

RESOLUTION NO. R2021-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING SECTION 8.12 MILITARY LEAVE, OF THE PERSONNEL POLICY MANUAL BY UPDATING AND CLARIFYING POLICY REQUIREMENTS.

Whereas, the City Council believes its personnel policies should reflect the needs of the City and meet all applicable state and federal labor laws; and

Whereas, it is necessary to update, revise, and clarify language in the City of Burnet Personnel Policies consistent with laws, regulations, and industry standard practices; and

Whereas, the City of Burnet has previously adopted Ordinance No. 2009-31, Personnel Policy Manual on December 8, 2009; and

Whereas, the Personnel Policy Manual was last revised on June 8, 2021; and

Whereas, the City Council believes it is in the best interest of the City and its employees to make additional amendments to said Personnel Policy Manual; and

Whereas, the City Council has reviewed the proposed amendments to the Personnel Policy Manual and has determined the need to update and clarify those sections.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. The City Council hereby accepts and adopts the amendment to the Personnel Policy to include Section 8.12 Military Leave as attached hereto as Exhibit "A" with an effective date of September 1, 2021.

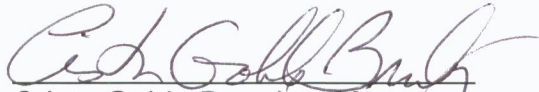
Section 2. The findings and recitations set out herein above are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 3. If any provision of this resolution or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

Section 4. That it is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on this 13th day of July 2021.

CITY OF BURNET, TEXAS


Crista Goble Bromley, Mayor

ATTEST:


Kelly Dix, City Secretary



Exhibit A

8.12 MILITARY LEAVE (Revised 7-13-2021, Effective 9-1-2021, Resolution 2021-)**

The City of Burnet complies with all state and federal laws relating to employees in reserve or active military service and does not discriminate against employees who serve in the military. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period of time are generally ineligible for extended paid military leave in excess of 15 days, re-employment rights, or any other military leave benefits under this policy.

This policy covers employees who serve in the uniformed services (i.e., a member of the United States or Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team), in a voluntary or involuntary basis, including active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty.

Notice to City of Need for Leave. Employees must provide as much advance written or verbal notice to the City as possible for all military duty (unless giving notice is impossible, unreasonable, or precluded by military necessity). Absent unusual circumstances, such notice must be given to the City no later than 24 hours after the employee receives the military orders. To be eligible for paid military leave, employees must complete and submit a Leave Request Form along with the official documents setting forth the purpose of the leave and, if known, its duration. The Leave Request Form must be turned into the Department Director and the Director of Human Resources as far in advance of the leave as possible.

Paid and Unpaid Leave for Training and Duty.

COMPENSATION

Full Pay for Up to 15 Days. An employee shall be eligible for paid leave for military duty for a maximum of fifteen (15) workdays (120 hours, or 180 hours for an employee in a shift firefighter or police position), during the fiscal year (October 1 through September 30). This leave may be used when an employee is engaged in National Guard or U.S. armed forces reserve training or active military duty ordered or approved by proper military authority. The paid leave days may be consecutive or scattered throughout the year. An employee who qualifies for this leave may request an annual accounting of the use of this leave. Military leave will not count as time worked for the purposes of determining overtime.

Full Pay for Up to 7 Days. An employee shall be eligible for paid leave for military duty in response to a disaster, not to exceed seven (7) workdays (56 hours, or 84 hours for an employee in a shift firefighter or police position), during the fiscal year (October 1 through September 30). The paid leave days may be consecutive or scattered throughout the year. An employee who qualifies for this leave may request an annual accounting of the use of this leave. Military leave will not count as time worked for the purposes of determining overtime.

Texas Government Code - GOV'T § 418.004. Definitions - "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, cybersecurity event, other public calamity requiring emergency action, or energy emergency.

Other Paid Leave. An employee who has exhausted all available paid military leave may, at their option, use any other available paid leave time (i.e., vacation leave, holiday leave and compensatory time) to cover their absence from work.

Unpaid Leave. After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay until their military leave duty is complete and they return to work.

Benefits. The City will continue to provide employees on paid military leave with the following City benefits.

Medical and Dental. While an employee is on paid military leave (or any military leave of less than 31 days), the City will continue to pay its portion of the monthly premium for group health benefits. When military leave is unpaid, the employee may elect to continue group health coverage for up to 24 months following separation of employment or until the employee's re-employment rights expire, whichever event occurs first, for the employee and eligible dependents.

Upon an employee's return to employment following military service, the City will provide health insurance coverage immediately. In addition, a returning employee will not be subjected to exclusions from coverage unless the exclusions apply to injuries or conditions that were incurred as a result of military service.

Other Benefits. While on paid military leave, employees continue to accrue vacation, sick leave and other benefits provided to other employees on paid leave. The City will also continue to pay the premium for any City-provided life insurance while the employee is on paid military leave. While on unpaid military leave, employees are generally ineligible for most City-provided benefits. Benefits, such as vacation and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave. While on unpaid military leave, benefit accruals will be suspended and will resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, the employee will be treated as though continuously employed for purposes of determining benefits based on length of service, such as vacation accrual and longevity pay.

TMRS. Typically, an employee's period of uniformed service is deemed to constitute service for purposes of vesting and benefit accrual. Thus, employees earn service credit for time spent on active-duty military leave. Service time is credited when an employee returns to work. To qualify for service credit, an employee must: return to work for the City within 90 days after discharge;

receive an honorable discharge; and timely complete the TMRS USERRA Military Service Credit Application. In order to receive monetary credit, an employee has the lesser of 5 years or 3 times the length of the military service to make up any TMRS contributions that were missed while on military leave.

RETURNING FROM LEAVE

Re-employment Rights. An employee who completes his/her military service shall be re-employed in the position they would have had if they had been continuously employed, pursuant to 38 U.S.C. Section 4313, as amended.

Deadline to Notify City of Intent to Return to Work. The deadline for an employee to return to work and/or notify the City that the employee intends to return to work following military leave depends upon how long the employee's military service lasted:

- For service of less than 31 days, employees have 8 hours following their release from service to report for their next scheduled work period.
- For service between 31 days and 180 days, employees have 14 days following their release from service to apply for re-employment.
- For service of more than 180 days, employees have 90 days following their release from service to apply for re-employment.

These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevent the employee from applying for re-employment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.

Required Documentation. To qualify to return to work, an employee returning from leave must provide to the Human Resources department, documentation of the length and character of military service. Also, if the military leave lasted more than 31 calendar days, the employee must submit documentation of discharge or release under honorable conditions. Such documentation must be provided not later than the deadline for returning to work as stated above.

Changed Circumstances. If the City's circumstances have changed to such an extent that it would be impossible or unreasonable to reemploy an employee, the City may not be required to reemploy an employee following their return from military leave. For example, a reduction-in-force that eliminates the position held by an employee returning from leave may excuse the City from its obligation to reemploy the employee. In addition, the City will make efforts to reemploy and accommodate an employee who was injured or has an aggravated injury while on military duty either in the same, equivalent position or the nearest approximation where they are qualified. The City is not required to make efforts to qualify returning employees for particular positions or to make accommodations for employees who suffered service-related disabilities when such efforts or accommodations would impose an undue hardship on the City.