**SECTION V - BENEFITS**

**A. LEGAL HOLIDAYS**

All offices and facilities of the City of Kingston, except emergency and necessary operations, will be closed and employees excused on the following legal holidays:

New Year's Day January 1st

Floating Holiday Presidents Day or ML King Birthday

Good Friday Friday before Easter Sunday

Memorial Day Last Monday in May

Independence Day July 4th

Labor Day First Monday in September

Veterans Day November 11th

Thanksgiving Day Fourth Thursday in November

Day after Thanksgiving Fourth Friday in November

Christmas Eve December 24th

Christmas Day December 25th

Employee’s Birthday Must be used within current year.

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, it shall be observed the following Monday.

**B. HOLIDAY PAY**

All full time employees will receive eight (8) hours of holiday pay for each city recognized holiday. All ongoing part time employees will receive four (4) hours of holiday pay for each city recognized holiday after completion of 1040 hours of initial employment. Any hourly employee that works on a city observed holiday will be paid at time and one half their regular hourly rate for all hours worked on the holiday. To receive compensation for a holiday, employees eligible for holiday pay must be in an active pay status or on approved leave (not away on leave without pay, or on workers’ compensation) on their last scheduled shift before a holiday and their first scheduled shift after a holiday. Regular ongoing full time employees who work on a holiday will be paid at 1.5 times their regular rate of pay in addition to receiving eight (8) hours of holiday pay.

**C. VACATION LEAVE**

Vacation leave will be granted to full-time employees and ongoing part time employees, but may not be taken until the employee has completed six months of employment unless authorized by the department head and city manager. Vacation leave is to be taken following the period of time in which it is earned. Up to two year’s vacation accrual may be carried forward into the next year. Employees may transfer unused vacation to sick leave upon reaching accrual limits. For vacation purposes, time is earned beginning with the date of regular employment to the anniversary date each year.

Vacation time will be calculated according to the following schedule:

|  |  |  |
| --- | --- | --- |
| **Years of Service** | **Days Earned Per Month** | **Days Earned Per Year** |
| 0 to 1 | .42 Days | 5 Days |
| 1 to 5 | 1 Day | 12 Days |
| 6 to 10 | 1.25 Days | 15 Days |
| 11 to 20 | 1.67 Days | 20 Days |
| Over 20 | 2.08 Days | 25 Days |
| Over 30 | 2.5 Days | 30 Days |

For leave purposes, the service an individual has to his/her credit includes all time spent as a full-time, or ongoing part time employee of the municipality.

Vacations will be scheduled in advance for the mutual convenience of the employee and the city government so proper adjustments can be made in the work schedules. Department heads preparing vacation schedules will give choice of dates based on operational needs and availability of the personnel in their departments, and no employee may begin his/her annual leave until his/her request has been approved by the department head.

For vacation purposes, annual leave cannot be taken in less than two hour increments.

An employee who is voluntarily separated from city employment with appropriate notice, or laid off due to lack of work, shall be paid for his/her unused vacation leave on a regular pay-period basis. In no event will an employee who has not completed at least six months of satisfactory service receive vacation pay upon separation. The separation date shall coincide with last date of pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. When an employee is on "leave without pay" for 15 working days during any calendar month, no annual leave accumulates. Employees may transfer earned leave to another employee for serious medical conditions.

**D. SICK LEAVE**

Each regular full-time employee will accrue sick leave at the rate of eight (8) hours per month. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.

Generally, employees become eligible to use sick leave when:

1. Employees are incapacitated by sickness or non-job related injury, for medical, dental, or optical diagnosis and treatment.

2. For necessary care and attendance of a member of the employee's immediate family (Spouse, Parents, Children, Siblings & Grandparents) when approved by the City Manager, or as used within Family and Medical Leave.

3. Employees may jeopardize the health of others because they have been exposed to contagious disease, requiring notice from a qualified doctor.

1. For sick leave purposes, sick leave cannot be taken in less than two hour increments.
2. Sick leave is to be taken following the period of time in which it is earned.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that the employee is genuinely ill before approving sick leave. Any absence may require a doctor's certificate to return to work (if, in the opinion of the department head or City Manager, such action is deemed appropriate.)

Each hour deducted from an employee's sick leave accumulation shall be for a regular work hour and shall not include holidays and scheduled off days. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for 15 days or more during any calendar month, no sick leave accumulates.

Once an employee has used all of his/her accumulated leave time, he/she may be placed on special leave without pay, or he/she may be terminated unless eligible for Family and Medical Leave. Consideration will be given for unpaid leave in accordance with the American’s with Disabilities Act as a reasonable accommodation, Should he/she be able later to return to work, upon presentation of certification by a doctor, he/she shall be given preference for employment to a position for which he/she is qualified with the approval of the City Manager in consultation with the employee’s Department Head. Employees may not borrow against future sick leave. An employee, upon exhausting all earned sick leave, may use earned annual leave or take leave without pay. Only the City Manager may make exceptions to leave policy due to unusual and/or extenuating circumstances. Employees may voluntarily donate leave to another employee for circumstances involving a major illness or injury to the employee or dependent family member.

An employee who is vested under the city retirement plan, at the time of retirement, will receive compensation for unused sick leave at his/her regular rate of pay calculated at one hour of pay for every two hours of sick leave accumulated up to a maximum of 960 hours earned (480 hours paid). Such compensation shall follow regular pay periods until compensation is complete.

**E. SPECIAL LEAVE WITH OR WITHOUT PAY**

Special leave is defined as time off from regular work, which can be granted with or without pay at the direction of the City Manager in consultation with the employee’s department head. Leave with pay may be used for such occasions as funeral leave for immediate family (spouse, children, step children, parents, step parents, parents-in-law, siblings, grandchildren and grandparents) or natural catastrophe in an employee's immediate family requiring the employee's presence, and time granted for attendance at job-related professional meetings. However, such leave with pay that exceeds three (3) consecutive work days or more than ten (10) cumulative days within any calendar year must receive review and re-approval of the City Manager, except for professional development meetings.

Special leave without pay may be granted for a period not to exceed ninety (90) days for temporary sickness, maternity, disability, or for instances not covered by FMLA. Such leave shall require the prior approval of the City Manager. An employee on special leave without pay shall not accrue sick leave or vacation credit or other employment benefits while on leave status. Every application for special leave must be accompanied by a complete explanation of the reason for absence.

**F. MILITARY/RESERVISTS LEAVE**

**Military Leave:** Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active duty orders. The employee’s seniority, status and pay will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be sent.

The process for reinstatement of employees returning from military leave begins when the employee submits an “application for re-employment.” Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more than one (1) year for an injury/illness related to deployment. The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

**Reservists Leave:** Any employee who is member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days (160 hours) in any one (1) calendar year.

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees will receive full compensation for a period of twenty (20) days (or 160 hours) of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the city the dates for training and travel time in

advance. After the twenty (20) working days (or 160 hours) of full compensation, the city will not provide partial compensation to its employees while under competent orders. After the twenty (20) working days (or 160 hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of (annual/vacation) leave for the purposes of not having to take leave without pay.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

**G. JURY SERVICE LEAVE**

Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the city during jury service.

**H. EDUCATIONAL LEAVE**

An educational leave of absence with or without pay may be granted to an employee not to exceed twelve (12) months. Educational leave without pay shall be granted in accordance with the policy for “Special Leave Without Pay”.

Educational leave with pay must be directly related to the employees job and provide a direct benefit to the city. Educational leave with pay shall require prior approval of the City Manager.

Request for educational leave shall be submitted in writing stating reason for the request, the date the requested leave will begin, the probable date of return, the education’s relationship to the employees job, and the employees agreement to reimburse the city for all costs associated with such leave in the event the employee fails to complete the course or training or the employee terminates his/her employment with the city within one (1) year after the completion date of the course or leave period.

**I. FAMILY MEDICAL LEAVE ACT**

**Purpose**

The purpose of this policy is to provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993. The policy also provides the changes to FMLA that come as part of the National Defense Authorization Acts as amended.

Eligibility

The Family and Medical leave policy is applicable to employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period, and work for an employer with 50 or more employees within a 75-mile radius of the worksite. Such employees are eligible for a maximum of 12-16 weeks leave under the act, depending upon eligibility circumstances. Special rules apply for husbands and wives employed by the same employer, for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis), and for local educational agencies. Individuals who are not covered include elected officials, political appointees, volunteers, independent contractors, and legal advisors.

**FMLA Circumstances**

Employees may be eligible for Family and Medical Leave for one or more of the following reasons:

1. For the birth and care of the newborn child of the employee;
2. For placement with the employee of a son or daughter for adoption or foster care;
3. To care for an immediate family member with a serious health condition as defined by the FMLA;
4. Medical leave when the employee is unable to work because of a serious health condition;
5. To care for an immediate family member as defined under the FMLA who is injured while on active duty if that injury renders the service member unfit for military duty;
6. To handle a "qualifying exigency" relating from an employee's spouse or child being called to active duty.

**Paid / Unpaid Leave**

Family Medical Leave (FML) may be paid or unpaid. If the employee has available paid leave, that leave will run concurrently with FML. If the employee does not have paid leave available, or he/she exhausts paid leave, while out of FML, the remainder of the approved FML will be unpaid. Employees on unpaid leave will not accrue paid leave if they are on unpaid leave for more than 15 days in a month.

The combination of paid leave and unpaid leave may not exceed the total allowable leave under the FMLA.

**Guidelines**

An eligible employee may take up to 12 weeks of FML in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one's self, a child, spouse, or parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible. Eligible employees may take up to 12 weeks of FML to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 weeks leave under FML to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a "serious injury or illness."

The "parent" as defined in the Family and Medical Leave Act, need not be the employee's biological parent, provided that the individual "stood in loco parentis" (acted as a parent), to the employee when the employee was a child. Benefits under FMLA are not extended to parents "in-law."

FMLA defines the term "spouse" to mean a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a same-sex marriage that was common law marriage. "Spouse" also includes a husband or wife in a marriage that was validly entered into outside of the United States if it could have been entered into in at least one state. No employer would be required to grant an eligible employee FML to care for an unmarried domestic partner.

"Son or daughter" is defined in part as one who is under age eighteen (18) or as an adult who is incapable of self-care because of a mental or physical disability. Medical leave may be taken for a biological child, as well as foster children, adopted children, step children or legal wards such as a niece, nephew or grandchild who the employee is raising.

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Impatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment.
2. A period of incapacity of more than three consecutive calendar days that also involved treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Any period of incapacity due to pregnancy or for prenatal care.
4. A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity.
5. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider.
6. Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

**Serious injury or Illness** for an Injured Service member is defined as a covered service member's injury or illness incurred in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

During period of unpaid FML, an employee may not accrue any additional seniority or similar employment benefits during the leave period in months in which they work fewer than 15 days; or any right, benefit, or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken leave.

**Spouse / Same Employer**

If spouses ae employed by the same employer and eligible to take leave for the birth or adoption of a child, or care for a parent, their aggregate leave under FMLA is limited to 12 weeks. If the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouses experience their own serious health condition, both employees ae entitled to the full 12 weeks.

**Right to Return to Work**

On return from FML, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e. additional leave, light duty, job restructuring, etc.).

**Notice and Scheduling**

An eligible employee must provide the city at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen medical events.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the city's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was FMLA. Failure to provide notice of the need for FML may result in the leave not being designated as FML.

The city will, if necessary, provide the notice of employee FMLA rights in alternate formats.

**Certification**

The city reserves the right to verify an employee's request for FML. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the city may require that the request be supported by certification from the health care provider of either the eligible employee or the family member, as appropriate. Failure to submit proper certification may result in a delay of FML approval. If the city has a reason to question the original certification, the city may, at the city's expense, require a second opinion from a different health care provider chosen by the city. The health care provider may not be employed by the city on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

Payment for the second opinion shall be borne by the employee. Payment for the third shall be divided between the employee and the city. This certification must contain the date on which the serious health condition began; it's probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification will be treated as confidential and privileged information under HIPAA and the State's Public Records laws as appropriate.

An employee may be required to report periodically to the city the status and the intention of the employee to return to work. Before return is granted, employees who have taken unpaid leave under this policy may be required to furnish the city with a medical certification from the employee's health care provider that the employee is able to resume work.

Failure to provide certification in a timely manner may result in delay or denial of FMLA.

**Reduced and Intermittent Leave**

FMLA leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent leave is defined as the smallest increment the payroll system will accommodate. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the city's approval. The schedule must be mutually agreed upon by the employee and the city.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the city to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

**Restoration**

Employees who are granted leave under the FMLA policy will be reinstated to an equivalent of the same position held prior to the commencement of their leave. Certain highly compensated key employees, who are salaried and among the 10 percent highest paid workers, may be denied restoration.

Restoration may be denied to key employees if:

1. The city shows that such denial is necessary to prevent substantial and grievous economic injury to the city's operations;
2. The city notifies the employee that it intends to deny restoration on such basis at the time the city determines that such injury would occur; and
3. In any case in that the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

Employees voluntarily accepting a light duty assignment in lieu of continuing FML maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FML has passed.

**Failure to Return to Work**

According to the FMLA "if an employee is unable to or does not return to work at the end of twelve (12) weeks of FML, all entitlement and rights under the FMLA cease at that time; the employee is no longer entitled to any further restoration rights under the FMLA, and the employer is no longer required to maintain group health benefits pursuant to the FMLA."

**Notification of Discharge**

An employee may be discharged from employment at the end of the twelve (12) week entitlement period if the employee has not returned to work, has not supplied written notification of their intent to return to work or is unable to perform his/her job duties. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e. additional leave, light duty, job restructuring, etc.) prior to discharge.

**The 12-Month FMLA Period**

The 12-month period during which an employee is entitled to 12 workweeks of FML is measured as follows. An employee is entitled to 12-26 weeks of leave during the 12-month period after the leave begins. The next FML period will begin the first time the employee request FML after the completion of the previous 12-month period.

**Denial of FMLA Leave**

If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the city may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the city of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, the city may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not designated as FML.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the city may delay restoration until the employee submits the certification.

**Employee Benefits While on FMLA**

During periods of FML, the city will continue to provide health insurance benefits at the employee rate. If premiums are current, the city will maintain health insurance benefits during period of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee. The city is obligated to reinstate employment benefits upon an employee's return to work.

The city has the right to recover from the employee all health insurance premiums paid by the employer during the unpaid leave period if the employee fails to return to work after leave. In the event that an employee is unable to pay his/her portion of premiums during the time of unpaid FML, the city may deduct any unpaid premiums from the employee's pay upon return to work, subject to FLSA restrictions. Employees who fail to return to work because they are unable to perform the essential functions of their job, because of their own serious health condition, or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FML under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

**Workers' Compensation While on FMLA**

Workers' Compensation Injury/Illness generally meets the criteria for a serious health condition, therefore the workers' compensation absence and the FMLA leave entitlement will run concurrently.

**J. EMPLOYEE LEAVE REPORTS**

Employee leave must receive written approval from the employee’s respective department head/supervisor, the Personnel Clerk and the City Manager prior to the commencement of such leave. Exceptions to this policy include only emergencies and unexpected sick leave, in which case the employee must notify his/her immediate supervisor who in turn shall, in a timely manner, report the leave taken following the aforementioned process and using the prescribed form.

Except as noted above, it shall be the responsibility of the employee to submit his/her request for leave to their respective department head/supervisor, who in turn shall submit the request to the Personnel Clerk. The Personnel Clerk shall then submit the request to the City Manager and upon final approval, the original shall be returned to the Personnel Clerk for placement in the employee’s personnel file. In the event the leave cannot be approved, the respective employee shall be notified through the proper departmental channels of the reasons why the leave cannot be approved.

The department head/supervisor’s approval on the prescribed form certifies that the organization is prepared to continue operations in the absence of the employee, and the Personnel Clerk’s approval certifies that the employee has accrued sufficient leave time.

**K. DEATH OF AN EMPLOYEE**

Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check and continue receiving the regular payroll check until all accrued leave time is used, including an additional two weeks full pay. Further, his/her beneficiary shall be given complete assistance by the Personnel Officer in settling pension, life, and hospital insurance benefits.

**L. RETIREMENT SYSTEM**

The City of Kingston shall provide for all covered employees to be a member of the Tennessee Consolidated Retirement System.

**M. HEALTH INSURANCE**

The City of Kingston shall provide coverage under a hospitalization insurance program approved by City Council for each eligible employee. Except as set out herein, the City shall also provide, at the employee’s option, dependent coverage as defined by the insurance program. If the employee’s spouse has health insurance at his or her place of employment, then only single coverage health insurance will be available to the employee. Neither employees nor their dependents shall be eligible for hospitalization insurance benefits until the first day of the first month following one (1) full month of employment. Retirees who have twenty (20) years or more service will be given the opportunity to continue their coverage as long as they wish, or until they become Medicare eligible, and as long as they continue paying the monthly premium. The City will not be responsible for paying any portion of the premium for such continued coverage.

Should circumstances dictate terminating employment or benefits, the City will offer eligible employees and their dependents, and retirees the opportunity to extend their health insurance coverage under COBRA, but the City will not be responsible for any premium for coverage after termination of the employee and any portion of a prepaid premium shall be deducted from the employee’s final pay.

**N. OCCUPATIONAL DISABILITY**

An employee of the city who suffers injury or illness as a result of a work related accident or condition shall receive compensation during the period of illness or injury by the State Compensation Insurance Fund in accordance with the Tennessee Worker’s Compensation Act. Worker’s compensation pays an employee 66.67% of their average weekly salary once the employee has been disabled for more than seven (7) days. Compensation will be made as of the eighth day of disability due to an occupational injury or illness. If the employee is disabled for fourteen (14) days or more, worker’s compensation will pay the employee retroactively from the

first full day of absence from work up to the return date to work. Employees receiving worker’s compensation payments may not supplement their pay with accrued paid leave.

All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Worker’s Compensation Law. The City’s Panel of Physicians must be used when an employee is unable to work due to an on the job injury or illness, a claim for worker’s compensation benefits shall be given to the city’s worker’s compensation insurer (a list of the Panel of Physicians is available on the bulletin board in the lobby at City Hall. Payments received on behalf of the employee shall be forwarded directly to the employee.

At the employee’s request, any accrued leave (sick or vacation) may be used during the first seven (7) days of disability. An employee using accrued leave for occupational disability shall be required to endorse any indemnity checks, on account of the occupational disability, to the city for the first seven (7) days of disability. Should the employee not have sufficient leave to cover the first seven (7) days, no pay shall be due the employee until temporary disability benefits begin. In no case shall an employee receive full pay and worker’s compensation benefits simultaneously.

If an employee is expected to be away from work for less than six (6) months, all benefits will continue to be provided by the city, except those noted above and those which require employee contributions. An employee expected to be off more than six (6) months shall be placed on leave-without-pay after the sixth month and shall not receive any salary or city paid benefits, except those provided by worker’s compensation law. No employee shall be considered unable to work due to an on-the-job injury until he/she presents a written diagnosis and expected length of disability from a physician stating fully all restrictions.

Employees shall immediately report any injury incurred in the course of their employment, however minor, to their immediate supervisor or department head, whichever is appropriate, and take such first aid or medical treatment as may be necessary. Any employee determined to have been able, but who fails to make such a report may not be eligible for occupational disability or injury leave and may be subject to disciplinary action for failure to report an accident or injury.

When an employee is injured on the job, the supervisor or department head, whichever is appropriate, **shall immediately file with the designated Safety Officer an accident report on the prescribed form and to the Workers' Compensation Clerk for processing with The Pool (TML).** At the end of this manual see appropriate forms:

* Employee's Choice of Physician;
* Employee Page w/Claim Details;
* Employer Page w/Claim Details; and
* Information Sheet to be completed and filed with the Safety Officer/Clerk filing insurance claim.

The Safety Officer shall then investigate the accident and submit a report to the City Manager, along with his/her recommendations for remedial action, and retain a copy in the OSHA file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the City Manager and the Safety Officer.

In the cases where occupational disability to an employee occurs and the employee has been reported as occupationally disabled for a period of thirty (30) calendar days, the department head shall review the progress of the case and make recommendations to the City Manager as he/she deems advisable.

In all cases of occupational disability the responsibility of determining the character, degree and potential duration of an injury shall rest with the licensed, practicing medical doctor(s) from a panel of physicians approved by the City Manager. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the City Manager.

Before an employee is returned to full duty, the employee must be certified by the attending physician as capable of performing the essential functions of the job. The physician will be furnished a copy of the job description, a list of the essential job functions as determined by the City Manager and the department head, and a form listing the required capabilities. The attending physician must complete the form provided by the City Manager documenting the employee's ability to perform the essential job functions. The city reserves the right to obtain a second medical opinion from the physician of its choosing before a final decision is made and a return to light or full duty.

If an employee is unable to return to the position held at the time of the injury, the City Manager shall take reasonable steps to place the individual in a comparable position, if one is available, for which he/she is qualified and able to perform the essential functions, with or without a reasonable accommodations.

Upon reaching Maximum Medical Improvement under applicable Tennessee Workers’ Compensation laws, the employee’s medical condition shall be assessed as to the permanent medical restrictions and their ability to perform the essential duties of their normal work assignment. If the injured employee cannot return to his/her regular position, the department head in conjunction with the city manager shall attempt to find employment within the employee’s department or within another department. Reasonable accommodation will be provided to qualified, disabled individuals unless the accommodation would pose an “undue hardship” on the city.

Should an employee be unable to return to full duty within one hundred twenty (120) days after the date of injury, or within one hundred sixty‑five (165) days if the City Manager has approved the extended time, and no comparable position for which the employee is qualified is available, the employee may be subject to separation only if:

1. he/she cannot perform the essential functions of the job due to a disability that cannot be reasonably accommodated; or

2. the employee poses a direct threat to himself/herself or others.

**O. AMERICANS WITH DISABILITIES ACT**

**Purpose**

The purpose of this policy is to provide a policy in compliance with 42 U.S.C. 12101 et. seq.: The Americans with Disabilities Act (ADA) as amended. The city is committed to the fair and equal employment of individuals with disabilities under the ADA. It is the city’s policy to provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the city.

The city prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

**Eligibility**

The ADA policy applies to any qualified individual with a disability who can perform the essential functions of the job with, or without, a reasonable accommodation.

Disability

“Disability” refers to a physical or mental impairment that substantially limits one or more major life activities. A “qualified person with a disability” means an individual with a disability who has the requisite skills, experience, and education for the job in question, and who can perform the essential functions of the job with or without reasonable accommodation.

**Reasonable Accommodation**

The city will seek to provide a reasonable accommodation for a known disability or at the request of an individual with a disability. A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job and does not place undue hardship on the city.

**Essential Job Functions**

For each position, the job description typically will identify essential job functions. The city manager, or designee generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An applicant’s or employee’s questions about a job’s requirements should be directed to the city manager, or designee.

**Requesting a Reasonable Accommodation**

An applicant or employee with a disability is responsible for requesting an accommodation from the city manager, or his/her designee, or the supervisor, and engaging in an informal process to clarify what the applicant or employee needs, and to identify possible accommodations. The city will inform the applicant or employee of his/her rights under the ADA and document the interactive process discussions.

An applicant or employee may be required to provide documentation from an appropriate professional, such as a doctor or a rehabilitation counsellor, concerning the applicant's disability and functional limitations. If an applicant or employee disagrees with the result of the medical examination, the applicant or employee may request a second examination performed and paid for by the applicant or employee. In the event of a disagreement in the two previous medical opinions, a third opinion may be obtained with both parties sharing the cost of the examination.

The applicant or employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. Typically, the city manager, or designee will work with the applicant or employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the applicant or employee to complete the hiring process or perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the city and the individual. While an individual’s preference will be considered, the city is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the city. The city manager, or designee will provide notification in writing of denial based on undue hardship. Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization’s overall financial resources, the financial resources of the particular facility or department at which the accommodation is to be made, the number of employees at the facility or in the department, the total number of employees of the organization, and the type of operation.

**Safety**

All employees are expected to comply with all safety procedures. The city will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A “direct threat” means a significant risk to the health or safety of one’s self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the city manager, or designee in consultation with the department head, and will be based on factual, objective evidence. A written copy of the determination will be given to the applicant or employee so that he or she may submit additional information and/or challenge the determination that he or she poses a direct threat.

**Confidentiality**

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

**Complaint Procedure**

It is the policy of the city to prohibit any harassment of, or discriminatory treatment of, applicants or employees on the basis of a disability for requesting a reasonable accommodation. If an individual feels he or she has been subject to such treatment or has witnessed such treatment, the situation may be reported to any supervisory employee of the city, including the city manager.

The city’s policy prohibits retaliation against an applicant or employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an applicant or employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an applicant or employee feels he or she has been retaliated against, the situation may be reported to any supervisory employee of the city, including but not limited to the city manager and elected officials.

**P. VOTING LEAVE**

Employees who are registered voters may receive reasonable time off to vote if they request such time off before 12 noon the day before the election. The supervisor may specify the hours during which the employee may be absent to vote, and the time off may not exceed three hours. No time off will be granted if the polls in the county where the employee is a resident are open three (3) or more hours before the employee is scheduled to begin work or if the polls close three (3) or more hours after the employee’s work schedule ends**.**