



## Legislation Details (With Text)

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**Attachments:** 1. Revised Cover Letter, 2. Letter from DER to Finance Committee, 3. Proposed Chapter 350 Revision, 4. Fiscal Impact Statement Memo, 5. Fiscal Impact Statement, 6. Fiscal Impact Statement-Section F, 7. DPW Letter to Finance and Personnel, 8. Comptroller Fiscal Impact Review, 9. Transitional Vacation Account List, 10. FLSA Designations Memo, 11. Draft FLSA Designations, 12. Cover Letter, 13. Hearing Notice List, 14. Notice Published on 12-16-11

Date	Ver.	Action By	Action	Result	Tally
9/27/2011	0	COMMON COUNCIL	ASSIGNED TO		
9/30/2011	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
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10/5/2011	0	FINANCE & PERSONNEL COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	5:0
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110744  
SUBSTITUTE 3

THE CHAIR

A substitute ordinance relating to employee relations, regulations and benefits for city employees.

340-3 cr

Subch. 1 of ch. 350 rc  
Subch. 2 of ch. 350 rp  
Subch. 3 of ch. 350 rn  
350-30 rc  
350-33-1 rc  
350-34 cr  
Subch. 4 of ch. 350 rn  
350-35-2-b am  
350-35-3 rc  
350-35-3.5 am  
350-35-5-a rc  
350-35-6 rc  
350-37 rc  
350-38 rc  
Subch. 5 of ch. 350 rn  
350-40-1-a am  
350-40-2 rc  
350-40-3-0 am  
350-40-3-a-1 am  
350-40-3-a-1-h am  
350-40-3-a-1-i rp  
350-40-5 rc  
350-40-9 rp  
350-40-14 rp  
350-40-15 rc  
350-40-16 rp  
350-45-2-g am  
350-45-3-a rc  
350-45-3-j rp  
350-45-3-k rp  
350-45-4-a rc  
350-45-4-b rc  
350-45-7 rp  
Subch. 6 of ch. 350 rn  
350-90-0 rc  
350-90-1 rc  
350-90-4 rc  
350-90-7 am  
350-91 rp  
350-92-5 rp  
350-93 rp  
350-94 am  
350-95 cr  
Subch. 7 of ch. 350 rn  
Subch. 8 of ch. 350 rn  
350-143 rc  
Subch. 9 of ch. 350 rn  
350-181-2-c am  
350-183-7 rc

350-188 cr  
Subch. 10 of ch. 350 rn  
350-204 am  
350-206 rc  
350-209 am  
350-225 rp  
350-237 rc  
350-239 am  
350-241 rc  
350-242 cr

This ordinance revises various provisions of the code relating to benefits for city employees. As a result of changes to state collective bargaining laws and the expiration of collective bargaining agreements, references to specific collective bargaining units have been eliminated and benefits for all city employees have been standardized. Included in these changes are the following:

1. Department heads are given the discretion, as permitted by applicable laws and regulations, to determine if cash or compensatory time-off shall be provided for overtime work.
2. Holiday and overtime benefits are standardized for all eligible employees.
3. The definition of overtime is changed from hours outside an employee's normal work schedule to those hours worked over 40 in a week except as otherwise provided.
4. The amount of sick time earned per year is standardized to 12 days per year.
5. The sick leave incentive program is standardized to 3 days per year.
6. The amount of injury pay benefit is reduced from 70% or 80% to 66.67%.
7. The terminal leave benefit for all employees is standardized to a maximum of 30 8-hour work shifts of pay.
8. The accrual of vacation benefits is standardized.
9. Department heads will establish requirements for and issue uniform and equipment to employees in their respective departments as necessary.
10. All miles driven on official city business are reimbursed at the internal revenue service rate.
11. A grievance procedure for warning notices and unpaid disciplinary suspensions, administered by the department of employee relations, is established.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 340-3 of the code is created to read:

**340-3. General City Policies and Procedures. 1. DECLARATION OF POLICY.** The city has a fundamental interest in the development of harmonious and cooperative relationships between city government and its employees and their employee representative groups while enhancing employee performance, maximizing efficiency and reducing costs. The city is committed to creating and maintaining strong and positive employee-management working relationships that foster improved governmental decision-making, good will, innovation and quality public services. The city is committed to supporting these goals in a way that does not diminish the mayor's and the common council's authority while recognizing the rights of employee representative groups to enter into discussions with the city in the course of the city's setting personnel policies and terms and conditions of city employment. These policies and conditions of employment do not supersede the provisions of state law, city charter, other applicable ordinances and resolutions and the civil service rules. Any related code provisions are not intended, and shall not be construed to be in conflict with, state statutes regarding collective bargaining and the recognition of employee groups or organizations.

**2. AUTHORITY OF DEPARTMENT.** The department of employee relations shall be responsible for entering into discussions with employee representative groups for the settlement of employee complaints and establishing policies and procedures necessary for the creation of positive, productive and efficient workplaces. The department shall:

- a. Meet and confer with employees and employee groups, including currently and previously-certified employee groups, for the purpose of communicating, soliciting and exchanging information, views, ideas and interests concerning wages, hours, and other conditions of employment.
- b. Provide, if requested, written documents to employee representative groups of any jointly-recommended changes to be heard or acted upon by the common council.
- c. Establish the use of seniority for vacation selection, job-picking assignments and other assignments that provide for premium payments where this process is used and where no operational disruptions are created.
- d. Have authority to oversee and resolve all complaints raised by employees.

**3. REQUIREMENTS OF ALL DEPARTMENTS.** City officials appointed under s. 62.51, Wis. Stats., and department heads shall cooperate with the department of employee relations in the discharge of the duties set forth in this chapter and in implementing any directives issued by the department of employee relations. City officials and department heads shall:

- a. Communicate departmental rules and procedures with employees and employee representative groups and provide reasonable notice of changes to work rules, practices or policies.
- b. Engage employees and employee representative groups in the city's decision making processes concerning relevant personnel matters and operational issues by soliciting their input and feedback when appropriate.
- c. Identify and communicate procedures available to employees and employee representative groups who allege that a departmental policy, rule or procedure has not been properly applied.
- d. Offer, to the extent possible, overtime assignments first to employees who volunteer, and then assign, on a rotating basis, among those employees who volunteered. In cases where there are no volunteers for overtime, all employees shall perform the work starting with the least senior employee.

Part 2. Subchapter 1 of ch. 350 of the code is repealed and recreated to read:

## SUBCHAPTER 1

### HOLIDAY AND OVERTIME POLICIES

**350-1. Definitions.** In this chapter, unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the following definitions shall apply:

**1. HOLIDAY**, except as specifically covered by other provisions of the code such as those pertaining to or for employees represented by a collective bargaining unit, means:

- a. New Year's Day - January 1.
- b. Good Friday.
- c. Memorial Day - Last Monday in May.
- d. Independence Day - July 4.
- e. Labor Day - The 1st Monday in September.
- f. Thanksgiving Day - The 4th Thursday in November or the day appointed by the governor of Wisconsin as a day of public thanksgiving in each year.
- g. The day after Thanksgiving Day.
- h. Christmas Day - December 25.
- i. The last normal work day before Christmas Day.
- j. The last normal work day before New Year's Day.
- k. Dr. Martin Luther King Jr.'s birthday - the 3rd Monday in January.

2. OVERTIME means the authorized hours worked in excess of 40 hours in one week.
3. TIME AND ONE-HALF means compensation per hour worked, determined by dividing the biweekly rate by 80 and multiplying by 1.5, unless otherwise provided.
4. TIME WORKED means the hours worked during scheduled work periods, all holiday hours paid but not worked and all furlough hours not worked.

**350-2. Holidays, General Provisions.** 1. WEEKEND HOLIDAY. Whenever Independence Day (July 4) falls on a Saturday, the preceding Friday shall be observed as a holiday. Whenever New Year's Day (January 1) and Christmas Day (December 25) fall on a Saturday, the following Monday shall be observed as a holiday. When New Year's Day, Independence Day or Christmas Day falls on a Sunday, the following Monday shall be observed as a holiday.

2. EMPLOYEES REPRESENTED BY A COLLECTIVE BARGAINING UNIT. For employees represented by collective bargaining units, the holiday schedule shall be as stated in their effective collective bargaining agreements, including any pertinent agreed-upon memoranda.

3. STATUTORY COMPLIANCE. Any statutory provisions establishing legal holidays on days other than those set forth under the definition of the term "holiday" in s. 350-1-1 shall not be observed in a manner resulting in a shorter workweek for general city employees. If the state of Wisconsin enacts a statute under which some or all of the holidays enumerated in s. 350-1-1 are established or observed as so-called Monday holidays, the city will move to observation of such law, but the conformance to state law shall not increase or diminish the number of holidays with pay granted annually.

**350-3. Uniform Overtime Policies.** Except as provided in s. 350-6, or unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the following overtime policies shall be applied uniformly to positions in the city service.

1. CASH OR COMPENSATORY TIME. The determination as to whether overtime shall be taken as cash or compensatory time shall be made by each department head in consultation with the budget and management division. Department heads shall notify employees of whether cash or compensatory time-off is being offered for overtime worked prior to the actual work being performed. If notification is not provided that compensatory time is being offered for overtime worked, cash shall be paid for the overtime worked.

2. AS OVERTIME ONLY. When computing overtime of either type, time compensated for any reason on an overtime basis shall not be counted in computing further overtime.

3. RATE. Overtime shall be compensated, whether as cash or compensatory time, at time-and-one-half rates.

4. AUTHORIZATION. Department heads are authorized to order overtime work, and no overtime shall be worked unless so ordered.

5. HOLIDAYS. All hours worked on a holiday by an eligible, fair labor standards act non-exempt employee shall be considered overtime.

6. CHANGE OF SHIFT. For departments that have regularly-scheduled multiple shifts, employees who are provided with less than 48 hours notice of a change in shift shall receive overtime for all hours worked during the subsequent 48-hour period.

7. EXCLUSIONS. Nothing contained within this section is intended to authorize or require overtime compensation for employees who are excluded from overtime compensation by other provisions of the code.

**350-4. General Overtime Procedures and Regulations.** 1. EARNED OVERTIME AND EARNED VACATION TIME, TO BE PAID IN CASE OF DEATH. A city officer or employee shall be allowed time with pay, notwithstanding the death of the officer or employee, for earned vacation time which has accrued. A city officer or employee shall be allowed time with pay, notwithstanding the death of the officer or employee for recorded and certified overtime which has accrued, not exceeding 120

hours worked or 180 hours for which time-off may be taken, to which the employee was entitled at the time of death. The proper city officers shall include overtime and vacation time on the regular or supplementary payroll to accomplish the purpose of this section.

**2. REPORTING OVERTIME REQUIRED.** a. To Employee Relations. A report of all overtime employment, whether compensated for in cash or by compensatory time-off allowed by each department, shall be submitted to the director of employee relations with the payroll for the period in which the overtime was authorized for a review of the necessity of the overtime employment. The director of employee relations shall prescribe the form of the report of overtime worked or compensatory time taken off, and the number and disposition of copies. In case of departmental error or omission in reporting overtime worked or time taken off, supplementary reports shall be submitted by the departments in order that payroll checks shall reflect correct amounts, and overtime records shall indicate the exact number of hours of overtime worked or time taken off.

b. To Common Council. From the departmental reports of overtime worked or compensatory time taken off, the director of employee relations shall prepare consolidated reports of the overtime worked or time taken off, and shall submit the consolidated reports together with other appropriate information to the common council at regular intervals.

c. Accumulated Overtime. If an employee accumulates a total of 180 hours of compensatory time-off, or 120 hours of overtime worked for which time-off may be taken, the director of employee relations shall initiate a schedule to eliminate the overtime backlog, investigate the cause and justification of the overtime work and, when possible, institute such recommended procedures as may be necessary to eliminate the need for overtime work. In each case, the director of employee relations shall provide to the common council a report of the overtime and the recommendations made or action taken to reduce or eliminate the overtime work.

d. Overtime Studies. On the basis of regular and special reports, the common council shall regularly review the overtime worked by each department, require the presence of department heads or supervisors empowered to authorize overtime work for supporting or explaining its need, and establish rules as may be deemed necessary for controlling overtime work.

**3. OVERTIME NOT TO BE USED FOR RETIREMENT CREDIT.** No overtime period of service, nor the compensation received, shall be counted as accruing toward credit or deduction on any annuity or pension rights.

**350-5. Exclusion from Overtime.** **1. POSITIONS EXCLUDED.** The director of employee relations shall determine the positions that shall be exempt from the overtime provisions of this chapter.

**2. FLEXIBLE SCHEDULE.** Employees of positions that work a minimum average of 40 hours per week, normally consisting of 5 workdays of 8 hours each, shall be considered to work on a flexible schedule within the limits of a 40-hour week, dependent on existing workload demands and with the approval of department heads. Under this flexible schedule provision, the daily work schedule of employees may be adjusted as necessary and appropriate to fulfill their assigned duties and responsibilities. The adjustments may include starting and quitting times that are earlier or later than established in the normal work schedule of a department and may include hours of work that are more or less than 8 hours in any particular day, within the limits described. This flexible schedule provision shall not be construed as allowing compensatory time-off at the rate of time and one-half, allowing time-off for extended personal illness without charge to sick leave, or allowing time-off for extended vacation.

**3. ADMINISTRATION.** Department heads shall enforce this section as it applies to personnel within their departments. The director of employee relations shall interpret the provisions of this section and report to the finance and personnel committee any problems or abuses concerning the interpretation or administration of this section.

**4. TO BE USED WITHIN 2 YEARS.** All employees entering positions excluded from payment in

cash or compensatory time-off for overtime worked by these or any other provisions of the code shall take off any overtime balance previously earned within a 2-year period from the time of entering the position.

**350-6. Compliance with the Fair Labor Standards Act.** In accordance with the provisions of the federal fair labor standards act, the:

1. Director of employee relations shall determine the positions and classes that are covered by the act and transmit appropriate guidelines and instructions for carrying out the applicable provisions of the act to city departments and agencies.
2. Comptroller shall develop and establish payroll recordkeeping, payment inclusions and payroll practices to ensure good-faith compliance with the act.
3. Director of employee relations shall issue a policy statement prohibiting departments and agencies from docking employees exempt from the act for partial-day absences and institute a policy for those employees to make up the time, consistent with departmental operations.
4. Labor negotiator shall meet with appropriate representatives to discuss and clarify city compliance policies.

Part 3. Subchapter 2 of ch. 350 of the code is repealed.

Part 4. Subchapter 3 of ch. 350 of the code is renumbered to subch. 2.

Part 5. Section 350-30 of the code is repealed and recreated to read:

**350-30. Health Benefits.** 1. PAYMENTS OF PREMIUMS, CLAIMS AND ADMINISTRATIVE FEES AUTHORIZED. The department of employee relations, division of employee benefits, is authorized to contract for insured or self-insured healthcare benefits for city employees and to make payments to an insurance company or fees and health care claims to a third-party administrator if the city self-funds the health insurance benefits.

2. EFFECTIVE DATE. Payment of premiums or claims accrued prior to January 1, 2012, shall be paid and then cease as of December 31, 2011. Subsequent payment of premiums or claims by the city shall commence on January 1, 2012.

3. ADDITIONAL COMPENSATION. Nothing contained in this section shall in any manner be construed or interpreted to mean that any additional compensation is being, or shall be, paid to any employee or officer of the city; nor shall any such person have or assert any claim against the city for payment to the person of any amount by reason of any provision of the code relating to the payment of premiums for city employees or officers of the city.

4. EMPLOYEE PAYMENTS. a. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, every city employee shall be responsible for 12% of the health insurance premium selected by the employee as determined by the department of employee relations working with a consultant and an actuary to determine the total cost of the plan.

b. Every city employee shall be responsible for deductibles, co-payments or other charges as shall be determined by the common council.

5. ELIGIBILITY FOR NEW EMPLOYEES. New employees eligible for enrollment in health insurance are eligible for insurance on the 31<sup>st</sup> day of employment. Determination of eligibility shall be made by the department of employee relations.

6. ADMINISTRATION. The department of employee relations shall administer this section.

Part 6. Section 350-33-1 of the code is repealed and recreated to read:

**350-33. Long-Term Disability Insurance.** 1. PROGRAM AUTHORIZED, PAYMENT OF PREMIUMS. The department of employee relations is authorized to enter into contracts on behalf of the city for the purchase of long-term disability benefits for eligible employees or groups as determined by the department of employee relations. The city shall pay the cost of benefits after a 180-day waiting period, and the policy may provide that an employee may elect to pay the vendor selected by the department of employee relations for a shorter waiting period, such as 60, 90 or 120 days.

Part 7. Section 350-34 of the code is created to read:

**350-34. Dental Insurance.** 1. PROGRAM AUTHORIZED, PAYMENT OF PREMIUMS. The department of employee relations is authorized to contract with dental providers and to determine dental benefits for city employees. The department of employee relations is authorized to make payments to dental insurance providers for these benefits.

2. ELIGIBILITY. The department of employee relations shall be authorized to determine eligibility for dental benefits.

3. EMPLOYEE CONTRIBUTIONS. The department of employee relations is authorized to pay \$13 per month for single dental and \$37.50 per month for family dental coverage. Each employee shall be responsible for the balance of the premium. The department of employee relations shall communicate information about these benefits to eligible employees.

Part 8. Subchapter 4 of ch. 350 of the code is renumbered to subch. 3.

Part 9. Section 350-35-2-b of the code is amended to read:

**350-35. Leave of Absence Policies.**

**2. RUNNING FOR POLITICAL OFFICE.**

b. Reinstatement Rights. In the case of his or her election, the elected official shall, upon request, be granted a leave of absence from his or her position of municipal employment, and ~~[[such]]~~ >>the<< leave of absence shall carry reinstatement rights to be exercised not later than one year from the expiration of his or her elected term of office, and ~~[[such]]~~ >>the<< reinstatement may be either to his or her position formerly held or to a position having substantially similar requirements, responsibilities and salary; provided, however, that any ~~[[such]]~~ reinstatement may be made only to fill a vacancy and shall not be made if the effect would be to displace a regularly and permanently appointed successor. This paragraph shall apply only to personnel holding ~~[[permanent nonexempt]]~~ >>civil service<< positions under the control of the common council.

Part 10. Section 350-35-3 of the code is repealed and recreated to read:

**3. TIME-OFF FOR JURY DUTY.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, employees shall be granted time-off with pay for reporting for jury duty or jury service upon presentation of satisfactory evidence relating to this duty or service. Employees shall retain all compensation received for jury-duty service, but shall have deducted from their city pay an amount equal to the compensation received by them for jury duty, exclusive of travel pay and pay for jury duty performed on off-duty days. No greater amount of time shall be granted than necessary, and in any case, if an employee is called for jury duty and reports therefor without receiving a jury assignment for that day, or if the employee is engaged in jury duty or service for a part of a day, the employee shall, if his or her city work is available, report for the performance of city duties for the remainder of the day. If jury duty coincides with any mandatory furlough dates, the



employee shall not be paid salary from the city on those dates but shall be allowed to retain jury-duty compensation.

Part 11. Section 350-35-3.5 of the code is amended to read:

**3.5. TIME-OFF FOR COURT SUBPOENAS.** ~~[[Nonmanagement nonrepresented employees]] >> Employees<<~~ shall be granted time-off with pay, upon presentation of satisfactory evidence relating to this duty, under a subpoena to appear in court during working hours with respect to any incident which occurred while the employees were at work. Compensation received, exclusive of travel pay, for this duty shall be immediately paid over to the city treasurer and shall be credited to the general fund, provided, however, that payment for the duty may be retained by employees for appearances made on off-duty hours. If court subpoena appearances coincide with any mandatory furlough dates, the employee shall not be paid salary from the city on those dates but shall be allowed to retain court subpoena appearance compensation.

Part 12. Section 350-35-5-a of the code is repealed and recreated to read:

**5. FUNERAL LEAVE.** a. Immediate Family. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, funeral leave shall cover necessary absence from duty of a general city employee because of death in the immediate family of the employee. "Immediate family" is defined as husband or wife, child, stepchild, brother, sister, parent, stepparent, mother-in-law, father-in-law, brother-in-law, sister-in-law or grandchild of the employee. "Brother-in-law" and "sister-in-law" includes a spouse's sibling's spouse. "Immediate family" includes stepparents and stepchildren by virtue of the employee's current spouse. Eligibility to use stepparent funeral leave benefits shall be limited to one stepmother and one stepfather regardless of the number of stepparents. "Immediate family" also includes an employee's domestic partner, if the domestic partnership is registered with the department of employee relations under s. 350-245 or was registered with the city clerk as provided in s. 111-3 in effect prior to October 30, 2009. In the case of a death in the immediate family, an employee working a regular or alternative work schedule may be granted a leave of absence not to exceed 3 8-hour work days with pay. These work days shall be limited to work days falling within the 10 consecutive calendar-day period that begins on the day of death. One day with pay may be used to attend the funeral of a grandparent of the employee. If funeral leave coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the department head.

Part 13. Section 350-35-6 of the code is repealed and recreated to read:

**6. UNPAID EDUCATIONAL LEAVES OF ABSENCE.** a. Purpose. The purpose of the unpaid educational leave of absence is to provide for educational or professional development of employees. In no case shall the leave be used by the employee for purpose of pursuing other paid employment. b. Eligibility. Employees with at least 5 years of service shall be eligible for an unpaid educational leave of absence of up to one month and employees with at least 10 years of service shall be eligible for an unpaid educational leave of absence for up to 2 months. c. Approval. Department heads may authorize these unpaid leaves of absence and shall approve the timing of the leaves. d. Payments. The city shall continue to make health, dental and life insurance payments for employees who are on unpaid educational leave of absence. e. Reinstatement. Employees who are granted an unpaid educational leave of absence shall be entitled to reinstatement to their original positions upon return from leave.

f. Additional Unpaid Leave. Nothing included in this subsection prohibits additional unpaid leave time from being granted under the rules of the city service commission, subject to department head approval.

Part 14. Section 350-37 of the code is repealed and recreated to read:

**350-37. Sick and Disability Leave.** Sick and disability leave shall cover necessary absence from duty of an employee because of the employee's personal illness or pregnancy-related disability, bodily injury or exclusion from employment because of exposure to contagious disease by the employee. In addition, an employee may request the substitution of sick leave for family leave under the state family and medical leave act, s. 103.10, Wis. Stats. Employees may not use sick and disability leave for furlough days. Employees may accrue time earned for sick and disability leave purposes while serving mandatory furlough time.

**1. TIME GRANTED.** a. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, an eligible employee of the city who serves on a full-time basis may accrue 12 working days' sick and disability leave with pay during any year. City seasonal laborers shall be eligible to accrue sick and disability leave credit for a maximum of one year of actual service, but they may not be paid sick and disability leave until they become regular city laborers or sanitation workers. Employees who serve the city on less than a full-time basis who qualify in all other respects may be granted a proportionate amount of sick and disability leave.

b. At the discretion of the department head, an employee may be excused for a paid absence of 2 hours or less to attend doctor or dentist appointments without reporting them as paid sick leave on no more than 3 separate occasions during a calendar year.

**2. ACCUMULATIVE BASIS.** a. Every permanent employee shall be granted sick and disability leave with pay at the rate of 3.7 work hours for each 2 weeks of service. The unused balance of sick and disability leave allowance shall be accumulated to the employee's credit up to 120 working days or 960 hours.

b. In addition to the normal sick leave benefits to which employees are entitled under this section, public officials appointed under s. 62.51, Wis. Stats., the director of administration and the director of employee relations shall be credited with a special sick leave account of 30 sick leave days. This special account shall be available for use until such time as 30 regular sick leave days have accrued in the normal sick leave account. As normal sick leave account days accrue, the special sick leave account shall be reduced accordingly. Unused days in the special sick leave accounts shall not be considered in the computation of any applicable benefits, including pension benefits, retirement health insurance benefits, terminal leave benefits or sick leave incentive pay benefits.

**3. DOCTOR'S CERTIFICATE.** At any point during the employee's use of sick and disability leave, the department head may require a statement from a private physician or dentist certifying the nature and seriousness of the sickness or pregnancy-related disability, or a certificate of an authorized and recognized Christian Science practitioner certifying that the employee is under Christian Science treatment.

**4. CITY CONTRACT EMPLOYER.** Service for an employer holding a city contract shall not be recognized as qualifying for sick and disability leave or as adding to a sick and disability leave accumulation even though the person so serving may have his or her name included on a city payroll.

**5. QUALIFICATION.** Any length of time during which an employee is on layoff, suspension, mandatory furlough or leave of absence, and any length of time not recognized by the annuity and pension board as accumulative of pension credit when the employee is a member of the annuity and pension system shall not be recognized as qualifying for sick and disability leave or as adding to a sick and disability leave accumulation.

**6. ELIGIBILITY.** Accrual and use of sick and disability leave allowance shall begin immediately upon employment.

**7. TRANSFER.** Whenever an employee eligible for a sick and disability leave allowance leaves the service of one employing unit of city government and accepts, by certification or transfer, service in a position in another employing unit of city government, obligation for any accumulated sick and disability leave allowance shall be assumed by the new employing unit. Separation from the service by resignation or for cause shall cancel all unused accumulated sick and disability leave allowances. Whenever a permanent employee is laid off due to lack of work or lack of funds, any unused accumulated sick and disability leave shall continue in effect if the employee is rehired by any city department within one year. Sick and disability leave shall automatically terminate on the date of retirement of the employee or on the date an ordinary disability allowance under the retirement system becomes effective.

**8. INJURY PAY.** When an employee sustains an injury while within the scope of employment, as provided by ch. 102, Wis. Stats., and as determined by workers' compensation, the employee shall receive 66.67% of full salary as injury pay in lieu of workers' compensation for the period of time the employee is temporarily totally or temporarily partially disabled because of the injury, not to exceed 250 working days. In no case shall an employee receive injury pay for more than 250 working days during his or her period of employment with the city regardless of the number of compensable injuries. If time-off coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled upon return to service as approved by the department head.

**9. OPTION.** Bodily injuries shall be recognized as cause for granting sick and disability leave when they are disabling. Any employee sustaining a compensable injury or contracting a compensable disease under the Wisconsin workers' compensation law shall have the option of accepting sick and disability leave benefits or accepting workers' compensation. This option, which shall be in writing, may be terminated without prejudice to temporary total or temporary partial disability benefits under the workers' compensation act thereafter, but the termination shall not be retroactive, and any sick and disability leave already used at the time of the termination of option shall not be restored to the employee.

**10. BENEFITS.** The sick and disability leave and injury pay benefits described in this section shall be interpreted as providing sick and disability leave and injury pay limited to the period of time an employee would have worked in accordance with assigned work schedules.

**11. FIRE AND POLICE DEPARTMENT SICK AND DISABILITY PAY.**

a. Fire and police employees reporting absent on sick leave shall be governed by the rules, regulations and standard operating procedures of the fire and police departments. Each instance of sick leave for which an employee fails to comply with the requirements shall result in the employee losing entitlement to any sick leave with pay for that instance.

b. Administration and control of this subsection shall be under the chief of fire or police, respectively.

c. Nonrepresented, noncivilian fire and police department management employees who use their accumulated sick leave credit and then are placed on duty disability retirement pension, all as a result of duty-incurred injuries, shall be entitled to have their unused sick-leave credit or 30 working days of sick leave with pay, whichever is greater, added to their sick-leave accounts upon returning to active service.

**12. REFERENCE.** Reference to sick leave in any other section of the code shall apply to sick and disability leave.

**13. CITY SERVICE COMMISSION TO PREPARE RULES.** The city service commission shall prepare rules and regulations, forms and procedures of reporting sick leave.

**14. VIOLATIONS: PENALTY.** Willful violation of any provision of this section by any officer or employee, or willful making of any false report concerning illness or sick leave, shall subject the officer or employee committing the violation, or making the false report, to disciplinary action and

shall be considered a cause for discharge, suspension or demotion, subject to the law and rules regulating these actions.

- 15. SICK LEAVE CONTROL INCENTIVE PROGRAM.** As an incentive to eliminating abuse of sick leave and as a reward to employees with perfect attendance records, special incentive leave of up to 3 days per year with pay shall be granted to full-time employees who meet the following conditions:
- For each trimester period for which an individual employee has not used any sick leave or injury leave or been absent because of disciplinary actions, the employee shall earn 8 hours of special incentive leave, provided that the employee has a minimum of 12 days sick leave accumulation in his or her account prior to the trimester period. An employee shall maintain eligibility for a trimester sick-leave benefit if he or she suffered a verifiable lost-time work-related injury and returned to work for the next regularly-scheduled work shift following the occurrence of the injury.
  - Special incentive leave time earned in trimester 1 may be used in trimester 2 or 3 of the same fiscal year; special incentive leave time earned in trimester 2 may be used in trimester 3 of the same fiscal year; and special incentive leave time earned in trimester 3 may be used in trimester 1, 2 or 3 of the following fiscal year.
  - Special incentive leave time shall be added to the vacation leave account of the employee as it is earned. Special incentive leave time shall be administered like vacation and shall be subject to scheduling approval by the department head. The employee may elect to take cash in lieu of time-off.
  - When special incentive leave time is used by or paid to an employee, there shall be no deduction from the employee's normal sick leave account balance.
  - The sick leave control incentive program shall be established and administered by the department of employee relations.
  - Payments made under the provisions of this program shall not be construed as being part of the employee's base salary and shall not be included in any fringe benefits. The payments shall not have any sum deducted for pension benefits, nor shall the payments be included in any computation establishing pension benefits or payments.

Part 15. Section 350-38 of the code is repealed and recreated to read:

- 350-38. Terminal Leave Compensation (Unused Sick Leave).**
- 1. ELIGIBILITY.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, an employee in active service and employed by the city who retires under the provisions of the city's employees' retirement system, but excluding retirement on deferred or actuarially reduced pensions as they are defined under the system, shall upon retirement be entitled to a lump-sum payment under the terms and conditions provided in this subsection. The lump-sum payment shall be defined as terminal leave compensation.
  - 2. COMPENSATION.** An employee who is eligible for terminal leave compensation under sub. 1 shall upon retirement be entitled to a lump-sum payment equivalent to one 8-hour work shift's base pay for each one 8-hour work shift equivalent of the employee's earned and unused sick leave up to a maximum of 30 8-hour work shifts of pay except as otherwise required by law.
  - 3. ADMINISTRATION.**
    - Terminal leave compensation shall not be construed as affecting an employee's pension benefits. Any payments made under this subsection shall not have any sum deducted for pension benefits nor shall the payments be included in establishing pension benefits or payments.
    - Terminal leave compensation benefits may be made as part of an employee's last regular paycheck upon normal retirement.
  - 4. RESTRICTION.** An employee shall be eligible for terminal leave compensation as set forth in this subsection, but in no event shall an employee be eligible for terminal leave on more than one occasion or from more than one position classification.

Part 16. Subchapter 5 of ch. 350 of the code is renumbered to subch. 4.

Part 17. Section 350-40-1-a of the code is amended to read:

**350-40. Vacations.** 1. DEFINITIONS. a. Active service means the time spent as an ~~[[employee]]~~ >> appointed employee<< on the city ~~[[of Milwaukee]]~~ payroll in a position qualifying for fringe benefits. ~~[[In order for]]~~ >> For<< this time spent to count as active service for vacation purposes, ~~[[such]]~~ >> the<< time, together with any authorized unpaid leaves of absence and mandatory furlough time, ~~[[must]]~~ >> shall< be continuous from the date of appointment. Active service shall also include the time an ~~[[employee]]~~ >> employee<< taking a military leave would have spent on the city ~~[[of Milwaukee]]~~ payroll in a position qualifying for fringe benefits if he or she had not taken a military leave.

Part 18. Section 350-40-2 of the code is repealed and recreated to read:

**350-40. Vacations.**

2. ELIGIBILITY. General vacation eligibility requirements shall be as follows:

- a. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, an employee shall be eligible to receive vacation benefits immediately upon employment.
- b. Usage of vacation shall be based on an annual pay period year.

Part 19. Section 350-40-3-0 of the code is amended to read:

3. TIME EARNED FOR ANNUAL VACATION PERIOD. >> Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the following time is earned for an annual vacation period:<<

Part 20. Section 350-40-3-a-1 of the code is amended to read:

a. ~~[[Full Time Employees]]~~ >> Full-Time Employees<<.

a-1. ~~[[Management pay plan employees]]~~ >> Full-time employees<<, except the executive director of the employees' retirement system, fire chief, chief of police and public officials appointed ~~[[pursuant to]]~~ >> under<< s. 62.51, Wis. Stats., and their deputies, shall earn vacation time ~~[[for a fiscal year on a pay period]]~~ >> on an annual pay-period-year<< basis in the following manner:

Part 21. Section 350-40-3-a-1-h of the code is amended to read:

a-1-h. Effective pay period 13, 2007, if it becomes necessary to recruit a ~~[[management employee]]~~ >> fair labor standards act-exempt employee<< at a vacation rate above the minimum of 3.7 hours per pay period, the department of ~~[[employee]]~~ >> employee<< relations, with the concurrence of the chair of the committee on finance and personnel, may authorize vacation at the rate of 5.3 hours per pay period which will provide a third week of vacation. A listing of appointments made ~~[[pursuant to]]~~ >> under<< this provision shall be ~~[[communicated]]~~ >> provided<< to the committee on finance and personnel.

Part 22. Section 350-40-3-a-1-i of the code is repealed.

Part 23. Section 350-40-5 of the code is repealed and recreated to read:

**5. MAXIMUM VACATION BALANCES.** The maximum amount of vacation employees can maintain in their vacation accounts shall be as follows:

- a. 176 hours for employees who have completed less than 4 years.
- b. 216 hours for employees who have completed 4 years of service but less than 9 years of service.
- c. 256 hours for employees who have completed 9 years of service but less than 14 years of service.
- d. 296 hours for employees who have completed 14 years of service but less than 21 years of service.
- e. 336 hours for employees who have completed at least 21 years of service.
- f. 352 hours for employees described in sub. 3-a-1-f.
- g. 360 hours for employees described in sub. 3-a-1-g.

Part 24. Section 350-40-9 of the code is repealed.

Part 25. Section 350-40-14 of the code is repealed.

Part 26. Section 350-40-15 is repealed and recreated to read:

**15. POLICE AND FIRE DEPARTMENTS.**

a. Members of the Police Force.

a-1 Special Service Credit. Police department employees in active service and in the following position classifications shall have time spent on duty disability pension included as years of service for computing current and prospective vacation benefits:

a-1-a Chief of police.

a-1-b Assistant chief of police.

a-1-c. Deputy chief of police.

a-1-d. Police commander.

a-2. Police Heroism. The chief of police is authorized to establish departmental rules in accordance with city ordinances for granting additional vacation and off-days to members of the police force who demonstrate outstanding merit in the apprehension of criminals and meritorious acts of heroism and bravery beyond the call of duty. No more than 14 additional off-days shall be granted to any one member of the police force in a calendar year.

a-3. The amount of vacation earned by a member of the police force in 1998 for use in 1999 shall be placed in a transitional vacation account (TVA). TVA hours may be scheduled with the approval of the chief. A member of the police force may not borrow vacation hours until all of his or her TVA hours have been exhausted.

b. Members of the Fire Department.

b-1 Special Service Credit. Fire department employees in active service and in the following position classifications shall have time spent on duty disability pension included as years of service for computing current and prospective vacation benefits:

b-1-a Fire chief.

b-1-b Assistant fire chief.

b-1-c. Deputy chief of fire.

b-1-d. Battalion chief.

b-1-e. Chief dispatcher of fire alarm and telegraph.

b-2. Time Earned Per Week. Employees in active service during a fiscal year and whose normal hours of work exceed 40 hours per week shall be entitled to vacation with pay during that fiscal year at the following rates:

b-2-a. 3.7 hours per pay period for employees who have completed fewer than 6 years of active service.

b-2-b. 5.6 hours per pay period for employees who have completed 6 years but fewer than 11 years of active service.

b-2-c. 8.4 hours per pay period for employees who have completed 11 years but fewer than 19 years of active service.

b-2-d. 10.2 hours per pay period for employees who have completed 19 years or more years of active service.

b-3. Employees on Injury Leave. An employee on authorized injury leave as a result of a duty-incurred injury may use vacation scheduled during the period of the leave, provided he or she notifies his or her immediate supervisor orally of this fact prior to the start of the vacation and indicates the time when the vacation is to be used.

b-4. Employees on Sick Leave. An employee on authorized sick leave may use vacation scheduled during the period of the leave, provided he or she notifies his or her immediate supervisor orally of this fact prior to the start of the vacation and indicates the time when the vacation is to be used.

b-5. Scheduling. The assignment and scheduling of vacations with pay shall be controlled by the fire chief.

b-6. Administration. Administration and control of this subsection shall be under the fire chief.

Part 27. Section 350-40-16 of the code is repealed.

Part 28. Section 350-45-2-g of the code is amended to read:

**350-45. Accrued Time-Off Donor Program.**

**2. DONATION RULES.**

g. The types of leave eligible for donation shall be limited to vacation, compensatory time off [~~,"09"~~ days]] and time-off in lieu of holidays.

Part 29. Section 350-45-3-a of the code is repealed and recreated to read:

**3. RECIPIENTS' ELIGIBILITY CRITERIA AND RULES.** a. Eligible employees may receive donations of 2,080 hours per illness from qualified city employees regardless of department or union affiliation.

Part 30. Sections 350-45-3-j and k of the code are repealed.

Part 31. Section 350-45-4-a and b of the code is repealed and recreated to read:

**4. PARTICIPATION BY EMPLOYEE UNIONS.** a. Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, all city employees shall be eligible to participate in this program.

b. Disputes arising from the administration of this benefit shall not be subject to any challenge.

Part 32. Section 350-45-7 of the code is repealed.

Part 33. Subchapter 6 of ch. 350 of the code is renumbered subch. 5.

Part 34. Section 350-90-0, 1 and 4 of the code is repealed and recreated to read:

**350-90. Uniform and Clothing Allowance.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, uniform and clothing requirements shall be as

follows:

**1. PROCEDURE.** The heads of all departments providing or requiring uniforms or uniform allowances shall:

- a. Establish uniform and equipment requirements and specifications.
- b. Determine items to be provided to employees.
- c. Requisition these items through the procedure established by the department of administration, with the exception of the health department, division of public health services.
- d. Establish procurement and inspection procedures for their respective departments.

**4. UNIFORM REPLACEMENT.** The need for and timing of uniform replacement is at the discretion of the respective department head. Items damaged or destroyed in the line of duty shall be replaced or the employee compensated at the discretion of the respective department head.

Part 35. Section 350-90-7 of the code is amended to read:

**7. PAYMENTS NOT TO AFFECT PENSION.** Payments made under ~~[[the provisions of ss. 350-90 to 350-93]]~~ >>this section<< shall not be construed as being part of the employee's base salary and shall not be included in the computation of any fringe benefits. Payments shall not have any sum deducted for pension benefits, nor shall the payments be included in any computation establishing pension benefits or payments.

Part 36. Section 350-91 of the code is repealed.

Part 37. Section 350-92-5 of the code is repealed.

Part 38. Section 350-93 of the code is repealed.

Part 39. Section 350-94 of the code is amended to read:

**350-94. ~~[[Management Employees:]]~~ Safety Shoe Allowance.** ~~[[Management employees, other than those covered by s. 350-91-5, who work in a classification which requires the wearing of an approved safety shoe, shall be entitled to the standard safety shoe allowance provided to subordinate represented employees.]]~~ >>Employees working in a classification which management has determined requires the wearing of approved safety shoes shall be eligible for the standard safety shoe allowance of \$125 annually for the reimbursement of the purchase of safety shoes.<< Payments made under this section shall not be construed as being part of an employee's base salary and shall not be included in the computation of any fringe benefits. Payments shall not have any sum deducted for pension benefits, nor shall the payments be included in any computation establishing pension benefits or payments.

Part 40. Section 350-95 of the code is created to read:

**350-95. Safety Glasses Allowance.** The city shall provide eye protection or prescription safety glasses to all full-time active employees as required by the federal occupational safety and health administration and the city and as recommended by the American national standards institute. Under s. 340-23, the department of employee relations shall issue and enforce standards for authorizing safety glasses. The city is not responsible for the eye examination to obtain the prescription, the repair or replacement of glasses damaged due to non-work related activities or negligent use by the employee.



Part 41. Subchapter 7 of ch. 350 of the code is renumbered subch. 6.

Part 42. Subchapter 8 of ch. 350 of the code is renumbered subch. 7.

Part 43. Section 350-143 of the code is repealed and recreated to read:

**350-143. Fire Department Hours of Work.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the fire chief shall determine the hours of work for fire department employees.

Part 44. Subchapter 9 of ch. 350 of the code is renumbered subch. 8.

Part 45. Section 350-181-2-c is repealed and recreated to read:

**350-181. Authorized Travel Regulations and Procedures**

**2. AUTHORIZATION.**

c. Departments shall adhere to the administrative guidelines for automobile and travel allowance provided in ss. 350-181 to 350-187.

Part 46. Section 350-183-7 of the code is repealed and recreated to read:

**350-183. Private Transportation Reimbursement.**

**7. RATES.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, mileage incurred on official city business by an employee or official authorized to be reimbursed for use of his or her private automobile, excluding members of the common council who shall be reimbursed as provided for in sub. 8-a, shall be made once per month based on the internal revenue service standard mileage rate in effect for each mile driven on official city business.

Part 47. Section 350-188 of the code is created to read:

**350-188. Parking. 1. ASSISTANT CITY ATTORNEYS.** Assistant city attorneys shall receive parking paid for and secured by the city.

**2. POLICE ADMINISTRATION BUILDING EMPLOYEES.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, employees assigned to the police administration building shall be reimbursed for parking. The reimbursement shall not exceed \$125 per month, nor shall it exceed the actual monthly costs paid for by the employee. To be eligible for reimbursement, the employee shall submit all parking receipts to the police department administration. Receipts for parking paid by the month shall be submitted by the 15<sup>th</sup> of the current month. Receipts for parking paid by the day shall be submitted by the 5<sup>th</sup> of the following month.

Part 48. Subchapter 10 of ch. 350 is renumbered subch. 9.

Part 49. Section 350-204 of the code is amended to read:

**350-204. Direct Deposit for City Employees.** ~~[[Those management, nonmanagement/nonrepresented and represented/nonsworn employees]]~~ >> Each employee << who [are] >> is << capable of maintaining a financial relationship with a banking institution shall participate in the direct deposit of city pay checks.

Part 50. Section 350-206 of the code is repealed and recreated to read:

**350-206. Tuition Benefits; All Employees.** Unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, employees shall be eligible for tuition benefits relating to tuition and required textbooks. Tuition benefits shall be \$1,200 per calendar year. The following provisions apply:

1. Up to \$600 of tuition benefits per calendar year may be used for job or promotion-related certifications and license fees.
2. Up to \$1,200 in tuition benefits per calendar year may be used for job-related membership dues.
3. Police aides shall be eligible for a combined maximum of \$2,400 during the first 2 calendar years of employment.
4. The department of employee relations shall establish guidelines for the administration of tuition benefits.

Part 51. Section 350-209 of the code is amended to read:

**350-209. Hours of Labor of City Employees.** 1. ~~[[EIGHT HOUR DAY. The basic workday of all employees of the city of Milwaukee shall consist of 8 hours out of the calendar day.]]~~ >> WORKDAY. Department heads shall determine hours of work, but the basic workday of all employees of the city shall consist of 8 hours in a calendar day. << As far as it is practicable, this workday shall conform with the established hours of business. This conformity shall not interfere with the special time schedules governing departments operating more than 8 hours in each calendar day, nor shall this provision for an 8-hour day for city employees be construed as prohibiting the creation of part-time employment or the establishment of rotative, staggered or shortened work periods.

2. ~~[[FIVE DAY WEEK ESTABLISHED]]~~ >> WORK WEEK <<. The service week of every employee or officer of the city in most cases shall be limited to 5 days' employment or duty per week, except in cases where the reduction would conflict with some legal requirement. >> This in no way prohibits a department head from establishing an alternative work schedule. << So far as is practicable the days on which employees and officials shall not be required to work shall be Saturdays and Sundays to provide uniformity and an opportunity to take advantage of the economies of a complete shutdown of city activities. ~~[[Where the regular schedule of departmental operation requires work on these days, this work shall not be considered overtime work, and the employee shall be entitled to time off during such periods as the department head may designate.]]~~ >> If the regular schedule of departmental operation requires work on these days, this work shall not be considered overtime work, and the employee shall be entitled to time-off during such periods as the department head may designate. <<

Part 52. Section 350-225 of the code is repealed.

Part 53. Section 350-237 of the code is repealed and recreated to read:

**350-237. Exclusion from Benefits.** 1. DEFINITIONS. In this section: a. "Part-time employee" means an employee whose employment averages 20 hours per week or less.

b. "Provisional, emergency and temporary appointments" are as defined in the city civil service rules.

2. BENEFITS EXCLUDED. a. A permanent employee who is eligible for benefits and receives a provisional, emergency or temporary appointment shall not lose rights to any employment benefits.

b. Except as specifically provided, any individual who is hired on a provisional, emergency or temporary appointment, student aide or volunteer auxiliary police officer shall not be eligible for the following employment benefits:

- b-1. Vacation with pay.
- b-2. Additional off-days with pay.
- b-3. Sick leave with pay.
- b-4. Funeral leave with pay.
- b-5. Injury pay.
- b-6. Holiday pay.
- b-7. Holiday differential pay.
- b-8. Shift differential pay.
- b-9. Jury duty with pay.
- b-10. Military training and civil disturbance leave of absence with pay.
- b-11. Medical benefits.
- b-12. Group life insurance.
- b-13. All other benefits not specifically listed in this section.

c. Crossing guards shall not be eligible for any benefits.

**3. BENEFITS PROVIDED.** a. Those employees listed under sub. 2-b shall be eligible for certain employment benefits as provided for in other code provisions or state statutes.

b. City laborers (seasonal) shall be eligible for the following employee benefits upon appointment:

- b-1. Salary Increments.
- b-2. Overtime in cash or compensatory time-off.
- b-3. Workers' compensation.
- b-4. Pay during time-off for military induction examinations.
- b-5. Call-in pay.
- b-6. Medical benefits.
- b-7. Vacation pay. Employees may take vacation time earned after working 2,080 hours.

c. City laborers (seasonal) shall become city laborers (regular) after completing 2,080 hours of work and shall become eligible for the following additional employment benefits:

- c-1. Sick leave with pay. The 6-month waiting period shall be waived.
- c-2. Injury pay.
- c-3. Holiday pay.
- c-4. Shift differential pay.
- c-5. Weekend differential pay.
- c-6. Jury duty with pay.
- c-7. Military training leave of absence with pay.
- c-8. Dental insurance.
- c-9. Group life insurance.
- c-10. Retirement benefits.
- c-11. Sick leave incentive program.

d. Part-time employees shall be eligible for the following employment benefits on a pro rata basis and only during the period of actual employment:

- d-1. Vacation with pay.
- d-2. Holiday pay.
- d-3. Sick leave with pay.
- d-4. Funeral leave.
- d-5. Sick leave incentive program.
- d-6. Jury duty with pay.
- d-7. Tuition and textbook reimbursement.
- d-8. Group life insurance.

**4. APPLICATION AND ADMINISTRATION.** a. An employee on the payroll prior to January, 1966, shall not lose any of the benefits provided to that employee, except that an employee, regardless of

his or her date of placement on the city's payroll, who attained status in the city's central clerical pool on or after December 30, 1973, shall not be entitled to any of the employment benefits listed in sub. 2, as long as he or she retained status in the clerical pool. In addition, if any employee with status conferred via the clerical pool receiving the benefits specified in sub. 2 because he or she meets the criteria set forth in sub. 2 ceases to qualify for benefits according to sub. 3, that employee shall under no condition be eligible to receive benefits.

b. The department of employee relations shall administer the provisions of this section.

c. No provision of this section shall be construed to prevent elected and appointed city officers from accruing all benefits, including sick leave, but excluding salary increments, listed in subs. 1 and 2 from which they are not otherwise excluded by state statute, and these officials shall accrue benefits in a like manner as all other city employees who are eligible for those benefits, and the terms of office of these officials shall be deemed as periods of employment with the city for accrual of benefits.

d. The director of employee relations is authorized to accept a statement from elected or appointed city officers concerning sick leave usage and balance as needed to determine sick leave accruals.

e. Elected and appointed city officers, and former elected and appointed city officers who are employees of the city, are covered by this section.

f. Employees hired on or after July 1, 1982, to fill the positions of temporary customer service representative and accounting aide in the office of the city treasurer, shall not receive any employment benefits listed in sub. 3 regardless of their previous employment status in the city service. Employees in the city treasurer's office who had previously worked in these positions prior to July 1, 1982, shall retain their benefits status.

Part 54. Section 350-239 of the code is amended to read:

**350-239. Promotion from Grade to Grade.** Promotion from one grade to the next higher grade of positions in the classified civil service shall involve a change of duties and shall be made only when a vacancy has been created by resignation, transfer, death or dismissal, or when a new position shall have been created. ~~[[Promotion shall only be made after a competitive civil service examination.]]~~

Part 55. Section 350-241 of the code is repealed and recreated to read:

**350-241. Disciplinary Grievance Procedure. 1. DEPARTMENT OF EMPLOYEE RELATIONS.**

The department of employee relations shall be the official agency for the resolution of grievances arising from warning notices and unpaid disciplinary suspensions that are not appealable to the board of city service commissioners under s. 63.43, Wis. Stats., or any other board or commission under s. 63.44, Wis. Stats.

**2. ELIGIBILITY.** Only a regularly-appointed employee who has passed probation and has received an unpaid suspension of one to 15 days or a warning notice may use the grievance procedure established by the department of employee relations. An employee who receives a second suspension within 6 months of the initial suspension, independent of the length of the second suspension, may file an appeal with the board of city service commissions in accordance with rule XIII, s. 2 of the civil service rules if he or she chooses to contest the discipline. An employee who is not subject to the rules of the city service commissioners under s. 63.27, Wis. Stats., is not eligible to utilize the grievance procedure established by the department of employee relations.

**3. PROCEDURE.** Employees and supervisors shall make every reasonable effort to resolve any concerns, questions or misunderstandings that have arisen from the imposition of discipline before filing grievances. The department of employee relations shall develop and administer a grievance

procedure that includes a final independent review of the circumstances of the grievance and determine whether the disciplinary action was reasonable under the circumstances. An independent reviewer shall make these determinations and shall have the authority to either affirm, reduce or set aside associated disciplinary actions.

**4. REPORTS.** The city service commission shall receive an annual report of the grievances filed and resolved under this section.

Part 56. Section 350-242 of the code is created to read:

**350-242. Nature of Employee Regulations and Benefits.** Except to the extent that the city provides otherwise in a collective bargaining agreement lawfully entered into pursuant to the Wisconsin municipal employment relations act, none of the provisions in ch. 350 of the code are intended to give rise to or create, and none of the provisions in ch. 350 should be construed by any individual employee or any group of employees as giving rise to or creating, any contractual rights or any vested rights or interests of any kind whatsoever, and all such provisions are subject to modification or revocation by the common council at any time.

Part 57. Whenever the term “employee” or “employees” appear in ch. 350, the term “employee” or “employees” is substituted.

Part 58. Certain members of Public Employees’ Union #61, LIUNA, AFL-CIO, CLC, specified in the attachment to this file, shall receive an additional week of vacation placed in a transitional vacation account for use at the employees’ discretion or to be saved until retirement.

Part 59. Parts 1 to 16, 28 to 55, 57 and 58 of this ordinance take effect January 1, 2012, with implementation to occur immediately or as soon thereafter as administratively practicable, but no later than pay period 2, 2012.

Part 60. Parts 17 to 27 and 56 of this ordinance take effect pay period 1, 2012.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date:\_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date:\_\_\_\_\_

Mary E. Turk  
11/30/11  
LRB133292-4