

ORDINANCE NO. 29883

An ordinance amending Chapter 34, "Personnel Rules," of the Dallas City Code by amending Sections 34-9, 34-22, 34-23, and 34-32; amending provisions of the personnel rules relating to employee benefits to comply with federal law; eliminating the requirement that certain employees to take sick leave or vacation leave in increments of six hours, one-tenth hour, or one-hour, making conforming, semantic, grammatical, and structural changes; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 34-9, "Eligibility for Benefits," of Article I, "General Provisions," of Chapter 34, "Personnel Rules," of the Dallas City Code is amended to read as follows:

"SEC. 34-9. ELIGIBILITY FOR BENEFITS.

(a) Permanent employees.

(1) A permanent full-time employee is eligible for employee benefits, including, but not limited to, paid leave as provided in this chapter, health benefit plan participation [~~membership~~], life insurance, and retirement benefits. Benefits may be changed at any time subject to applicable law.

(2) An employee hired in a classification other than permanent full-time [A permanent part-time employee] is eligible for [the same] benefits in accordance with federal law and as described in the applicable plan documents [as a permanent full-time employee, but on a prorated basis].

(b) ~~[Temporary employees. A temporary employee is not eligible for any benefits.]~~

(c) ~~[Special appointments. Benefits of an employee in a special appointment are determined on an individual basis by the director of human resources.]~~

(d) City council members. City council members are not employees. City council members [and] are [not] eligible for certain tax-favored benefits in accordance with federal law and as described in the applicable plan documents[, but they may participate in the employee health plan].”

SECTION 2. That Section 34-22, “Sick Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“SEC. 34-22. SICK LEAVE.

(a) Eligibility. Every permanent employee accrues and may use sick leave upon initial appointment.

(b) Reappointments. A person reappointed as a city employee under conditions described in Section 34-10(a)(1) or (a)(2) retrieves sick leave credit accumulated before the person’s previous termination from city employment and is entitled to both accrue and use sick leave after reappointment.

(c) Sworn employee’s sick leave eligibility.

(1) A sworn employee of the police or fire department may take 30 sick leave days each calendar year. This amount shall not exceed 360 hours for a sworn employee in the emergency response bureau of the fire department and 240 hours for every other sworn employee of the police or fire department.

(2) Any sick leave days taken in excess of the number that, under Subsection (d), can be accrued during a year will be subtracted from the employee’s accrued sick leave balance.

(d) Accrual. Every permanent employee accrues sick leave each year as follows:

(1) A sworn employee in the emergency response bureau of the fire department accrues six hours each bi-weekly pay period, to a maximum of 144 hours annually.

(2) A sworn employee in the communications bureau of the fire department accrues four hours each bi-weekly pay period, to a maximum of 96 hours annually.

(3) Every other bi-weekly paid employee accrues five percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 96 hours annually.

(4) Every weekly paid employee accrues five percent of hours paid up to 40 in each weekly pay period, to a maximum of 96 hours annually.

(e) Maximum accrual. The maximum sick leave that may be accrued is 2,160 hours for a sworn employee in the emergency response bureau of the fire department and 1,440 hours for any other employee. When an employee's accrued sick leave reaches the maximum number of hours, the accrual ceases until the employee takes sick leave hours.

(f) Computation of sick leave taken. An absence charged to sick leave will be for the number of hours in the standard work day and will not include overtime whether scheduled or not. An absence charged to sick leave for a sworn employee of the emergency response bureau of the fire department will be made on the basis of 24 hours for each scheduled work shift.

(g) ~~[Increments. Sick leave may be taken in increments of six hours by a nonexempt sworn employee of the emergency response bureau of the fire department, or in lesser increments subject to departmental approval, and in increments of one-tenth hour for every other nonexempt city employee. An exempt employee must take sick leave in one hour increments.~~

(h)] Sick leave usage. Sick leave may only be granted or taken when:

(1) an employee is incapacitated for the performance of duties due to an illness, surgical procedure, or off-job injury;

(2) a medical, dental, or optical examination or treatment is necessary, provided that prior approval of the supervisor is obtained;

(3) an employee is incapacitated by or recovering from pregnancy, miscarriage, abortion, or childbirth;

(4) it is necessary to care for an immediate family member who is ill or incapacitated;

(5) an employee has been exposed to a contagious disease, meaning one that would warrant quarantine by a health officer, and the employee's presence on the job would jeopardize the health of others;

(6) it is allowed under the city's wage supplementation plan; or

(7) it is allowed under the city's administrative directives governing the administration of the Family and Medical Leave Act.

(h[+]) Notice of unexpected absence.

(1) Notice of absence due to an illness, injury, or any other unexpected reason must be given in the following manner:

(A) Every employee, except one covered by Paragraph (1)(B) of this subsection, must give notice to the employee's supervisor from within two hours before to within

30 minutes after starting time, depending upon departmental procedures. The supervisor may require the employee to report on each succeeding day of absence.

(B) An employee in a department with a 24-hour, seven-day work schedule must give notice to the employee's supervisor at least one hour before reporting time on the first day of the absence and, if required by the supervisor, on each succeeding day of absence.

(2) Failure to give the notice required in this subsection may result in the employee being declared absent without leave and subject to disciplinary action.

(i[~~j~~]) Physician's statement. Upon request by a supervisor, a department director, or the director of human resources, an employee may be required to:

(1) furnish a statement from an attending physician demonstrating the existence of circumstances described in Subsection (h)(1), (2), (3), (4), or (5) of this section; or

(2) submit to a physical or mental examination by a health care provider (including but not limited to a physician or psychologist) selected by the city.

(j[~~k~~]) Refusal to return from sick leave. An employee who is released by the treating physician to return to regular or limited duty and who refuses to report for work or perform assigned duties is subject to disciplinary action.

(k[~~l~~]) Holidays. If an official holiday occurs during a period of illness, an employee will be charged for the holiday instead of for sick leave.

(l[~~m~~]) Illness during vacation. If an employee becomes ill while taking vacation leave, the period of illness may be charged as sick leave and the charge against vacation leave will be reduced accordingly. A request for this substitution must be made within two days after the employee's return to work and must be supported by a medical statement.

(m[~~n~~]) Sick leave during suspension. An employee on suspension forfeits use and accrual of sick leave for the duration of the suspension. Upon completion of the suspension, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before sick leave credit and accrual may be restored.

(n[~~o~~]) Sick leave during leave without pay. An employee on leave without pay forfeits use and accrual of sick leave for the duration of the leave without pay, except to the extent that the leave without pay is authorized by the City's Family and Medical Leave provisions. Upon completion of the leave without pay, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before sick leave credit and accrual may be restored.

(o[~~p~~]) Military service. Sick leave for an employee performing duties in the military service is governed by Section 34-30 of this chapter and administrative directives established pursuant to that section.

(p[¶]) Sick leave adjustment for changes in work schedules. A sworn employee of the fire department will have any sick leave balance adjusted proportionately to reflect differences in work schedules when:

- (1) the employee transfers to or from the emergency response bureau of the fire department; or
- (2) the employee's full-time regular work schedule is increased or decreased.

(q[¶]) Use of vacation leave when sick leave is exhausted. If an employee's sick leave balance is exhausted, the employee may use available vacation leave in cases of illness or injury.

(r[¶]) Advance sick leave. The director of a department may approve a request for advance sick leave for an employee who has completed three consecutive years of city employment and accumulated a minimum of 96 hours of sick leave prior to the occurrence of the condition for which the advance sick leave is needed. The employee shall provide an anticipated return to work date when making the request. The maximum advance of sick leave that may be granted may not exceed 120 hours for a sworn employee in the emergency response bureau of the fire department or 80 hours for any other employee. A request for advance sick leave will not be approved until all expendable paid leave is exhausted and the employee has no outstanding balance of previously-granted advance sick leave. If an employee who is indebted for unearned sick leave terminates, the employee shall refund the amount paid for the period of the advanced sick leave. No refund is required in cases of death or retirement for disability.

(s[¶]) Lump sum payment of sick leave.

(1) Retirement or 20 years' service. An employee shall be granted lump sum payment of sick leave remaining to the employee's credit in any amount that does not exceed 1,080 hours for a sworn employee in the emergency response bureau of the fire department or 720 hours for any other employee when the employee:

(A) retires from city employment and is immediately eligible to receive retirement payments; or

(B) terminates for any reason with 20 or more years of continuous full-time service, including:

(i) any continuous full-time service retrieved under Section 34-10(a) of this chapter; and

(ii) any credited service purchased for retirement purposes under Section 40A-14 of this code after a termination resulting from a reduction in force.

(2) Disability. Any employee who is placed on a disability pension shall be granted lump sum payment of any sick leave remaining to the employee's credit in any amount

that does not exceed 1,080 hours for a sworn employee in the emergency response bureau of the fire department and 720 hours for any other employee. The appropriate pension board will determine the date of permanent disability. Use of sick leave will be discontinued and lump sum payment made effective on that date.

(3) Death. If an employee dies, the total accumulated sick leave in any amount that does not exceed 1,080 hours for a sworn employee in the emergency response bureau of the fire department and 720 hours for any other employee shall be computed with the final settlement of the employee's wages and paid in a lump sum to the employee's beneficiary or estate.

(4) Computation. Lump sum payment of sick leave is computed by multiplying the number of hours of sick leave to which an employee is entitled by the employee's regular rate of pay on the date of termination. An employee who elects to receive lump sum payment of sick leave upon termination and who is later reemployed with the city may not receive another lump sum payment of sick leave.

(5) Eligibility. An employee hired or rehired by the city on or after October 1, 2003 is not eligible for any lump sum payment of sick leave under this subsection.

(t[~~u~~]) Family leave. An employee who is eligible for family leave under Section 34-24.1(b) may be required to deduct hours from the employee's sick leave balance to cover all or part of any absence from work for a family leave purpose described in Section 34-24.1(c)."

SECTION 3. That Section 34-23, "Vacation Leave," of Article III, "Leave Policies," of Chapter 34, "Personnel Rules," of the Dallas City Code is amended to read as follows:

"SEC. 34-23. VACATION LEAVE.

(a) Eligibility. Every permanent employee accrues vacation leave during the initial six months of city employment, but vacation leave may not be used until the initial six months of employment are completed. All vacation leave is forfeited if the employee terminates employment before completing the initial six months of employment.

(b) Reappointments. A person reappointed under conditions described in Section 34-10(a)(1) or (a)(2) accrues vacation leave at a rate determined by the number of years of continuous full-time service retrieved and may both accrue and use vacation leave during the initial six months of employment after reappointment.

(c) Accrual. Vacation leave accrues as follows:

(1) Every permanent employee with less than five years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response bureau of the fire department accrues nine hours each bi-weekly pay period, to a maximum of 180 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues six hours each bi-weekly pay period, to a maximum of 120 hours annually.

(C) A sworn employee of the police department accrues 7.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 120 hours annually.

(D) Every other bi-weekly paid employee accrues 6.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 104 hours annually.

(E) A weekly paid employee accrues 6.5 percent of hours paid up to 40 in each weekly pay period, to a maximum of 104 hours annually.

(2) Every permanent employee with five years of service but less than nine years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response bureau of the fire department accrues 10.2 hours each bi-weekly pay period, to a maximum of 204 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues 6.8 hours each bi-weekly pay period, to a maximum of 136 hours annually.

(C) A sworn employee of the police department accrues 8.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 136 hours annually.

(D) Every other bi-weekly paid employee accrues 7.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 120 hours annually.

(E) A weekly paid employee accrues 7.5 percent of hours paid up to 40 in each weekly pay period, to a maximum of 120 hours annually.

(3) Every permanent employee with nine years of service but less than 15 years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response bureau of the fire department accrues 10.8 hours each bi-weekly pay period, to a maximum of 216 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues 7.2 hours each bi-weekly pay period, to a maximum of 144 hours annually.

(C) Every other bi-weekly paid employee accrues nine percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 144 hours annually.

(D) A weekly paid employee accrues nine percent of hours paid up to 40 in each weekly pay period, to a maximum of 144 hours annually.

(4) Every permanent employee with 15 years of service but less than 19 years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response bureau of the fire department accrues 12 hours each bi-weekly pay period, to a maximum of 240 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues eight hours each bi-weekly pay period, to a maximum of 160 hours annually.

(C) Every other bi-weekly paid employee accrues 10 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 160 hours annually.

(D) A weekly paid employee accrues 10 percent of hours paid up to 40 in each weekly pay period, to a maximum of 160 hours annually.

(5) Every permanent employee with 19 or more years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response bureau of the fire department accrues 13.8 hours each bi-weekly pay period, to a maximum of 276 hours annually.

(B) A sworn employee in communication bureau of the fire department accrues 9.2 hours each bi-weekly pay period, to a maximum of 184 hours annually.

(C) Every other bi-weekly paid employee accrues 11.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 184 hours annually.

(D) A weekly paid employee accrues 11.5 percent of hours paid up to 40 in each weekly pay period, to a maximum of 184 hours annually.

(d) Maximum accumulation. An employee may accumulate vacation leave up to an amount equal to the employee's vacation leave entitlement for a two-year period. When accumulated vacation leave reaches the maximum allowed, the accrual ceases until vacation leave is taken.

(e) Acceleration and increased accrual limits. Upon the date of an employee's 5th, 9th, 15th and 19th service anniversary:

(1) accrual of vacation leave will be accelerated; and

(2) annual accrual limits of vacation leave will be increased.

(f) Incentive programs. In addition to vacation leave earned under this section, an employee may earn vacation leave under incentive programs approved by the city manager and adopted by the city council.

(g) Vacation usage. Vacation use is based on the employee's regular work day and the number of hours the employee would have worked that day. If the employee is assigned to a standard work week, no more than 40 hours paid leave may be charged in one work week. If the employee is assigned to an approved alternate work schedule, the hours charged in one work week as paid leave may not exceed the maximum hours contained in the alternate work week during which the leave was taken. This subsection does not apply to sworn fire department shift personnel.

~~(h) Increments. With departmental approval, vacation leave may be taken in increments of six hours by a sworn employee in the emergency response bureau of the fire department and in increments of one-tenth hour by any nonexempt city employee. An exempt employee must take vacation leave in one-hour increments.~~

(~~h~~) Selection of vacation time. A supervisor may grant vacation leave at a time during the year that will best serve the public interest. Preference may be given to an employee on the basis of length of service.

(~~i~~)(j) Holidays. If an official holiday occurs during vacation leave, an employee will be charged for holiday leave instead of vacation leave. This subsection does not apply to a sworn employee of the emergency response bureau or communications bureau of the fire department who is assigned to a 12-hour or 24-hour work shift.

(~~j~~)(k) Death in family. An appropriate extension of death-in-family leave may be given for a death in an employee's family occurring while the employee is taking vacation leave.

(~~k~~)(l) Vacation leave during suspension. An employee on suspension forfeits use and accrual of vacation leave for the duration of the suspension. Upon completion of the suspension, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before vacation leave credit and accrual may be restored.

(~~l~~)(m) Vacation leave during leave without pay. An employee on leave without pay forfeits use and accrual of vacation leave for the duration of the leave without pay, except to the extent that the leave without pay is authorized by the City's Family and Medical Leave provisions. Upon completion of the leave without pay, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before vacation leave credit and accrual may be restored.

(~~m~~)(n) Vacation leave in conjunction with leave without pay. Prior departmental approval must be obtained for any period of leave without pay taken in conjunction with a normal vacation. Favorable consideration will be given only to exceptional reasons.

(n[ø]) Pay in lieu of vacation leave. Vacation leave is provided for the specific purpose of allowing an employee a period of rest and recreation, and the practice of "selling" vacation leave is contrary to this purpose. Pay in lieu of vacation leave may only be granted in cases of extreme emergency and must be approved by the city council or city manager.

(o[p]) Lump sum payment of vacation leave.

(1) Payment upon termination. An employee who terminates employment after the initial six months of employment shall be paid for vacation leave accrued but not taken.

(2) Retirement. An employee who retires will be paid in a lump sum for the period of vacation leave due the employee.

(3) Discharge. A discharged employee who has completed the initial six months of city employment will be paid for all accrued vacation leave in a lump sum at the end of the next complete pay period following the date of discharge. No credit will be given for a holiday that may have fallen within the vacation period had the vacation period been extended on the payroll.

(4) Death. Vacation leave accrued to the credit of an employee who dies will automatically be paid in a lump sum. Holidays occurring after the date of death will not be paid. Upon instructions from the city attorney's office, monies due the deceased employee will be delivered to the employee's beneficiary or estate.

(5) Computation. Lump sum payment of vacation leave is computed by multiplying the number of hours of vacation leave to which an employee is entitled by the employee's regular rate of pay on the date of termination from city employment.

(p[q]) Vacation leave adjustment for changes in work schedules. A sworn employee of the fire department will have any vacation leave balance adjusted proportionately to reflect differences in work schedules when:

(1) the employee transfers to or from the emergency response bureau of the fire department; or

(2) the employee's full-time regular work schedule is increased or decreased.

(q[r]) Family leave. An employee who is eligible for family leave under Section 34-24.1(b) may be required to deduct hours from the employee's vacation leave balance to cover all or part of any absence from work for a family leave purpose described in Section 34-24.1(c)."

SECTION 4. That Section 34-32, "Health Benefits," of Article IV, "Benefits," of Chapter 34, "Personnel Rules," of the Dallas City Code is amended to read as follows:

“SEC. 34-32. HEALTH BENEFIT[S] PLANS.

(a) The city extends participation in [a] health benefit plans [~~program~~] to every permanent full-time [~~and permanent part-time~~] employee and to every city council member. Other classifications of employees are eligible to participate in the city’s health benefit plans in accordance with federal law and as described in the applicable plan documents. [~~A temporary employee is not eligible to participate in the health benefit program.~~]

(b) Eligibility, premium rates, and procedures for participation in the health benefit plans [~~program~~] for active employees, [~~and~~] retired employees, and city council members are defined in plan documents [~~master plans~~] adopted by the city council and on file with the department of human resources. The city may change the health benefit plans [~~program~~] at any time, subject to applicable law.

(c) Notice of retirees’ rights to purchase continued health benefits.

(1) Under Chapter 175 of the Texas Local Government Code, as amended, a person who retires from the city and is entitled to receive city retirement benefits is entitled to purchase retiree [~~continued~~] health benefits coverage from the city for the person and any eligible dependents [~~, unless the person is eligible for group health benefits coverage through another employer~~].

(2) To receive continued health benefits coverage, the person must inform the city, within thirty days of [~~not later than~~] the day on which the person retires, of the election to continue coverage.

(3) If the person elects to continue health benefits coverage for the person and/or any dependents and on any subsequent date elects to discontinue that coverage, then the person is no longer eligible for coverage from the city.

(4) If a person is not participating in the city’s active employee health benefit plans [~~program~~] at the time the person retires from the city, the person is not eligible for continued health benefits coverage under the city’s retiree health benefit plans.

(5) A person hired as a city employee on or after January 1, 2010 who retires from the city may participate in the retiree health benefit plans [~~program~~] but the cost of the continued health benefits coverage must be paid entirely by the person.”

SECTION 5. That Chapter 34 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M. S. ERNST, City Attorney

By *Eileen Young*
Assistant City Attorney

Passed SEP 22 2015



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL SEP 22 2015

ORDINANCE NUMBER 29883

DATE PUBLISHED SEP 26 2015

ATTESTED BY: