

CITY OF COMMERCE ADMINISTRATIVE POLICIES

FAMILY OR MEDICAL LEAVE

1.0 PURPOSE

To establish a policy and guidelines for the use of family or medical leave for City employees.

2.0 POLICY

2.1 General. As provided by the 1993 Family and Medical Leave Act (FMLA), all eligible employees will be entitled to take up to 12 weeks of unpaid, job-protected leave during any 12-month period for specified family and medical reasons.

2.2 An eligible employee will be entitled to 12 weeks of unpaid leave during a 12-month period for one or more of the following reasons:

- A.** The birth or placement of a child for adoption or foster care.
- B.** To care for an immediate family member (spouse, child, or parent) with a serious health condition.
- C.** A serious health condition, which will be defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences.

2.3 Treatment of such an illness would occur in an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.

2.4 An employee may take leave if a serious health condition makes the employee unable to perform the functions of his/her position.

2.5 Employees with questions about whether specific illnesses are covered under this policy or under the City's sick leave policy are encouraged to meet with a representative from the Department of Administrative Services.

2.6 An employee will be entitled to family leave when he/she meet the following criteria:

- A.** The employee has worked for at least 12 months for the City.
- B.** The employee has to have worked for the City for at least 1,250 hours over the 12 months before the leave would begin.

- C. When both spouses are employed by the City, they are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

2.7 Calculation of Leave

- A. The City will use a rolling 12-month period measured backward from the date an employee uses any FMLA leave.
- B. Each time an employee uses leave, the City computes the amount of leave the employee has taken under this policy, subtracts it from the 12 weeks, and the balance remaining is the amount the employee is entitled to take at that time.

2.8 Maintenance of Benefits

- A. An employee will be entitled to maintain group health insurance coverage on the same basis as if he/she had continued to work at the City.
- B. To maintain uninterrupted coverage, the employee will have to continue to pay their share of insurance premium payments.
- C. This payment will be made either in person or by mail to the Accounting Supervisor by the 25th day of each month.
- D. If the employee's payment is more than 30 days overdue then the coverage will be dropped by the City.
- E. If the employee informs the City that he/she does not intend to return to work at the end of the leave period, the City's obligation to provide health benefits ends.
- F. If the employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the employee to reimburse the City the amount the City contributed toward the employee's health insurance during the leave period.
- G. For information on life and dental insurance, contact the Department of Administrative Services.
- H. The use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.
- I. Other benefits such as the accrual of seniority, vacation leave and sick

leave will not continue during leave.

2.9 Job Restoration

- A. An employee who utilizes family or medical leave under this policy will be restored to the same job or a job with equivalent status, pay, benefits and other employment terms.
- B. The City may choose to exempt certain highly compensated, "key" employees from this job restoration requirement and not return them to the same or similar positions at the completion of the FMLA leave.
- C. Employees who may be exempt will be informed of this status when they request leave.
- D. If the City deems it necessary to deny job restoration for a key employee on FMLA leave, the City will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.
- E. If an employee exhausts all leave and FMLA, the employee is terminated if it was a non job related cause, and the employee still cannot return to his regular job.

2.10 Use of Paid and Unpaid Leave

- A. If an employee has accrued paid leave of less than 12 weeks, the employee will use paid leave first and take the remainder of the twelve weeks as unpaid leave.
- B. If an employee uses leave because of his/her own serious medical condition or the serious health condition of an immediate family member, the employee will first use all paid vacation or sick leave, and then be eligible for unpaid leave.
- C. An employee using leave for the birth of a child or for the adoption or foster care of a child, will use all paid sick leave accrued and all paid vacation leave accrued and then will be eligible for unpaid leave for the remainder of the 12 weeks.

2.11 Intermittent Leave and Reduced Work Schedules

- A. In certain cases, intermittent use of the twelve weeks of family or medical leave or a part of a reduced work week may be allowed by the City.
- B. Employees wishing to use leave intermittently or to utilize a reduced work week for birth or adoption purposes will need to discuss and gain approval

for such use from the employee's Department Head and the City Manger.

- C. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, then the employee is responsible for scheduling the treatment in a manner that does not unduly disrupt the City's operations.
- D. In some cases, the City may temporarily transfer an employee using intermittent or a reduced work week to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced schedule.

3.0 PROCEDURES

3.1 Procedure for Requesting Leave

- A. All employees requesting leave under this policy must request in writing the reason for the leave and the date the leave will begin and the date the leave will end.
- B. When an employee plans to take leave under this policy, the employee must give the City 30 days notice. If it is not possible to give 30 days notice, the employee must give as much notice as is possible.
- C. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule treatment to minimize disruptions to the City's operations.
- D. While on leave, employees are requested to report periodically to the City regarding the status of the medical condition, and their intent to return to work.

3.2 Procedure for Notice and Certification of Serious Health Condition

- A. The City will require the employee to provide certification of an employee's or immediate family member's serious health condition by a qualified healthcare provider.
- B. The employee should respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay.
- C. When seeking certification of a serious medical condition, an employee should ensure that the certification contains the following:
 - 1. Date when the condition began; expected duration; diagnosis; and a brief statement of treatment.

2. If the employee is seeking medical leave for his/her own medical condition, certification should also include a statement that the employee is unable to perform the essential functions of the employee's position.
 3. For a seriously ill family member, the certification should include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.
 4. If taking intermittent leave or working a reduced schedule, certification should include dates and duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.
- D. If deemed necessary, the City may ask for a second opinion.
- E. The City will pay for the employee to get a certification from a second doctor, which the City will select.
- F. If there is a conflict between the original certification and the second opinion, the City may require the opinion of a third doctor.
- G. The City and the employee will jointly select the third doctor, and the City will pay for the opinion.
- I. The third opinion will be considered final.

EFFECTIVE: 06-01-97

LAST REVISED: 04-12-04

CITY MANAGER APPROVAL:

Bill Shipp

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