

RESOLUTION NO. 2015-135

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A PAID SICK LEAVE POLICY INCOMPLIANCE WITH
ASSEMBLY BILL 1522: HEALTHY WORKPLACES, HEALTHY FAMILIES
ACT OF 2014, AUTHORIZING FINANCE DIRECTOR TO MAKE
NECESSARY ACCOUNTING AND BUDGETARY ENTRIES AND
AUTHORIZING CITY MANAGER TO MAKE NECESSARY
MODIFICATIONS TO THE SICK PAID LEAVE POLICY AS NEEDED IN
ORDER TO COMPLY WITH FUTURE LEGISLATION.

WHEREAS, on September 10, 2014 the Governor of the State of California signed into law the Healthy Workplace, Healthy Families Act of 2014 (Assembly Bill 1522), providing paid sick leave for covered employees, effective January 1, 2015, and;

WHEREAS, the paid sick leave provisions of Assembly Bill 1522 are effective July 1, 2015, and;

WHEREAS, the City of Marina wishes to establish a paid sick leave policy which strictly complies with all new requirements of State law, and;

WHEREAS, Assembly Bill 1522 allows the City to establish the accrual method, maximum accrual and the minimum usage increment for paid sick leave.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve revised City of Marina sick leave policy (“**EXHIBIT A**”). with the terms effective as of July 1, 2015, which shall be modified by the City Manager in the future as needed in order to comply with future legislation, and;
2. Approve a sick leave policy notice (“**EXHIBIT B**”) for temporary employees of the City in accordance with the requirements of Assembly Bill 1522, and;
3. Authorize the Finance Director to make the necessary budgetary and accounting entries, and;

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 1st day of December 2015, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O’Connell, Delgado

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

Bruce Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

Section 1

Leave of Absence Provisions

10.01 **Vacation** The purpose of vacation is to ensure the employee's continued efficiency by allowing periods for rest and revitalization which will enable the employee to return to work physically and mentally refreshed. All regular employees shall be entitled to accrue vacation except temporary employees, or employees in less than half-time positions and employees on leave of absence without pay or suspension without pay.

A. Vacation Accrual

1. **Full-Time Employees** Employees entitled to vacation shall accrue based on years of continuous service at the following rate:

First Through Fifth Year of Service. Ten (10) working days per year.

Sixth Through Fifteenth Year of Service. Fifteen (15) working days per year.

Sixteenth Year of Service and On. Twenty (20) working days per year.

2. **Part-Time Employees** An employee having a probationary, regular or acting appointment that is less than full time but half time or more shall accrue vacation in the same proportion as their scheduled and worked hours per week relate to the standard work week.
3. **Limit on Accumulation** Accrual of vacation days in excess of 20 days is not permitted except with the approval of the City Manager.
4. **Method of Use** Vacation may not be taken in excess of that actually accrued and in no case may it be taken prior to the completion of six (6) months of service. The Department Head shall schedule and approve all vacation leaves for employees taking into consideration seniority, the wishes of the employee, and departmental workloads. Authorization for vacation shall first be approved by the Department Head before submission to the City Manager for approval.

B. **Vacation Scheduling** Vacation shall be taken in units of one (1) week or more except that a Department Head may allow an employee to take vacation in units of less than one (1) week when it is deemed to be in the best interests of the City. Vacation shall be allowed only in increments of one (1) or more whole days.

C. **Vacation Pay upon Resignation** Any employee who has accrued vacation and whose employment terminates shall be compensated for such accrued vacation based on the hourly equivalent of the salary received at the time of termination.

D. **Holidays During Vacation** In the event one or more holidays observed by the City falls within the period an employee is on vacation, such day or days shall not be charged against the vacation accrual.

10.02 **Sick Leave** Sick leave shall be leave with pay and may be used as needed and approved to the point of depletion, at which time the employee will no longer receive pay and will be placed on a medical leave of absence or other non-paid leave of absence. Negative balances may be approved on specific authorization by the City Manager but may not exceed that amount of money available to the employee through accrued vacation, holiday, or other paid leave of absence.

1. Paid sick time can be used for the following reasons:
 - a) Diagnosis, care or treatment of an existing health condition (illness or injury) including medical or doctor appointments, for an employee or covered family member, as defined below
 - b) Preventive care for an employee or an employee's covered family member.
 - c) When the employee requires time away from work caused by being a victim of domestic violence, sexual assault or stalking.
2. For purposes of paid sick leave, a covered family member includes:
 - a) A child defined as a biological, foster or adopted child; a stepchild; or a legal ward, regardless of the age or dependency status of the child. A "child" also may be someone for whom you have accepted the duties and responsibilities of raising, even if he or she is not your legal child.
 - b) A "parent" defined as a biological, foster or adoptive parent; a stepparent; or a legal guardian of an employee or the employee's spouse or registered domestic partner. A parent may also be someone who accepted the duties and responsibilities of raising you when you were a minor child, even if he or she is not your legal parent.
 - c) A spouse.
 - d) A registered domestic partner.
 - e) A grandparent.
 - f) A grandchild.
 - g) A sibling.
3. An employee who is absent from work on sick leave or who is absent after requesting such leave shall not engage in work or other activities at any time which would be in conflict with the inability to report for work and to perform required duties. In no case shall an employee engage in any activity which would be detrimental to the ability to return to work.

A. **Sick Leave Accrual**

1. **Full-Time Employees Eligible** full-time employees shall accrue sick leave as set forth in their bargaining agreement or contract. If no bargaining agreement or contract applies, full time employees shall accrue sick leave at the rate of 3.69 hours per pay period. Eligible sworn fire shift personnel shall accrue sick leave at the rate of twelve (12) hours for each calendar month of continuous service.

2. **Part-Time Employees** Part-time or temporary employees shall accrue three days (24 hours) of paid sick leave per fiscal year. Three days (24 hours) of sick leave shall be provided to the employee on July 1 of each year. The sick leave must be used in that fiscal year and shall not carryover or accrue into the next fiscal year. Sick leave will not be paid out on termination, resignation, retirement or other employment separation. Such sick leave may be used after the employee has been employed by the City of Marina for 120 calendar days .
 3. **Maximum Accumulation** For full-time employees, accrued sick leave may be accumulated to a maximum of 1440 hours except as provided in the appropriate compensation plan. Fire shift sworn personnel may accumulate up to 1680 hours of sick leave. Non shift personnel shall accumulate sick leave as established by the appropriate compensation plan.
 4. **Method of Use** The employee requesting sick leave shall notify the supervisor or Department Head prior to or within one (1) hour after the time set for reporting to work. Sick leave with pay shall not be allowed unless the employee has met and complied with these provisions and the Department Head or the City Manager has approved such payment. Sick leave may be granted on a half-hour basis. Any fraction over a half-hour shall be charged to the next half hour.
- B. **Sick Leave During Vacation** An employee who is admitted to a hospital or confined to bed under medical orders while on vacation may have the period of illness charged to accumulated sick leave instead of vacation under the following conditions:
1. Immediately upon return to duty the employee submits to the' Department Head a request for sick leave and a written statement signed by his or her physician describing the nature and dates of illness and the period of disablement.
 2. The Department Head recommends and the City Manager approves the granting of such sick leave.
- C. **Sick Leave During Holidays** Sick leave shall not be applied to absences which occur on a day designated as a City Holiday.
- D. **Sick Leave Without Pay** On written request of the employee and recommendation of the Department Head, the City Manager may authorize a leave of absence without pay for the purpose of recovering from an illness or injury provided:
1. The employee has used all accumulated sick leave.
 2. The employee furnishes to the Department Head a certification from the attending physician stating the-nature of the illness and an estimate of time needed for full recovery.
- E. **Sick Leave Upon Resignation** Employees leaving City service shall forfeit all accumulated sick leave. In the event that notice of resignation or termination is given, sick leave may be used only through the day which was designated as the final day of work by such notice.

F. **Abuse of Sick Leave** Sick leave is a privilege granted to employees and abuse of this privilege will neither be tolerated nor condoned. Department Heads and the City Manager will be responsible for controlling the use of sick leave by employees, and may require physician's certifications or other evidence of illness, injury, appointments, etc. If the Department Head does not consider the evidence adequate, he or she shall disapprove the request for sick leave, and indicate on the proper forms that such absences shall be absence without leave and shall be uncompensated. Additional disciplinary measures, including dismissal, may be imposed by the Department Head with City Manager approval when any employee fraudulently obtains sick leave or abuses the sick leave privilege.

G. **Coordination With Worker's Compensation** An employee receiving temporary disability payments under the Worker's Compensation Laws, may use accumulated sick leave in order to continue to maintain his or her regular income. Under such circumstances, the employee shall be paid the difference between his or her full salary and the disability payments received. Accumulated sick leave shall be charged in proportion to the amount of the full salary paid to the employee by the City during such period of disability.

Payments for permanent disability are to be retained by the employee, it being ruled by State Compensation Insurance Fund that such awards by the Commission are recompense for the permanent disability suffered by the Employee. Part-time and temporary employees are covered by and shall receive the benefits provided by the Workmen's Compensation Insurance Plan of the City but shall not be eligible for any other benefits as may be provided by this section.

H. **Medical Leave Bank** (Resolution 96-130) The purpose is a City-wide plan for use by City employees who suffer "medical emergencies". The Plan establishes a Medical Leave Bank designed to prevent financial hardship for employees suffering medical emergencies.

Employees may donate Vacation Leave, Sick Leave, Compensatory Time Off, or Administrative Leave to a Sick Leave Bank. Employees who are about to exhaust all available leave may request a transfer from the Bank so they will not need to go without a paycheck during an extended absence.

The Internal Revenue Service, by its Revenue Ruling Number 90-29, has determined that amounts paid by an employer pursuant to a leave-sharing plan are includable in the gross income of the recipient as compensation, but are not considered taxable income to the donating employee.

1. Definitions:

- a. The term "medical emergency" as used herein shall be defined as a medical condition of the employee or an immediate family member of the employee which will require the prolonged absence of the employee from duty resulting in a financial hardship because the employee's available leaves are exhausted.
- b. The term "immediate family" as used herein shall be defined as the City employee's spouse, child, parent, sibling, grandparent, or grandchild.

- c. The term "medical condition" as used herein shall be defined as a severe illness or injury which is foreseeably expected to incapacitate the City employee, either for an extended, medically-indicated period of time, or in order to provide care for the immediate family member for an extended, medically-indicated period of time.

2. Procedures for Donation of Leave

- a. Any City employee may donate accrued Vacation Leave, Sick Leave, Compensatory Leave, or Administrative Leave in full hour increments by completing a Donor Authorization Form. To be able to donate, the employee must have at least 40 hours of leave available after the donation.
- b. The Department Head of the donating employee may then approve the leave donation, verifying that the employee has the leave available to donate.
- c. The donated leave shall be changed to its dollar value at the donor's basic hourly rate of pay at the time of donation.
- d. Finance Department will notify the employee the donation has been made. At that point, the donation is irretrievable and irreversible.
- e. All records relating to the donations to the Bank will be maintained by the Finance Director and are confidential.

3. Procedures for Requesting Transfers from the Bank

- a. Any non-probationary employee who suffers a "medical emergency" as defined herein may request a transfer from the Bank.
- b. The requesting employee must complete a Request for Leave Donation Form. If the employee is unable, a family member may complete the form for the employee.
- c. Upon receipt and review of the completed Request for Leave Donation Form, the employee's Department Director may approve the request. If the medical emergency involves a family member, documentation may be required to confirm that the employee is needed to care for the family member. If approved by the Department Director, the request may then be reviewed by the City Manager. Either may require documentation confirming the medical condition.
- d. The City Manager will notify the requesting employee of the approval or denial of the request as expeditiously as possible.
- e. Finance Department will add the number of hours approved by the City Manager to the requesting employee's available Sick Leave. The employee may then use the sick leave as usual.
- f. The maximum donation of leave from the Bank is 200 hours or 25 work days (Resolution 97-01) of donated leave for anyone medical emergency in any fiscal year.

10.03 **Bereavement Leave** The necessary absence from duty by an employee having a regular or probationary appointment because of the death of a member of the immediate family or because the employee's attendance is needed to attend to the critical illness of a member of the immediate family where death appears imminent. For the purposes of this Section, the immediate family of an employee shall include his or her spouse and the following relatives: children of either spouse, either's parents; brothers and sisters, grandparents and grandchildren.

A. **Maximum Allowed** Such leave shall be limited to three (3) working days per calendar year. Bereavement Leave shall be at full pay and shall not be charged against the employee's accrued vacation or sick leave.

B. **Additional Time Off** Additional time off in excess of three (3) days may be taken by an employee with prior approval of the Department Head and the City Manager. Such additional time off is to be charged in the following order:

1. Accumulated sick leave.
2. Accumulated compensatory time (if any).
3. Accumulated vacation time.
4. Leave of absence without pay.

C. **Probationary Employees** An employee who takes leave under this Section and for any reason terminates City employment prior to the completion of six (6) months of employment shall have his or her final paycheck reduced by the value of the leave taken.

10.04 **Jury Duty and Subpoenaed Witnesses** No deduction shall be made in the salary of an employee who serves on a jury or is subpoenaed to testify in a judicial or quasi-judicial proceeding as a material or expert witness if he or she remits to the City any fee received. If the employee chooses to retain the fees, he or she will be charged compensatory time off, vacation time, or be placed on a leave without pay status, accordingly, for the time spent serving. If the employee incurs personal mileage expenses while serving, said employee may retain that portion of the fee attributable to mileage and remit the difference to the City. Employees subpoenaed to appear pursuant to an official subpoena shall immediately notify the Department Head in writing whether or not they shall remit any witness fee to the City and if not, their status while serving. In addition, employees served with subpoenas shall notify the City Attorney's Office immediately upon being served.

10.05 **Leave of Absence Without-Pay** Upon recommendation of the Department Head, the City Manager may grant an employee a leave of absence without pay in cases of emergency or where such absence would not be contrary to the best interests of the City. Such leave is not a right but a privilege. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and approval must be in writing.

1. A leave of absence under this Section shall be a leave without pay - regular salary and entitlement to all benefits are discontinued.

2. The length of the leave shall depend on the merit of the individual case, but such leave shall not exceed twelve (12) months' duration.
3. Other than for the purpose of extending sick leave or maternity leave, no leave of absence without pay will be granted unless the employee has first used all accrued vacation leave and compensatory time off. Should an employee terminate while on leave of absence without pay, any compensation due the employee will be computed on the base rate of pay received at the time the employee began the leave of absence.
4. An employee must give two (2) weeks' notice prior to the date on which he or she will return to work. If the employee does not give two (2) weeks' notice, the Department Head shall not be required to return the employee to duty until two (2) weeks after the employee has given such notice.

10.06 **Military Leave**

- A. Military leaves of absence will be authorized in accordance with state and federal law. For the purpose of this policy, recognized military service shall mean full-time service by a person in the armed services during a national emergency or state militia emergency. In order to be eligible, employees must submit written verification from the appropriate military authority. Whenever possible, the employee shall notify the Department Head of such leave request at least ten (10) working days in advance of the beginning date of such leave.
- B. While in a non-pay status on military leave, the employee shall not accrue vacation, sick leave, holidays or any other benefits during the leave. Insurance benefits, such as, but not limited to, health, dental, life and disability insurance for the employee and his/her dependents will not be maintained by the City during the leave while in a non-pay status. The employee may elect to pay the premiums and maintain the insurance during the leave. The premiums must be paid in advance to the City.
- C. The City will reinstate employees returning from military leave to their same position or one of comparable seniority, status and pay if they:
 1. Have a certificate of satisfactory completion of service;
 2. Apply within 90 days after release from active duty or within such extended period, if any, as their rights are protected by law; and
 3. Are qualified or are, with reasonable effort, able to re-qualify to fill their former position.
- D. Exceptions to this policy shall be made whenever necessary to comply with applicable state and federal laws.
- E. An employee who has more than twelve months service with the City and who is on temporary military duty (TAD) ordered for the purposes of active military training, encampment, naval cruises, special exercises, or like activity shall be on leave with pay for the first thirty (30) days of such leave provided the temporary military duty does not exceed 180 calendar days including time spent going to and returning from

the duty. Inactive duty, such as scheduled reserve drill periods, is not to be considered as active military duty and does not qualify. Leave with pay shall not exceed thirty (30) calendar days in a fiscal year.

10.07 **Medical Leave - Non-Occupational**

- A. Employees who are temporarily disabled and unable to work due to a personal illness, non-occupational injury, pregnancy, child birth, or related medical condition, will be granted a medical leave of absence.
- B. Medical leaves will be authorized on the basis of a physician's written statement that the employee is temporarily unable to work due to a medical disability.
- C. An employee who is granted a medical leave of absence must utilize all accrued sick leave during the initial period of the leave. Vacation, and any other accrued compensatory time off may be used, at the discretion of the employee and with the approval of the City Manager, during the initial period of the leave. Any portion of a leave that occurs after all sick leave, vacation and compensatory time off have been exhausted shall be without pay.
- D. A medical leave of absence for pregnancy, child birth, or related medical condition shall not exceed a total of four (4) months. Paid and unpaid portions of a leave shall be added together for purposes of the four (4) month leave period. The total period of all absences related to pregnancy, child birth, or related medical condition, shall be considered part of the same leave when calculating available leave time.
- E. An employee who plans to take a medical leave must provide the City with reasonable notice of the date the leave will commence, the estimated duration of the leave, and the expected date of return to work. When an unplanned medical condition or emergency occurs that does not allow the employee to provide advance notification of the need for a medical leave, the employee must notify the City of the situation at the earliest possible time. The City may require periodic confirmation of the need for continued leave.
- F. Employees returning to work after a medical leave must have a written release from a physician verifying that they are able to return to work and safely perform their duties. Subject to any exceptions permitted by law, an employee shall be restored to his/her former position and will resume accrual of benefits in effect before the medical leave provided he/she returns to work on or before the end of the authorized leave period. If the period of leave is not established or if it differs from the originally agreed period, the employee's reinstatement date shall be not less than thirty (30) days after the City has received notice of the employee's availability to return to work.
- G. While on medical leave of absence, an employee shall not accrue vacation, sick leave or holidays. Insurance benefits, such as, but not limited to, health, dental, life and disability insurance for the employee and his/her dependents will not be maintained by the City during the leave while in a non-pay status. The employee may elect to pay the premiums and maintain the insurance during the leave. The premiums must be paid in advance to the City.

10.08 **Medical Leave - Work Related**

- A. A leave of absence will be granted upon written request to any regular employee who sustains a work-related disability. A leave of absence for a work-related disability will be extended to the employee for the duration of the work-related disability. Employees returning from a leave will be given credit for any portion of a probationary period completed prior to the commencement of the leave of absence. Benefits paid during a leave of absence for a work-related disability will be coordinated with workers' compensation benefits. Notification requirements for a medical leave of absence for occupational disabilities are the same as those for medical leaves for non-occupational disabilities. The City will retain employees on an extended leave of absence for work-related disabilities until one of the following situations occurs.
1. The employee is released by a physician for full duty.
 2. The City receives medical evidence satisfactory to it that the employee will be permanently unable to return to work.
 3. The employee directly or indirectly informs the City (i.e., by accepting other employment, moving out of the state, etc.) that he/she does not intend to return to the City's employ.
- B. An employee who returns to work at the end of his/her leave of absence will be returned to his/her former position, if possible, or will be offered the first available opening in a comparable position for which he/she is qualified. The employee must provide a physician's statement that indicates that he/she is fit to return to the position designated for the employee.

10.09 **Family Care and Medical Leave**

- A. The purpose of this policy is to implement the provisions of the California Family Rights Act of 1991, as amended, and the Family and Medical Leave Act of 1993. Where there are differences between the state and federal acts the more generous requirements of the two have been extended to City employees. If any provisions of this policy are inconsistent with the state and federal acts and their enabling regulations the acts and regulations shall supersede this policy.
- B. Employees with more than one (1) year of continuous service with the City, who have worked at least 1,250 hours during the previous year, may take up to twelve (12) workweeks of leave in a 12- month period because of:
1. The birth of a child or to care for a newborn of an employee;
 2. The placement of a child with an employee in connection with the adoption or foster care of a child;
 3. The employee is needed to care for a family member (child, spouse, or parent) with a serious health condition;
 4. The employee's own serious health condition makes the employee unable to do his/her job.

Entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.

- C. A leave granted under this provision will normally be leave without pay except that an employee must exhaust accrued sick leave, vacation or other accrued time off prior to leave without pay. With advance notification to the City, at the request of an employee, an employee may retain and not use accrued sick leave in connection with a leave for the care of a newborn, adopted or foster care child or to care for a family member with a serious health condition.
- D. Leave may be used in one or more increments, but shall not exceed a total of twelve (12) work weeks of leave in a 12-month period measured backward from the date leave is taken and continues with each additional leave day taken. A leave for the care of a newborn, adopted or foster care child shall be taken on a continuous basis in increments of not less than two (2) weeks. An employee may request intermittent leave in one-day increments for the care of a seriously ill family member; or for the treatment of a serious health condition of the employee. A reduced leave schedule (i.e. a work schedule that reduces the number of hours per workweek or workday) may be established where medically necessary for an employee to care for a seriously ill family member; or for the treatment of a serious health condition of the employee.
- E. Unless the need for leave arises out of an unforeseen emergency, employees requesting leave will be expected to provide reasonable advance notice of the need for leave and, at a minimum, written notice of thirty (30) days. Failure to provide advance notice may be cause for delaying the effective date of the leave to ensure adequate coverage of the position. The City shall require employees requesting family care leave for the care of a seriously ill family member, or medical leave for the treatment of a serious health condition of the employee to provide medical certification of the illness.
- F. Where both a husband and wife are employed by the City and both are eligible for family leave the aggregate leave to which both are entitled is limited to twelve (12) workweeks of leave in a 12- month period if leave is for the birth or placement for adoption or foster care of the employees' child, or to care for a seriously ill parent.
- G. Employees on leave will be eligible to continue medical and dental insurance coverage and other group coverages as if the employee were in a regular pay status. The City will pay the premiums necessary to maintain coverage as if the employee remained in a paid status. If an employee elects to maintain insurance coverage while on family care leave and there is normally a payroll deduction, the employee may authorize a payroll deduction or pay the premiums in advance in accordance with the requirements necessary to maintain coverage. Failure to pay premiums which are the employee's responsibility may result in cancellation or loss of benefit coverage. For the period of family care leave in a paid status, if any, the employee will continue to accrue vacation, sick leave and holidays.
- H. Leave shall not constitute a break in service for seniority or any employee benefits. The anniversary date of an employee on leave without pay for thirty (30) consecutive calendar days, or major fraction thereof, or more, shall be adjusted to reflect the time absent without pay. An employee on probation will have the probationary period extended by the length of time on leave.

- I. The employee shall cooperate with the City in scheduling his/her date to return to work, and, whenever possible, shall give the City at least thirty (30) days advanced notice of availability. Upon return from leave, the employee shall be restored to the same or a comparable position held prior to the leave provided the employee gives the City thirty (30) days advanced notice. Where the medical leave was for the treatment of a serious health condition of the employee the City shall require the employee to provide medical verification of fitness to return to duty.
- J. Employees are required to complete the following applicable forms in connection with leave under this policy:
 - 1. Request for Family Care or Medical Leave to be eligible for leave.
 - 2. Medical certification for the employee's own serious health condition or for the serious health condition of a family member.
 - 3. Authorization for payroll deductions of insurance benefit premiums not paid for by the City.
 - 4. Verification of fitness to return to duty.

10.10 **Time Off to Vote** Employees who are registered voters may request time off to vote at an election if the employee does not have sufficient time outside of his/her regular working hours to vote. The employee may, without loss of pay, take up to two (2) hours of time off to vote. The time off for voting shall be only at the beginning or the end of the regular work shift, whichever allows the most free time to vote and the least time off from work. The employee shall give his/her supervisor at least two (2) working days notice of the need for time off to vote.

10.11 **Administrative Leave for Volunteer Firefighters**

Employees who are enrolled volunteer firefighters of the City shall receive administrative leave each year as follows:

- A. Forty (40) hours shall be credited at the beginning of each calendar year except that the City Manager on the recommendation of the Director of Public Safety may increase the number of hours to be credited in any calendar year. Employees whose eligibility for this leave is established after the beginning of a calendar year shall be credited with a pro-rata share of the leave hours based on the date of eligibility (e.g., if eligible on April 1st, then would be credited with 75% of the hours). Any leave not used as described below shall not be carried forward to the next year and shall be forfeited upon the employee's termination of employment with the City.
- B. Leave as provided hereunder may be used during normal duty hours for volunteer firefighting and for such other emergencies when the services are directed by the Director of Public Safety or the Director's designee. Leave may not be used under any circumstances so as to enable the employee volunteer to receive compensation for time spent beyond the employee's normal duty hours, even if service commences during duty hours.

NOTICE: Sick Leave for Part-Time and Temporary Employees

As was effective on July 1, 2015, part-time or temporary employees shall accrue three days (24 hours) of paid sick leave per fiscal year. Three days (24 hours) of sick leave shall be provided to the employee on July 1 of each year. The sick leave must be used in that fiscal year and shall not carryover or accrue into the next fiscal year. Sick leave will not be paid out on termination, resignation, retirement or other employment separation.

Sick leave may be used after the employee has been employed by the City of Marina for 120 calendar days, and for the following reasons: medical or doctor appointments; your own diagnosis, care or treatment of an existing health condition or preventative care; time away from work caused by you being the victim of domestic violence, sexual assault, or stalking; or the actual illness or injury of your "Family Member." "Family member" includes: a child (biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis, regardless of age or dependency status); a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; a spouse; a registered domestic partner; grandparent; a grandchild; and a sibling.

If you wish to use sick leave you must make an oral or written request to use sick leave, for a qualifying reason. If the need for leave is foreseeable, you must provide notice as soon as practicable.

November 17, 2015

Item No. **8f(2)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of December 1, 2015

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2015-,
APPROVING A PAID SICK LEAVE POLICY IN COMPLIANCE WITH
ASSEMBLY BILL 1522 (“AB 1522”): HEALTHY WORKPLACES,
HEALTHY FAMILIES ACT OF 2014, AUTHORIZING FINANCE
DIRECTOR TO MAKE NECESSARY ACCOUNTING AND
BUDGETARY ENTRIES AND AUTHORIZING CITY MANAGER TO
MAKE NECESSARY MODIFICATIONS TO THE SICK PAID LEAVE
POLICY AS NEEDED IN ORDER TO COMPLY WITH FUTURE
LEGISLATION.**

REQUEST:

It is requested that the City Council:

1. Consider adopting Resolution No. 2015–, approving a paid sick leave policy in compliance with Assembly bill 1522 (“AB 1522”): Healthy Workplaces, Healthy Families Act of 2014, and;
2. Authorize Finance Director to make necessary accounting and budgetary entries, and;
4. Authorize City Manager to make necessary modifications to the Sick Paid Leave Policy as needed in order to comply with future legislation.

BACKGROUND:

On September 10, 2014, Governor Jerry Brown signed into law AB 1522, which requires almost all public and private sector employees to give almost all workers in California at least three (3) paid sick days per year. In addition, the Legislature recently passed clean up legislation for AB 1522 on July 13, 2015, i.e. Assembly Bill 304 (AB 304).

The City of Marina Personnel Manual does not reflect changes made by AB 1522 and in order for the City to become lawfully compliant a change in the City of Marina Personnel Manual, Section 1 “Leave of Absence Provisions”, Subsection 10.02 “Sick Leave” must be made.

ANALYSIS:

Per AB 1522, on or after July 1, 2015, employees working for the City for thirty (30) calendar days within a year are eligible for paid sick leave after a one-hundred and twenty (120) day employment period. The City’s permanent full-time and part-time employees are covered under Memoranda of Understanding (MOU) and the City’s Personnel Manual, which exceed the minimum requirements of AB 1522’s sick leave provision. Sick leave for temporary or part-time employees is not clearly set forth and needs to be clarified to comply with the new legislation.

AB 1522 requires that paid sick leave be provided for:

1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee;

2. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee's family member (includes parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild, or grandparent); or
3. For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in Labor Code Section 230(c) and Labor Code Section 230.1(a).

Employers have two choices for paid sick leave accrual:

1. *Accrual Method*: employees accrue one (1) hour of sick leave for every thirty (30) hours worked; or
2. *Frontloading Method*: employers provide twenty-four (24) hours, or three (3) days of sick leave up-front at the beginning of each 12-month period. Under this option, no accrual or carryover is required and eligible employees will receive three (3) new sick days per year.

Employers may set a standard usage increment of sick leave at one (1) hour per occurrence.

The proposed Paid Sick Leave Policy (“**EXHIBIT A**”) complies with AB 1522, using the cleaned up legislation contained in AB 304. The proposed Policy states that the City will utilize the frontloading method for part-time and temporary employees. Changes to the policy are contained in Section 1 “Leave of Absence Provisions”, Subsection 10.02 “Sick Leave”. Also, per the City Attorney’s Office it is recommended that a notice (“**EXHIBIT B**”) of the change to the sick leave policy be distributed to part-time and temporary employees.

FISCAL IMPACT:

Currently, seventeen percent of the City’s workforce is comprised of part-time employees and it is anticipated the cost of implementing AB 1522 will be minimal. It should be noted that sick leave granted as a result of AB 1522 is not paid out to the employee upon separation of employment with the City.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

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Police Department Management Analyst
City of Marina

REVIEWED/CONCUR:

Edmundo Rodriguez
Chief of Police
City of Marina

Layne Long
City Manager
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