**SECTION: LEAVES**

**POLICY:** Family and Medical Leave **EFFECTIVE DATE:** insert date adopted

**STATEMENT OF PURPOSE:**

This section outlines the criteria for compliance with the Family and Medical Leave Act (FMLA) and provides guidelines for eligible employees to take family and medical leave under specific conditions.

**DEFINITIONS:**

1. Family and Medical Leave Act (FMLA): A federal law that allows eligible employees to take unpaid, job-protected leave for specified family and medical reasons.
2. Eligible Employee: An employee who has worked for the City for at least 12 months and has at least 1,250 hours of service in the past 12 months.
3. Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.
4. Qualifying Exigency: A condition related to the active duty or impending call to active duty of a spouse, child, or parent in the military.
5. Parent: This includes biological, adoptive, foster, and step-parents, and anyone who stood in loco parentis to the employee when the employee was a child.

1. Child: This includes biological, adopted, foster, and step-children, as well as those under the employee's legal guardianship or who stand in loco parentis (meaning someone who has day-to-day responsibility for the child's care and financial support). For children under 18, this applies if they have a serious health condition. For adult children, it applies if they are incapable of self-care due to a mental or physical disability.
2. Spouse: Under the FMLA, a "spouse" is defined as a husband or wife, including those in same-sex or common-law marriages, and those validly married under the laws of another country if the marriage could have been valid in at least one U.S. state. This definition is based on the "place of celebration" rule, meaning the validity of the marriage is determined by where it was entered into, not the employee's state of residence. Importantly, individuals in civil unions or domestic partnerships are not considered spouses under the FMLA.
3. Health Care Provider: Under the Family and Medical Leave Act, a "health care provider" is defined as a doctor of medicine or osteopathy, or any other person determined by the Secretary of Labor to be capable of providing health care services. This includes individuals authorized to diagnose and treat physical or mental health conditions.

1. Rolling 12-Month Period: The FMLA (Family and Medical Leave Act) rolling 12-month period is calculated by looking back 12 months from the date an employee takes FMLA leave. Each time an employee takes FMLA leave, the employer calculates how much leave the employee has used in the past 12 months and subtracts that from the 12-week entitlement. This means the amount of available FMLA leave can fluctuate based on past usage.

**APPLICABILITY:**

This policy applies to all full-time and part-time employees of the City who meet the eligibility criteria for family and medical leave under FMLA.

**PROCEDURES:**

1. Eligibility for Family and Medical Leave:
   1. Employees must have worked for the City for at least 12 months, with at least 1,250 hours of service during the prior 12 months.
   2. A full-time or part-time employee must have worked at least one week to be considered employed for that week.
   3. If an employee is off work for more than five (5) working days or 60 hours (for dispatch, police, or fire shifts) they should apply for FMLA leave or their supervisor should contact Human Resources about placing the employee on FMLA leave.
2. Eligible Reasons for Family and Medical Leave:
   1. Birth, care, or bonding for or with a newborn child within 12 months of birth.
   2. Placement of a child for adoption or foster care within 12 months of placement.
   3. Care for a spouse, child, or parent with a serious health condition.
   4. Employee’s own serious health condition that makes the employee unable to perform their essential job functions (including workers' compensation injuries).
   5. Qualifying exigency due to a family member being on active duty or called to active duty in the military.
   6. Care for a family member who suffered an injury or illness in the line of duty in the military.

Medical Certification:

* 1. Employees must provide medical certifications for serious health conditions, which must meet specific legal requirements.
  2. Certifications must be submitted to and approved by Human Resources on the appropriate documents.
  3. If necessary, the City may request a second opinion or a third opinion (in case of conflicts) regarding medical certifications.

1. Duration of Leave:
   1. Eligible employees may take up to 12 weeks of leave within a rolling 12-month period.
   2. For qualifying exigency leave, employees may take longer than 12 weeks if required.
2. Leave If Both Spouses Work for the City:
   1. If both spouses work for the City, they may only take a combined total of 12 weeks of leave for the birth, bonding, care, adoption, or placement of a child.
3. Use of Paid and Unpaid Leave:
   1. Employees must use accrued paid leave before using unpaid leave under FMLA.
   2. Once paid leave is exhausted, employees may take unpaid leave.
4. Intermittent Leave:
   1. Employees may take intermittent leave as needed for FMLA, up to a total of 12 weeks, unless the leave involves exigency.
   2. Intermittent leave will be tracked on a pro-rata basis from the employee’s 12-week entitlement.
   3. During intermittent leave, employees may be temporarily transferred to alternative positions with equivalent pay and benefits to meet service requirements.
5. Limitations on Intermittent Leave:
   1. Employees may not take intermittent leave for the birth, care, bonding, adoption, or placement of a child.
6. Notification and Coordination:
   1. All FMLA leave requests must be submitted in writing to Human Resources, where certification documents will be reviewed and maintained.
   2. In emergencies, supervisors will coordinate with employees or their next of kin to obtain information on the circumstances requiring leave.
7. Regular Reporting:
   1. Employees on leave for more than one pay period must report to their supervisors regularly about the status of their leave and their intent to return to work.
8. Leave Accrual During Leave:
   1. Employees on paid leave will continue to accrue leave benefits, and their contributions to benefit plans will continue.
   2. Employees on unpaid leave will not accrue leave benefits and must pay for their portion of any insurance premiums to maintain coverage.
9. Reimbursement of Benefits:
   1. Employees who fail to return to work after FMLA leave for reasons other than a continuing serious health condition may be required to reimburse the City for its share of any paid benefits premiums during the leave.
10. Secondary Employment:
    1. Employees on FMLA leave for personal illness may not engage in secondary employment.
    2. Employees on FMLA leave for a family member’s illness, birth, or adoption may not work or engage in secondary employment without approval from the City Manager.