

**CITY OF GOLD BAR, WASHINGTON  
RESOLUTION NO. 19-02**

**A RESOLUTION OF THE CITY OF GOLD BAR, WASHINGTON AMENDING THE  
PERSONNEL MANUAL**

**WHEREAS**, the Federal Fair Labor Standards Act sets forth minimum thresholds regarding compensatory time; and

**WHEREAS**, the City of Gold Bar’s Personnel Manual has policies on compensatory time; and

**WHEREAS**, those policies require updating and clarification; and

**WHEREAS**, State legislative actions now require participation in the Paid Family Medical Leave Act (PFMLA); and

**WHEREAS**, the Personnel Manual requires updating to include PFMLA verbiage; and

**WHEREAS**, the Mayor created an additional form to be signed by employees; and

**WHEREAS**, that form requires incorporation into the Personnel Manual; and

**WHEREAS**, the Personnel Manual lacks a section on general employee time-keeping; and

**WHEREAS**, clarification is needed regarding the use of leaves without pay;

**NOW THEREFORE BE IT RESOLVED** by the governing body of the City of Gold Bar that the Personnel Manual be amended to amend Titles as follows.

- Section I Title 7, Working Hours**
- Section II Title 8, Overtime**
- Section III Title 10, Call-Back**
- Section IV Title 11, Standby**
- Section V Title 24, Leaves of Absence and Time Off**
- Section VI Title 47, Paid Family and Medical Leave**
- Section VII Title 48, Employee Memorandum of Understanding**
- Section VIII Title 49, Employee Time, Miscellaneous**
- Section IX Severability**
- Section X Effective Date**

**Section I, Title 7, Working Hours**

D. Employee work shifts may consist of four (4) ten-hour days per week or five (5) eight-hour days per week, not to exceed the standard forty (40) hour work week. Employees must stagger shifts to guarantee hours of operation are covered. Non-salaried employees will be paid for hours earned in a month not to exceed the standard forty-hour week.

**Section II, Title 8, Overtime and Compensatory Time**

A. Exempt employees are not eligible for over time or compensatory time. Exempt employees must meet the requirements listed by the Washington State Department of Labor and Industries. (*see L&I*

*Administrative Policy ES.A.9,1*) In the City of Gold Bar, the Public Works Director is the only exempt position.

B. Exempt employees and/or Supervisors shall receive administrative leave. (*see Title 24 (E)(2), Administrative Leave*)

C. The established work period upon which overtime and compensatory time is calculated consists of forty (40) hours within a seven (7) day week.

D. Non-exempt, regular, full-time employees are entitled to additional compensation, either in cash or compensatory time off, when they work more than the maximum number of hours during a work period, as defined in Title 7, Working Hours.

1. Work hours used to calculate a forty (40) hour work week include holidays, personal holiday, sick, vacation, bereavement, and jury duty benefits.

- a. When the forty (40) hours worked includes benefit hours as detailed in (D)(1), the employee's supervisor and/or Mayor must approve utilizing both benefit hours and overtime hours within the same work week, prior to overtime hours being worked. This excludes emergencies.

2. Overtime or compensatory time off must be approved in advance by the Supervisor or Mayor, except in the case of emergencies, and is determined on a case-by-case basis.

E. Non-exempt, regular, part-time employees shall not be eligible for overtime or compensatory time. Any hours worked beyond the regular part-time hours shall be compensated at the employee's normal hourly rate of pay. Hours worked beyond 40 hours in a week will be compensated at the standard overtime rate.

F. Overtime. If a non-exempt employee is compensated for forty (40) hours in a week, additional work that week will only be authorized at the discretion of the Mayor.

1. Overtime hours shall be paid at a maximum rate of time and one-half (1.5). Unauthorized overtime will not be paid.

2. Any work done on a holiday is considered holiday overtime at two and one-half (2.5) times the regular rate of pay and must be approved by the Mayor, excluding emergencies. This is the maximum rate of compensation for work done on a holiday. Employees are not entitled to receive regular pay in addition to holiday overtime compensation.

G. Compensatory Time. If the compensatory time option is exercised, the employee is credited with one and one-half times the hours worked as overtime.

1. Maximum accruals of compensatory time shall be limited to eighty (80) hours for regular employees. After maximum accrual, overtime compensation shall be paid.

2. Employees may use compensatory time after making a request in writing to their supervisor or the Mayor, unless doing so would unduly disrupt City operations.

3. Compensatory time should be used for short-term absences from work during times mutually agreed to by the employee and his or her supervisor.

4. Accumulation of compensatory time to be used as a substitute for extended vacation time off is not normally permitted nor encouraged.

5. If an employee is unable to use accrued compensatory time within a one year of accrual, the employee will be paid his or her original overtime wage.

### **Section III, Title 10 Call-Back, or On-Call**

A. 'Call back' or 'on call' is defined as an employee requested to return to work due to an emergency after he/she has left a normal work day shift.

B. All employees are subject to call-back in emergencies or as needed by the City to provide necessary services to the public. When contacted, a refusal to respond to a call-back when otherwise able to work is grounds for immediate disciplinary action, up to and including possible termination.

C. Employees called back will be paid their appropriate rate of pay for hours worked, at the overtime rate if applicable.

D. Employees shall be paid for a minimum of two (2) hours for call-back time.

### **Section IV, Title 11, Standby**

A. Standby is separate from an employee being on-call. (*see Title 10, Call Back*)

B. Standby is defined as an employee restricted by official order to a designated post of duty and assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. A finding that an employee's activities are substantially limited may not be based on the fact that an employee is subject to restrictions necessary to ensure that the employee will be able to perform his or her duties and responsibilities, such as restrictions on alcohol consumption or use of certain medications. (Federal Fair Labor Standards Act, Title 5, Section 551.431)

C. An employee is not considered on standby if, for example, the employee remains at the post of duty voluntarily, is allowed to leave a telephone number, or carries an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius or the employee is allowed to make arrangements such that any work which may arise during the on-call period will be performed by another person. (Federal Fair Labor Standards Act, Title 5, Section 551.431)

D. All employees are subject to standby in emergencies or as needed by the City to provide necessary services to the public. A refusal to respond to a request for standby is grounds for immediate disciplinary action, up to and including possible termination.

E. Employees requested to standby will be paid their standard rate of pay, at the overtime rate if applicable, for a minimum of four (4) hours for every twenty-four (24) hour period on standby.

Standby duty pay applies in lieu of overtime pay for regularly scheduled overtime hours, Sunday pay for Sunday work within the basic workweek, holiday premium pay for holiday work, and night pay for night work. Standby duty pay recipients may receive standard overtime pay for any irregular overtime hours. Standby duty pay may not exceed 25 percent of an employee's rate of basic pay. (See Fair Labor

Standards Act, Title 5 U.S.C. 5545(c)(1), definitions in 5 CFR 550.103, 5 CFR 550.141-144, and 5 CFR 550.161-164.)

F. If called to work, the call back provisions in Title 10 apply.

G. Employees requested to standby must be available for call-back at all times during the standby period.

### **Title V, Leave Without Pay**

#### ***C. Leave Without Pay.***

1. The Mayor may grant leaves of absence without pay for absence from work in excess of fifteen days per year that are not covered by any other type of leave, or if other leave balances are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for an ill relative, pursuing an education, or fulfilling a military obligation.

2. Only regular employees who have satisfactorily completed their trial period are eligible for leave without pay. The following requirements apply.

a. Leave may be granted to an employee for a period of up to thirty (30) days upon approval of the Mayor and further extensions are at the discretion of the Mayor. The thirty (30) day period may not be cumulative and spread over a calendar year period. The purpose of this period without pay is for extenuating circumstances when normal benefit leave is not a viable option.

b. Accrued administrative, compensatory time, and vacation leave must be exhausted prior to taking any leave without pay.

c. An employee's benefits are suspended during the period of unpaid leave until the employee returns to work. Vacation, sick leave, and/or any other benefits do not accrue while an employee is on leave without pay.

d. In certain circumstances, self-payment of benefits may apply (see Title 22, Insurance Benefits).

e. An employee who fails to report promptly at the end of the unpaid leave is presumed to have resigned.

f. An employee returning from a temporary disability may, at the City's option, return to the same position or similar position at a comparable rate of pay.

g. If the leave without pay is due to an illness, upon the employee's return to work, the City may require a doctor's certificate stating that the employee is capable of returning to work and performing the work, duties, and responsibilities, of the employee's position.

h. Leave, or time off, without pay, may not be used without prior approval of the employee's supervisor and the Mayor. Prior approval must be obtained a minimum of two (2) normal work days prior to the intended leave. In order to take a day off without pay, all vacation, administrative, and compensatory time must be exhausted. The employee must provide a reason, and be able to show why a change in work schedule is

not a viable option. Such instances are limited to a cumulative number of six (6) days in a calendar year. In the case of an emergency, the supervisor and Mayor must be notified as quickly as possible.

#### **Section VI, Title 47, Paid Family Medical Leave Act**

A. Washington State requires all employees to take part in the Paid Family Medical Leave Act (PFMLA). The purpose of this Act is to support employees whether they are recovering from a serious illness or injury, caring for a new child, or helping an aging parent. The program is mandatory.

The City is required to withhold a percentage of gross salaries paid to employees and elected officials. The percentage withheld is set by the Employment Security Department. The City has the option to pay the withholding for employees, or require employees to pay the fee as a withholding from their paychecks.

Employees have the option of opting out of City withholding process. However, if an employee opts out, they must then join a State program.

B. PFMLA allows employees to take up to twelve (12) weeks, as needed, if they experience any of the following.

1. Welcome a child into their family through birth, adoption, or foster placement.
2. Experience a serious illness or injury.
3. Need to care for a seriously ill or injured relative.
4. Need time to prepare for a family member's pre- and post-deployment activities, as well as time for childcare issues related to a family member's military deployment.

Employees may take up to sixteen (16) weeks if they experience serious health conditions during pregnancy that result in incapacity.

C. Beginning January 1<sup>st</sup>, 2020, employees who have worked 820 hours in the qualifying period will be able to apply to take paid medical leave or paid family leave. The 820 hours are cumulative, regardless of the number of employers or jobs someone has during a year. All paid work over the course of the year counts toward the 820 hours, including part-time, seasonal, and temporary work.

D. To apply for benefits, employees must go through the Employment Security Department. While on leave, employees will be entitled to partial wage replacement, which the Employment Security Department manages. Employees may not use sick time benefits as well as PFMLA benefits during the leave period.

E. Employees maintain their health insurance while on leave. However, if an employee pays a portion of their insurance benefits, they must continue to do so while on leave.

#### **Section VII, Title 48, Memorandum of Understanding**

Each employee, at the time of hiring, shall sign a Memorandum of Understanding For Gold Bar Staff. The text of the Memorandum is included in this title, and the form itself is attached as part of this Personnel Manual.

*Text*

In order to clarify roles, responsibilities, and employee procedures and benefit processes, the following shall be signed by each employee and, once signed, added to their personnel file.

1. All employees of the city will respect each other and the city in regards to how they utilize their job roles, communications, emails, phones, etc. Email is assigned to individuals and unless there is a verified reason no one shall be authorized or permitted to access another employee's email. Such reasons include, but are not limited to: direct request from the owner of the email account; at the direction of the Mayor; job – related searches specific to a public records request; regular monitoring by the Office Manager as per job duties; and/or monitoring by the IT department.
2. Employees will respect the management and supervisory roles as outlined by the Mayor. The Public Works Director, and the Clerk/Treasurer report directly to the Mayor. The Office Manager works directly with the Mayor but is supervised by the Public Works Director. Maintenance staff and the water manager are also supervised by the Public Works Director. The Public Records officer is supervised by the Clerk/Treasurer.
3. Any and all disputes concerning attitude, supervision, disrespect, complaints, or insubordination shall be documented in writing and given to the Mayor for review.
4. This Memorandum of Understanding, along with the employee Personnel Manual, and employee job descriptions will be signed annually. Failure to sign these agreements will be viewed as insubordination and will lead to employee discipline up to, and including, termination.

#### **Section VIII, Title 49, Employee Time, Miscellaneous**

A. Any change to an employee's regular work schedule must be accompanied by a leave request slip and supervisor approval, unless the change meets the parameters of Title 49(B).

B. An employee's regular schedule may be adjusted within reasonable parameters during any given work day as long as the employee's supervisor is notified and approves the change. These adjustments are to be utilized for situations such as when an employee must work through their lunch break, and their supervisor then allows them leave early, or for incidental amounts of time of less than an hour where an employee might be late to work due to traffic, and is then allowed to make up the time.

1. Any schedule changes must be made up in blocks of time no less than two (2) hours. Exception to this may be made only with prior approval by the supervisor and Mayor.
2. If an employee must change or cancel the approved makeup time schedule, that change must be approved by the supervisor prior to the change taking place to ensure proper coverage.

C. It is understood that emergencies can happen at any time. In the event of an emergency, the employee must notify the supervisor as soon as reasonably possible.

D. If an employee is required to represent the City at an event, or is attending a training or function that does not require the full working day, the employee will record all hours including travel time. Unworked hours will be made up. Benefit time may be utilized in the same manner as detailed in (B)(1) of this Title. Any hours worked over and above the normal work schedule will fall under the City's overtime, compensatory, and administrative regulations.

#### **Section IX, Severability**

This resolution is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

**Section X, Effective Date**

This Resolution shall take effect from, and after, its passage and approval, as provided by law.

Resolved this 16<sup>th</sup> day of April, 2019.

APPROVED:

  
\_\_\_\_\_  
Bill Clem, Mayor

*Mayor pro tem*

ATTEST/AUTHENTICATED:

  
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Lisa Stowe, Clerk/Treasurer