

Family Medical Leave Policy

- 1.0 POLICY STATEMENT:** The City will comply with the provisions of the Family and Medical Leave Act of 1993 (FMLA); and the Tennessee Maternity Leave Act (TMLA), Tennessee Code Annotated 4-21-408. For details about maternity leave, see Maternity Leave Policy HR-107.
- 2.0 PROCEDURES:** Eligible employees who have worked for the City at least 1,250 hours the previous twelve (12) months of employment may take up to twelve (12) weeks (or up to twenty-six (26) weeks of military caregiver leave to care for a covered servicemember with a serious injury or illness) of paid or unpaid leave during a 12-month period.
- 2.1 FML may be taken for the following reasons: the birth and/or care of a child; the placement or care of a child into the employee's family by adoption or by a foster care; the care of the employee's spouse, child or parent who has a serious health condition; or the inability of the employee to perform the essential functions of their job due to a serious health condition* (*as defined in section 2.5).
- 2.1.1 Military caregiver leave and qualifying exigency leave is described in section 2.16)
- 2.2 Maternity leave may be taken by employees who have worked for the City for at least twelve (12) months as full-time employees may take up to sixteen (16) weeks of unpaid leave (TML) for the following reasons: the birth and/or care of a child of the employee; or the placement of a child into the employee's family by adoption or by a foster care arrangement. With regard to adoption, the 16 week period shall begin at the time an employee receives custody of the child.
- 2.3 Any FML/TML taken by an employee during the preceding twelve (12) month period will be used to determine the amount of available FML/TML leave pursuant to the Family and Medical Leave Act. For example, if an employee used four weeks of leave beginning February 1, 1994, four weeks of leave June 1, 1994 and four weeks of leave beginning December 1, 1994, the employee would not be entitled to any additional leave until February 1, 1995. On February 1, 1995, the employee would be entitled to four weeks of leave and on June 1, the employee would be entitled to an additional four weeks, etc.
- 2.4 The right to FML/TML for the birth and/or placement of a child into an employee's family may only be taken within the twelve (12) months after the date of the birth or placement of the child. In the case of unpaid leave for the birth or placement of a child, intermittent leave or working a reduced number of hours is not permitted, unless both the employee and the city agree. If both spouses are

employed by the city, the combined leave shall not exceed twelve (12) weeks. This policy is not intended to supersede the State of Tennessee Maternity Leave Act. For information on the requirements of the Tennessee Maternity Leave Act, Tennessee Code Annotated 4-21-408.

- 2.5 A serious health condition means an illness, injury, impairment or physical or mental condition that involves:
 - 2.5.1 Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity (i.e., inability to work or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
 - 2.5.2 Continuing treatment by a health care provider, which includes:
 - a. a period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - b. treatment two or more times by or under the supervision of a healthcare provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
 - c. one treatment by a healthcare provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
 - 2.5.3 Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
 - 2.5.4 Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
 - 2.5.5 A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required rather than active treatment; or
 - 2.5.6 Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.
- 2.6 In the case of unpaid leave for serious health conditions, the leave may be taken intermittently or on a reduced hourly basis only if such leave is medically necessary. Where an employee requests intermittent leave or leave on a reduced hourly basis due to a family member's or the employee's own serious health condition, the city has the option, in its discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the

employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular job.

- 2.7 The City requires employees to use accrued sick leave where applicable while on FML/TML. After exhaustion of paid sick leave, the employee may use other available paid leave while on FML/TML prior to going to unpaid FML/TML. Employees that are on FML/TML with the city shall not be employed in secondary employment while on FML/TML (Policy HR-153).
- 2.8 When the necessity of leave is foreseeable due to the expected birth or placement of a child the employee must provide the city at least thirty (30) days notice of the employee's intention to take leave. If the date of birth or placement of a child requires the employee's leave to begin in less than thirty (30) days from the date of notice to the city the employee must provide such notice as soon as practical. Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must:
 - 2.8.1 Give at least thirty (30) days notice, or as soon as practical if treatment starts in less than thirty (30) days; and
 - 2.8.2 Make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the city, subject to the approval of the health care provider.
- 2.9 Where the need for leave is unforeseeable, the employee must give notice as soon as practical. Any leave request based on a family member's or employees own serious health condition must be supported by certification from a health care provider. The employee must provide a copy of the certification to the City in a timely manner. (Fifteen calendar days will be allowed to provide the certification.)
- 2.10 During family leaves of absence, the city will continue to pay its portion of the health insurance premiums and the employee must continue to pay his/her share of the premium. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the city for payment of health insurance premiums during the family leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his/her job or circumstances beyond the control of the employee.
- 2.11 During leave, the employee will be allowed to accumulate employment benefits, such as vacation pay, sick pay, pension, etc.

- 2.12 The city may require an employee on FML/TML to report periodically on his/her status and the intention of the employee to return to work, and also periodic recertification of the medical condition. An employee taking leave due to the employee's serious health condition is required to obtain certification that the employee is able to resume work prior to the return from any FML/TML.
- 2.13 Employees who return to work from family leave of absence within or on the business day following the expiration of the twelve (12) or twenty-six (26) weeks are entitled to return to their job or an equivalent position without loss of benefits or pay.

Next Steps

- 2.14 Applications (Form HR 100-01) for FML/TML of absence must be submitted in writing and signed by the employee. Applications should be submitted at least thirty (30) days before the leave is to commence or as soon as possible if thirty (30) day's notice is not possible.
- 2.15 Each employee taking leave which meets the requirements for FML/TML will be provided the Federal "Notice of Eligibility and Rights & Responsibilities" form. Other forms may be required to complete depending on the reason for family or medical leave.
- 2.16 NOTICE OF AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT
In accordance with the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service
 - 2.16.1 New Qualifying Reason for Leave. Eligible employees are entitled to up to 12 weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining "any qualifying exigency." In the interim, employers are encouraged to provide this type of leave to qualifying employees.
 - 2.16.2 New Leave Entitlement. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This provision became effective immediately upon enactment. This military caregiver leave is available

during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

2.17 Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated is available on the FMLA amendments Web site at http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.

3.0 RESPONSIBILITY: The Human Resources Director is responsible for the administration and communication of this policy.

APPROVED:

M. Denis Peterson
City Manager

Original: 03/04/1993
Revisions: 02/22/2008

Application for Family or Medical Leave

Date of FMLA Application: _____

Employee's Name: _____ Department/Division: _____

Start Date of Anticipated Leave: _____

Expected Date of Return to Work: _____

Reason for Leave (check one):

- For the *birth* of your child, or *placement* of a child with you for adoption or foster care;
- Your *own serious health condition*;
- To *care for* your spouse; child; or parent due to his/her serious health condition;
- A *qualifying exigency* arising out of the fact that your spouse; son or daughter; or parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- Military caretaker* leave (up to 26 weeks) – You are the spouse; son or daughter; parent or next of kin of a covered service member with a serious injury or illness.

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- I must provide 30 days advance notice of intent to take leave under FMLA when the leave is foreseeable.
 - To be eligible for leave under FMLA, at the time I apply, I must have worked at least 1,250 hours during the previous 12 months.
 - Within 15 calendar days of leave commencing under FMLA for a serious health condition, I must provide written medical verification from the attending physician on the FMLA "Certification of Health Care Provider" form verifying the serious health condition of the employee, spouse, child or parent.
 - A maximum of 12 weeks of leave may be taken in each rolling 12-month period.
 - If eligible for FMLA, the use of accrued paid leave will be required in this order: sick time, floating holiday, comp or vacation to be used at employee's preference.
 - If I have no accrued paid leave available to me or my accrued paid leave exhausts during the period of leave granted under FMLA, (remaining) leave under FMLA will be unpaid.
 - For periods of leave under FMLA that run concurrently with accrued paid leave, my share of insurance premiums for continued insurance coverage will be deducted by payroll deduction.
 - For periods of leave under FMLA that are unpaid, the City will maintain my insurance benefits as long I continue to make insurance premium payments in a timely manner.

Employee's Signature: _____

Date: _____

Department Head Signature: _____

Date: _____

Director of Human Resources Signature: _____

Date: _____