

Proposed by:	Administration
Civic Affairs:	12/08/2021
Attorney Review:	12/10/2021
Vote: 4 Aye	0 Nay 2 Absent

## MUNICIPALITY OF SKAGWAY, ALASKA

### RESOLUTION NO. 21-42R

A RESOLUTION OF THE MUNICIPALITY OF SKAGWAY, ALASKA, AMENDING THE MUNICIPALITY OF SKAGWAY PERSONNEL POLICY.

**WHEREAS**, the Personnel Officer, Borough Manager, and Interim Fire Chief have recommended revisions to the personnel policy to be consistent with current practice and applicable state and federal laws for Fire Department Employees; and

**WHEREAS**, revisions to the personnel policy were developed to address changes within the Fire Department staff including emergency responders that effect certain changes in the Municipality's personnel practices; and

**WHEREAS**, the Borough Attorney's office has recommended revisions to Family Leave provisions in the personnel policy to be consistent with federal and state law; and

**WHEREAS**, pursuant to SMC 3.18.040(A), the assembly shall by resolution adopt such personnel rules as may be necessary to carry out the purposes of SMC 3.18 and implement the personnel management plan;

**NOW THEREFORE, BE IT RESOLVED** by the Borough Assembly of the Municipality of Skagway that the following sections of the Municipality of Skagway Personnel Policy is hereby amended as indicated, (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added.

#### CHAPTER 3 WORK SCHEDULE

##### Section 3

##### General Statement

- 3.1 Work Week
- 3.2 Work Day
- 3.3 Work Day Breaks
- 3.4 Shift Changes
- 3.5 Shift Trades**
- 3.6 Kelly Days**
- ~~3.57~~ Outside Employment

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- 3.2 Work Day

Generally, the work day consists of eight working hours. Hours worked within a twenty- four (24) hour period beginning at midnight in excess of eight hours [or ten (10) hours, if ten-hour shifts are generally

worked] are compensated as overtime pursuant to Section 5.4. The department supervisor may alter work day schedules with the permission of the Borough Manager, subject to compliance with State Department of Labor regulation 8 AAC 15.102.

Employees within the Fire Department have different work schedules. There are three (3) classifications of employees: Paid on Call, Part-Time, and Full-Time.

- (a) Paid on Call: Employees within this classification receive a stipend for response to calls and/or training. These individuals will have varying work time as their primary role is response to emergencies.
- (b) Part-time employees are scheduled to work twelve (12) hour shifts. Part time employees will receive an hourly increase and eligible for overtime pursuant to Section 5.4.
  - (1) Work shifts for Part-time employees are established by the department. Employees cannot work more than two (2) 12-hour shifts consecutively.
- (c) Full-time employees may be scheduled to work a 40-hour work week and will follow the guidelines for all 40-hour regular employees.
- (d) Full-time employees may also be schedule for a 24-hour period. The work schedule will be defined by the department and typically consist of 24 hours on duty followed by 48 hours off.

### 3.3 Work Day Breaks

A normal eight-hour work day will include, whenever feasible, two 15-minute breaks and a one-hour lunch break scheduled by the department supervisor. Employees working ten-hour days will, whenever feasible, receive an additional 15-minute break each day (for a total of three). Fifteen-minute breaks are compensated; the one-hour lunch break is not compensated, subject to compliance with State Department of Labor regulation 8 AAC 15.102.

### 3.4 Shift Changes

Employees will normally receive adequate advance notice of any changes in regular working hours, except where an emergency exists. The supervisor will give at least one- week prior notice of a change in work schedules, when possible.

### 3.5 Shift Trades

“Shift trades” occur when two Fire Department employees agree, solely at their option and with approval by the Fire Chief or their designee, to substitute for one another during scheduled work hours in performance of work in the same capacity. Fire Department employees shall have the right to voluntarily trade shifts within the same job class, pursuant to the following policy:

- (a) Fire Department employees deemed unable to perform their duties or who have submitted their resignations shall be ineligible to participate in shift trading.
- (b) Where one employee substitutes for another, each employee will be credited as if they had worked their normal work schedule for that shift.

- (c) Shift trades will be requested in writing, signed by both employees, and approved by the Fire Chief or their designee, and such trade requests must be specific as to the dates and times of the shifts to be traded. Requests to shift trades must be approved prior to the dates of the requested shift trades.
- (d) The employees' decisions to trade shifts are made freely and without coercion, direct or implied. Each employee is free to refuse to perform such work without sanction and without being required to explain or justify the decision. An employee's decision to trade shifts will be considered to have been made at their sole option when it has been made (i) without fear or reprisal or promise of reward by the Municipality, and (ii) exclusively for the employee's own convenience.
- (e) Trade shifts are agreements between employees, and as such the Municipality is not liable for actions of the employees related to whether or not, or how, they comply with the voluntary shift trade agreement. The voluntary shift trade agreement is not a Municipality agreement nor is it an agreement with the Municipality.
- (f) The hours worked shall be excluded in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation. The substituting employee shall be covered for workers compensation, but shall not receive wages or additional benefits for the approved trade period. The Municipality is not required to keep a record of the hours of the substitute work.

### 3.6 Kelly Days

Each Fire Department employee is assigned to work 24-hour shifts that average 204 hours of work per 27 day-cycle. To accomplish this end, the employees shall be provided "Kelly Days," with every sixteenth (16th) shift off (without reduction in annual salary) as work reduction days. Work reduction days shall be scheduled in advance, by the Fire Chief or their designee. Fire Department employees assigned to the same shift may trade work reduction days within the same 27-day cycle. Notice of such trade(s) shall be given to the Fire Chief in writing at least two (2) days prior to the first affected shift.

### 3.57 Outside Employment

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### 5.4 Overtime

Work performed in excess of the regular work day or regular work week is compensated at one and one-half times the regular rate of pay, which will be referred to as the overtime rate. The employee's supervisor shall authorize overtime. Employee standby and on-call time is not considered overtime and is not counted towards hours worked.

- (a) All work in excess of eight hours per day for employees regularly scheduled to work either eight hours or less is paid at the overtime rate.
- (b) All work in excess of 40 hours in a seven-day week, excluding those hours already paid at the overtime rate, is paid at the overtime rate. Hours shall not be double counted for purposes of

computing overtime. Paid leave shall be considered as time worked when computing hours in excess of 40 hours in a seven-day week. Hours worked shall only be counted once for purposes of determining overtime pay, regardless of whether the hours worked exceed the regular work hours for a day or exceed 40 hours for a seven-day week.

- (c) Full time and part time Fire Department employees will be eligible for overtime for all hours worked that exceed 204 hours in a 27-day cycle.
- (ed) Overtime is computed to the nearest half hour.
- (de) Overtime pay is not available to "exempt" employees who serve in a bona fide executive, administrative, or professional capacity. Other employees may be eligible for overtime pay. ~~is available only to an employee paid an hourly rate.~~
- (ef) See Section 5.5 for rates of pay for hours worked on holidays.
- (fg) All work in excess of 40 hours a week; ~~or~~ 10 hours a day under a flexible work hour plan pursuant to AS 23.10.060(d)(14); or Fire Department employee work that exceeds 204 hours in a 27-day cycle is paid at one and one-half times the regular rate of pay. Overtime shall only be calculated once per work week or 27-day cycle and under no circumstances shall there be any double counting of hours of overtime.

The Fire Chief or their designee may require overtime work and employees may not refuse overtime assignments. In non-emergency situations, the Municipality will seek volunteers prior to assigning overtime work. If no volunteers are available, the Fire Department can mandatorily assign an employee to work an overtime assignment based on a rotating reverse seniority list. Part-time and paid on-call Fire Department employees may be recruited for the overtime assignment. Paid on-call Fire Department employees will receive the daily stipend and any per call stipends for responding to the emergency.

#### 5.5 Holiday Pay

- (a) Regular employees, introductory employees, Fire Department employees, and regular seasonal employees (in their third or more consecutive season) are compensated for holidays for the number of hours they would have normally worked on that day, not to exceed 8 hours. Holiday pay does contribute toward hours worked when calculating overtime pay. Fire Department employees will be expected to work on holidays.
- (b) Regular part-time employees, introductory part-time employees and regular seasonal part-time employees (in their third or more consecutive season) who are not regularly scheduled to work on the day of the holiday shall receive 0.2 of the regularly scheduled weekly hours as pay for that holiday, not to exceed 8 hours.
- (c) Employees whose scheduled day off falls on a holiday are compensated by an extra day's regular pay or by an extra paid day off.
- (d) All work on a holiday is paid at the regular rate of pay, in addition to overtime pay for hours worked that day. If the holiday is compensated by an alternative day off, work on the holiday is paid at the regular rate. Police employees on stand-by time on holidays are paid at the rate of one and one-half times the regular stand by rate.

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### 6.1 Definitions

The following definitions may be combined to describe certain job positions. Refer also to Section 6.6.

- (a) Introductory - A new employee being evaluated for a specified period of time prior to achieving regular status **and one-year for full-time Fire department employees.**
- (b) Regular - An employee who has successfully completed the specified introductory period and who is retained in the position.
- (c) Temporary - An employee appointed for a limited or specified period of time, either full or part time.
- (d) Full-time - An employee who regularly works 30 hours or more per week.
- (e) Full-time Fire – An employee who regularly works a 24-hour shift for an average of 56 hours per week for the Fire Department.**
- (ef) Part-time - An employee employed regularly for less than 30 hours per week.
- (fg) Volunteer - An individual who performs service for the Municipality for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered. Volunteers may receive limited benefits such as training opportunities, reimbursement of meal or travel expenses, training allowances and stipends, but the Municipality shall have no obligation to offer such benefits to volunteers.
- (gh) Exempt - An employee who serves at the pleasure of the Borough Assembly and whose term of employment is determined by the Borough Assembly (see section H, Applicability).
- (hi) Regular Seasonal - An employee appointed for a specific period of less than 12 months either full-time or part-time whose length of service is seasonal due to available work and/or budget authorization.

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### 7.3 Holidays

Twelve paid municipal holidays coincide with official State or Federal holidays as to the date of observance. In addition, the mayor may declare a holiday for the business day either before or after Christmas. See Section 5.5, Holiday Pay.

All regular employees will be paid holiday pay for a maximum of twelve (12) holidays during the calendar year. If an employee is scheduled to work on a holiday as well as that holiday's date of observance (i.e., the holiday falls on a Sunday and is observed by the Municipality on a Monday), that employee may claim only one of the days as a paid holiday.

**Full-time employees within the Fire Department are paid for holidays as defined in section 5.5 of the handbook utilizing the Municipality's Holiday schedule.**

### 7.4 Vacation

- (a) Accumulation of Vacation Time - Regular full-time employees accumulate vacation time for each month worked as follows:
- (1) Employees with less than two years' service: 1.25 days.
  - (2) Employees with two to five years' service: 1.75 days.
  - (3) Employees with five to ten years' service: 2.00 days.
  - (4) Employees with more than ten years' service: 2.5 days.
- Regular part-time employees accrue vacation time pro-rata according to the schedule above. For purposes of this section, their length of service is calculated using their total hours worked each month divided by a month of regular service (173 hours).
- (b) Full-time employees in the Fire Department will earn vacation as of their date of hire based on the following schedule:**
- (1) Employees with less than two years' service: 4 hours/month; 2 shifts per year.**
  - (2) Employees with two to five years' service: 8 hours/month; 4 shifts per year.**
  - (3) Employees with five to ten years' service: 12 hours/month; 6 shifts per year.**
  - (4) Employees with more than ten years' service: 20 hours/month; 10 shifts per year**
- ~~(b)~~ (c) Accrued Vacation - Accrued vacation is credited as earned vacation for each month of service, or prorated for each fractional month, expressed to the half month of service. Vacation accrued during the first six months of service is not credited as earned until the employee completes the first six months of continuous service and establishes a regular status; vacation time may not be used during an employee's introductory period.
- ~~(c)~~ (d) Maximum Vacation Accumulation
- (1) Accrued vacation leave may not exceed two years accrual [as established in subsection (b)] on the first working day of the calendar year except with the written authorization of the manager as provided in (2) below. Otherwise, leave in excess of two years accrual as of the first working day of the calendar year is forfeited.
  - (2) At the request of the employee, the manager may permit the carry-over of leave in excess of two years accrual when the manager determines that the employee made every reasonable effort to schedule leave and the Municipality denied the leave requests because of extraordinary circumstances.
    - (i) The department supervisor must give the manager a plan providing for the timely use of the excess leave.
    - (ii) Granting carry-over of leave may not cause any hardship to the Municipality beyond the benefits gained by granting such carry-over.
- ~~(d)~~ (e) Scheduling Vacation Leave - Employees must submit vacation requests to the department supervisor and obtain approval at least two weeks prior to taking vacation leave. Preference in vacation scheduling is by seniority in each department. **On or before the last duty day in November, the Fire Chief shall post a schedule of days available to Fire Department employees for vacation for the following calendar year. Fire Department employees on each shift will select their vacation preferences in order of their seniority within rank, with the most senior Fire Department employees having the first choice, the next most senior having second choice, and so on. The vacation periods requested by Fire Department employees will be submitted to the Fire Chief for approval by December 15 of each year.**
- ~~(e)~~ (f) Payment for Vacation Leave – The Borough Manager may grant payment in lieu of vacation time to an employee ~~{exclusive of payments made under subsection (d)(1) of this section}~~ once

during a calendar year. The employee must request such payment in writing. The payment shall be for no more than ten accrued vacation days and the payment shall not reduce the employee's accrued vacation leave to less than ten days. Payment is at the employee's present rate of pay.

7.5 Sick Leave

(a) Sick Leave Accrual - Employees in regular positions accrue sick leave at the rate of 1.25 working days for each full month worked (prorated for part time employees). Introductory employees shall accrue sick leave from date of hire, but may not use sick leave while in an introductory status. Regular seasonal employees accrue sick leave starting at the beginning of their third consecutive season of employment. Employees may accumulate sick leave up to but not to exceed 45 days maximum.

**(b) Full-time 24-hour fire department employees will accrue fourteen (14) hours of sick leave per month or 168 hours. Sick time will accumulate to a maximum of 1,080 hours.**

~~(bc)~~ Sick Leave Allowed - Sick leave will be granted for the following reasons:

- (1) Injury on the Job - Sick leave pay may compensate the difference between Worker's Compensation Insurance and full pay, provided the employee's net compensation does not exceed what the employee would receive if the employer worked a regular schedule. The employee must report the amount of payment and the period that it represents to the Borough Manager or thier designee.
- (2) Other Illness or Injury - Personal illness or physical incapacity.
- (3) Quarantine - Forced quarantine of the employee in accordance with State or Community Health Regulations.
- (4) Medical and Dental Appointments.
- (5) Counseling - Inpatient or outpatient treatment or counseling for mental or emotional problems, alcohol or drug abuse when the appointments conflict with the regular work schedule.
- (6) Attend to family members - if an employee's attendance is required due to the illness or disability of a member of the employee's immediate family (See Section 7.7 for definition of "immediate family").
- (7) Family leave.

~~(cd)~~ Other Accrued Time Allowed for Sick Leave - When an employee exhausts all of their sick leave benefits, they may use holiday and vacation leave during the remainder of the sick time away from work. The Municipality may require medical progress reports prior to approval of the sick leave.

~~(de)~~ Employee Responsibility - It is the employee's responsibility to maintain good health.

~~(ef)~~ Mental and Emotional Problems - Employees are urged (and may be required, in lieu of disciplinary action) to seek treatment and counseling for mental and emotional problems or alcohol or drug abuse which may affect work performance.

~~(fg)~~ Procedures - Continued leave pay depends upon compliance with the following procedures:

- (1) On the first day of absence from duty, the employee, or someone on their behalf, shall notify the Municipality of the reason for such absence. If the duration of the illness lasts longer than one day, the employee must notify the department supervisor daily.

- (2) An employee may be required after three days absence to furnish a certificate from a licensed physician or practitioner to support their sick leave claim.

7.6 Family Leave

(a) The Municipality of Skagway is a covered employer under the Family and Medical Leave Act (FMLA) and the Alaska Family Leave Act (AFLA). FMLA and AFLA are designed to help employees balance the demands of their jobs and the needs of their families.

(b) The Federal Family Medical Leave Act (FMLA) provides the following to eligible employees (an employee who has been employed for at least 12 months within the past 7 years and 1,250 hours in the preceding 12 months):

- (1) Up to twelve (12) work weeks off from work during a single 12-month period to care for the employee or a family member with a serious health condition (“family member” shall mean a husband, wife, domestic partner, child, parent, or stepparent. “Child includes the employees’ biological, adopted, stepchild, foster child, or legal ward or a child whom the employee stands in loco parentis who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability);
- (2) Up to twelve (12) work weeks off from work during a single 12-month period to bond with a newborn, adopted or foster child (other than adoption of a stepchild);
- (3) Up to twenty-six (26) work weeks during a single 12-month period to an eligible employee who is the spouse, son, or daughter (biological, adopted, foster child, stepchild, legal ward, or a child from whom the employee stood in loco parentis), parent (biological, adoptive, stepparent, foster parent, or individual who stood in loco parentis to the employee), or next of kin to care for a seriously injured or ill covered servicemember (defined as a member of the Armed Forces including the National Guard or Reserves, or a veteran who was active duty in the Armed Forces within the last five years);
- (4) Up to twelve (12) weeks off from work during a single 12-month period for the spouse, son, or daughter (biological, adopted, foster child, stepchild, legal ward, or a child from whom the employee stood in loco parentis) or parent (biological, adoptive, stepparent, foster parent, or individual who stood in loco parentis to the employee) of a service member due to a “qualifying exigency” that arises because the service member is called to active duty or is notified of an impending call or order to covered active duty in the Armed Forces;
- (5) Employees are entitled to the hours normally worked per week. (Example: 12 weeks for a full-time employee is up to 480 hours for eight-hour employees / 672 hours for 24-hour personnel). A part-time employee is entitled to leave on a pro rata basis of their normally scheduled hours (Example: an employee who works 30 hours a week is entitled to 30 hours x 12 weeks).
- (36) The Municipality is obligated to maintain the employee’s health insurance for the duration of the leave;



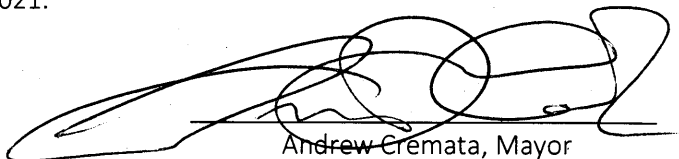
- (47) FMLA leave is ~~job-protected leave~~ requires restoration to the same job or one that is equivalent; in most cases, an employee is restored to the same position he or she occupied prior to taking the leave.
- (c) The Alaska Family Medical Leave Act (AFLA) provides the following to eligible employees (an employee who has been employed for at least 35 hours a week for at least six consecutive months or for at least 17.5 hours a week for at least 12 consecutive months):
- (1) Up to eighteen (18) intermittent work weeks during any twenty-four (24) month period off from work to care for the employee or a family member with a serious health condition. “Family member” shall mean a husband, wife, same-sex partner, child (biological, adopted, stepchild, foster child, or legal ward who is under 18 years of age or older than 18 years of age but incapable of self-care because of a mental or physical disability), or parent (biological, adoptive, parent-in law, or stepparent);
  - (2) Up to eighteen (18) consecutive work weeks off from work to bond with a newborn or adopted child (other than adoption of a stepchild) within the first year of the birth or placement of the child;
  - (3) AFLA leave is ~~job-protected leave~~ requires restoration to the same job or one that is a substantially similar position, unless the employer’s business circumstances have changed to make it impossible or unreasonable; in most cases, an employee is restored to the same position he or she occupied prior to taking the leave.;
  - (4) Employees are entitled to the hours normally worked per week. A part-time employee is entitled to leave on a pro rata basis of their normally scheduled hours (Example: an employee who works 30 hours a week is entitled to 30 hours x 18 weeks);
  - (5) If an employee is eligible under both FMLA and AFLA leave, the entitlements run concurrently. If an employee is eligible under both FMLA and AFLA, the employee is entitled to the longer benefit period.
- (d) Family Leave Benefits provide the following:
- (1) Paid Family Leave is available to mothers and fathers for the birth of the employee’s child or the placement of a child with the employee for adoption or foster care; or for the care of an employee or an employee’s family member with a serious health condition; without regard to the marital status or sexual orientation of the employee. For the purposes of this section, “family member” shall mean a husband, wife, domestic partner, child, or parent.
  - (2) All employees that qualify for FMLA leave can utilize Paid Family Leave as allowed in this section, except those employees whose terms and conditions of employment with the Municipality are negotiated through a contract or agreement.
  - (3) The Paid Family Leave Benefit is up to 10 working days for a maximum of 80 hours (two weeks) for employees scheduled to work 40 hours per work week. If both parents of a child covered under this policy are municipal employees, or if two employees will utilize family leave for the same family member, each employee may utilize this benefit up to a total of 80 hours.
  - (4) Paid Family Leave must be taken within the FMLA period associated with the date of the birth or placement of a child for adoption or foster care, or within the FMLA period associated with the dates of the serious health condition.
  - (5) Employees are not entitled to take Paid Family Leave intermittently.

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- (6) Accrued sick leave and vacation leave must be fully used by the employee prior to utilizing the Paid Family Leave benefit.
  - (7) Employees must have been employed for twelve months as of the first day of utilization of the Family Leave benefit to be eligible for the Paid Family Leave benefit. This 12-month period does not include probationary periods.
  - (8) Employees must have worked at least 1,250 hours in the preceding twelve months before the first day of the utilization of the Family Leave benefit to be eligible for the Paid Family Leave benefit. This 12-month period does not include probationary periods.
  - (9) The Paid Family Leave benefit may only be utilized once every two calendar years.
  - (10) Paid Family Leave benefits must be approved by the department director and the borough manager prior to being utilized.
- (e) Employees whose FMLA and/or AFLEA leave exceeds Paid Family Leave and/or accrued sick and vacation leave may take leave without pay.
  - (f) The employee must notify the Borough Manager in writing of his/her intention to return to work (including estimated date of return) prior to the commencement of his/her family leave. An employee who states his/her intention to return to work shall have his/her position held open until the date specified in his/her statement of intention. The Borough Manager must notify the employee in writing within five (5) days of an employee's request for family medical leave of the provisions of the Federal Medical Leave Act and the Alaska Family Medical Leave Act.
  - (g) During the compensated Family Leave, sick leave and periods of family leave, vacation leave and seniority shall accrue. In addition, during compensated sick leave, periods of family leave and periods of leave without pay, health and other insurance benefits will continue without interruption.

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**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 16th day of December, 2021.



Andrew Cremata, Mayor

ATTEST:



Steve Burnham Jr., Borough Clerk

(SEAL)

