

## **CITY COUNCIL AGENDA ITEM**

### **CITY OF SHORELINE, WASHINGTON**

<b>AGENDA TITLE:</b>	Adoption of Resolution No. 407 - Employee Handbook Updates Including Items Related to Initiative 1433 – Extra Help Sick Leave Policy		
<b>DEPARTMENT:</b>	Human Resources		
<b>PRESENTED BY:</b>	Paula Itaoka, Human Resources Director		
<b>ACTION:</b>	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

#### **PROBLEM/ISSUE STATEMENT:**

The Employee Handbook requires two substantive updates and one ‘housekeeping’ update. The substantive updates stem from the passage of Washington State Initiative 1433, which was passed in the November 8, 2016 general election, and requires every employer to provide paid sick leave for all workers effective January 1, 2018. While the City’s sick leave policy for regular employees meets most of the requirements in the Initiative, an update is needed to provide restoration of sick leave upon rehire within twelve months. The City also needs to adopt a policy that provides sick leave for Extra Help employees to meet the requirements of Initiative 1433. The housekeeping update is a new section regarding what to do if an employee receives a subpoena or notice of deposition directly. The Employee Handbook was deficient in this area.

The City Council discussed these proposed Employee Handbook changes at their May 22, 2017 meeting and was supportive of these proposed changes. The Council also provided direction to staff regarding the proposed section on depositions and subpoenas and the proposed definition of a De Facto parent, and that there was some concern with how that proposed language was written. Based on this direction, staff has revised those sections accordingly.

Tonight, Council is being asked to adopt proposed Resolution No. 407, which will update the City’s Employee Handbook to account for these updates.

#### **FINANCIAL IMPACT:**

There is no financial impact for the Employee Handbook updates regarding sick leave for regular employees or the new section on subpoenas and depositions. Regarding the update for extra help sick leave, based on 2016 experience, staff estimates approximately 1,200 hours of sick leave will accrue each year for extra help employees. The estimated value of this sick leave is from \$20,000 to \$21,000 a year. Some of this value will convert to actual cost because some sick leave hours must be back-filled (such as lifeguarding hours). However, the actual annual cost is difficult to forecast and will vary over time.

**RECOMMENDATION**

Staff recommends that Council adopt Resolution No. 407.

Approved By:      City Manager ***DT***      City Attorney ***MK***

## **BACKGROUND**

The Employee Handbook requires two substantive updates and one 'housekeeping' update. The substantive updates stem from the passage of Washington State Initiative 1433, which was passed in the November 8, 2016 general election, and requires every employer to provide paid sick leave for all workers effective January 1, 2018. While the City's sick leave policy for regular employees meets most of the requirements in the Initiative, an update is needed to provide restoration of sick leave upon rehire within twelve months. The City also needs to adopt a policy that provides sick leave for Extra Help employees to meet the requirements of Initiative 1433. The housekeeping update is a new section regarding what to do if an employee receives a subpoena or notice of deposition directly. The Employee Handbook was deficient in this area.

The City Council discussed these proposed Employee Handbook changes at their May 22, 2017 meeting and was supportive of these proposed changes. The Council also provided direction to staff regarding the proposed section on depositions and subpoenas and the proposed definition of a De Facto parent, and that there was some concern with how that proposed language was written. Based on this direction, staff has revised those sections accordingly. The staff report for the May 22<sup>nd</sup> Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport052217-9a.pdf>.

Tonight, Council is being asked to adopt proposed Resolution No. 407 (Attachment A), which will update the City's Employee Handbook to account for these updates. Exhibit A to this staff report provides those pages of the Employee Handbook which are proposed for amendment.

## **DISCUSSION**

As noted above, the Council was supportive of all the proposed changes of the Employee Handbook as presented on May 22<sup>nd</sup> except for two sections where there was some concern with the proposed language. These include the sections on depositions and subpoenas and the proposed definition of a De Facto parent.

Staff recommends the following changes to these sections based on Council direction:

### **H. De Facto Parent**

~~A person who has been found by the court to have assumed, on day-to-day basis, the role of the parent, fulfilling both the child's physical and psychological need for care and affection, and who has assumed that role for a substantial period.~~

A person who has had their parental rights and responsibilities determined by a court as to a child for whom they are not the legal parent, whether biological, adoptive or otherwise.

### **C. Subpoenas and Depositions**

Sometimes an employee may receive a notice that they are being subpoenaed regarding City business, such as being required to give a deposition. If an employee receives such a notice directly, the employee is to immediately notify the City Attorney's office. The City Attorney's office will assist the employee in preparing for the deposition and will accompany the employee to the deposition, providing the appropriate defense support for the employee during the deposition as provided by court rule and law.

Both of these changes have been incorporated into Exhibit A to proposed Resolution No. 407.

### **FINANCIAL IMPACT**

There is no financial impact for the Employee Handbook updates regarding sick leave for regular employees or the new section on subpoenas and depositions. Regarding the update for extra help sick leave, based on 2016 experience, staff estimates approximately 1,200 hours of sick leave will accrue each year for extra help employees. The estimated value of this sick leave is from \$20,000 to \$21,000 a year. Some of this value will convert to actual cost because some sick leave hours must be back-filled (such as lifeguarding hours). However, the actual annual cost is difficult to forecast and will vary over time.

### **RECOMMENDATION**

Staff recommends that Council adopt Resolution No. 407.

### **ATTACHMENTS**

Attachment A: Proposed Resolution No. 407

Attachment A, Exhibit A: Revised Employee Handbook Sections

**RESOLUTION NO. 407**

**A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING REVISIONS TO PERSONNEL POLICIES TO PROVIDE FOR AN UPDATE TO THE SICK LEAVE POLICY FOR REGULAR EMPLOYEES, AN EXTRA HELP SICK LEAVE POLICY, AND A POLICY INSTRUCTING EMPLOYEES ON WHAT TO DO IF THEY RECEIVE A SUBPOENA OR NOTICE OF DEPOSITION REGARDING CITY BUSINESS.**

WHEREAS, the City Council has provided for benefits and working conditions in the Employee Handbook which sets forth the City's personnel policies; and

WHEREAS, since its original adoption, the Employee Handbook has been updated to reflect legislative amendments and other policy updates; and

WHEREAS, the voters of Washington passed Initiative 1433 at the November 2016 General Election which requires the City to provide paid sick leave for all workers – regular and seasonal (extra help) – by January 1, 2018; and

WHEREAS, Initiative 1433 is now codified at RCW 49.46 Minimum Wage Requirements and Labor Standards, specifically at RCW 49.46.020, 49.46.200, and 49.46.210; and

WHEREAS, revisions are necessary to update the sick leave policy for regular employees and to implement a sick leave policy for extra help employees as required RCW 49.46; and

WHEREAS, revisions are necessary to provide employees with instructions on what to do if they receive a subpoena or notice of deposition regarding city business; and

WHEREAS, the City Council, having given full consideration to the proposed revision to the Employee Handbook;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

**Section 1. Employee Handbook Revision.** Certain sections of the Employee Handbook are revised as provided in Exhibit A to this Resolution.

**Section 2. Corrections by City Clerk.** Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to this resolution, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws,

codes, rules, or regulations; or resolution numbering and section/subsection numbering and references.

**ADOPTED BY THE CITY COUNCIL ON JUNE 12, 2017.**

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Christopher Roberts, Mayor

ATTEST:

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Jessica Simulcik Smith, City Clerk

EXHIBIT A



## EMPLOYEE HANDBOOK

Last updated: 2/27/2017xx/xx/xxxx  
Council Resolution 402407

### **III. DEFINITIONS**

**A. 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 to the anniversary date shall be made proportionate to any unpaid time off.

**B. Break in Service**

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

**C. 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.

**D. City**

The City of Shoreline, Washington.

**E. City Manager**

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

**F. 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.

**G. Demotion**

Any case where a regular employee moves on a non-temporary basis to a different position in a lower salary range with the exception of such movement resulting from a compensation study or salary survey.

**H. De Facto Parent**

A person who has had their parental rights and responsibilities determined by a court as to a child for whom they are not the legal parent, whether biological, adoptive or otherwise.

**H.I. Department Director**

An individual appointed by the City Manager to serve as Assistant City Manager, Administrative Services Director, City Attorney, Human Resources Director, Parks Recreation and Cultural Services Director, Planning and Community Development Director or Public Works Director or designee.

**I.J. Domestic Partner**

The individual named in a current, valid Affidavit of Marriage/Domestic Partnership on file with the City's Human Resources Department. The Partnership may be of the same or opposite sex. The Partnership must satisfy the following criteria:

- Partners shall not be part of another Domestic Partnership or marriage,
- Partners shall be mentally competent, 18 years of age or older, not related by blood closer than permitted for marriage under RCW 26.04.020.1a and .2.



- With approval from Human Resources based on an evaluation of employment status including measurement period implications.

**c) 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.

**L.M. 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. Exempt positions are so indicated on the salary table adopted by the City Council.

**M.N. 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.

**N.O. Immediate Family**

Unless defined otherwise in these policies, immediate family is:

- A spouse or domestic partner.
- A child, parent or sibling of the employee, employee's spouse or domestic partner.
  - Child includes adopted, biological, foster, grand, step, child of a legal guardian or a person standing in loco parentis or a de facto parent; regardless of age or dependency status.
  - Parent includes adoptive, biological, foster, grand, step and a person who was a legal guardian or stood in loco parentis or was a de facto parent.
  - Sibling includes adopted, biological, foster, or step.

~~the employee's grandparent, parent, parent-in-law, foster parent, spouse, domestic partner, biological child, adopted child, step child, child of domestic partner, foster child, a legal ward or child of a person standing in loco parentis if the child is younger than 18, grandchild, sister, sister-in-law, brother or brother-in-law.~~

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.)

**Q.P. Insubordination**

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

**P.Q. Intern**

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

**R. In Loco Parentis**

A person who acts in the place of a parent with legal responsibility to take on some of the functions and responsibilities of a parent.

**Q.S. Non-Exempt Employee**

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

**T. Normal Pay**

Pay for scheduled hours of work at 1.0 (one) times the hourly rate of pay.

**R.U. Promotion**

Any case where a regular employee moves on a non-temporary basis to a different position in a higher salary range with the exception of such movement resulting from a compensation study or salary survey.

**V. Separation from Service**

Any case where employment ends through death, retirement, resignation, layoff or otherwise a termination of employment.

**S.W. 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.

**T.X. 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, but adjustments shall be made proportionate to any unpaid time off.

**U.Y. 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.

**V.Z. Transfer**

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

knowledge, skills and abilities and the work responsibilities of the position; the position may be re-posted and made available to external applicants.

**B. Reference Checking**

All requests for information regarding past or present employees shall be directed to the Human Resources Department. Human Resources will then release information stating job title, length of service and eligibility for rehire. If the employee has signed a statement releasing the City from liability, additional information may be given.

**C. Subpoenas and Depositions**

Sometimes an employee may receive a notice that they are being subpoenaed regarding City business, such as being required to give a deposition. If an employee receives such a notice directly, the employee is to immediately notify the City Attorney's office. The City Attorney's office will assist the employee in preparing for the deposition and will accompany the employee to the deposition, providing the appropriate support for the employee during the deposition as provided by court rule and law.

**G.D. Prohibited Political Activities – Code of Ethics, Appendix A**

While all employees have the right to participate in political or partisan activities of their choosing, employees are stewards of the public's trust in matters of City government. Political activity may not adversely affect the responsibilities of employees in their official duties. Because of the sensitive nature of the services in which the City is engaged, the following activities are prohibited:

**1. Use of City Resources, Property, Authority and Influence**

Employees may not campaign on City time or in City uniform or while representing the City in any way. Employees may not allow others to use City facilities or funds for political activities. Employees may not use City authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

**2. Coercion**

Employees may not directly or indirectly coerce, attempt to coerce, or command a state or local officer or employee to pay, lend, or contribute anything of value to any party, committee, organization, agency, or person for political purposes.

**3. Elected Office, Commission or Board Service**

Employees may not serve as an elected official of the City, a member of a City commission, or a member of a City board while an employee of the City.

**4. Conflict of Interest**

If there is a conflict of interest between an employee's elected position outside of the City and their position with the City, the employee must resign from one of the positions.

Violation of any part of this policy may be grounds for disciplinary action, up to and including termination.

A personal day needs to be scheduled by mutual agreement of the employee and the supervisor and may be used for any reason. Non-exempt staff may use these days as normal workdays or in increments of one or more hours (up to the total hours of two normal work days.) Exempt staff must use a full day at a time.

Personal days will be awarded effective January 1 of each year. An employee hired July 1 or later will receive only one personal day in that calendar year. Any personal days not used by the end of the calendar year will be forfeited.

### **3. Holidays for Reason of Faith or Conscience**

Applies to: All Employees

If an employee's religious beliefs include observance of a holiday or leave is needed to attend a religious activity of faith or conscience that is not a City holiday, the employee may take up to two days off per calendar year unless the leave would create an undue hardship for the City as defined in WAC 82-56-020 or a risk to public safety. The leave requires the approval of the Department Director. Regular employees may use a personal day, vacation, compensatory time, or leave without pay, extra help employees may use leave without pay.

## **H. Sick Leave – Regular and Limited Term Employees**

Employees accrue paid time off for sick leave at the rate of eight hours for each month worked. Regular and limited term part-time employees receive prorated sick leave accrual based on the ratio of their normally scheduled work week to a forty hour week. The City Manager is authorized to negotiate starting balances of sick leave with individual staff members.

### **1. Purpose**

The purpose of sick leave is to provide an 'insurance policy' of a bank of paid leave to be used in the event that an employee or immediate family member experiences an illness or disability that requires an employee to be absent from work. Employees who are ill or disabled are expected to use sick leave to recover and to not report to work when they could expose co-workers to illness.

Employees shall use leave to account for any sick leave related absence whether full or partial day unless they have otherwise made up the time in the same work week.

### **2. Use of Sick Leave**

#### **a) Employee**

Sick leave may be used when an employee is ill, injured, disabled (including a disability due to pregnancy or childbirth) or has been exposed to a contagious disease where there is a risk to the health of others, or for medical or dental examinations or treatment when such appointments cannot be scheduled outside of working hours, or when the use of a prescription drug impairs job performance or safety.

#### **b) Immediate Family Members**

Sick leave may be used to care for a member of the immediate family who is ill, injured or disabled. Sick leave may also be used for qualifying Family Leave provided for in the Family Leave section.

**c) Doctor's Note**

After three days of sick leave an employee may be asked to provide a doctor's note or other evidence of inability to work at the discretion of the supervisor or Department Director.

**d) Notification**

Each employee, or someone on their behalf, should inform their supervisor if unable to come to work. This notification should be done each day prior to the scheduled starting time unless on long-term leave, so arrangements can be made to cover the absence.

**3. Conversion of Vacation to Sick Leave**

If an employee on approved vacation is hospitalized or experiences a similar extraordinary sick leave event, the employee may make a written request to the City Manager to convert the sick leave connected time from vacation leave to sick leave. The City Manager shall consider the facts involved and shall approve or deny the request.

**4. Maximum Balance**

The maximum banked balance of sick leave is 1040 hours. Regular and limited term part time employees maximum banked balance will be prorated based on the ratio of their normally scheduled work week to a forty hour week.

**5. Separation from Service**

Upon separation, if an employee is eligible for retirement as defined by the rules and regulations of the Washington State Public Employees Retirement System, an employee shall be paid for 10% of their accrued but unused sick leave.

**6. Rehired**

Employees who are rehired within twelve months of a separation in service shall have their unused sick leave balance restored.

**6.7. On-the-job Injury**

An employee who has an on-the-job injury and receives time loss payments from the Washington Department of Labor and Industries (L & I) may not use sick leave for the same hours for which the employee receives the time loss payment. An employee may use sick leave to supplement the time loss payment for the purpose of continuing to receive his or her normal salary. If sick leave is exhausted, the City will use other available leave to supplement the time loss, unless the employee otherwise notifies Payroll in writing. If an employee is awarded time loss payments for a period that the employee has already used sick leave or other available leave, the employee shall submit the L & I check to Finance and 'buy back' the equivalent amount of leave used. While on time loss, the employee's salary may not exceed the employee's normal salary when not on time loss.

**I. Sick Leave – Extra Help Employees**

This section becomes effective January 1, 2018.

Extra Help employees perform work that is seasonal, variable, intermittent, or part time for a few hours each week; their sick leave benefit is based on actual hours worked.

**1. Accrual and Eligibility to Use Sick Leave**

Employees will accrue one hour of sick leave for every forty hours worked.

Beginning on the ninetieth calendar day after being hired, employees may use accrued sick leave for an illness or disability that requires the employee to be absent from their scheduled work hours. The illness or disability may be their own or that of an immediate family member.

**2. Maximum Carryover**

The maximum unused sick leave that may be carried over from one calendar year to the next is forty hours.

**3. Separation from Service**

Sick leave hours are not cashed out upon separation from service and may not be used to extend employment beyond the last scheduled day of work.

**4. Rehired within Twelve Months**

Employees who are rehired within twelve months shall have their unused sick leave balance restored and will have satisfied their eligibility to use sick leave as required in section one of this policy.

**5. On-the-job Injury**

An employee who has an on-the-job injury and receives time loss payments from the Washington Department of Labor and Industries (L & I) may not use sick leave for the same hours for which the employee receives the time loss payment. An employee may use sick leave to supplement the time loss payment for the purpose of continuing to receive his or her pay for scheduled hours of work. If an employee is awarded time loss payments for a period that the employee has already used sick leave, the employee shall submit the L & I check to Finance and 'buy back' the equivalent amount of sick leave used. While on time loss, the employee's pay may not exceed the employee's normal pay when not on time loss.

**I.J. Donated Leave**

Applies to: Regular and limited term employees.

A Department Director, after consulting with Human Resources, may recommend that the City Manager allow a regular employee to receive donated sick leave from another regular employee. The City Manager may approve the donated leave if he or she finds that the employee meets all of the following criteria.

**1. Criteria**

- a) The employee needs leave that qualifies for sick leave, which is of an extraordinary or severe nature and that has caused, or is likely to cause, the employee to either go on leave without pay or to terminate employment; and
- b) The employee has depleted all of his or her available leave time; and