

ADMINISTRATIVE RULES – CITY OF KNOXVILLE

5 – Attendance, Leave and Holidays

5.01 **POLICY**

The City's employee leave provisions have been designed with the health and well-being of its employees in mind. While leave privileges and other benefits add to the security of the employees, they also aid the City in attracting and retaining capable employees.

The following types of leave are officially established: holidays, annual leave (vacation), compensatory time, sick, military, civil, bereavement, Parental, Family and Medical Leave, and Leave of Absence. All leaves may be granted by the Department Head in conformance with the rules which are established for each type of leave. Leave requests approved by the Department Head shall be submitted to the Payroll Clerk for each type of leave taken by an employee except for holidays. The Payroll Clerk is responsible for maintaining all permanent leave records. As provided in these rules, requests for leave shall be submitted in advance of the intended leave period except for sick leave or other emergencies.

With regard to leave privileges in this policy, a “day” shall be defined as eight (8) hours for employees who are regularly scheduled to work forty (40) hours/week and twelve (12) hours for employees who are regularly scheduled to work fifty-six (56) hours/week.

5.02 **OFFICIAL PAID HOLIDAYS**

The following and such other days as the City Council or Mayor may announce shall be holidays for all employees. These days shall be taken with eight (8) hours of pay, except for those employees required to maintain operations who receive holiday pay for working on such days.

New Year's Day	January 1
Martin Luther King Birthday	Third Monday in January
Good Friday	Friday Preceding Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving Day and observance of Veteran's Day	Fourth Thursday and Friday in November
Christmas Eve & Christmas Day	December 24 & 25

- A. Holidays that fall on Sunday shall be observed on the following Monday by those employees working Monday through Friday; holidays that fall on Saturday shall be observed on Friday by those employees.

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- B. All regular part-time employees scheduled to work on observed holidays shall be entitled to receive prorated holiday pay. (See Holiday Pay)
- C. All members of the uniform bodies shall receive ten (10) days holiday pay in the form of a lump sum extra-duty payment in lieu of ten (10) holidays (New Year's, Martin Luther King's Birthday, Fourth of July, Labor Day, Thanksgiving and observance of Veteran's Day, Christmas Eve and Christmas Day, Memorial Day, and Good Friday).
- D. In order to receive pay for an observed holiday, an employee must not have been absent without pay on the work day immediately preceding or immediately following the holiday.
- E. Temporary employees are not eligible to receive holiday pay.

5.03 **WORK SCHEDULE**

The following are the hours of the City except those services requiring continuous operations:

Standard workday: The standard workday consists of eight (8) hours, beginning at 8:00 a.m. and ending at 4:30 p.m. with two fifteen (15) minute breaks as well as one-half (1/2) hour constituting a lunch period. One (1) hour may be granted for lunch at the discretion of the Department Head provided that fifteen (15) minute breaks are not taken. The work day for an employee who travels to and from his regular job site in a City vehicle or equipment begins at the time and location at which the employee is initially required to report for duty. The work day ends when the employee is relieved of duty.

Flex-time: Flex-time provides those employees who are not determined by the Department Head to have to work a set shift (i.e., straight 8:00 a.m. to 4:30 p.m. shift, etc.) the opportunity to establish their own schedule within certain restrictions. In order to ensure that the work of the office is not disrupted, a period of time from 9:00 a.m. to 3:30 p.m. will be designated as core time. All personnel must be present during that time unless they are on leave. Employees must work their regularly scheduled number of hours per day. Time allotted for lunch cannot be incorporated into flex-time and thereby used to shorten the working day. The supervisor should determine for each section the necessary coverage in the offices for the normal working period, that is 8:00 to 4:30. In addition, supervisors should designate as non-eligible any positions which would be disrupted by the use of flex-time. Employees who arrive late or leave early will be expected to utilize leave to cover these periods of absence.

Frequent deviations from the requested flex-time schedule or consistent failure to report at the anticipated start time or consistent leaving prior to the ending of the scheduled shift will be grounds for discipline. Employees on normal time or flex-time are required to follow departmental procedures to report an unexpected absence or late arrival.

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Breaks: Breaks are provided one (1) midmorning and one (1) midafternoon. Authority to grant breaks is vested in each Department Head and Office Head. Fifteen (15) minutes is the maximum time allowed for each break. Employees are expected not to leave the premises or general work area during breaks. Employees taking one (1) hour lunch periods will not be granted breaks.

Standard Work Schedule: The normal work schedule shall consist of five (5) consecutive workdays, Monday through Friday. Forty (40) hours of work shall constitute the minimum workweek for full-time employees with due allowance for authorized holidays. Other workweek schedules may exist according to departmental needs.

Alternate Work Schedules: When the work program of a department or any of its divisions or units permits, Department Heads may stagger work schedules for their employees. Each employee, or unit of employees, may be assigned specific days of the week that the employee(s) will regularly report to work. The assignment of employee(s) to alternate work schedules is wholly the responsibility of the Department Head and is not grievable.

Schedule objectives - Installation of alternate schedules shall meet one (1) or more of the following objectives:

- a. Improve service to the public by the extension of business hours to the public wherever feasible. In no case shall the public's access to City services or the working relationships between City agencies be curtailed as a result of alternate work schedules.
- b. Encourage the conservation of fuel by reducing the number of trips to work sites by employees.
- c. Maintain or improve current productivity by more efficient service delivery to the citizens.

Schedule criteria - In addition to the objectives listed above, the following criteria shall be met before an alternate work schedule may be implemented:

- a. The mission and objectives of the department or division shall not be adversely affected;
- b. Daily business hours shall include all business hours necessary to transact business with other City departments and the general public; and
- c. Sufficient staff and adequate supervisory control to accomplish the objectives of the department shall be maintained throughout the entire business day.

Implementation - Alternate work schedules other than five eight-hour days per week may be implemented upon written notice to the affected employee(s) by the Department Head of the work schedule. Subsequent changes and adjustments of permanent assignments to the work schedule shall also be made in writing by the

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Department Head. The alternate work schedules described below may be utilized at the discretion of the Department Head.

	Schedule	Hours Per Week	Hours Per 24-Hour Period Beginning at Midnight
1)	Four 10-hour days per week	40	10
2)	Eight 9-hour days and one 8-hour day per biweekly pay period	Various (35-45*) *Note overtime requirements	Varies from minimum of 8 to maximum of 9
3)	Four 9-hour days and one 4-hour day per week	40	Varies from a minimum of 4 to a maximum of 9
4)	Three 12-hour days one week of a pay period and four 12-hour days the other week of a pay period	Varies (36 to 48*) *Note overtime requirements	12

Alternate work schedules other than those contained in this section may be utilized by a Department Head if authorized by the Mayor.

5.04 SEVERE WEATHER POLICY

All offices will remain in operation on all scheduled days, regardless of weather. Inclement weather does not warrant the closing of City offices at any time. Every employee is vital to the efficient operation of the City and should make every attempt to report to work each day.

Each employee should make a personal judgment pertaining to his or her safety in traveling to and from work in severe weather conditions. If employees feel that, because of dangerous road conditions, they cannot get to work, they should contact their supervisors immediately and arrange to take annual leave if any has been earned. If no annual leave time has been accumulated, the absence will be charged as leave without pay. If an employee wishes not to use their accumulated annual time, the employee may have the option of being charged with leave without pay.

On days when severe weather conditions exist, the Mayor or his designee may authorize a "grace" period of up to one hour for those employees who have been tardy for work due to the weather conditions. Such authorization shall allow those tardy employees to be paid for the "grace" period.

The severe weather policy does not apply to those departments which must maintain essential services.

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5.05 **MAYORAL DESIGNATION OF EMPLOYEES EXEMPT FROM LEAVE ACCRUAL**

As may be designated by the Mayor, Directors/Departments Heads appointed by the Mayor shall not accrue annual or sick leave. Such employees shall receive leave as determined by the Mayor. For directors appointed prior to January 1, 2004, leave balances earned up to that date shall remain intact, although no additional leave will accrue. For directors appointed after January 1, 2004, leave balances earned up to the effective date of appointment shall remain intact, although no additional leave will accrue. Those Directors/Department Heads with annual leave balances remaining shall be compensated for such leave upon separation in accordance with these rules and regulations.

Extended leave shall be defined as continuous periods of leave that exceed 30 calendar days. In the event that a Department Head/Director has a need that necessitates the use of extended leave, the following provisions shall apply:

1) Leave that is approved and designated as Family & Medical Leave:

Directors/Departments Heads are eligible for FMLA leave upon submission of a properly completed and approved application for FMLA leave to Civil Service. Provisions found in Administrative Rule 5.20 shall apply. A Director/Department Head may be granted a total of twelve (12) weeks of paid FMLA Leave within a "rolling" twelve (12) month period. The "rolling" twelve (12) month period is measured forward from the date an employee first uses any FMLA Leave.

If additional leave is needed at the conclusion of the initial 12 weeks, the Director/Department Head must use any unused, accrued leave. If no paid leave is available, the Director/Department Head must use unpaid leave, however all benefits will remain intact.

2) Leave that is not designated as Family & Medical Leave:

The first 30 days of extended leave shall be paid leave. After the first 30 days of continuous leave, Directors/Department Heads must use any unused, accrued leave. If no paid leave is available, the Director/Department Head must use unpaid leave, however all benefits will remain intact.

5.06 **ANNUAL LEAVE (VACATION)**

On the beginning date of employment, a City employee's leave accrual balances will be zero (0) except as provided otherwise in Sections 5.18 and 5.19 of these Rules. Annual leave shall be accrued at the end of an employee's first full pay period. Annual leave may only be taken with the prior approval of the Department Head. During the first five (5) years of service, annual leave for eligible employees hired prior to January 1, 1985, other than regular part-time or temporary employees shall be earned at the rate of one (1) day per month (12 days per year) except as provided otherwise in Section 5.18 of these Rules. After five (5) years of service, eligible

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employees shall earn one and one-half (1 1/2) days per month (18 days per year). After ten (10) years of service, eligible employees shall earn two (2) days per month (24 days per year).

During the first three (3) years of service, annual leave for employees hired after December 31, 1984, shall be earned at the rate of five-sixths (5/6) days per month (10 days per year) except as provided otherwise in Section 5.18 of these Rules. Eligible employees with three (3) years of continuous service but less than seven (7) years of continuous service shall earn leave at the rate of one and one-fourth (1 1/4) days per month (15 days per year). Eligible employees with seven (7) years of continuous service but less than twelve (12) years of continuous service shall earn annual leave at the rate of one and two-thirds (1 2/3) days per month (20 days per year). Eligible employees with twelve (12) years of service shall earn annual leave at the rate of two (2) days per month (24 days per year).

Official holidays occurring during annual leave absences shall not be charged to an employee. Annual leave not used during the calendar year (i.e., by the end of the pay period that includes December 31) may be carried over to the following year up to a maximum of twice the highest annual leave accrual rate of each employee for the immediately preceding year. A "day" shall be defined as eight (8) hours for employees working forty (40) hours per week or twelve (12) hours for employees working fifty-six (56) hours per week.

Annual leave in excess of maximum carry-over limitations shall be subject to the forfeited leave provisions of Section 5.09 of these Rules. In certain emergency situations where public safety or public service demands have been so great in a particular year as to cause employees performing those services to be unable to take sufficient annual leave to get them below their carry-forward cap, the Mayor may waive the carry-forward cap for those employees for that particular year by executive order.

Regular employees working thirty-five (35) hours or more per week are entitled to full annual leave benefits. Employees who work less than twenty-five (25) hours per week shall not earn or accrue annual leave. Regular part-time employees hired prior to January 1, 1985, who work twenty-five (25) to thirty-four (34) hours per week are entitled to earn leave time at one-half (1/2) the rate of regular full-time employees. Employees hired after December 31, 1984, working less than thirty-five (35) hours per week shall not earn or accrue annual leave. Temporary employees shall not earn annual leave nor shall they be entitled to any annual leave when they terminate from employment with the City. Employees on annual leave shall be paid at the regular rate of pay during their absence. Employees in a non-paid status shall not earn annual leave.

All eligible employees who terminate from employment with the City shall be paid for any accrued, unused annual leave up to a maximum of twice the highest annual accrual rate of that employee with a maximum annual leave accrual balance not to exceed forty-eight (48) days (or 384 hours for personnel serving on 40-hour weeks and 576 hours for personnel serving on 56-hour weeks).

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Employees who are on workers' compensation leave shall continue to accrue annual leave during that period of absence for which supplemental temporary total disability benefits are provided per Administrative Rule 7.05.

Annual leave earned and accrued by an eligible employee may not be transferred or loaned to another employee.

Annual leave shall be taken in increments of not less than one-quarter (1/4) hour.

Except in the case of military leave, uniformed personnel in the fire department assigned to 24 hour shifts shall take annual leave in increments of not less than 24 hours. However, annual leave may be taken in increments of 12 hours up to a maximum of four (4) 12-hour shifts per year.

Employees who take annual leave for a part of a day must work a minimum of four and one-half (4 1/2) hours that day before their lunch period may be used to reduce the amount of annual leave taken.

In cases of extreme need and/or hardship, extended leave may be approved. Annual leaves of more than thirty (30) calendar days may be considered on an individual basis by the Department Head. The employee request shall be considered when the employee has shown by his/her record to be of more than average value to the City and where it is desirable to retain the employee even at some sacrifice on the part of the City. A copy of annual leave approval that extends beyond 30 calendar days must be forwarded to Civil Service.

Although not normally recommended, but in order to help achieve equitable scheduling, a Department Head may find it necessary or desirable to advance annual leave. Normally, annual leave shall not be advanced in amounts greater than one (1) working week (the amount equal to the time withheld in the City's payroll system). In unusual circumstances, however, a Department Head may specifically authorize some advance of annual leave in amounts greater than one (1) working week, but in no case shall more leave be advanced than an employee may yet be eligible to earn through the pay period that includes December 31st of each year. If a Department Head deems that any advance of annual leave is desirable or necessary, then the employee must be advised that any annual leave advanced will be recaptured from all future pay or benefits in the event the employee terminates employment with the City prior to earning all advanced leave. Unless specifically approved by the Civil Service Director and the Department Head, all annual leave advances shall be reconciled by the end of the pay period that includes December 31st of each year.

5.06.01 **ADDITIONAL LEAVE WITH PAY FOR EXEMPT EMPLOYEES**

Exempt Employee: an employee who is not subject to the overtime provisions of the Fair Labor Standards Act.

An exempt employee is exempt from the overtime provisions of the FLSA, and therefore, is not eligible to be paid overtime by the City of Knoxville. Exempt

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employees will not receive overtime pay regardless of the number of hours worked. They are also exempt from receiving compensatory leave as otherwise provided for non-exempt employees in Administrative Rule 3.06.

Exempt employee positions are in a bona fide professional, executive, or administrative positions or specialized positions such as information technology and must meet specific criteria for exemption established by the FLSA. Under rare circumstances, exempt employees may qualify for leave with pay for additional work performed if it has been properly authorized in accordance with the requirements set forth below.

In order for an exempt employee to receive leave with pay, the Director of the Department must authorize it in writing. This leave with pay may be authorized by the Director of the Department for occasional, special circumstances or projects when the Director has required the exempt employee to work more hours in a workweek than the Director believes is reasonably expected for the accomplishment of the position's duties. An example would be if a person is called in to the City after normal business hours due to an emergency or other unforeseen circumstance. Under no circumstances may a Director authorize an exempt employee to receive more than twenty-four hours (or three working days) of leave with pay per month without first obtaining approval from the Finance Director.

Exempt employees may only receive leave with pay if the Director has provided written authorization designating how many hours of leave with pay will be given and the specific task or project for which the leave with pay is applicable. Documentation of the written authorization must be maintained by the Department and made available to the Finance Director for review upon request. General or "blanket" authorizations for an exempt employee to work beyond his or her regularly-scheduled hours shall not be the basis for earning leave with pay. For example, allowing an exempt employee to work late every Wednesday because that helps the employee schedule other personal matters during the week does not authorize the employee to receive leave with pay.

An exempt employee who independently determines additional work time is necessary to complete his/her work assignments shall not receive additional compensation or leave with pay. An example would be if a person stays late to complete an assignment which is a normal part of their duties. Additional work time is intended only to relieve specific peak workload needs and shall not be authorized to provide for continuous workload requirements.

Any leave accrued pursuant to this section shall be added to the employee's annual leave balance, is to be considered as annual leave as set forth in Rule 5, and is subject to the carry-over limitations set forth in Section 5.06 of these rules.

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5.07 **REQUESTS FOR ANNUAL LEAVE AND COMPENSATORY TIME**

Whenever possible, employees should submit requests for leave to their immediate supervisor within two (2) days of the date the leave is to be effective. Supervisors are encouraged to respond to the request in a timely manner. If the response is not forthcoming, the employees are authorized to submit the request up the supervisory hierarchy to such level where a response is given.

5.08 **SICK LEAVE**

On the beginning date of employment, a City employee's leave accrual balances will be zero (0) except as provided otherwise in Sections 5.18 and 5.19 of these Rules.

City employees, other than regular part-time and temporary employees, shall earn sick leave with pay on the basis of one (1) day per month up to a maximum of twelve (12) working days per year. Sick leave shall begin to accrue at the end of the first pay period. Sick leave may be utilized for medical appointments. Sick leave shall be taken in multiples of not less than one-quarter (1/4) hour. Employees taking part of the day off and requesting sick leave for the hours not worked must work a minimum of four and one-half (4 ½) hours that day before they can use their lunch hour to minimize the amount of sick leave taken. Sick leave not used during the calendar year may be carried forward to the following year.

Regular employees working thirty-five (35) hours or more per week are entitled to full sick leave benefits. Regular employees working from twenty-five (25) to thirty-four (34) hours per week are entitled to accrue leave time at one-half (1/2) the rate of regular full-time employees. Regular employees working less than twenty-five (25) hours per week are not entitled to accrue leave time. Temporary employees shall not earn sick leave. Employees on workers' compensation leave shall continue to accrue sick leave during this period.

Employees may use sick leave for the medical needs of the employee or the employee's spouse, domestic partner, child, or parent.

An employee who is absent for ten (10) or more days due to personal illness or the illness of an immediate family member must complete Family and Medical Leave forms in compliance with Section 5.20 of these Rules and Regulations. Sick Leave Absences of ten (10) days or more that are not supported by FMLA documentation shall not be approved for sick leave and such leave usage shall be converted to annual leave. If no annual leave is available, such leave usage shall be unpaid leave.

A Department Head or supervisor may ask for a medical certificate or other acceptable evidence for shorter periods of sick leave if deemed appropriate or advisable. If necessary, a Department Head may request further evaluation from the City-selected physician for periods of non-FMLA sick leave. In such cases, the City will pay for the further evaluation.

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Employees who become ill during a period of paid annual leave may request that their vacation be temporarily terminated and the time charged to sick leave. Employees may also use annual leave for sick leave if sick leave has been exhausted. If annual leave and sick leave have been exhausted, an employee, at the discretion of the Mayor and the Department Head, may be granted a leave of absence without pay, subject to the Leave of Absence policy, not to exceed twelve (12) months. An employee, upon returning to work from sick leave, shall be required to submit a doctor's statement certifying the employee's fitness to return to work.

An employee feigning sickness or injury or otherwise deceiving a supervisor as to his/her condition while on sick leave shall be subject to strict disciplinary action, including dismissal. According to departmental needs, additional departmental rules may exist for controlling sick leave abuse but shall not be in conflict with the provisions contained herein and must be approved prior to implementation in the same manner prescribed in Section 1.03 of these rules.

When a City employee, other than a regular part-time or temporary employee, shall have accumulated a total of one hundred twenty (120) sick leave days he/she shall be entitled to receive three (3) days additional pay for each year thereafter for which the 120-day balance is maintained. Retiring or deceased employees who were eligible for retirement who have a minimum balance of one hundred twenty (120) sick leave days shall be entitled to be compensated for sixty (60) days (or 50% of the 120 days) of pay. A "day" shall be defined as eight (8) hours for employees working 40-hour weeks or twelve (12) hours for employees working 56-hour week shifts. An employee is deemed to be "retiring" from City employment, only if he/she will receive a City pension and whose Separation Form indicates "retirement."

Sick leave accrued by a City employee cannot be transferred or loaned to another City employee. City employees are eligible to become members of the Sick Leave Bank in accordance with Section 5.21 of these Rules and Regulations.

5.08.01 USE OF LEAVE FOR WELLNESS EVENTS AND CENTER APPOINTMENTS

Employees will be allowed to attend scheduled appointments or meetings for City sponsored health assessments, exams, disease management, and other preventive and educational health services during paid work hours without use of leave. Employees must coordinate attendance at these functions with their supervisors or according to departmental policy. While the City encourages employees to participate in preventive health and education programs, when work needs dictate, supervisors may require employees to reschedule appointments or decline attendance.

Employees may be allowed work time of no more than one (1) hour per appointment to attend appointments with The Center staff for acute care (treatment of non-work related minor illness or injury) without being required to take leave. The employee must telephone and make an appointment to avoid unnecessary and inefficient wait

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times and congestion. Employees must coordinate attendance at acute care appointments with their supervisor. When work needs dictate, supervisors may ask employees to reschedule appointments. If an employee's acute care appointments appear overly frequent, supervisors may require the employee to provide documentation from The Center confirming the necessity of visits.

Employees who abuse these privileges will be subject to corrective or disciplinary action.

5.09 **RESTORATION OF FORFEITED LEAVE**

In the event of illness or disability which exhausts all available sick and annual leave, an employee or his/her agent may request restoration of unused sick and/or annual leave which has been forfeited. Applications for restoration of forfeited leave must be approved by the Department Head, the Civil Service Director, and a majority of the Sick Leave Bank Trustees.

The Sick Leave Bank Trustees will consider the following in its evaluation of applications to restore forfeited leave:

1. Proof should be submitted that the employee has a serious illness or injury; i.e., a medical condition that is likely to require an employee's absence from duty for a period of time (at least two pay periods) during which the employee is not able to perform the material and substantial duties of his/her own occupation. This proof should be provided in a form acceptable to the Trustees by the licensed physician who has primary responsibility for the employee's medical treatment for the illness or injury causing the absence.
2. Proof should be submitted from the Department that the employee has no available sick leave.
3. The manner in which the employee has utilized previous leave benefits, whether or not the emergency was foreseeable, whether there are reasonable alternatives available to being absent from the job, and whether there are any other circumstances unique to the illness or injury.

The decision of the Sick Leave Bank trustees shall be final; however, if the decision of the Trustees is to deny the request the applicant has the right to petition the Trustees for reconsideration. The decision of the Trustees shall not be subject to the grievance procedure.

For the purposes of this rule, "unused" sick leave shall not include any sick leave for which an employee received a 50% credit under Rule 5.08.

5.10 **RESTORATION OF LEAVE AND SENIORITY UPON RETURN FROM LAY-OFF**

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Employees may have their previously accrued seniority and sick leave restored upon return from a layoff if they meet the following criteria:

- a. Have been laid off in accordance with Civil Service Merit Board Rules and Regulations; and
- b. Return to City employment within two (2) years of effective date of layoff. These employees may also have their accrued annual leave restored provided that they did not receive payment for their annual leave when laid-off.

These employees may also have their accrued annual leave restored provided that they did not receive payment for their annual leave when laid-off.

5.11 PARENTAL LEAVE

Pursuant to Tennessee Code Ann. § 4-21-408, employees who have been employed full-time for at least twelve (12) consecutive months may be absent for a period not to exceed four (4) months for adoption, pregnancy, birth, and nursing of an infant (hereafter referred to as “Parental Leave”).

The employee must give at least three (3) months advance notice of his/her anticipated date of departure for such leave, the length of leave, and whether he/she intends to return to full-time employment after the leave. Employees who are prevented from giving three (3) months advance notice because of a medical emergency or because notice of adoption was received less than three (3) months in advance shall still be eligible for Parental Leave.

The City may request a statement from a physician regarding the approximate date of the delivery and/or other appropriate date for beginning the Parental Leave period. The City may request a certificate from the employee’s physician certifying that the employee is physically able to fully resume the duties of the employee’s position.

Parental Leave is unpaid leave. Leave available under other applicable leave categories, such as annual leave, sick leave, and FMLA leave shall be used with and run concurrently with Parental Leave. Once any applicable paid leave is exhausted, the employee will be eligible for any period of unpaid Parental Leave remaining.

If the employee’s job position is so unique that the City cannot, after reasonable efforts, fill that position temporarily, the City shall so notify the employee whereupon the employee shall either return to his/her position or the City shall be relieved of the obligation to reinstate the employee to his/her previous position.

5.12 WORKERS’ COMPENSATION

For rules regarding leave policies relative to Workers’ Compensation, please see 7.05 of these Rules and Regulations.

5.13 CIVIL LEAVE

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Any employee shall be given necessary time off without loss of pay when:

- A. Performing jury duty. In accordance with T.C.A. 22-4-106, an employee is paid for his/her regularly scheduled work day if the jury duty exceeds three (3) hours. If the employee serves less than three (3) hours per day, the time served is considered civil leave and the employee must return to work or use leave for the remaining work hours. An employee on night shift is excused from the work shift preceding his/her first day of jury duty. Temporary employees are not eligible for paid jury duty leave if they have worked for the City for less than six (6) months.
- B. Required by duties or subpoenas to appear before a court, public body, or commission as a witness provided that the employee has no personal interest in the litigation (this provision shall not apply to the members of the Police Department of the City of Knoxville).
- C. Performing emergency civilian duty in connection with national defense.
- D. Voting in national, state, county and/or city elections when the polls are not open at least two (2) hours before or after the employee's scheduled hours of work.

5.14 BEREAVEMENT LEAVE

In case of a death in a regular employee's immediate family, the employee shall be given time off with pay to attend the funeral. Such time shall not be charged to either his/her sick or vacation leave in accordance with the following:

- A. Three (3) days should interment be within a 400-mile radius;
- B. Five (5) days should interment be beyond a 400-mile radius;
- C. Immediate family is defined to include the following: wife, husband, domestic partner, parents, brother, sister, children, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandparents, grandchildren, great grandparents, step-mother, step-father, step-children, legal guardian.
- D. In addition to the above bereavement leave provisions, a regular employee shall be authorized to use up to ten (10) working days of accrued sick leave in the case of the death of a parent, child, domestic partner, or spouse. In such a case, a copy of the death certificate may be required.
- E. Temporary employees are not eligible for bereavement leave.

5.15 MILITARY LEAVE

Employees of the City of Knoxville who are members of any military reserve organization are entitled a maximum of twenty (20) working days annually of paid military leave when engaged in the performance of duty or training in the Military Reserve. An employee on military leave shall receive his/her regular rate of pay for that period of leave. Requests for military leave shall include copies of the military

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orders. An employee ordered for pre-induction physical examination shall be given time off with pay for this purpose by showing his/her orders to the Department Head. Requests for leave of absence for any period of absence which exceeds ten (10) working days should be submitted at least two (2) weeks in advance of the beginning date of the requested leave. Requests for military leave in excess of twenty (20) working days annually shall be made as far in advance of the contemplated absence as is reasonably possible. The employee may but is not required to use accrued annual leave during an absence due to military service.

An employee who is granted a leave of absence for military service shall have the time spent in military service credited to the employee's current service for the purpose of determining his/her benefits hereunder. The conditions and limitations for credit for leave for military service are:

1. A leave of absence for military service will be limited to five (5) cumulative years for a regular enlistment or other voluntary service;
2. The employee must reapply for employment within ninety (90) days of his separation from military service, except that employees who are hospitalized at time of termination of military service will have up to two (2) years to make application to the head of his/her department for re-employment; and
3. Upon his/her return to employment from military service, the employee may, in addition to making his/her current contribution to the pension fund, make all contributions to the pension fund which he/she would have made had he/she been employed by the City during the time of said military leave of absence at his/her annual rate of pay at the date said leave of absence commenced. Additionally, upon release from military service such employee shall be re-employed by the City of Knoxville in a position no lower than the same pay grade and salary level than that in which he/she was employed at the time of departure, upon condition that such employee is physically and mentally qualified to perform the required duties.
4. Pursuant to the aforementioned conditions, the employee must report to duty with the City when instructed and will be required to furnish a copy of military orders showing the date of release from duty and a certificate showing satisfactory performance of duty.

Pursuant to the City Code, the Mayor is authorized to issue an Executive Order to increase the benefits contained in this section for a period not to exceed two (2) full years for each employee called to active duty.

The City of Knoxville will comply with all federal laws applicable to the re-employment of individuals who have been on leave of absence due to military service.

5.15.01

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AN EXECUTIVE ORDER OF THE MAYOR OF THE CITY OF KNOXVILLE EXTENDING TO TWO YEARS THE ELIGIBILITY PERIOD FOR SUPPLEMENTAL SALARY AND BENEFITS TO PERMANENT EMPLOYEES CALLED TO ACTIVE MILITARY DUTY.

WHEREAS, pursuant to Rule 5.15 of the Administrative Rules and Regulations of the City of Knoxville, permanent full-time employees of the City of Knoxville who receive orders calling the employee to active military duty are entitled to certain supplemental salary and benefits; and

WHEREAS, said benefits are currently limited to one (1) year from the last day of the employee's work for the City prior to leaving for duty; and

WHEREAS, recent military call-ups in the ongoing War on Terrorism have been for periods of up to two (2) years, and

WHEREAS, by amendment to Section 2-481(c) of the Code of Ordinances of the City of Knoxville, the Council of the City of Knoxville has authorized the Mayor to extend supplemental salary and benefits to up to two (2) years, and

WHEREAS, it is appropriate during the War on Terrorism for governmental employers to demonstrate support for the citizen-soldiers called upon to protect our Nation and our freedoms.

NOW, THEREFORE, I, Madeline Rogero, Mayor of the City of Knoxville, pursuant to the authority vested in me by Article III, § 301 of the Charter of the City of Knoxville and Section 2-481(c) of the Code of Ordinances of the City of Knoxville, hereby extend military leave benefits under Rule 5.15 of the Administrative Rules and Regulations of the City of Knoxville for up to two (2) full years from the last day of the employee's work for the City prior to leaving for duty. Accordingly, permanent full-time employees of the City of Knoxville who receive orders calling the employee to active military duty are entitled to the following benefits for two (2) years from the employee's last day of work for the City prior to leaving for duty:

a) The employee will receive a salary supplement from the City that is the difference between the employee's monthly military salary and the employee's monthly salary from the City, up to a maximum of \$750.00 per month.

b) The employee will continue to be eligible for the same health benefits the employee received as an active employee and will continue to accrue annual leave, sick leave, and longevity. These accrued days for leave and longevity shall be credited to the employee upon his/her return to work for the City.

To receive the salary supplement and benefits, copies of all military orders must be provided to the departmental director. Copies of such orders shall be provided immediately upon receipt. Upon completion of the appropriate military leave form, the employee shall have the option to utilize any accrued leave and the twenty (20) days paid military leave prior to receiving any benefits pursuant to this Executive Order.

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This Executive Order shall be effective on the 1st day of December, 2012.

5.16 UNPAID LEAVE

Leave of absence without pay may be granted for personal reasons for periods beyond those allowable with pay provided the Department Head is willing either to allow the position from which leave is taken to remain vacant or to fill such position by temporary appointment until the expiration of such leave. No leave of absence without pay shall be granted to any employee to accept other employment. With the exception of military leave, accrued annual leave and/or sick leave (as appropriate) must be exhausted before an employee goes on leave of absence without pay. Leave of absence without pay does not apply to periods of less than 4 hours in a single workweek.

Any regular employee who wants to be granted a leave of absence without pay for personal reasons such as a protracted illness extending beyond sick leave coverage, personal business, or travel shall submit a written request to the Department Head stating the reason for the request, the preferred date for the start of the leave, and the probable date of return.

Any employee may, at the discretion of the Department Head, be granted leave without pay which shall not exceed ten (10) working days for any reason. For leaves of absence that are 10 working days or less, a copy of the request for leave of absence must be sent to the Civil Service Department for placement in the employee's permanent personnel file along with the appropriate approval from the Department Head.

Leave without pay in excess of ten (10) working days must be requested, in writing on an Unpaid Leave Form, through the Department Head to the Civil Service Director. All leave without pay in excess of 10 working days, with the exception of leave regulated by state or federal law (such as Military Leave or Family & Medical Leave) must be approved by the Mayor. After approval, a copy of the request for leave of absence shall be placed in the employee's permanent personnel file.

In cases of extreme need and/or hardship, leaves of more than ninety (90) days may be considered on an individual basis by the Department Head and the Mayor. The employee request shall be considered when the employee has shown by his/her record to be of more than average value to the City and where it is desirable to retain the employee even at some sacrifice on the part of the City. A leave of absence cannot be approved beyond a period of twelve (12) months continuous absence including all forms of leave. A period of absence shall be considered continuous until the employee has returned to work for a minimum of one full pay period. At the expiration of the leave without pay, the employee shall have the right to, and shall be reinstated to, the position he/she vacated if the position still exists or any other vacant position in the same class.

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Employees are expected to return to work at the end of their approved leave. Failure to do so can constitute automatic termination.

Employees on leave without pay do not accrue leave or pension benefits, and are not entitled to health benefits except as expressly provided by these Administrative Rules.

5.17 **TWO INCUMBENTS IN ONE POSITION**

There are two conditions under which a position may be occupied by two employees at the same time: (1) the appointment of an employee in the same classification held by another employee may be made before the incumbent terminates, and (2) an employee may be appointed to the same classification held by another employee who is on approved extended leave. In both cases the overlapping appointment shall last no longer than six months.

5.18 **POLICY GOVERNING THE TRANSFER OF EMPLOYEES BETWEEN KUB AND GENERAL GOVERNMENT**

Employees transferring between the Knoxville Utilities Board (KUB) and general purpose City of Knoxville government (General Government) shall be made in accordance with the City Charter and existing Civil Service Merit Board, City of Knoxville, and KUB rules and regulations governing transfers. Said employees will be deemed as having broken service with their previous organization and held in the previous organization; except that they may retain their most recent date of hire in the organization from which they are transferring for the purpose of accumulating benefits, subject to any ordinances to the contrary. They may not bring with them any leave already accumulated and unused, except in those cases where an employee transfers as a result of an organizational change mandated by a City Charter or Ordinance provision. In said case, annual and sick leave accumulations can be transferred to the new organization subject to the existing limitations in that organization. On the effective date of the transfer, said employees shall be granted medical and life insurance coverage immediately. Coverage will not be subject to either the waiting period or the exclusion of pre-existing conditions applicable to new employees.

5.19 **POLICY GOVERNING LEAVE BALANCES OF EMPLOYEES WHO TRANSFER FROM A QUASI-CITY GOVERNMENT AGENCY TO CITY GOVERNMENT**

Whenever a new employee is hired directly from a quasi-city government agency, annual and sick leave accumulations may be transferred to city government, at the Mayor's approval, subject to the existing limitations in city government; provided, however, that the employee was not compensated by the former agency for those accumulations. For the purpose of this policy, quasi-city government agency is defined as Metropolitan Knoxville Airport Authority, Metropolitan Planning Commission, or Knoxville Community Development Corporation.

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5.20 FAMILY AND MEDICAL LEAVE

PURPOSE

The purpose of this policy is to describe the leave available to employees under the Family and Medical Leave Act of 1993 (hereafter referred to as “FMLA Leave”).

GENERAL

Employees who have been employed for at least one (1) year and for at least 1,250 hours during the preceding 12-month period (an average of 24 hours per week) are eligible for FMLA Leave. These twelve (12) months do not have to be consecutive. However, any period of employment prior to a break in service ending seven (7) or more years prior to the employee’s last date of rehire will not be counted toward the 12-month calculation unless: (1) the break in service was due to the employee’s fulfillment of his or her National Guard or Reserve military service obligations; or (2) a written agreement exists establishing the City’s intention to rehire the employee after the break in service.

FMLA Leave is unpaid leave. FMLA Leave will run concurrently with annual leave, sick leave, and Parental Leave (if applicable) as provided below. If FMLA Leave is requested for an employee’s own serious health condition, the employee must also use all of his or her accrued paid sick leave and annual leave. If FMLA Leave is requested for any other reason, an employee must use all of his or her accrued annual leave or sick leave. The remainder of the 12-week leave period, if any, will then consist of unpaid FMLA Leave. If an employee has accrued annual or sick leave under the City’s current policies, the employee must take the appropriate paid leave prior to taking unpaid FMLA Leave.

In any case in which both spouses are entitled to FMLA Leave and are employed by the City, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during the 12-month period if such FMLA Leave is taken: (a) because of the birth of a son or daughter of the employee and in order to care for such son or daughter; (b) because of the placement of a son or daughter with the employee for adoption or foster care; or (c) in order to care for a sick parent of the employee, if the parent has a serious health condition.

All employees who meet the applicable time-of-service requirements may be granted a total of twelve (12) weeks of FMLA Leave within a “rolling” twelve (12) month period. Through January 31, 2013, the “rolling” twelve (12) month period will be measured forward from the date an employee first uses any FMLA Leave. Effective February 1, 2013, the “rolling” twelve (12) month period will be measured backward from the date an employee uses any FMLA leave. This rolling back method will apply to all FMLA applications and requests approved after February 1, 2013. Under the rolling 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months.

REASONS FOR LEAVE

FMLA Leave can be used for the following reasons:

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1. The birth of the employee's child and in order to care for the child (See Parental Leave Policy in Section 5.11 of these Administrative Rules and Regulations);
2. The placement of a child with the employee for adoption or foster care (See Parental Leave Policy in Section 5.11 of these Administrative Rules and Regulations);
3. To care for a spouse, child or parent who has a serious health condition; or
4. A serious health condition that renders the employee incapable of performing the essential functions of his or her job.

The availability of FMLA Leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

Serious Health Condition

A "serious health condition" is defined as an illness, injury, impairment, or physical and medical condition requiring:

1. Inpatient care in a hospital, hospice, or residential medical care facility, or
2. Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) due to:
 - a. A health condition (including treatment therefore, or recovery there from) lasting more than three (3) consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - Treatment two (2) or more times by or under the supervision of a health care provider within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist; or
 - At least one (1) treatment by a health care provider with a continuing regimen of treatment under the supervision of a health care provider, with "treatment by a health care provider" to mean an in-person visit to a health care provider and that the first, or only, in-person visit must take place within seven (7) days of the first day of incapacity; or
 - b. Pregnancy or prenatal care. A visit to a health care provider is not necessary for each absence; or
 - c. A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider at least two (2) times per year, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
 - d. A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or

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- e. Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

A serious health condition exists if it renders the employee unable to perform the essential functions of his or her job. Serious health conditions are not intended to cover routine conditions for which treatment and recovery are very brief.

Health Care Provider

“Health care provider” means:

- Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice; or
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; or
- Physician assistants, even if they are not working under the direct supervision of a physician, provided they are operating within their authorization to practice under State law; or
- Any health care provider recognized by the employer or the employer’s group health plan benefits manager.

MILITARY FAMILY LEAVE

Under the National Defense Authorization Act, FMLA leave can be taken by employees as follows:

1. Military Caregiver

Military Caregiver Leave applies to employees whose covered family member is a service member of either the Regular Armed Forces or a Reserve component of the Armed Forces. The covered service member must have a serious injury or illness that renders the service member medically unfit to perform the duties of his or her office, grade, rank or rating. The covered service member must have become injured or ill in the line of duty on active duty and must be:

- a. undergoing medical treatment, recuperation, or therapy; or

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- b. otherwise in outpatient status (where a member of the Armed Forces is assigned to a military medical treatment facility as an outpatient or is otherwise assigned to a unit for purposes of receiving medical care as an outpatient); or
- c. otherwise on the temporary disability list.

In order to be eligible for FMLA leave to care for a covered service member, an eligible employee must be the spouse, son, daughter, parent, or next of kin of the covered service member. The son or daughter of a covered service member is any biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. A parent of a covered service member is any biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. The next-of-kin of a covered service member is the nearest blood relative other than the spouse, parent, son, or daughter, in the following order of priority:

- Blood relatives who have been granted legal custody,
- Brothers and sisters,
- Grandparents,
- Aunts and uncles, and
- First cousins.

However, the covered service member can specifically designate in writing another blood relative for purposes of military caregiver leave, which person shall be deemed to be the only "next of kin" eligible for FMLA military caregiver leave. When no such designation is made and there are multiple family members with the same level of relationship to the covered service member, all such family members are considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member. The City may require an employee to provide confirmation of family relationship to the covered service member.

An eligible employee is entitled to 26 workweeks of FMLA leave to care for a covered service member with a serious injury or illness during a "single 12-month period." The "single 12-month period" begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after that date. If the eligible employee does not use all 26 workweeks of available leave during this 12-month period, the remainder is forfeited.

The leave is available on a per-covered-service member, per-injury basis, so that if the employee becomes entitled to military caregiver leave under the FMLA with respect to a different family member, the employee is entitled to a new 26 workweeks of leave during a separate "single 12-month period." Similarly, if the covered service member incurs a new illness or injury subsequent to the original one, a new 26 workweeks is available to the employee. Nevertheless, the employee is limited to taking no more than 26 workweeks of leave in each single 12-month period.

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The 26 workweeks of leave is decreased by FMLA leave taken by the employee for other qualifying reasons. That is, 26 workweeks of FMLA leave are available for caring for a covered service member and for all other FMLA reasons. For example, if an employee takes 10 weeks of FMLA leave to care for a newborn child, that employee would only be able to take 16 weeks of FMLA leave to care for a covered service member. When leave is taken to care for a covered service member where it is taken by both a husband and wife who are employed by the City, the husband and wife would have a combined total of 26 workweeks of leave during the “single 12-month period.”

2. Qualifying Exigency

Qualifying Exigency Leave applies only to employees whose covered family member is on active duty, or called to active duty, from a reserve component (or re-called from retirement).

Eligible employees are entitled to take up to 12 workweeks in a 12-month period of unpaid leave because of any qualifying exigency (as defined by the Department of Labor) arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. This 12 workweeks of leave are not in addition to an employee’s 12-week FMLA entitlement for other reasons, e.g., serious health condition or bonding; it is merely another reason for which FMLA leave may be available.

Upon submission of the FMLA Application, a copy of active duty orders must be provided to the City upon the employee’s first request for leave because of a qualifying exigency. Additionally, the City may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship.

A “Qualifying Exigency” must meet one of the following:

- a. Short Notice Deployment. Leave to address any issue that arises from being notified of an impending call or order to active duty seven (7) or less calendar days prior to the date of deployment. This leave can be for a period of up to seven (7) days beginning on the date the covered service member is notified of deployment. Therefore, any leave taken outside the 7-day period must qualify under one of the other categories of qualified exigency.
- b. Military Events and Related Activities. Leave to attend any official ceremony, program or event sponsored by the military or to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of the covered service member. This includes leave for arrival and departure ceremonies, pre-deployment briefings, briefings for family during the period of deployment and post-deployment briefings which occur while the covered military member is on active duty or call to active duty status.

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- c. Childcare and School Activities. Leave to arrange for childcare or attend certain school activities for the child of the covered military member. This includes:
- (1) to arrange for alternative childcare when the active duty or call to active duty status necessitates a change to in the existing childcare arrangements;
 - (2) to provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the need to provide such care arises from active duty or the call to active duty;
 - (3) to enroll the child in or transfer the child to a new school or day care facility when enrollment or transfer is necessitated by the active duty or call to active duty;
 - (4) to attend meetings with staff at a school or day care facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, when such meetings are necessary due to circumstances arising from active duty or a call to active duty.
- d. Financial and Legal Arrangements. Leave to make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status [e.g. preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System ("DEERS"), obtaining military ID cards, or preparing or updating wills and trusts]. Leave is intended to address issues directly related to the covered military member's absence, and not routine matters such as paying bills. Leave is also permitted for the employee to act as the covered service member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits while the covered service member is on active duty or call to active duty status and for a period of ninety (90) days following the termination of the covered military member's active duty status.
- e. Counseling. Leave to attend counseling provided by someone other than a healthcare provider for oneself, for the covered service member, or for the child of the covered military member provided the need for the counseling arises from the active duty or call to active duty status of a covered military member. This provision covers counseling not already covered by the FMLA because the provider is not recognized as a health care provider. Examples include counseling provided by a military chaplain, pastor or minister, or counseling offered by the military or a military service organization that is not provided by a health care provider. If it is medical counseling, the City has the right to require a medical certification.

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- f. Rest and Recuperation. Leave to spend time with the covered service member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to five (5) days leave for each instance of rest and recuperation.
- g. Post-Deployment Activities. Leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following the termination of the covered military member's active duty; or to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered service member and making funeral arrangements.
- h. Additional Activities. Leave to address other events which arise out of the covered military member's active duty or call to active duty status provided the employer and employee agree that such leave shall constitute a qualifying exigency, and agree to both the timing and duration of the leave.

INTERMITTENT LEAVE

FMLA Leave taken to care for a sick family member or for an employee's own serious health condition may be taken intermittently or on a reduced leave schedule when medically necessary. Intermittent FMLA Leave may include leave of periods from 15 minutes or more to several weeks.

BENEFITS COVERAGE DURING LEAVE

During a period of FMLA Leave, the City will maintain the employee's coverage under the City's group health plan that would have been provided if the employee were not on FMLA Leave. However, the employee must continue to make any contributions that he or she made to the plan before taking FMLA Leave to insure group health care coverage. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage.

If the employee fails to return to work after the expiration of the FMLA Leave, the employee will be required to reimburse the City for payment of health insurance premiums during the FMLA Leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or due to circumstances beyond the employee's control.

An employee is not entitled to the accrual of any seniority or employment benefits which would have accrued if not for the taking of unpaid leave. An employee who takes FMLA Leave will not lose any seniority or employment benefits that accrued before the date unpaid leave began.

In addition, an employee's use of FMLA Leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA Leave, nor be counted against the employee under a "no fault" attendance policy.

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PROCEDURES FOR REQUESTING LEAVE

1. **Notice of FMLA Leave**

If FMLA Leave is to begin within thirty (30) days, an employee must give notice to his or her supervisor and Department Head as soon as the necessity for the FMLA Leave arises. An employee intending to take FMLA Leave because of the birth or placement of a child, or because of a planned medical treatment must submit an “Application for FMLA Leave” at least thirty (30) days before the FMLA Leave is to begin. If FMLA leave is required because of a medical emergency or other unforeseeable event, the employee must provide such notice as soon as is practicable and possible following the emergency or unforeseen event. If thirty (30) days notice is not given by the employee, the City may retroactively designate FMLA leave, pursuant to 825.301(d) of the Family and Medical Leave Act.

2. **Completion of Application for Family and Medical Leave Form:**

An Application for Family and Medical Leave must be originated by the employee and may be obtained from the Employee Benefits Division or from the employee’s payroll clerk. This form should be completed in detail and signed by the employee, and submitted by the employee to the treating health care provider for completion of the Medical Certification Statement. If possible, the form should be submitted thirty (30) days in advance of the effective date of the leave. In the case of a medical emergency or an unforeseeable event, the employee must provide said notice as soon as is possible and practicable after the emergency or event.

3. **Completion of Certification Statement**

An application for FMLA Leave based on the serious health condition of the employee or the employee's spouse, child, or parent must also be accompanied by a “Certification Statement” completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition within the knowledge of the health care provider regarding the condition. Forms entitled “Certification Statement” are provided which include all necessary information. There are separate “Certification Statements” for an employee's own serious illness or for the illness of an employee's family member. These forms should be used to ensure the necessary information is included and are available from the Employee Benefits Division or an employee’s payroll clerk.

For the purposes of FMLA Leave for an employee's illness, the certificate must state that the employee is unable to perform the essential functions of his or her position. In the case of certification for intermittent FMLA Leave or FMLA Leave on a reduced FMLA Leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated.

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If the employee is needed to care for a spouse, child, or parent, the certification must so state along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

If the received medical certification is incomplete and/or insufficient, the employee shall be notified in writing and shall be told what additional information is needed to make the certification complete and sufficient. The employee will be given seven (7) days to cure the deficient certification. After providing the employee an opportunity to cure an incomplete and insufficient medical certification, Employee Benefits may seek additional information from the health care provider for clarification pursuant to 825.307 of the Family and Medical Leave Act.

The City may require periodic reports and/or recertification from an employee on FMLA Leave regarding the employee's status and intent to return to work.

The City may require the employee to obtain a second opinion at the City's expense with a health care provider designated by the City. If the first and second opinions differ, the City may require the employee to obtain certification from a third health care provider who must be designated or approved jointly by the employer and the employee. The third opinion is binding.

For FMLA leave for a Qualifying Exigency for Military Leave, a "Certification for Qualifying Exigency for Military Leave" form must be completed in lieu of a "Certification Statement."

For FMLA leave for Military Caregiver Leave, a "Certification for Serious Injury or Illness of a Covered Service Member for Military Family Leave" form must be completed in lieu of a "Certification Statement."

4. **Return From FMLA Leave**

An employee must submit a fitness for duty notice from the treating health care provider that addresses the employee's specific job duties to the Employee Benefit Division before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of an FMLA Leave, notification must be given to the Employee Benefits Division at least five (5) working days prior to the employee's planned return.

RESTORATION TO EMPLOYMENT

An employee eligible for FMLA Leave will be restored to his or her former position or to a position with equivalent pay, benefits, and other terms and conditions of employment upon timely return from FMLA Leave. The City cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by the appropriate Department Head and the Civil Service Director.

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Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, the City may refuse to reinstate certain highly paid “key” employees after using FMLA Leave during which health coverage was maintained. In order to do so, the City must:

Notify the employee of his/her status as a “key” employee in response to the employee’s notice of intent to take FMLA Leave;

Notify the employee as soon as the employer decides it will deny job restoration and explain the reasons for the decision;

Offer the employee a reasonable opportunity to return to work from FMLA Leave after giving this notice; and

Make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

A “key” employee is a salaried “eligible” employee who is among the highest paid ten (10) percent of employees within 75 miles of the work site.

FAILURE TO RETURN FROM FMLA LEAVE

The failure of an employee to return to work or to request additional leave in writing upon the expiration of FMLA Leave will subject the employee to immediate termination unless the absence is allowed pursuant to an approved extension of FMLA Leave or another applicable leave policy.

REQUESTS FOR EXTENDED MEDICAL LEAVE

An employee who requests an extension of leave beyond his/her 12 weeks of FMLA must submit a request for Extended Medical Leave, in writing, together with appropriate medical certification PRIOR to the expiration of his/her FMLA leave. This leave is not FMLA leave. A written request for an extension of leave should be made as soon as the employee realizes that she or he will not be able to return at the expiration of the FMLA Leave period and must in all cases be approved by all appropriate authorities prior to the expiration of his/her FMLA Leave. If the employee has paid leave remaining, a written request for Extended Leave With Pay, approved by the Department Head, must be forwarded to Employee Benefits prior to the expiration of FMLA leave. The maximum period that a department head may approve Extended Leave With Pay is up to twelve (12) months continuous period of absence. If the employee has exhausted all of his/her paid leave, the Leave of Absence procedures found in section 5.16 of these rules shall be followed.

FAMILY AND MEDICAL LEAVE RECORDS

All medical records concerning FMLA Leave will be maintained as confidential records in the Employee Benefits Division. These records must be maintained in accordance with the Family and Medical Leave Act, and each department is required to immediately forward original “Applications for Family and Medical Leave,” “Certification Statements,” and “Notices of Intention to Return From Leave” forms to the Employee Benefits Division upon completion.

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5.21 SICK LEAVE BANK

OBJECTIVE

Occasionally City employees contract a catastrophic illness or injury and exhaust their leave balances. This policy is established to provide guidelines for the implementation and administration of a Sick Leave Bank for contributing City of Knoxville employees to accommodate such disabling circumstances.

ADMINISTRATION OF BANK

The Sick Leave Bank shall be administered by a Committee of Trustees. The trustees shall be composed of seven (7) members and shall consist of the Director of Finance and Accountability, Civil Service Director, Benefits Manager, Director of Law; and the remaining three appointments shall represent general government employees, fire uniformed employees, and police uniformed employees respectively. The appointments shall be on an annual basis with the Chair selected by the Mayor. Vacancies for any reason shall be filled immediately by the Mayor.

The trustees shall be responsible for the administration and implementation of the Sick Leave Bank guidelines, membership and enrollment procedures, and reasonable assessment rules to maintain an adequate reserve.

The Civil Service Department shall provide staff support to maintain the bank, keep records of sick leave days donated and taken, prepare reports, and keep minutes of the trustee meetings.

The trustees shall provide an annual report indicating the status of the Sick Leave Bank membership, usage, and sick day reserves to the Mayor and members of the bank.

The trustees have the authority to waive Sick Leave Bank provisions under unusual or extraordinary circumstances.

Throughout this policy, referral to sick leave days shall be defined as eight (8) hour days.

ENROLLMENT/CANCELLATION OF MEMBERSHIP

No later than thirty (30) days prior to the effective date of the bank, the trustees shall notify all employees who accrue sick leave of their eligibility to join the Sick Leave Bank, the rules of membership, enrollment forms, the enrollment period, and the effective date of the bank. The trustees shall establish and inform all eligible employees of the initial enrollment assessment to be deducted from the employee's sick leave balance. The initial assessment shall be two (2) days. Employees will be given at least forty-five (45) days from the date of hire to enroll in the bank.

After the initial enrollment, the trustees shall hold an annual enrollment period to coincide with the City's annual enrollment for benefits. This annual enrollment period and the enrollment procedures will be publicized annually by the trustees to all eligible employees. Employees who enroll at this time will have an initial enrollment assessment as established by the trustees.

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The enrollment authorization shall remain in effect for the current and subsequent years unless cancelled in writing. Any employee may cancel membership from the bank by written request. Membership withdrawal shall result in forfeiture of all days contributed.

The right to membership or to apply for membership ceases with termination of employment, retirement, cancellation of membership, or refusal to comply with assessments. Donations of sick leave to the bank are non-refundable and non-transferable except in the event of termination of the bank.

If membership falls below twenty (20) members and the sick leave balance is less than twenty (20) days, the Sick Leave Bank trustees may decide to dissolve the bank rather than make an assessment. If the bank is dissolved, any days on deposit shall be credited to the participating members in a manner to be determined by the trustees upon dissolution of the bank.

CONTRIBUTIONS/ASSESSMENT OF SICK LEAVE DAYS

The trustees are authorized to make the necessary and reasonable assessments of the membership to maintain an adequate reserve of days based upon total membership and projected need. To maintain the bank, the balance of sick days in the bank should not fall below one day per member. If at any time the number of days in the bank is less than one per member, or at any time deemed advisable, the trustees shall assess each member one (1) day of accumulated sick leave. The number of days assessed to each member may not exceed three (3) days per assessment or six (6) days in any calendar year. The assessment of sick leave toward the sick leave bank does not count as usage of sick leave.

In the event of an assessment, the membership must be notified in writing at least thirty (30) days prior to the effective date of the assessment. At the end of the 30-day notification period, transfers will be made from the sick leave balances of members to the bank, except in cases where members have notified the trustees of their unwillingness to honor the assessment.

Failure to comply with any assessments established by the Sick Leave Bank trustees will result in cancellation of membership unless the member has made a current application for sick leave from the bank or is on sick leave with pay using an allocation from the bank. If a member has no accumulated sick leave at the time of the assessment, the first earned days shall be donated as they are accrued by the employee.

No assessments shall be made for the purpose of leave granted for pregnancy, which shall be funded by the City.

ELIGIBILITY/APPLICATION FOR SICK LEAVE DAYS

Members who have participated in the Sick Leave Bank and who meet all other requirements as contained in this policy are eligible to apply for sick leave days from the bank.

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Sick leave from the bank may only be granted to an employee as a result of a life-threatening or debilitating accident, illness or condition requiring an absence from work for 30 or more consecutive calendar days or pregnancy, as verified by the licensed health care provider having primary responsibility for the employee's treatment for the accident, illness or condition causing the absence.

Except for leave granted for pregnancy, the Sick Leave Bank Trustees may consider the manner in which the employee has utilized previous leave benefits, whether or not the absence was foreseeable, whether there are reasonable alternatives available to being absent from the job, and whether there are any other circumstances unique to the illness or injury, and may request additional information from the employee or the employee's health care provider in support of the employee's request.

Bank sick leave days may not be granted for illness of any member of the individual's family or during any period an individual is receiving the following: disability benefits from social security, benefits from a retirement plan or workers' compensation benefits, or is eligible for long-term disability benefits from any source. Bank sick leave days may not be granted for purely elective surgery but may be granted in unusual cases where, in the judgment of the trustees, the surgery is justified.

All personal accrued leave (sick, annual, forfeited, and advanced annual leave) must be used before receiving sick leave days from the bank (except for leave granted for pregnancy). However, application may be made prior to that time and approval given contingent upon the employee's exhaustion of all accrued leave and any advancement of leave.

A written application for bank sick leave days is required on a form provided by the trustees maintained in the Civil Service Department. At a minimum, the application shall include employee's name, title, date of employment, reason for request, and number of sick leave days requested. All requests to draw from the bank must be accompanied by a statement from the employee's physician certifying that leave is medically required by the specified illness or disability. Applications will require approval of the employee's Department Head before being forwarded to the trustees for approval. If an employee is eligible, but unable to apply due to physical or mental condition, any family member or other agent may apply on behalf of that employee.

GRANTING SICK LEAVE DAYS

The trustees shall act upon all applications for sick leave days from the bank as soon as possible upon receipt of the request and all necessary documentation. All actions by the trustees require a majority of affirmative votes with a quorum of four (4) trustees required, except that the trustees shall grant twenty (20) days from the bank to a pregnant member, upon the submission of a properly documented application, for birth of a child. Should the member exhaust all available sick and annual leave and all days granted for pregnancy, any additional days requested from the bank shall be subject to the same application and eligibility requirements as any other request for days from the bank.

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Decisions of the trustees shall be final. Matters relevant to the administration and enforcement of this Sick Leave Bank Policy shall not be grievable under the City's grievance procedure as contained in the Civil Service Merit Board Rules and Regulations.

The number of sick leave days granted may never exceed the number of days in the Sick Leave Bank.

Each initial grant of sick leave days from the bank, except in the case of leave granted for pregnancy, shall be limited to a minimum of five (5) days and a maximum of twenty (20) consecutively scheduled working days for each illness or injury and an extension (or extensions) of up to forty (40) sick leave days may be granted per illness or injury.

The total sick leave granted to any one member, including leave granted for pregnancy, shall not exceed sixty (60) days per calendar year or one hundred twenty (120) days maximum per employee's employment.

If sick leave from the bank is granted to an employee, the employee is considered to be in active pay status during the use of that leave and all employment benefits apply, including the accrual of annual and sick leave.

If any sick leave is granted but not used by the employee, the unused portion of the amount of sick leave transferred is returned to the sick leave bank. This would apply in the case of an employee's death or recovery from the illness or injury.

Assessment of sick leave to join the Sick Leave Bank does not count as sick leave usage against the employee.

GRANTING SICK LEAVE DAYS FOR EMPLOYEES ON THE D.R.O.P.

In addition to the above provisions, the following provisions will apply to employees who are currently on the D.R.O.P. upon application for days from the Sick Leave Bank:

Sick leave days granted by the bank to an employee currently on the D.R.O.P. shall be treated as an advance against the leave that the employee may accrue during the D.R.O.P. period. The number of sick leave days granted may never exceed the number of days the employee may accrue prior to his/her delayed retirement date. If sick leave days are granted from the bank, the employee's leave accruals shall be suppressed until all days granted from the Sick Leave Bank are restored to the bank.