

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-11

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AMENDING THE PERSONNEL RULES SECTION 5.30 PERSONAL LEAVE, SECTION 5.35 PERSONAL LEAVE REQUIREMENTS AND SECTION 5.20 HOLIDAYS TO REMOVE THE 90-DAY RESTRICTION FROM THE POLICY

WHEREAS, Personnel Rules, Section 5.30, Personal Leave, and Section, 5.35 Personal Leave Requirements, provides that an employee following hire may not use accrued personal leave until completion of 90 days of the six month probation period; and

WHEREAS, the Council recently waived the 90 day restriction to allow a new hire to use their accrued leave due to an unexpected health issue requiring hospitalization, and suggested amending the Personnel Rules to add language to waive the 90 day restriction in the case of a catastrophic event; and

WHEREAS, defining a catastrophic event may be left up to interpretation and place an unnecessary burden on staff and management to administer; and

WHEREAS, management is suggesting instead to remove the restriction altogether to not allow an employee to use their accrued leave during their probationary period, since this restriction is a matter of company policy choice, and is not restricted by any state or federal regulation; and

WHEREAS, in reviewing the personnel rules accrued sick leave may be taken when on probation; and

WHEREAS, management is also suggesting at the same time it is reevaluating the 90 day restriction to also allow taking the birthday holiday during the first 90 days, which is a listed holiday; and

WHEREAS, the Dillingham Municipal Code Section 2.60.010 provides that provisions for hiring policies, conditions of city employment, travel and other pay allowances, suspension, demotion and dismissal, vacationtime, sick leave, leaves of absence and grievances are adopted by the Council by resolution;

NOW BE IT RESOLVED THAT Section 5.30 Personal Leave, and 5.35 Personal Leave Requirements be amended to remove the 90 day provision as follows (additions are **emboldened** and underlined and deletions are in [CAPS and brackets]):

Section 5.30 Personal Leave

Regular full-time and regular part-time employees (excepting those employees whose salaries are funded by grants that do not allow for such leave benefits) may be entitled to Personal Leave. When accrual dates do not coincide with the commencement or end of the pay period, the accrual shall be computed on a pro rated basis. Temporary employees do not

accrue leave. Regular part-time employees accrue personal leave as a percentage of time actually worked based on a full time equivalent.

[EMPLOYEES WHO ARE IN THEIR SIX MONTH PROBATIONARY PERIOD FOLLOWING HIRE WILL ACCRUE PERSONAL LEAVE BUT MAY NOT USE PERSONAL LEAVE UNTIL AFTER THEY HAVE WORKED FOR 90 CALENDAR DAYS.] Employees on probation for disciplinary reasons may not take personal leave.

Section 5.35 Personal Leave Requirements.

At least 80 hours of leave must be taken by June 30 of each fiscal year by a full time employee and at least one half of the leave time accrued by a part-time employee, except the first year of employment. It is the responsibility of the department head to insure that work is conducted and personal leave time scheduled taking into consideration the mission of the City. Leave requests, whenever possible, shall be authorized as closely as possible to the employee's request. It is the responsibility of the employee to make such leave requests with enough advance notice so that the department head can make proper schedule arrangements. The longer the employee wishes to have off, the more advance notice must be given to the department head.

Accrued and unused personal leave may be carried forward from one year to the next for the purpose of accumulating a Personal Leave Reserve; however, on June 30 of any year an employee may not have more than 480 hours leave to his/her credit. At this time the payroll technician will delete all hours accrued over 480 hours. Hours in excess of 480 may be waived by the department head to be used the following year if it was not feasible for the City to approve a requested leave. A waiver cannot be given in consecutive years.

Each employee's personal and sick leave balances are regularly recorded on his/her paycheck stub.

Changes in accrual of leave shall take effect as of the day following the anniversary date of hire in which employee completes the prescribed period of service.

[EMPLOYEES ON PROBATION FOLLOWING HIRE MAY NOT USE LEAVE UNTIL COMPLETION OF 90 DAYS OF THE SIX MONTH PROBATION PERIOD.] If the employee terminates prior to the 90 day period, no leave will be paid.

BE IT FURTHER RESOLVED THAT Section 5.20, Holidays, be amended to remove the 90 day provision as follows (additions are **emboldened** and underlined and deletions are in CAPS and [brackets]):

Section 5.20 Holidays All employees in a regular full-time position shall be entitled to paid holidays as designated below. Holidays are paid on a prorated basis for regular part-time employees (except those whose wages are paid by grants that do not allow for such leave or benefits).

Holidays recognized by the City are:

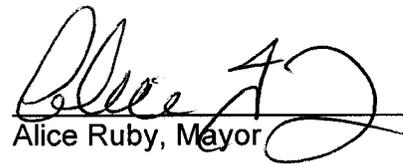
1. New Year's Day, January 1;
2. Washington's Birthday, Third Monday in February;

3. Beaver Round-Up Day, Friday of Beaver Round-Up;
4. Seward's Day, Last Monday in March;
5. Memorial Day, Last Monday in May;
6. Independence Day, July 4th;
7. Labor Day, First Monday in September;
8. Columbus Day, Second Monday in October;
9. Veteran's Day, November 11;
10. Thanksgiving, Fourth Thursday in November;
11. Friday after Thanksgiving;
12. Christmas, December 25;
13. Birthdays [(ELIGIBLE AFTER WORKING 90 CALENDAR DAYS)]; to be taken within one week of birthday.

If a holiday falls on a Sunday, the following Monday shall be the legal holiday. If a holiday falls on a Saturday, the preceding Friday shall be a legal holiday. Employees who are on approved, paid leave shall be paid for the holidays which occur during the leave.

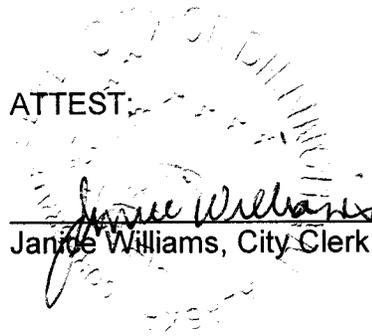
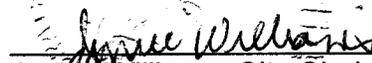
PASSED and ADOPTED by the Dillingham City Council on 3/1/2012.

SEAL:



Alice Ruby, Mayor

ATTEST:

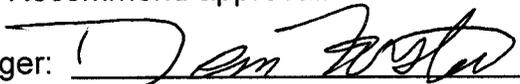
Janice Williams, City Clerk

Subject: A resolution amending the Personnel Rules Section 5.30 Personal Leave, Section 5.35 Personal Leave Requirements, and Section 5.20 Holidays to remove the 90-day restriction from the policy

Agenda of: March 1, 2012

City Council Action:

Manager: Recommend approval.

City Manager: 
Dan Forster

Route To:	Department / Individual	Initials	Remarks
X	Finance Director / Carol Shade		
X	City Clerk / Janice Williams		

Fiscal Note: Yes ___ No X Funds Available: Yes ___ No ___

Other Attachment(s):

Summary Statement.

Background. A situation occurred in which a new employee in their first 90 days was out on extended leave due to a serious health issue. The Personnel Rules restrict use of accrued annual leave during the first 90 days. The Council waived the restriction in order to allow use of the accrued annual leave based on it being a catastrophic event. Employees are allowed to use their sick leave accrual during the first 90 days of employment.

The Council asked to look at amending the personnel rules to remove the restriction when it was due to a catastrophic event and to pass it by the attorney to be sure it did not conflict with any existing laws. In the process of defining catastrophic events, staff was concerned it would be left up to interpretation and place an unnecessary burden on management to administer, and suggested removing the 90 day restriction altogether as long as it did not conflict with any existing federal or state regulations. Staff also recommended that the policy for restricting a new hire from taking their birthday (a City holiday) in the first 90 days be amended to remove the restriction.

In Section 5.35, the policy reads "if the employee terminates prior to the 90 day period, no leave will be paid". No change is being recommended. The City's Attorney noted there was a policy difference between allowing someone to use leave within the first 90 days of employment and allowing someone who terminated within the first 90 days to cash out accrued leave. The reasons for changing the rules to allow use of leave do not logically mean that an employee fired a couple of weeks into their probationary period would get to cash out accrued leave.

This resolution was reviewed by the Code Review Committee at their February 23 meeting, and is being recommended for adoption by the Council.