

RESOLUTION NO. 576

A RESOLUTION UPDATING THE CITY OF STAYTON PERSONNEL MANUAL TO COMPLY WITH CURRENT STATE OF OREGON AND FEDERAL LABOR LAWS.

WHEREAS, the "City of Stayton Personnel Manual," adopted by Resolution No. 428 in July 1990, establishes policies and procedures for the administration of city staff; and

WHEREAS, the personnel manual must be periodically amended and revised to stay current with state and federal labor laws;

NOW, THEREFORE, be it resolved by the Stayton City Council, that the City of Stayton Personnel Manual shall be revised as follows:

SECTION 1: That the City of Stayton Personnel Manual, section 5.11, is revised to read:

5.11 SEPARATION PAY

A regular employee terminating employment with the city will be paid any earned and unpaid wages then due for work hours, earned vacation which the employee is eligible to take off, and compensatory time, which shall be paid at the employee's hourly rate (hereafter "pay upon separation"). An employee who is involuntarily terminated will be paid no later than the end of the first business day after a discharge or termination. If an employee resigns and fails to give at least forty-eight (48) hours' advance notice prior to quitting city employment, pay upon separation shall be paid within forty-eight (48) hours of the termination excluding weekdays and holidays.

SECTION 2: That the City of Stayton Personnel Manual, section 6.3.1, is revised to read:

6.3.1 **Accrual:** In order to minimize the economic hardships that may result from an unexpected short-term personal or dependent illness or injury, the city provides regular full-time employees with eight (8) hours of accumulated sick leave per month.

SECTION 3: That the Stayton Personnel Manual, section 6.3.4c, is revised to read:

- 6.3.4c Illness in the employee's immediate family when the employee is needed to care for a dependent living in the employee's household.

SECTION 4: That the City of Stayton Personnel Manual, section 6.3.6, is revised to read:

- 6.3.6 **Notification of Inability to Work:** Employees who are unable to report to work due to personal or dependent illness or injury must contact the immediate supervisor on or before scheduled starting time. If an employee becomes sick during the day, the supervisor or designee must be notified before the employee leaves work. When sick leave is taken to care for a dependent, the city expects that other care arrangements will be made as soon as possible, except where leave for dependent care purposes is provided for by family leave laws and employee is eligible for such leave. The employee must comply with the notice requirements under family leave laws, which may provide for later notification of inability to work than is otherwise required by this policy if the need for the leave is unanticipated.

SECTION 5: That City of Stayton Personnel Manual, section 6.3.8, is revised to read:

- 6.3.8 Unused sick leave benefits accumulate from year to year.

SECTION 6: That City of Stayton Personnel Manual, Section 6.3.10, is revised to read:

- 6.3.10 Employees are not paid for unused sick leave upon employment termination.

SECTION 7: That City of Stayton Personnel Manual, section 6.3.11, is added to read:

- 6.3.11 **Concurrent Leaves:** Sometimes more than one type of leave may apply to a situation. Where allowed by federal or state law, leaves will run concurrently. This means that sick leave, workers' compensation leave, personal leave, leave as a reasonable accommodation for a qualified individual with a disability, federal family medical leave and state family leave, unpaid leaves of absence, may all run concurrently and be counted against the employee's family medical leave entitlement. The city may designate any type of leave as family medical leave if the leave is used for a family medical leave purpose.

SECTION 8: That City of Stayton Personnel Manual, section 6.3.12, is added to read:

- 6.3.12 **Medical Certification:** An employee on sick leave that is running concurrently with another type of leave, for example, family medical leave or personal leave, must provide the medical certification required for any and all applicable types of leave. This means an employee on sick leave may be required to have their medical provider complete the certification of physician or practitioner form required for federal or state family medical leave, obtain second or third medical opinions as provided by family medical leave laws, and provide fitness for duty medical certifications before return to work as provided by the family medical leave policy.

SECTION 9: That City of Stayton Personnel Manual, section 6.7, is revised to read:

6.7 OREGON FAMILY MEDICAL LEAVE

- 6.7.1 Employees who have been with the city for more than 180 days, working an average of 25 hours per week or more, are eligible to take twelve weeks' leave within a twelve-month period for:
- 6.7.1a Birth of a child;
 - 6.7.1b Adoption of a child up to age 18 (or older than 18 if incapable of self care) or the placement of a foster child;
 - 6.7.1c Care of a sick spouse, child, parent, or parent-in-law;
 - 6.7.1d The employee's own serious health condition;
 - 6.7.1e To care for a sick child other than a serious medical condition.
- 6.7.2 An additional twelve weeks' leave is available for an illness, injury, or condition related to pregnancy or childbirth that disables the employee. Further, employees who use parental leave may be entitled to additional leave to care for a sick child. For the purposes of this policy, a "serious health condition" is defined as:
- 6.7.2a An illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility; or
 - 6.7.2b An illness, disease, or condition that, in the medical judgment of the treating health care provider, poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care; or

6.7.2c Any period of disability due to pregnancy, or period of absence for prenatal care.

6.7.3 **Notice of Leave:** An employee requesting an Oregon Family Leave must submit a written request at least thirty (30) days prior to the anticipated leave date. If a leave must begin in less than thirty (30) days, but is not an emergency, the worker must provide written notice as soon as possible. If an emergency arises, an employee is required to give oral notice within twenty-four (24) hours and submit a written notice within three (3) days of his/her return to work.

The city realizes that there may be circumstances where it is not possible for an employee to provide 24-hour oral notice. Therefore, the employee may designate a family member or friend to notice the city during that period of time.

If the Oregon Family Leave is taken for the birth of a child, adoption, or placement of a foster child, the time taken must be in one block of time. When leave is used to care for a seriously ill family member or for the employee's serious illness, the time can be taken in intermittent periods or a reduced work schedule where possible.

Failure to provide the required notice may result in the city deducting up to three (3) weeks from the leave period.

6.7.4 **Medical verification:** Concurrent with applying for an Oregon Family Leave, the employee must provide medical documentation to support the request for time off. If the leave is unanticipated, medical verification is required within fifteen (15) days of the city's request for verification.

6.7.5 **Employee Benefits and Reinstatement:** An employee is responsible for paying whatever portion of his/her and dependents' medical/dental premium payments during their Oregon Family Leave. Employees will also be required to use whatever accrued sick leave and vacation time they have earned (in that order) before taking time without pay.

An employee will be returned to his/her former position following an Oregon Family Leave unless the position was eliminated. If the employee's former position has been eliminated, the employee will be reinstated on an available, equivalent position. No employment benefits earned prior to the employee's leave will be lost by taking an Oregon Family Leave.

6.7.6 **Concurrent Leaves:** Where allowed by law, all approved leave, whether paid or unpaid, and including leave designated as sick leave, vacation leave, personal leave, workers' compensation leave, will be counted against their annual family medical leave entitlement.

Questions about this policy should be directed to the City of Stayton Finance Director or the employee's manager or supervisor.

City of Stayton

Request for Family Medical Leave

PLEASE PRINT

Where the need for the leave may be anticipated, written request for Family Medical Leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin.

Name _____ Date _____

Department _____ Title _____

Status: Full Time Part Time Temporary

Hire Date _____ Length of Service _____

I request family medical leave for one or more of the following reasons:*

1) Because of the birth of my child and in order to care for him or her.
Expected date of birth _____ Actual date of birth _____
Leave to start _____ Expected return date _____

2) Because of the placement of a child with me for adoption or foster care. Date of placement _____
Leave to start _____ Expected return date _____

3) In order to care for my spouse, child, parent or parent-in-law with a serious health condition.
Leave to start _____ Expected return date _____
Please check one: ___ Spouse ___ Child ___ Parent ___ Parent-in-law

Please state name and address of relation:

Name: _____ Address: _____

Describe serious health condition _____

4) For a serious health condition' which prevents me from performing my job functions.
Describe: _____
Leave to start _____ Expected return date _____

Regarding 3 or 4 above, request intermittent (reduced workday hours) or reduced leave (fewer work days each work week) schedule (if applicable, subject to employer's approval) Please describe schedule of when you anticipate you will be unavailable to work: _____

5) In order to care for a child with a condition requiring home care which does not meet the definition of serious health condition, and is not life threatening or terminal. Is another family member available to care for the child?
 Yes No

Have you taken a family medical leave in the past 12 months? Yes No

If yes, how many workdays? _____

I understand that where allowed by law, all approved leave, whether paid or unpaid and including leave designated as sick leave, vacation leave, or personal leave, will be counted against my annual family medical leave entitlement. I understand I will be allowed to use sick leave where appropriate as provided by City policy and to substitute any accrued vacation.

If my request for a leave is approved, it is my understanding that without an authorized extension and where the need for an extension could be anticipated, the City reserves the right to terminate my employment if I do not report to work on the first day following the date my leave is scheduled to end.

I authorize the City to deduct from my paychecks any employee contributions for health insurance premiums, life insurance, or long-term disability insurance which remain unpaid after my leave, consistent with state law.

I have been provided a copy of the City's Family Medical Leave Policy with this Family Medical Leave Request Form.

Signature of Employee _____	Date _____
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*A physician's certification may be required to support a request for family medical leave. In addition, a fitness for duty certification may be required before reinstatement following the leave.

SECTION 10: That City of Stayton Personnel Manual, Section 6.8, is deleted.

SECTION 11: That City of Stayton Personnel Manual, Section 6.9, is revised to read:

6.8 UNIFORMED SERVICES LEAVE AND RE-EMPLOYMENT

6.8.1 **Overview:** This policy covers leave and re-employment for employees in the uniformed services. It also contains nondiscrimination and non-retaliation provisions related to uniformed service. Regular employees requiring a leave of absence for service in the uniformed services shall, under certain defined conditions, be provided leave, continue their benefits during their leave, and be reemployed at the end of leave.

This policy is intended to be in full conformance with all federal and local laws regarding the rights of military personnel and reemployment of veterans. Nothing in this policy shall diminish rights under the applicable federal or local laws.

6.8.2 **Definitions:** The following definitions shall apply to this policy:

6.8.2a Service in uniformed service means performance of duty on a voluntary or involuntary basis in a uniformed service:

- i. Active duty
- ii. Active duty for training
- iii. Initial active duty for training
- iv. Inactive duty training
- v. Full-time National Guard duty
- vi. Fitness for duty examination

6.8.2b **Regular Employee** shall be defined as all employees except those hired for a brief, non-recurrent period where there is no reasonable expectation that their employment would continue indefinitely or for a significant period.

6.8.3 **General:** This policy applies to all employees of the City of Stayton.

6.8.4 **Compensation and Benefits for an Employee on Uniformed Services Leave:** The city shall excuse the employee for the uniformed services leave. During the leave, the city will not compensate the individual, but the individual may elect to utilize vacation pay accrued before commencement of the leave and maintain his or her health care insurance coverages through COBRA at no more than 102 percent of the full premium under the plan.

6.8.5 Required Notice of an Employee's Need for Uniformed Services Leave:

- 6.8.5a Employees (or the uniformed services in which the employee is to serve) must provide written or verbal notification to the city of their obligation or intention to perform service in the uniformed services, unless notice is precluded by military necessity or otherwise unreasonable or impossible.
- 6.8.5b An employee's failure to provide notice may result in loss of reemployment rights and benefits and other employee benefits under law.

6.8.6 An Employee's Obligation to Report for Work or Request for Reemployment:

- 6.8.6a Employees must report back to work or request reemployment within the following time limits (extended by two years in case of disability):
- i. **Service for one (1) to 30 days uniformed service or a fitness for duty examination:** Employee must report to work on the first regularly scheduled work day after return plus eight hours to rest.
 - ii. **Service for 31 to 180 days:** Employee must submit an application for reemployment within fourteen (14) days after completion of service.
 - iii. **Service for 181 days or longer:** Employee must submit an application for reemployment within 90 days after completion of service.
- 6.8.6.b Employees may be required to provide documentation to verify their rights to reemployment, including separation papers.
- 6.8.6.c Employees who fail to report to work or apply for reemployment within the required periods will be considered absent and unexcused.

6.8.7 Reemployment Rights

- 6.8.7.a An employee returning from uniformed services of ninety (90) days or less who has met the requirements for reemployment will be reinstated to the job the employee would

have had if continuously employed with the city without interruption for uniformed service as long as the person is qualified to perform the job.

6.8.7b An employee returning from uniformed services of ninety-one (91) days or longer will be reinstated to the job the employee would have had if continuously employed with the city without interruption for uniformed services or a position of like seniority status and pay, as long as the person is qualified to perform the duties.

6.8.7c Reemployment is not required in the following circumstances:

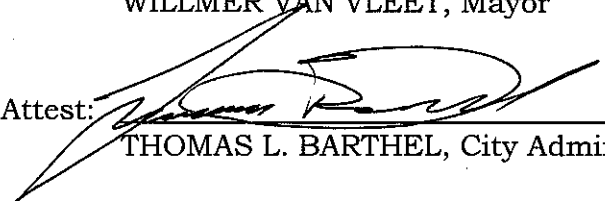
- i. Circumstances have changed to make reemployment impossible or unreasonable;
- ii. The employee has a disability incurred or aggravated during uniformed service and it would be an undue hardship on the city to reemploy the person;
- iii. The employment the employee left for uniformed services was for a brief, non-recurrent period and there was no reasonable expectation such employment would continue indefinitely or for a significant period;
- iv. The employee failed to give advance written or verbal notice of the need for uniformed service leave, as required by this policy and the law;
- v. The cumulative length of the uniformed services leave and all previous absences from a position with the city exceeds five (5) years. Some periods of uniformed service are excluded by law from the five-year calculation.
- vi. The employee was separated from uniformed services with a dishonorable or bad conduct discharge or other such discharge regarding character of service as permitted by law.

6.8.8 **Nondiscrimination and Non-retaliation:** The city will not discriminate in employment or take any adverse employment action against any person because the person has taken an action to enforce a legally protected right under the laws protecting this in uniformed services.

SECTION 12: That the City of Stayton Personnel Manual, section 6.10, is renumbered to 6.9.

Approved by the Stayton City Council this 8th day of January 1996.

Date: 1-18-96 By: 
WILLMER VAN VLEET, Mayor

Date: 1/12/96 Attest: 
THOMAS L. BARTHEL, City Administrator