

Mayor
James Kacsh

Council Members
Kristin Carpenter
Tim Joyce
David Allison
Bret Bradford
EJ Cheshier
David Reggiani
James Burton

Acting City Manager
Moe Zamarron

City Clerk
Susan Bourgeois

Deputy Clerk
Tina Hammer

Student Council

**COUNCIL WORK SESSION
JULY 10, 2013 @ 12:00 PM
LIBRARY MEETING ROOM**

AGENDA

A. CALL TO ORDER

B. ROLL CALL

Mayor James Kacsh, Council members Kristin Carpenter, Tim Joyce, David Allison, Bret Bradford, EJ Cheshier, David Reggiani and James Burton

C. COMMUNICATIONS BY AND PETITIONS FROM VISITORS

1. Audience Comments regarding agenda items

D. WORKSESSION TOPIC

2. Ordinance 1110, Draft Personnel Policies and Procedures Handbook
 - City Manager's report – staff questions in re Handbook..... **(page 1)**
Attorney's answers to staff posed questions..... **(page 2)**
Finance update on cost of code revisions..... **(page 4)**
 - Attorney's overview of what's been done to date in re CMC Title 4 and Handbook
 - Comparison of Section 6 of Handbook and CMC Chapter 4.56..... **(page 5)**

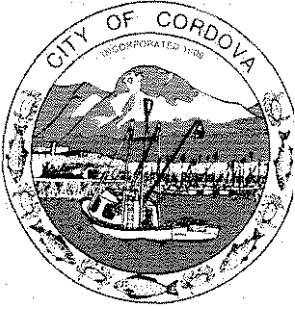
E. AUDIENCE PARTICIPATION

F. COUNCIL COMMENTS

G. ADJOURNMENT

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CITY OF CORDOVA

Office of City Manager

To: Mayor and City Council
From: Moe Zamarron, Acting City Manager
Subject: Title 4 Handbook Review
Date: July 8, 2013

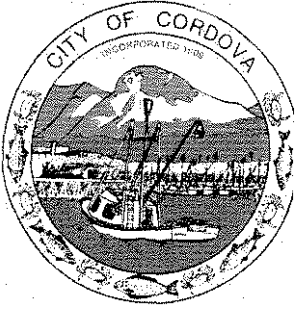
The City staff has held five sessions lasting approximately 60 minutes to review the proposed Personnel Handbook that would replace Title 4 in Code. Lots of questions and concerns have arisen as we've powered through the document, but the most difficult aspect of the process has been the format in which it was received.

Staff continues to meet and review the handbook, but has overall questions to bring forward to Council for their consideration in this work session.

General Questions

- What was the direction to the lawyer for the changes in content between Title 4 and the Employee Handbook?
- Why handbook instead of code? Please explain pros and cons of both.
- How do the CBA (Union) and the Personnel Handbook work? Is this Personnel Handbook just for exempt Staff? In any case does the CBA trump the Personnel Policy or vice versa?
- How do we want to deal with annual leave and sick leave? (Keep it separate, Combine and if combined, how do you handle leave on the books currently?)
- How does Council perceive moving forward with this project? Committee (a few council and a few staff), handing back to staff...?

These questions for Council are meant to identify the expectations of Council as they relate to the finished product and also as they relate to the role of staff throughout the process. A similar set of questions was posed to Amy at Birch Horton. Her response is on the next page.



CITY OF CORDOVA

Office of City Manager

Response from Amy regarding specific questions:

Why handbook instead of code? Pros and cons of both.

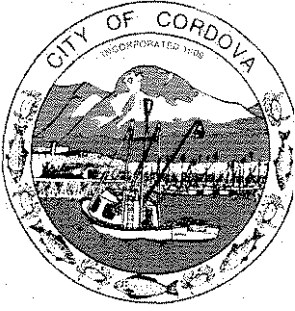
- 1) To understand why a handbook is preferable to a codified personnel regime, requires revisiting the delegation of authority to manage City employees. The City of Cordova has a City Manager form of government. Under such a regime, the City Manager is in essence the executive officer of the City, solely responsible for the management, hiring, firing, and general supervision of City personnel. AS 29.20.500; Section 2-2 of the City Charter. Given this broad delegation of authority to the City Manager, it is unnecessary and cumbersome to require passage by City ordinance of provisions related to human resources management. In addition, the codification creates procedural barriers which leads to a tendency to have the personnel rules governing City employees not to undergo legal review for protracted periods, or to have essential policies adopted external to the Code. This leads to a confusing patchwork of "policies" which are adopted by the City Manager out of legal necessity, which are then maintained as addenda to the Code. It is more beneficial to have a unified handbook to present the City's entire corpus of human resources policies. The goal of the Title 4 rewrite is to modernize the City's approach to human resources policy by adopting the more flexible approach of an employee manual. An employee handbook sets out the basic employment policies that apply in the City's relationships with its employees – hiring, development, compensation, performance standards, discipline, discharge, etc. It sets forth in general terms the rules the City expects employees to follow. There are no cons to adopting a handbook of human resources policies that I am aware of.

How does the CBA and the handbook work?

- 2) The CBA contains negotiated terms which govern the employment of individuals who are collectively bargained workers. The Code/handbook governs the terms and conditions of the at-will employees of the City who are not subject to the CBA. That has not changed. In most cases, it will be advantageous from an administrative standpoint to have the terms of the CBA conform as much as possible to the terms of the Code/handbook. This will have implications for the administration of a number of policies, which is why the initial draft did not stray far from what was already in Code and the CBA. We can discuss any particular concerns.

Why and How did you decided what to move from code to the handbook

- 3) There were several points of reference that governed my review and recommended changes from the Code to the proposed handbook. In order of importance:
 - a. Alter any provisions that are out of conformity to applicable law. There were several of these, most notably regarding leaves of absence and drug/alcohol testing.
 - b. Address provisions inconsistent with the at will relationship, or which purport to convey contractual rights. Provide flexibility and discretion to City Manager, consistent with charter, to address standards of performance, discipline and discharge.
 - c. Add policies that are considered best practices in human resources administration, including anti-harassment, workplace violence, internet, etc.
 - d. Remove language that is antiquated or inconsistent with human resources practices at the City. For example, removal of the language regarding the personnel board was removed.
 - e. Remove language that is not necessary to provide general information regarding employment terms and conditions, or employee's legal and ethical responsibilities. Job descriptions exist to provide detailed information regarding job duties. For example, lists of city manager, city council, city clerk and supervisor duties were simplified or removed.
 - f. Incorporate into the handbook, policies that were developed by the City Manager for human resources administration, such as safety policies, drug and alcohol testing, etc.



CITY OF CORDOVA

Office of City Manager

- What was the direction to the lawyer for the changes in content between Title 4 and the Employee Handbook? I came on board this project with instructions to restate the personnel Code in the form of a unified handbook, incorporate changes in applicable law, correct antiquated/unused provisions, add in “stand alone” policies that have been developed separately from the Code, and make substantive changes advisable from the standpoint of risk management. If council wishes to step back from this holistic approach, it may wish to set some parameters on the restatement of this portion of the Code.
- Why handbook instead of code? Please explain pros and cons of both. See below.
- How do the CBA (Union) and the Personnel Handbook work? Is this Personnel Handbook just for exempt Staff? In any case does the CBA trump the Personnel Policy or vice versa? It does not apply to the collectively bargained workforce to the extent it conflicts with the CBA.
- How do we want to deal with annual leave and sick leave? (Keep it separate, Combine and if combined, how do you handle leave on the books currently?) This is a matter of policy. If you wish to adopt a combined PTO policy, most employers do some kind of conversion for grandfathered employees with current annual/sick leave accruals. Some excessive accrued amounts are sometimes cashed out at the discretion of the employer. Payroll should be involved in discussions about the administrative issues raised by a conversion to PTO, especially given that the collectively bargained workforce will not be governed by a PTO policy unless approved by the union. Eventually, the PTO conversion may be extended to the CBA through the bargaining process.
- How does Council perceive moving forward with this project? Committee (a few council and a few staff), handing back to staff...? A committee might make the process less cumbersome. It would also be worthwhile to have the new City Manager involved in the development of these policies.

MEMO, City of Cordova

To: Mayor and City Council

Through: Moe Zamarron, Acting City Manager

From: Jon K. Stavig, Finance Director

Date: July 8, 2013, 2013

RE: BHB Attorney Fees, Code Revisions

The City has spent \$21,912.78 on code revisions through 6-30-2013. This figure does not include June's statement amount of \$6,185.52. This year's budgeted amount is \$25,000.00.

Respectfully submitted,

Jon K. Stavig

CITY OF CORDOVA
PERSONNEL POLICIES AND PROCEDURES
HANDBOOK - DRAFT

TITLE IV

<p>6. LEAVE POLICIES</p>	<p>Chapter 4.56 LEAVE</p>						
<p>6.1 Paid Annual Leave. Paid Annual Leave is the employee leave program adopted to provide paid time off for rest, relaxation, and personal needs . Paid Annual Leave is earned through service time. Paid Annual Leave covers both vacation and personal time away from work, and includes both scheduled and unscheduled absences. Paid Annual Leave may also be used to cover holiday time off. Paid Annual Leave accrual is capped, in order to encourage employees to take their accrued leave in a prompt and regular manner, as provided below.</p>							
<p>6.1.1 <u>Accrual.</u> Eligible employees accrue Paid Annual Leave each month according to the number of regular hours worked during a month, and years of service. Only regular full-time and part-time employees are eligible for Paid Annual Leave.</p>	<p>4.56.020 Annual leave accrual rate.</p> <p style="padding-left: 40px;">B. Annual leave shall accrue beginning with the date of appointment and shall be based on regular hours of work. Overtime and leave without pay hours will not be included in annual leave calculations.</p> <p style="padding-left: 80px;"><i>(Ord. 685 (part), 1991).</i></p> <p>4.56.060 Leave accrual for temporary employees.</p> <p style="padding-left: 40px;">Temporary employees shall not accrue leave.</p> <p style="padding-left: 80px;"><i>(Ord. 685 (part), 1991).</i></p>						
<p>6.1.2 <u>Rate Schedule.</u></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 33%; padding: 5px;">Length of Service</th> <th style="width: 33%; padding: 5px;">Paid Annual Leave Accrued per Month</th> <th style="width: 33%; padding: 5px;">Paid Annual Leave Accrued</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Length of Service	Paid Annual Leave Accrued per Month	Paid Annual Leave Accrued				<p>4.56.020 Annual leave accrual rate.</p> <p style="padding-left: 20px;">A. The annual leave accrual shall be as follows:</p> <p style="padding-left: 40px;">1. Eight hours per month for zero to two years' service (2.4 weeks/year).</p>
Length of Service	Paid Annual Leave Accrued per Month	Paid Annual Leave Accrued					

<table border="1"> <thead> <tr> <th></th> <th></th> <th>per Year</th> </tr> </thead> <tbody> <tr> <td>0 – up to 2 years</td> <td>8 hours</td> <td>2.4 workweeks</td> </tr> <tr> <td>2 – up to 3 years</td> <td>12 hours</td> <td>3.6 workweeks</td> </tr> <tr> <td>3 – up to 6 years</td> <td>16 hours</td> <td>4.8 workweeks</td> </tr> <tr> <td>6 or more years</td> <td>20 hours</td> <td>6 workweeks</td> </tr> </tbody> </table>			per Year	0 – up to 2 years	8 hours	2.4 workweeks	2 – up to 3 years	12 hours	3.6 workweeks	3 – up to 6 years	16 hours	4.8 workweeks	6 or more years	20 hours	6 workweeks		<p>2. Twelve hours per month for two but less than three years' service (3.6 weeks/year).</p> <p>3. Sixteen hours per month for three but less than six years' service (4.8 weeks/year).</p> <p>4. Twenty hours per month for six years or more service (six weeks/year).</p> <p><i>(Ord. 685 (part), 1991).</i></p>
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<p>Paid Annual Leave does not accrue with respect to overtime hours worked or leave without pay hours.</p>		<p>4.56.020 Annual leave accrual rate.</p> <p>B. Annual leave shall accrue beginning with the date of appointment and shall be based on regular hours of work. Overtime and leave without pay hours will not be included in annual leave calculations.</p> <p><i>(Ord. 685 (part), 1991).</i></p>															
<p>Regular part-time employees shall accrue Paid Annual Leave pro rata, based on the number of hours actually worked each pay period in proportion to the number of full-time regular hours in a pay period.</p>		<p>4.56.050 Computation of leave accrual for permanent part-time employees.</p> <p>Permanent part-time employees shall accrue leave on a proportional basis as full-time employees. Leave shall be computed based on the actual hours worked in proportion to the number of normal duty hours in a pay period.</p> <p><i>(Ord. 712 (part), 1993; Ord. 685 (part), 1991).</i></p>															
<p>Paid Annual Leave accrues during paid leaves of absence, but not during unpaid leaves of absence.</p>		<p>4.56.040 Leave accrual for employees on paid leave.</p> <p>Leave continues to accrue during the period of time an</p>															

	<p>employee is on paid leave. Leave does not accrue during period of leave without pay.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>6.1.3 <u>Use of Paid Annual Leave.</u> To ensure adequate staffing, each Department Head will schedule and approve Paid Annual Leave requests. Leave requests by Department Heads are approved by the City Manager. Each Department Head shall submit a leave request form to the payroll clerk one week prior to the requested leave to ensure the employee has accrued the amount of leave requested. The payroll clerk will review and sign the leave request form and file it with the employee's payroll records.</p>	<p>4.56.030 Administrative procedure.</p> <p>All department heads shall submit a leave request form to the payroll clerk one week prior to granting leave to any employee, including leave for themselves, in order to verify availability of the amount of leave requested. The payroll clerk will initial the leave slip and file it in the employee's payroll records. If the employee requesting leave is a department head, the payroll clerk will submit a copy of the leave slip to the city manager. If the employee does not have sufficient leave accrued, the department head or city manager will be advised immediately.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>The amount of Paid Annual Leave requested plus the amount of any unpaid leave taken may not exceed a total of ten (10) consecutive days in any calendar month.</p>	
<p>The amount Paid Annual Leave may be further limited depending on the needs of each Department and the timing of the request.</p>	<p>4.56.080 Annual leave use.</p> <p>B. Use of Annual Leave. Annual leave may be used for any purpose desired by the employee. Employees shall be allowed to use any amount of accrued leave at the time they desire given that the department head determines their absence will not be detrimental to the operation of the department.</p>

	<p align="center"><i>(Ord. 685 (part), 1991).</i></p>
<p>Employees may not use Paid Annual Leave during their introductory period, except as provided in Section 3.4 of this Handbook.</p>	<p>4.56.080 Annual leave use.</p> <p>A.</p> <p>Timing of Use. Annual leave may be used upon satisfactory completion of probationary period. However, the city manager may grant an employee early annual leave benefits due to extraordinary circumstances.</p> <p align="center"><i>(Ord. 685 (part), 1991).</i></p>
<p>Paid Annual Leave must be accrued before it can be taken. Paid Annual Leave cannot be advanced and an employee cannot draw their Paid Annual Leave bank into a negative balance. If you run out of Paid Annual Leave while on an approved absence, you may be treated as in violation of the City’s attendance policy unless you received advance approval to take unpaid time off. Paid Annual Leave shall be taken in not less than one-hour segments.</p>	
<p>6.1.4 Paid Annual Leave Mandatory Use, Cap and Forfeiture. To encourage employees to schedule and take their Paid Annual Leave on an ongoing basis, the City requires each regular full-time employee to use eighty (80) hours of Paid Annual Leave within each twelve (12) month period after the anniversary date of their successful completion of the introductory period. This mandatory use requirement is pro-rated for regular part-time employees.</p>	<p>4.56.080 Annual leave use.</p> <p>C. Amount of Annual Leave That Must Be Taken Yearly. At least eighty hours of annual leave must be used each calendar year after the first anniversary date and every anniversary date thereafter. It is the responsibility of the department head to insure that work planning is so scheduled that each employee has the opportunity to use their leave at a time that most nearly meets their desires.</p> <p align="center"><i>(Ord. 685 (part), 1991).</i></p>

<p>The City caps Paid Annual Leave accrual at 240 hours. Paid Annual Leave amounts accrued beyond 240 will be forfeited.</p>	<p>4.56.070 Maximum of two hundred forty hours that can be accumulated.</p> <p>The maximum annual leave that may be accumulated is two hundred forty hours, and leave accumulated in excess of this amount at December 31st of each year will be written off unless an additional carry over is authorized by the city manager due to unusual circumstances as specified in Section 4.56.090 of this title.</p> <p><i>(Ord. 685 (part), 1991).</i></p> <p>4.56.090 Exceptions.</p> <p>A. Whenever, in the opinion of the city manager, or designee, it is not feasible nor in the best interest of the city service to grant earned leave to an employee, such employee shall not lose bona fide earned annual leave but shall receive a suspension of the limitation of accrued leave accumulation. The city manager shall decide the future expenditure of such leave.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>6.1.5 <u>Paid Annual Leave Upon Termination.</u> Paid Annual Leave shall be paid out in a lump sum upon termination of employment for any reason, at the current rate of pay of the employee at the time of separation.</p>	<p>4.56.110 Separation leave.</p> <p>Upon separation, during the initial probationary period, annual leave shall not be granted nor paid to the employee. In other separations, accrued leave shall be paid in a lump sum. The salary or hourly rate(s) to be used in computing the cash payment shall be that rate which was received by the employee during the current period.</p> <p><i>(Ord. 685 (part), 1991).</i></p>

<p>Under no other circumstances shall a City employee be permitted to receive a cash-out of accrued Paid Annual Leave.</p>	<p>4.56.090 Exceptions.</p> <p>A. Whenever, in the opinion of the department head and city manager, it is not feasible nor in the best interests of the city service to suspend the annual leave accumulation limits, the city manager may authorize cash in lieu of leave not to exceed twenty working days in any fiscal year.</p> <p><i>(Ord. 685 (part), 1991).</i></p> <p>4.56.100 Annual leave cash-in possibilities.</p> <p>In addition to the provision in Section 4.56.090 B of this chapter, cash in lieu of accrued annual leave may be obtained under emergency conditions outlined in writing and approved by the city manager. Emergency is defined as a critical situation over which the employee has no control.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>6.1.6 <u>Donated Leave.</u> Employees may donate Paid Annual Leave or Sick Leave to another employee who has exhausted such leave benefits due to serious catastrophic medical issues or similar extraordinary circumstances. All leave donation requests will be reviewed and approved in the sole discretion of the City Manager. Leave donations to any single employee shall be capped at twenty (20) days per calendar year. Employees may donate up to a total of 20 hours of combined Paid Annual Leave and/or Sick Leave annually to other City employees. Each employee donating Paid Annual Leave and/or sick Leave must retain at least 80 hours combined in his/her Paid Annual Leave and Sick Leave banks. All donations will remain anonymous. Employees are prohibited from lobbying for leave donations. The value of donated leave is converted on a dollar for dollar basis, not hour for hour. For example, if your hourly rate is \$10.00 per hour and you donate one hour of leave to someone who makes \$20.00 per hour, that employee will receive one half (1/2) hour of leave. Likewise, if a co-worker makes \$20.00 per hour and donates one hour of leave to you, you will receive</p>	<p>4.56.250 Medical leave bank.</p> <p>An employee may voluntarily donate unused sick leave he or she has accrued to another city employee who is seriously ill or injured, requires absence from work for more than twenty consecutive days, has exhausted all his or her annual and sick leave, and is under the care of a physician. The city manager must approve the use of such sick leave.</p> <p><i>(Ord. 685 (part), 1991).</i></p>

<p>two (2) hours of leave. Cash-in of donated leave is not allowed, and donated leave will not be paid out to the receiving employee upon termination of employment for any reason.</p>	
<p>6.2 Sick Leave.</p> <p>6.2.1 <u>Accrual of Sick Leave.</u> Regular full-time and regular part-time employees shall be granted paid Sick Leave during periods of absence due to injuries, illness, or for medical or dental appointments. Sick Leave accrues at the rate of fifteen (15) days per year, regardless of length of service. An employee may use Paid Annual Leave for absences due to illnesses and injuries when s/he has exhausted his/her accrued Sick Leave.</p>	<p>4.56.200 Medical leave accrual.</p> <p>Medical leave accrues separately from annual leave on an annual basis at the rate of fifteen days per year. Regular annual leave may always be used as sick leave when the sick leave account balance is zero.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>6.2.2 <u>Requesting Sick Leave.</u> An employee can request Sick Leave by informing his/her supervisor as soon as possible concerning the need for the absence. Failure to provide reasonable notice may result in disciplinary action. Absences of longer than three (3) days will require certification by a health care provider.</p>	
	<p>4.56.190 Medical leave with pay.</p> <p>A. Leave With Pay. Regular full-time and regular part-time employees shall be granted paid leave during periods of approved requested leave to be paid out of accrued annual and sick leaves.</p> <p>B. Leave Without Pay. A medical leave without pay may be granted after all sick and annual leave has been used with approval of the city manager to an employee, upon recommendations from the treating physician with information on the nature of the disability and an estimated date when the employee will be able to return to employment. Medical leave without pay shall be granted only after sick and annual leave has been exhausted and may not exceed three</p>

	<p>months. If medical leave without pay continues beyond three months and the employee has not returned to work, employment will be terminated.</p> <p>C. Return to Work. Upon return to work with the written approval of the attending physician the employee will be restored to the previous departmental classification without loss of seniority if the employee returns within the approved period of time not to exceed three months. This leave shall be charged to sick leave while employee is in the hospital or other sick days due to complications after hospitalization as verified by physician. All other time will be charged to annual leave and then to leave without pay for the balance of the disability period.</p> <p><i>(Ord. 729 § 3(3), 1994; Ord. 685 (part), 1991).</i></p>
<p>6.2.3 <u>Limited Cash-Out of Sick Leave.</u> Upon termination of employment under favorable terms and completion of five consecutive years of service, fifty percent of the Sick Leave bank accrued up to a total of five hundred twenty (520) shall be paid in a lump sum to the employee upon separation at the employee’s current rate of pay.</p>	<p>4.56.200 Medical leave accrual.</p> <p>As an incentive for the employee to keep himself or herself physically well and to promote employee longevity, sick leave may be cashed-in on the following basis:</p> <p>Upon separation under favorable terms and completion of five years service, fifty percent of the sick leave balance accrued (up to a total of five hundred twenty hours) can be cashed in for pay at the employee’s current rate of pay. This cash-in pay is subject to all taxation and contributions required of all payroll compensation.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>6.2.4 <u>Sick Leave to Supplement Workers’ Compensation.</u> An employee receiving Workers</p>	<p>4.56.230 Use of medical leave.</p>

<p>Compensation wage replacement benefits shall be required to take accrued Paid Annual Leave and Sick Leave to make up the difference between Workers Compensation wage replacement benefits paid to the employee and the employee's normal wage. The employee's normal wage shall be the employee's hourly rate of pay, without regard to the payment of overtime, during the last full week of employment before the date of the employee's injury. After all accrued Paid Annual Leave and Sick Leave is exhausted, the employee will receive only Workers Compensation wage replacement benefits.</p>	<p>B. Sick Leave to Supplement Worker's Compensation. The employee may use sick and annual leave or a combination thereof to supplement worker's compensation payments to the extent that the employee receive no more than one hundred percent of the employee's current take-home pay. While on annual and sick leave, the employee would retain his or her worker's compensation and all fringe benefits. After all annual and sick leave has expired, the employee will receive only worker's compensation benefits. Should the employee exhaust all annual leave, sick leave and worker's compensation leave, the department head and city manager may grant the employee leave without pay. (See Section 4.56.150). This situation may remain in effect until a doctor's statement is submitted to the city advising that the employee is physically fit and capable to perform the full duties of the position.</p> <p><i>(Ord. 729 § 3(4), 1994; Ord. 712 § 30, 1993; Ord. 685 (part), 1991).</i></p>
<p>6.3 Family & Medical Leave. The City employees are entitled to receive up to twelve weeks time away from work within a twelve-month period to attend to specified family and medical needs under a federal law known as the Family Medical Leave Act ("FMLA"). Concurrently, the City employees are eligible to eighteen weeks time away from work within a twelve-month period because of pregnancy, childbirth or adoption, and up to eighteen weeks time away from work within a twenty four month period to attend to specified family and medical needs under state statutes AS 23.10.500 through AS 23.10.550 ("State FMLA"). The eighteen and twelve week periods run concurrently with FMLA leave periods for the same condition.</p> <p>6.3.1 <u>Eligibility For Leave.</u> To be eligible for State FMLA leave an employee must have worked for the City for at least 35 hours for six consecutive months or 17.5 hours for twelve consecutive months. The rolling backward method applies as well. Under this method, an employee will not be eligible for family medical leave if the employee has taken eighteen</p>	<p>4.56.230 Use of medical leave.</p> <p>D. Leave Without Pay. Leave without pay shall be granted in accordance with the Federal Family and Medical Leave Act (FMLA) and pursuant to the following additional terms:</p> <ol style="list-style-type: none"> 1. An employee requesting unpaid FMLA leave must give thirty days advance notice to his/her need to take such leave, and must state the reason for requesting such leave. If it is not reasonable or practicable, under the circumstances, for the employee to provide such advance notice, then the employee must notify his/her supervisor as soon as practicable of the need to take unpaid FMLA leave.

weeks of family and medical leave in the twelve calendar months (or twenty four months, if appropriate) immediately preceding each day of leave requested.

6.3.2 Reasons Eligible Employees May Be Granted FMLA or State FMLA

A. Birth or Placement of a Child. Eligible employees may request a leave of absence to provide care for a child following the child's birth, adoption, or foster placement in the employee's home. This leave must be taken within a year after the child is born, adopted or placed in the employee's home. Where both the mother and father of a newborn, adopted or foster child are eligible employees of the City, they are jointly entitled to a total of eighteen weeks of unpaid FMLA and State FMLA leave to care for the child. The eighteen weeks may be divided between them as they agree.

B. Illness of a Family Member. Eligible employees may request a leave of absence to provide care for a child, parent or spouse who has a serious health condition.

C. Illness of an Employee. Eligible employees may also request a leave of absence if they are unable to work due to their own serious health condition.

6.3.3 Military Family Leave. Leave is also available under FMLA and allows for up to 26 weeks of unpaid leave during a single 12-month period for an employee to care for an injured/ill servicemember who is recovering from an illness or injury sustained in the line of duty on active duty. The service member must be the spouse, son, daughter, parent or next of kin of the covered servicemember. The City requires that you use your paid leave (Paid Annual Leave) for Military Family Leave. Certain Exigency Leave is available for the spouse, son, daughter, or parent of an employee who is on active duty or has been notified of an impending call to active duty status, in support of a contingency operation. In such cases, up to 12 weeks of leave may be available. Please see the Human Resources Administrator for further information on these types of leave or review the FMLA rights poster on the bulletin board.

6.3.4 When Medical Certification Is Required.

2. An employee requesting unpaid FMLA leave must (a) complete the "Employee Application for FMLA" form; (b) have a qualified health care provider complete the "Certification of Physician or Health Practitioner" form; and (c) submit both forms to his/her supervisor within fifteen calendar days of informing his/her supervisor of the need for such leave. However, if it is not practicable, under the circumstances, to submit the completed forms within such time, then completed forms shall be submitted as soon as practicable.
3. If an employee is granted a request for unpaid FMLA leave for reasons of birth or because of placement of a child for adoption or foster care, then the employee must take such leave in a single block of time.
4. If an employee is granted a request for FMLA leave for any reason, then accrued paid vacation or personal leave to which the employee is entitled must be submitted. Accrued paid family leave must be substituted when FMLA leave is taken because of birth, placement of a child for adoption or foster care, or to care for a spouse, child or parent with a serious health condition. Accrued paid medical or sick leave must be substituted when FMLA leave is taken because of the serious health condition of the employee or of the employee's spouse, child or parent. Accrued paid leave which the employee must substitute will be counted against the employee's twelve-week entitlement to FMLA leave.
5. If an employee takes FMLA leave because of the employee's own serious health condition, then the employee must obtain certification from a health care provider that the

Employees may be required to provide a medical certification (on a form supplied by the City) supporting the need for leave due to a serious health condition affecting the employee or a family member. If the employee is taking leave on an intermittent or reduced work schedule basis, then the medical certification should indicate that such a leave schedule is medically necessary. Where requested, the medical certificate must be received by the City prior to the commencement of leave. However, if the need for leave was unforeseen, the City should receive the medical certification no later than fifteen calendar days from the date the employee requests leave. Employees may be required to provide second or third medical opinions or periodic recertifications at the City's expense. Employees may be required to provide periodic reports during leave regarding their status and intent to return to work. Prior to returning to work from leave due to his or her own serious health condition, an employee must provide the City with a fitness for duty certification from the employee's health care provider stating that the employee is able to perform the essential functions of the employee's position. If an employee who is required to provide such a certification fails to do so, the City will not restore the employee to employment until such a certification is provided.

6.3.5 Compensation. FMLA leave is unpaid, however, the City requires employees eligible for FMLA or Military Family Leave to exhaust their accumulated Paid Annual Leave. The City has no obligation to pay you more than any accumulated Paid Annual Leave, which must be used at the beginning of your leave (Paid time off is counted as part of the FMLA/State Leave entitlement, not in addition to it). Paid Annual Leave time does not accrue during an unpaid leave. Paid holidays are counted as part of the FMLA leave and do not serve to "extend" the leave when taking into account the holiday time. If you run out of paid time off while on FMLA and a holiday falls in the time in which you are on unpaid leave, you will not be paid for that holiday. Where appropriate, the City will coordinate an employee's workers' compensation leave with FMLA/State FMLA leave so that the two run concurrently. FMLA/State FMLA leave shall run concurrently with any other qualifying leave.

6.3.6 Benefits Continuation.

A. Group Health Benefits. Employees may continue their the City group health insurance coverage during family or medical leave on the same terms as before such leave. If the employee elects

employee is able to resume work. Such certification will only be required as to the health condition that caused the need for FMLA leave and need only be a simple statement of the employee's ability to return to work. The employee must present such certification to his/her supervisor before he or she will be allowed to return to work.

(Ord. 729 § 3(4), 1994; Ord. 712 § 30, 1993; Ord. 685 (part), 1991).

to continue group health coverage, the employee will be required to pay the City the employee's portion of the insurance premium. Payment will be automatically deducted from the employee's paycheck while on paid leave. When paid leave is exhausted, the employee is responsible for contacting the Payroll Office regarding the options available to them to pay for continued health insurance during the unpaid portion of their FMLA leave. The City may recover from an employee its portion of the premiums paid to maintain an employee's health insurance coverage during leave if the employee: (1) fails to return to work after the employee's leave entitlement has expired or (2) fails to work at least thirty days after returning from leave. The City may not recover its premiums paid on behalf of the employee if the employee's failure to return to work is due to (1) the continuation, recurrence, or onset of a serious health condition or (2) other circumstances beyond the employee's control. An employee who fails to return from leave will be deemed to have terminated employment voluntarily and may be entitled to elect COBRA continuation coverage of the City's group health benefits.

B. Life Insurance. An employee who is on unpaid FMLA leave may continue his or her life insurance by paying the full premium cost for coverage. Such employees should consult the Payroll Office regarding the options available to them to pay for continued life insurance.

6.3.7 Job Restoration. Upon returning from FMLA leave, an employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee would have been entitled to had the employee not taken leave

6.3.8 Key Employees. Upon requesting FMLA/State FMLA leave, the City will inform the employee if the employee is considered a key employee. The City may inform a key employee while the employee is on FMLA/State FMLA leave that if the employee does not return to work immediately the City will suffer substantial and grievous economic harm. The City will offer the key employee a reasonable opportunity to return to work after giving this notice. The City may deny job restoration to the key employee if the employee does not return to work after receiving such notice. The key employee will then be permanently replaced with no right of job restoration.

6.3.9 Fitness for Duty. Employees on FMLA leave must notify the City at least two weeks prior to the end of the leave of their availability and capacity to return to work. The City requires medical certification of fitness to return to duty before an employee will be permitted to return to work. An employee's failure to return from leave, or failure to contact the City on the scheduled date of return, are grounds for termination.

6.3.10 Employee Notice. Eligible employees seeking to use FMLA leave are required to provide:

- 30-day advance notice of the need to take FMLA leave when the need is foreseeable;
- Notice “as soon as practicable” when the need to take FMLA leave is not foreseeable. Except in the most extraordinary circumstances, this requires you to report your need for FMLA leave before the start of your shift in accordance with the normal absence-reporting procedures;
- Sufficient information for the City to understand that the employee needs leave for FMLA-qualifying reasons (the employee need not mention FMLA when requesting leave to meet this requirement but must provide sufficient information to put the City on notice that the absence may be FMLA-protected); and
- Where the City was not made aware that an employee was absent for FMLA reasons, leave will be retroactively designated as FMLA leave.

6.3.11 Employer Notice. In addition to the information provided in this Handbook, the City has taken the following steps to provide information to employees about FMLA:

- Posted a notice explaining your rights and responsibilities under FMLA-see the Notice of Rights Under FMLA on the bulletin board in the

Human Resources area;

- Provided a written notice designating the leave as FMLA leave and detailing specific expectations and obligations of an employee who is exercising his/her FMLA entitlements within five business days after we have received the notice of need for leave. If your leave is not FMLA-protected, the notice will inform you of the reason.

- Provided you a notice of eligibility, informing you whether or not the leave you are resting qualified under FMLA. Employees on worker's compensation leave will also be placed on FMLA leave, to the extent the employee is eligible and the absence qualifies under both laws. In such cases, the two types of leave will run simultaneously.

6.3.12 Definitions.

A. Child. Anyone under 18 years who is the employee's biological, adopted, or foster child, stepchild, legal ward, or an adult legally dependent child. This may also include a child for whom the employee has day-to-day responsibility.

B. Continuing Treatment. One or more of the following:

- treatment two or more times by a health care provider. Normally this would require visits to the health care provider or to a nurse or physician's assistant under direct supervision of the health care provider.

- treatment two or more times by a provider of health care services (for example, a physical therapist) under orders of, or on referral by, a health care provider, or treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (for example, a

course of medication or therapy) to resolve the condition.

- continuing supervision of, but not necessarily active treatment by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured (for example, Alzheimer's, a severe stroke, or the terminal stage of a disease).

C. Health Care Provider.

- a doctor of medicine or osteopathy authorized to practice medicine or surgery by the state;

- a podiatrist, physician's assistant, dentist, clinical psychologist, optometrist or chiropractor (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of that practice, under state law;

- a nurse practitioner or nurse-midwife authorized to practice, and performing within the scope of that practice, as defined under state law; or

- a Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts.

D. Key Employee. A salaried employee who is among the highest paid ten percent of the City's employees.

E. Parent. Biological, foster or adoptive parents, stepparents, legal guardians, or someone who plays or has played the role of parent, but does not include parents-in-law.

F. Serious Health Condition. An illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;

<ul style="list-style-type: none"> • any period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves either: (i) two in-person visits with a health care provider within seven days of the onset of leave and within a thirty day period thereafter, or (ii) one in-person visit with a health care provider within seven days of the onset of leave and with a regimen of continuing treatment by or under the supervision of, a health care provider; • continuing treatment of at least two visits per year by or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or • prenatal care. <p>G. <u>Spouse</u>. A legal marital relationship under applicable state law.</p>	
<p>6.4 Bereavement Leave. When death occurs in a regular full-time employee’s immediate family, s/he shall be eligible for up to five (5) days of bereavement leave with regular pay. For purposes of this bereavement leave policy, “immediate family” shall mean: spouses, parents (including in-laws and step), children (including adopted, step or foster), siblings (including in-laws and step), grandparents, and grandchildren.</p>	<p>4.56.240 Death in immediate family.</p> <p>A full-time employee is eligible for bereavement leave, not to exceed five days, upon the death of members of his or her immediate family (family members shall be described as follows: parents-in-laws, spouse, father, mother, siblings (brother, sister), children (son, daughter, step-children), step-parents, and grand-parents). Bereavement leave will not be deducted from any chargeable leave account.</p> <p><i>(Ord. 712 (part), 1993; Ord. 685 (part), 1991).</i></p>
<p>6.5 Uniformed Service Leave. A uniformed service leave of absence will be granted to the City employees in accordance with federal and state law. Eligible employees are those called to serve in the uniformed services who have not had more than 5 years of total absence from the City for</p>	<p>4.56.130 Military leave.</p> <p>Any full-time employee participating as a member of a</p>

all uniformed service.

6.5.1 Giving of Notice. Employees must provide as much advance notice of uniformed service as possible. Notice may be given either orally or in writing to the Human Resources Division. Employees will be required to provide copies of military orders or other documents to validate the need for leave.

6.5.2 Length of Leave. The duration of any single uniformed service leave may not exceed six months in a 12 month period. Additionally, an employee may not receive a total amount of uniformed service leave from the City that exceeds five (5) years of cumulative uniformed service leave. An employee who exceeds 6 months of uniformed service leave in a 12 month period will be terminated with eligibility for rehire, but will retain reemployment rights as described below so long as their cumulative uniformed service leave from the City does not exceed five years. All periods of uniformed service leave taken in a twelve month period from October 1 of each year to September 30 of the following year will be included in calculating the total military leave used, including, but not limited to, weekend training exercises.

6.5.3 Return to Work. An employee serving from 1 to 30 days must report to his/her supervisor by the beginning of the first regularly scheduled work day that would fall eight hours after the employee returns home from uniformed service. Uniformed service includes reasonable time for travel to and from the place of service. An employee whose uniformed service lasts from 31 to 180 days must make application for reemployment no later than 14 days after completion of the period of uniformed service. An employee whose uniformed service lasts more than 180 days must make application for reemployment no later than 90 days after completion of the period of uniformed service. Employees returning from service will be required to provide satisfactory documentation: (1) of their period of service, (2) of the timeliness of their application for reemployment, (3) that their service did not exceed the 5 year limit, and (4) that the character of their service was honorable.

6.5.4 Reemployment Position. An employee serving from 1 to 90 days will be reemployed in the position the employee would have held had the employee remained continuously employed, so long as the employee is qualified for the position or can become qualified after

United States reserve component, either in active military duty or in training, is authorized up to ten working days leave for such purpose in the case of the employee who has completed probationary service. The city manager will be provided with a copy of the individual's orders to duty. The absence will be recorded, during the first ten working days, as administrative leave without charge to annual leave. During such leave, the city will pay the difference between the amount paid by the military, excluding allowances, and the sum the employee would have received for city work during the same period at the regular rate.

(Ord. 712 (part), 1993; Ord. 685 (part), 1991).

reasonable efforts. An employee serving 91 days or more will be reemployed in (1) the position the employee would have held had the employee been continuously employed, or (2) a position of equivalent status and pay, so long as the employee is qualified for the position or can become qualified after reasonable efforts. If the employee cannot become qualified, the employee will be reemployed in any other position of lesser status and pay that the employee is qualified to perform with full service credit.

6.5.5 Nondiscrimination. No one may discriminate against any employee who is called to serve in the uniformed services. The City prohibits acts of reprisal against returning uniformed service members and those who would testify to discrimination against a uniformed service member. If you are the victim of discrimination on the basis of your uniformed service, you are requested and encouraged to make a complaint to the City. You may complain directly to your Department Manager, the Human Resources Administrator, or the City Manager. The City will promptly and thoroughly investigate any complaint or report of a violation of this policy.

6.5.6 Benefits Continuation During Uniformed Service Leaves

A. Group Health Plan. Employees who experience a loss of coverage under the City's group health plan due to uniformed service may elect to continue such coverage. The maximum period of continuation coverage of the employee and the employee's dependants shall be the lesser of (1) the 18 month period beginning on the date on which the employee's absence begins, or (2) the day after the date on which the employee fails to apply for or return to a position of employment within the time periods specified above. Employees may continue coverage under the City's group health plan regardless of the employee's eligibility for military health care coverage (CHAMPUS/TriCare). Employees serving for 1-30 days may continue health coverage and pay only the employee share of coverage. An employee serving for 31 or more days will be required to pay 102 percent of the full premium under the City's group health plan. An employee whose health coverage terminated due to uniformed services is not required to complete a waiting period for reinstatement to the City's group health plan following reemployment.

B. Other Benefits. An employee on military

<p>leave may continue other benefits under the same terms as under any other leave of absence. An employee who returns to employment as specified above, will be reinstated to such other benefits without waiting for an open enrollment period.</p> <p>6.5.7 <u>Compensation.</u> Employees may take paid leave for up to 16.5 working days per twelve month period for training, instruction, and search and rescue in the U.S. armed forces reserves provided that the employee obtains the approval of the Human Resources Administrator. In addition, five days of paid time off are provided to employees called to active duty by the governor. In all other cases, military leave is unpaid. Employees are permitted, but not required, to run accrued paid time off concurrently with unpaid uniformed service leave.</p>	
<p>6.6 <u>Jury and Witness Leave.</u> Regular full-time and part-time City employees shall receive paid leave for purposes of jury duty; or service in court, before an arbitrator, or before another government panel as witness on behalf of the City. The employee shall provide the Department Head with a copy of the court summons or subpoena, and documentation of the requirement of his/her service for the hours claimed. Fees paid by the court other than those for an employee's appearance at anytime outside the employee's regularly scheduled shift, for travel, parking and subsistence allowance, shall be turned in for deposit in the City's general fund. Witness service for any other purpose must be taken as Paid Annual Leave or unpaid, and any fees received for such witness service may be retained by the employee.</p>	<p>4.56.140 Jury leave.</p> <p>Jury duty shall be treated as approved leave, without loss of annual leave or pay. Service in court when subpoenaed as witness on behalf of the city, or when called as an expert on a matter of city concern or relating to a municipal function, will be treated the same as jury duty. In order to be entitled to jury leave, the employee shall provide the department head with written proof of the requirement of his or her presence for the hours claimed. Fees paid by the court other than those for an employee's appearance at anytime outside the employee's regularly scheduled shift, for travel, parking and subsistence allowance, shall be turned in for deposit in the city's general fund. Witness service for the purposes other than just described will be covered by annual leave, or leave without pay, and any fees received in this connection may be retained by the individual.</p> <p><i>(Ord. 685 (part), 1991).</i></p>

<p>6.7 <u>Voting Leave.</u> The City encourages employees to fulfill their civic responsibilities by participating in elections. Generally, employees are able to find time to vote either before or after their regular work schedule. If employees are unable to vote in an election during their non-working hours, the City will grant up to two hours of paid time off to vote. If any employee has two consecutive hours in which to vote, either between the opening of the polls and the beginning of the employee's regular working shift, or between the end of the regular working shift and the closing of the polls, the employee shall be considered to have sufficient time outside working hours within which to vote and will not be entitled to paid time off to vote. If unable to find time to vote before or after regular work schedules, employees should request time off to vote from their supervisor at least two working days prior to the election day. Advance notice is requested so that necessary time off can be scheduled at the beginning or end of the work shift; whichever provides the least disruption to the normal work schedule.</p>	
<p>6.8 <u>Leave without Pay.</u> Leave without pay may be granted to an employee upon recommendation of the Department Head and approve of the City Manager, for extraordinary medical or personal needs. Each request for such leave shall be considered in the light of the circumstances involved and the needs of the department. Leave without pay shall not be requested nor granted until the affected employee has used and exhausted all accrued Paid Annual Leave and Sick leave. The City Manager may grant up to three months leave without pay in any calendar year. Unauthorized leave. Any absence not authorized and approved in accordance with provisions of this Handbook shall be grounds for disciplinary action.</p>	<p>4.56.150 Leave without pay.</p> <p>Purpose and Conditions. Leave without pay may be granted to an employee upon recommendation of the department head and approval of the city manager. Each request for such leave shall be considered in the light of the circumstances involved and the needs of the department. Leave without pay shall not be requested nor granted until such time as all accrued annual leave has been exhausted, except when an employee is absent and drawing worker's compensation pay. The city manager and department head may grant no more than ten consecutive working days' leave without pay. Additional leave without pay may be granted only upon approval of the city council.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
<p>6.9 <u>Educational Support and Leave.</u> Leave for education purposes, when the time spent is not work time, must be pre-approved by the City Manager or taken as Paid Annual Leave.</p>	<p>4.56.180 Education leave with or without pay.</p> <p>Leave with or without pay, not to exceed three months may</p>

	<p>be authorized for employees to complete advance training programs.</p> <p><i>(Ord. 685 (part), 1991).</i></p>
	<p>4.56.080 Annual leave use.</p> <p>B.</p> <p>Use of Annual Leave. Annual leave may be used for any purpose desired by the employee. Employees shall be allowed to use any amount of accrued leave at the time they desire given that the department head determines their absence will not be detrimental to the operation of the department.</p> <p><i>(Ord. 685 (part), 1991).</i></p> <p>4.56.010 Annual leave entitlement.</p> <p>Full-time and permanent part-time employees shall be entitled to leave accrual benefits except during the period when leave without pay exceeds ten consecutive work days in any calendar year. Temporary employees are not entitled to accrue leave.</p> <p><i>(Ord. 685 (part), 1991).</i></p> <p>4.56.120 Reinstated employee leave.</p> <p>Reinstated employees hired within two years of termination who have had at least one year of total service, and who have successfully completed their probationary period in previous service, shall be permitted to use their accrued leave as it accrues.</p> <p><i>(Ord. 685 (part), 1991).</i></p>

4.56.170 Unauthorized leave.

Any absence not authorized and approved in accordance with provisions of these regulations shall be without pay for the period of absence and shall be grounds for disciplinary action.

(Ord. 685 (part), 1991).

4.56.160 Change of anniversary date because of leave without pay.

If an employee uses more than thirty calendar days of leave without pay during the leave year the anniversary date shall be advanced by the number of days such leave without pay exceeds thirty.

(Ord. 685 (part), 1991).

4.56.210 Purpose of medical leave.

Accumulation of sick leave is allowed primarily for the purpose of providing an employee with an economic cushion to be used in event of the employee's illness or quarantine. However, it may also be used for other purposes as set forth in Sections [4.56.230](#) and [4.56.240](#) of this chapter.

(Ord. 685 (part), 1991).

4.56.220 Use of leave during probationary period.

Accrued sick leave may be used for sick leave purposes during the probationary period.

(Ord. 685 (part), 1991).

4.56.230 Use of medical leave.

A.

Sick Leave. An employee may use accrued sick leave for absence due to illness, injury, exposure to contagious disease or due to illness or death in the employee's immediate family requiring the employee's personal attendance. Doctor or dental appointments shall be included as cause for sick leave. An employee who is absent shall inform his or her immediate supervisor of the fact and reason therefore as soon as possible, and failure to do so within a reasonable time may be cause for disciplinary action. Extended absence on sick leave, three or more consecutive work days due to illness, hospitalization, medical observation, or treatment may be required to be certified by a physician, surgeon, psychiatrist, dentist or other such licensed professional person.

C.

Worker's Compensation Procedures. There will be in effect worker's compensation procedures. These procedures will outline and address specific steps that will be taken by the city, supervisor and employee with each worker's compensation claim that is filed. These procedures will be posted at each employee's worksite and made available to each employee when a claim is filed.

(Ord. 729 § 3(4), 1994; Ord. 712 § 30, 1993; Ord. 685 (part), 1991).