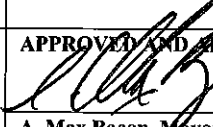
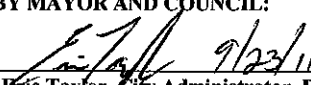
	PERSONNEL POLICIES AND PROCEDURES		SUBJECT: FAMILY AND MEDICAL LEAVE ACT
	NUMBER: LVE 4.0	REVISIONS:	EFFECTIVE DATE: 9-19-2011
	SUPERCEDES:	APPROVED AND ADOPTED BY MAYOR AND COUNCIL:   A. Max Bacon, Mayor, Date Eric Taylor, City Administrator, Date 9/23/11	

PURPOSE: To provide a benefit to City employees and to comply with the requirements of the Family and Medical Leave Act of 1993, as amended.

STATEMENT OF POLICY

The city will comply with the Family and Medical Leave Act of 1993, as amended in accordance with the applicable Statutes, Regulations, and Department of Labor Guidelines. This policy is intended to explain the FMLA statutes. This policy neither adds to nor subtracts from the rights and obligations under the FMLA statutes. The City shall not interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this policy, but shall be entitled to require appropriate medical certification and/or validation of status as a qualifying family member.

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

1. For incapacity due to pregnancy, prenatal medical care or child birth;
2. To care for employee's child after birth, or placement for adoption or foster care;
3. To care for employee's spouse, son or daughter, or parent, who has a serious health condition; or
4. For a serious health condition that makes the employee unable to perform the employee's job.
5. For qualifying Exigency Leave.

FMLA requires covered employers to provide up to 26 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

1. To care for a covered service member with a serious injury or illness.

Eligibility - Employees are eligible if they have worked for at least one year for the employer and worked 1,250 hours during the previous 12 months.

Application and Authorization - Forms to apply for family leave are available by contacting the Human Resources office.

Applications for family leave and all medical certifications and documentation shall be submitted to Human Resources 30 days prior to date requested leave is to begin unless need is unforeseeable. In the event need for leave is unforeseeable, documents should be submitted as soon as employee is aware of need to request leave.

Human Resources shall respond in writing within five workdays following receipt of an application for family leave. The response, if the application is approved, shall specify the terms and conditions

of the leave. If the application is denied in whole or in part, the response shall specify the reason(s) for the denial and shall include a notice of the right to appeal to the Human Resources Director.

Limitations - Utilization of family leave for any combination of circumstances shall be limited to a total of 12 workweeks in a rolling 12-month period, except as provided in section F.2.b.1 (Military Caregiver Leave).

Accrued paid leave (sick, compensable time and annual) shall be utilized in conjunction with approved family leave. The employee shall exhaust all available leave (annual, compensable time and sick leave) before family leave can be unpaid (Family Medical Leave of Absence without pay.) Except, an employee's accrued sick leave, workers' compensation and/or disability leave will not be applied towards FMLA leave if the employee is taking FMLA leave for any purpose other than that allowed under those policies and provided further that an employee will not be required to take paid leave concurrent with FMLA leave if the employee is receiving income benefits under a city provided disability plan or workers' compensation law. Any combination of unpaid family leave, regular leave without pay, or contingent leaves without pay shall not, for the same qualifying conditions, exceed 12 continuous months.

Intermittent Leave - Family leave for childbirth or adoption may not be taken intermittently. Family leave for the serious health condition of the employee or a qualifying family member may not be taken on an intermittent basis unless medically necessary.

If an employee takes intermittent leave, the city reserves the right to assign the employee to an alternative position with equivalent pay and benefits if the alternative position better accommodates the need for intermittent leave.

Child Birth or Adoption - In any case in which the necessity for family leave for childbirth or adoption is foreseeable, the eligible employee shall provide the appointing authority with written application and certification within a minimum of thirty days prior to the desired effective date of the leave.

Entitlement to 12-week leave expires 12 months after birth or placement of child.

Serious Health Condition – Family - Human Resources may require certification of the qualifying family member's serious health condition.

In any case in which the necessity for leave is foreseeable and based on planned medical treatment or supervision, the employee shall:

1. Make a reasonable effort, subject to the approval of the appropriate health care provider, to schedule the treatment or supervision so as not to unduly disrupt the operations of the work unit; and
2. Provide Human Resources with written application and certification within a reasonable period of time prior to the desired effective date of leave.

Entitlement to 12-week leave shall not commence prior to nor extend beyond dates specified on medical certification.

Both Spouses Employed by City- Where both husband and wife work for the same employer and take entitled FMLA leave for the same event such as birth of a child or to care for a sick parent, the aggregate total of FMLA leave is limited to 12 weeks during a rolling 12-month period.

If both spouses use a portion of the total 12-week FMLA leave entitlement for either the birth of a child, for placement for adoption or foster care, or to care for a parent, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for other purposes.

For example, if each spouse took 6 weeks of leave to care for a newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a parent with a serious health condition.

Serious Health Condition – Personal - Human Resources may require certification of the employee's serious health condition.

In the case in which the necessity for leave is foreseeable based on planned medical treatment or supervision, the employee shall:

1. Make a reasonable effort, subject to the approval of appropriate health care provider, to schedule the treatment or supervision as not to unduly disrupt the operations of the work unit, and
2. Provide Human Resources with written application and certification within a reasonable period of time prior to the desired effective date of leave.

Entitlement to 12-week leave shall not commence prior to nor extend beyond dates specified on medical certification.

Military Family Leave of Absence (Exigency and Caregiver Leave)

Military Exigency Leave allows an employee who has a spouse, son or daughter, or parent of active duty service members to take FMLA leave due to a qualifying exigency resulting from the covered family member's active military duty (or call to active duty status) in support of a contingency operation.

Qualifying exigency may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings.

Application and authorization for exigency leave shall follow the same procedures as outlined for regular FMLA. Exigency Leave will be counted toward the employee's FMLA allowance and shall not exceed 12 weeks in a 12-month period.

Military Caregiver Leave allows an employee who is the spouse, son or daughter, parent or next of kin of a service member in the Regular Armed Forces, National Guard or Reserves (who has incurred a serious injury or illness in the line of duty while on active duty) or veteran who is undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment, to take up to a total of 26 work weeks FMLA leave to care for the service member or veteran.

Application and authorization for Military Caregiver Leave shall follow the same procedures as outlined for regular FMLA. Caregiver Leave is combined with regular FMLA leave and the total cannot exceed 26 weeks in a single 12-month period.

Medical Benefits - The city will continue all health care benefits for the duration of FMLA leave, provided the employee pays the employee's portion of the health care benefit premiums. Any employee on FMLA leave will be required to continue to pay health care benefit premiums during

the time the employee is on FMLA leave, by submitting to the city at the beginning of each month an amount equal to the monthly premiums that would have been deducted from the employee's pay were the employee not on FMLA leave. The city may cancel all health care benefits if the employee's premium payment is more than thirty days late if the city has provided fifteen days written notice to the employee prior to cancellation. The city will continue health benefits during these thirty days.

If an employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, the city will be entitled under certain circumstances to recover the health care benefit premiums paid by the city during the period of unpaid FMLA leave. An employee must return to work for a minimum of thirty days in order to qualify as "returning to work".

12 -Month Period - Eligible employees are entitled to take up to twelve weeks of FMLA leave during a rolling twelve month period measured backward from the date an employee uses any FMLA leave.

Return to Work - On return from FMLA leave, the 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, provided the employee is able to perform the essential functions of the position.

An employee with a Serious Health Condition who has been out on FMLA leave must provide certification that the employee is fit to return to work.

For periods of FMLA leave in unpaid status, in excess of two months, employees will not accrue seniority and service credit during the leave period except to the extent the FMLA statutes require the employee to be treated as employed for the purposes of any retirement plan sponsored by the city.

Termination of Employment - Employment with the city will normally terminate if the employee does not return to work after the maximum amount of FMLA leave has been taken.

Key Employees - At the time FMLA leave is requested, the city will designate an employee as a "key employee" if that employee is among the highest paid ten (10) percent of the city employees at the time the FMLA leave is requested. The key employee will be given a written notice at the time FMLA leave is requested, or as soon as practicable thereafter, that the employee qualifies as a key employee. In addition to informing the employee that he/she qualified as a key employee, the city, will also inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits.

When the city makes a determination that substantial and grievous economic injury to its operation will result if a key employee who has requested or is using FMLA leave is reinstated, the city will notify the employee as soon as practicable in writing of its determination, stating that it intends to deny restoration to employment on completion of the FMLA leave (Notice of Intent). This Notice of Intent will explain the basis for the city's determination and will provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as length of the leave and the urgency of the need for the employee to return.

If an employee does not return to work in response to the Notice of Intent, the employee will continue to be entitled to maintenance of health benefits during the remainder of the FMLA leave, provided that the requirements of Medical Certification are met, and the city will not recover its cost of health premiums.

After the Notice of Intent is given to the employee, the employee will remain entitled to request

reinstatement at the end of the leave period. The city will then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. Any written notices given to a key employee must be either sent by certified mail or given in person.