30+ hours a week during an “initial” and “standard” “measurement period” and provide health coverage in a subsequent initial and standard “stability period”. Initial measurement periods for newly hired extra help are the first three months of employment and the first 12 months of employment. The standard measurement period for existing extra help employees is a 12 month measurement period aligning with the City’s benefit open enrollment periods. If an employee averages 30+ hours a week during any measurement period, they are eligible for health coverage in a subsequent and equal stability period. This staff report recommends a change to the Employee Manual in response to the mandate.

## **BACKGROUND**

The City’s current policy and practice permits extra help employees to work as many hours as needed up to an annual limit of 1,040; sometimes averaging 30 or more hours per week. Although the City’s current policy does not provide health coverage for extra help employees, the mandate could require the City to do so in 2015 in the following circumstances:

1. Non-Seasonal Extra Help who average 30 or more hours a week during an initial or standard measurement period will be eligible for health benefits in the following initial or standard stability period. Simply said, there are two periods of time that must be actively measured to determine health coverage eligibility for extra help in an equal subsequent stability period:
  - a. the first three (3) months of employment, and
  - b. 12 months of employment.
2. Seasonal Extra Help employees are exempt from the mandate unless they also perform non-seasonal work in a measurement period. Simply said, if a Seasonal employee does any non-seasonal work, the exemption is lost and all hours are considered non-seasonal in a measurement period.

This discussion assumes the continuation of the policy that extra help employees are not eligible for health coverage. Therefore, staff is providing a recommended framework for managing extra help hours below the threshold of the mandate. This equates to an average of no more that 29 hours per week, with an annual total of less than 1,040 hours.

## **DISCUSSION**

Staff analyzed the first 28 weeks of 2014 to identify how many extra help employees averaged enough hours to suggest they would qualify for health coverage in 2015 and found two extra help employees. However, with the limit of 1,040 hours of work in a calendar year, the employees will have a break in service before 2015.

Although seasonal work is exempt from the provisions of the mandate, a mix of seasonal and non-seasonal hours is not exempt, as mentioned above. This presents a unique challenge for City managers and Human Resources staff in scheduling and tracking not only how many hours are worked but what kind.

Responsibility for managing extra help hours under the mandate is shared between management and Human Resources. Management is responsible for selecting and appropriately using the correct category of extra help and scheduling hours to avoid exceeding the threshold. Human Resources is responsible for monitoring hours worked and supporting management by advising when an employee's average hours approach 30 per week.

### **Employee Handbook Amendment**

Given how extra help hours must be managed starting in 2015, three Employment Status Definitions of extra help are needed in the City's Employee Handbook. These definitions need to be placed into Chapter 3 of the Handbook, along with the unchanged definitions for Full Time Regular and Part Time Regular employees. Also, staff recommends that Chapter 3 include a definition of the term "Break in Service", as it is referenced in the new extra help definitions. These new definitions are below. Please see Attachment A to this staff report for a complete strike out/underline version of Chapter 3:

#### **New Definition - Break in Service**

The period of time between the date an employee separates from service and the date the employee is rehired.

#### **New Definition - Extra Help**

Extra Help: A position that is employed in activities related to seasonal programs, variable intermittent workloads, or ongoing work of less than 20 hours a week, further defined below.

Seasonal: Work that is seasonal beginning approximately the same season of each calendar year, customarily less than six months in duration.

Maximum Hours:

- 1,040 hours a year with no limit on weekly hours if all work is seasonal.
- If some of the work is not seasonal then all hours worked count toward a maximum average of 29 per week in the first 3 months of employment and during 12 months of employment.

Break in Service Requirement before Rehire:

- 13 weeks, or
- Longer than the employee was employed, or
- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

Variable-hour: Work that is not seasonal but is intermittent and/or hours that are unpredictable from week to week.

Maximum Hours:

- 1,040 a year and

- an average of 29 per week during the first 3 months of employment and during 12 months of employment.

Break in Service Requirement before Rehire:

- 13 weeks, or
- Longer than the employee was employed, or
- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

Less than 20 Ongoing: Work that is ongoing and consistent with few hours but regularly scheduled each week.

Maximum Hours:

- 1,040 a year and
- an average of 20 per week during the first 3 months of employment and during 12 months of employment.

Break in Service Requirement before Rehire:

- 13 weeks, or
- Longer than the employee was employed, or
- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

### **RESOURCE/FINANCIAL IMPACT**

The recommended changes to the Employee Handbook have no financial impact. However, a decision to decline the recommendations may have a financial impact equal to the cost of providing health coverage to extra help employees who average more than 30 hours a week in certain circumstances. Using 2014 rates, the cost to cover an extra help employee under the rules of the mandate is estimated at \$652.32 a month.

### **RECOMMENDATION**

No action is required at this time as this is a discussion item only. However, when a resolution is brought back to Council on October 13 that amends Chapter 3 of the Employee Handbook to create Employment Status Definitions for extra help employees, staff recommends that Council adopt this resolution.

### **ATTACHMENTS**

Attachment A - Revisions to Chapter 3 of the Employee Handbook

### **3.00 DEFINITIONS**

#### **3.01 Alternate Workplace**

The place designated for the employee to work when not working at the regular office.

#### **3.02 Anniversary Date**

The date used for the purpose of calculating leave benefits and length of service. Usually the anniversary date is the date the employee began work for the City, but adjustments shall be made for unpaid time off or other purposes.

#### **3.03 Break in Service**

The period of time between the date an employee separates from service and the date the employee is rehired.

#### **3.033.04 Callback**

All time worked in excess of a scheduled shift, which is not an extension of that shift, and is unanticipated, unforeseen, and not a regular function of the employee's work schedule.

#### **3.043.05 City**

The City of Shoreline, Washington.

#### **3.053.06 City Hall Campus**

The property including City Hall, the City Parking Garage and all adjacent City owned grounds not subject to lease.

#### **3.063.07 City Manager**

The individual appointed by the City Council to serve in this capacity or his or her designee.

#### **3.073.08 Core Hours**

Those hours during which City offices are open to the public and during which staffing is available to provide service to our customers. Core hours for the City are 8:00 a.m. to 5:00 p.m. Monday through Friday.

#### **3.083.09 Demotion**

Any case where a regular employee moves on a non-temporary basis to a different position in a lower salary range.

#### **3.093.10 Department Director**

An individual appointed by the City Manager to serve as Assistant City Manager, Finance Director, Human Resources Director, Parks and Recreation Director, Planning and Development Services Director or Public Works Director or his or her designee.

#### **3.103.11 Domestic Partner**

The individual named in a current, valid Affidavit of Marriage/Domestic Partnership on file with the City's Human Resources Department.

**3.113.12 Drugs**

Includes any substance which is controlled in its distribution by federal or state law, including but not limited to, narcotics, depressants, stimulants, hallucinogens, cocaine and cannabis. Does not include prescription and over-the-counter medication used according to prescription or consistent with standard dosage.

**3.13 Employment Status Definitions**

3.13.1 Regular Full Time: A regular position established by the City budget that is expected to be ongoing and to work a 40 hour week.

3.13.2 Regular Part Time: A regular position established by the City budget that is expected to be ongoing and to work at least 20 but less than 40 hours per week.

3.13.3 Extra Help: A position that is employed in activities related to seasonal programs, variable intermittent workloads, or ongoing work of less than 20 hours a week, further defined below.

3.13.3.1 Seasonal: Work that is seasonal beginning approximately the same season of each calendar year, customarily less than six months in duration.

Maximum Hours:

- 1,040 hours a year with no limit on weekly hours if all work is seasonal.
- If some of the work is not seasonal then all hours worked count toward a maximum average of 29 per week in the first 3 months of employment and during 12 months of employment.

Break in Service Requirement before Rehire:

- 13 weeks, or
- Longer than the employee was employed, or
- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

3.13.3.2 Variable-hour: Work that is not seasonal but is intermittent and/or hours that are unpredictable from week to week.

Maximum Hours:

- 1,040 a year and
- an average of 29 per week during the first 3 months of employment and during 12 months of employment.

Break in Service Requirement before Rehire:

- 13 weeks, or
- Longer than the employee was employed, or
- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

3.13.3.3 Less than 20 Ongoing: Work that is ongoing and consistent with few hours but regularly scheduled each week.

Maximum Hours:

- 1,040 a year and
- an average of 20 per week during the first 3 months of employment and during 12 months of employment.

Break in Service Requirement before Rehire:

- 13 weeks, or

- Longer than the employee was employed, or
- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

**3.123.14 Exempt Employee**

An employee exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) as defined by that Act or applicable state law and designated as such by the City Manager. A list of exempt positions is maintained by Human Resources.

**3.13 — Extra Help Employee**

~~An employee hired for a period expected to not exceed 1040 hours in a calendar year or expected to end in less than a year.~~

**3.143.15 Flex-Time**

A work schedule that permits flexible starting and quitting times or other alternative work schedules within limits set by the respective Department Director.

**3.15 — Full Time Regular Employee**

~~An employee hired to work a 40-hour week in a regular position established by the City budget and expected to be an ongoing position.~~

**3.16 Immediate Family**

Unless defined otherwise in these policies, the employee's grandparent, parent, parent-in-law, foster parent, spouse, domestic partner, child, step child, foster child, grandchild, sister, sister-in-law, brother or brother-in-law. Domestic Partner is an individual named in a current, valid Affidavit of Marriage/Domestic Partnership on file with the City's Human Resources Department and the Partnership shall satisfy the following criteria:

- Partners may be of the same or opposite sex;
- Partners shall be unmarried, mentally competent, 18 years of age or older and not related by blood closer than permitted for marriage under RCW 26.04.020;
- Share a regular and permanent residence and living expenses; and
- Partners shall not be a part of another Domestic Partnership.

In appropriate circumstances, an employee may believe that another individual should be considered a member of the immediate family for the purpose of applying these policies. The employee shall make a written request explaining to Human Resources why the employee believes that this individual should be considered a member of the immediate family. If Human Resources concurs, they shall forward a recommendation to the City Manager for approval. The City Manager shall decide to approve or deny the request. (If the definition of immediate family is different in certain approved benefit plans or policies; the provisions of those plans or policies will govern.)

**3.17 Insubordination**

Expressed hostility or contempt for an employee's supervisor or willful disregard of a supervisor's reasonable directive.

**3.18 Intern**

A position that is a form of on-the-job training that may be either voluntary or on paid status.

**3.19 Non-Exempt Employee**

An employee covered by the minimum wage and overtime provisions of the Fair Labor Standards Act.

~~3.20 Part Time Regular Employee~~

~~An employee hired to work an average of at least 20 but less than 40 hours per week in a calendar year in a regular position established by the City budget and expected to be an ongoing position.~~

~~3.213.20~~ **Promotion**

Any case where a regular employee moves on a non-temporary basis to a different position in a higher range.

~~3.223.21~~ **Regular Office**

The office to which an employee is generally assigned.

~~3.233.22~~ **Standby**

Specific assignment of an employee during off-hours to be available to come to work if needed. Standby is not considered as time worked.

~~3.243.23~~ **Step Increase Date**

The date that is used for the purpose of annual performance review and step increase. Usually the step increase date is the date the employee began work in his or her current position. Adjustments shall be made for unpaid time off or other purposes.

~~3.253.24~~ **Telecommuter**

An employee who has entered into a current Telecommuting Agreement.

~~3.263.25~~ **Telecommuting**

Working arrangements in which the workplace is located at least part time at an alternate location, such as the employee's home and which are expected to last longer than one month. A telephone may be the only equipment needed; however, in some cases employees may use special telecommunications equipment such as telephone answering devices, computers, faxes and modems.



**3-273.26 Time in Paid Status**

The period of hours during a pay cycle for which an employee receives compensation including hours worked, vacation, sick, holiday, management, personal or other paid leaves.

**3-283.27 Transfer**

Any case where a regular employee moves on a non-temporary basis to a different position in the same salary range.

**3-293.28 Work Week**

A fixed and regularly recurring period of seven (7) consecutive twenty-four (24) hour periods. The standard workweek for employees consists of the period from 12:01 a.m. Sunday to 12:00 midnight the following Saturday. Where a different workweek is required, the City Manager will define an appropriate workweek and communicate that to the employees.

**3-303.29 Y-Rating**

The continuation of a regular employee's salary above the highest step of a new salary range as a result of the salary range for the position being lowered due to a market survey or other factors.