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ORDINANCE NO. 3373

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF EDMONDS CITY CODE CHAPTER 2.35 RELATING TO VACATION AND SICK LEAVE TO ADD A NEW SECTION 2.35.025 MILITARY LEAVE, AMENDING THE PROVISIONS OF SECTION 2.35.045 SHARED LEAVE, SUBSECTIONS H AND B, TO PROVIDE FOR USE BY PERSONS INVOLUNTARILY CALLED TO MILITARY SERVICE; PROVIDING FOR WHEN THE POLICIES HEREIN ADOPTED SHALL BE EFFECTIVE WITH RESPECT TO BARGAINING UNIT EMPLOYEES, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the terrorist attacks of September 11 have caused the armed services to call up a number of reservists, including an employee of the City of Edmonds, and

WHEREAS, those called to active military service have a right, with certain exceptions, to return to City employment upon honorable discharge from the military, but there is no obligation that they do so, and

WHEREAS, as a means of ensuring that experienced, trained, and skilled City employees return to City employment after discharge from active military service and in order to provide an incentive for such employees to do so, the City Council finds it to be in the public interest to provide certain compensation and benefits to employees who are involuntarily called to military service for a period after such call up, and

WHEREAS, the City has secured or will secure memoranda of understanding with the applicable collective bargaining units representing City employees agreeing to the provisions of policies adopted by this Ordinance, now, therefore,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The Edmonds City Code Title 2 is hereby amended by the addition of a new Chapter 2.25 Military Leave to read as follows:

2.25 Military leave.

2.25.010 Annual Leave for Reservists.

Every City employee who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States, shall be entitled to annual leave as provided in RCW 38.40.060.

2.25.020 Involuntary Military Service.

A. Subject to the provisions of Subsections 2.25.020(B)(2) – (8) below, every City employee who is involuntarily called to active duty in the Washington national guard, or in the army, navy, air force, coast guard, or marine corps of the United States, shall be entitled to receive the following from the City, commencing on the first day the employee reports for active duty and continuing for the period specified below or until the employee's discharge from active duty, whichever occurs first:

1. For sixty (60) days:

The difference, if any, between the employee's regular salary or wages, fixed as of the last day of service rendered to the City prior to reporting for active duty, and the monetary compensation paid to the employee for the employee's military service, inclusive of housing and food allowances and other similar expenses; and

2. For ninety (90) days:

Medical, dental, and vision benefits for the employee and the employee's dependents, at the same level as provided to the employee and the employee's dependents as of the last day of service rendered to the City prior to reporting for active duty.

3. An employee shall be entitled to utilize the total of the benefits set forth in this section once within any five (5) calendar year period. The five year period shall commence on the first day such benefit(s) are used.

B. In order to qualify for the compensation and benefits to be provided under Subsection 2.25.020(B)(1), an employee who is involuntarily called to active military service must execute an agreement obligating the employee to return to

work at the City upon completion of active duty and within the reemployment rights period established by federal law. The agreement shall provide that if the employee fails to return to City employment within the time period prescribed by law during which the employee has a right to return, the employee shall be obligated to reimburse the City for all compensation and benefits that are paid under this Section.

C. In order to receive the compensation provided by Subsection 2.25.020(B)(1)(a), the employee shall be required to submit copies of his or her military pay stubs showing all compensation received from the military during the period of active service. The employee may submit such stubs once per pay period, but no more frequently than once every two weeks. The City shall pay the compensation amount due under Subsection 2.25.020(B)(1)(a), if any, at the time of the City's next regularly scheduled payroll.

D. City employees who have already been involuntarily called to military service prior to the effective date of this Subsection 2.25.020(B) may qualify for the compensation and benefits provided herein by signing an agreement to return as provided in Subsection 2.25.020(B)(2). In such case, the sixty days of compensation and benefits and the ninety days of COBRA continuation shall commence on the date the agreement is signed.

E. During the period of military leave, the employee shall not accrue or receive any other compensation, benefits, seniority, or any other right whatsoever from the City except those specifically provided for in this Subsection 2.25.020(B) and those specifically required by state and federal law.

F. Use of the term "employee" in this Subsection 2.25.020(B) in order to describe those called to military service is for convenience only and is not intended to imply that such persons remain City employees during the period of active duty. Upon completion of the last day of service for the City prior to reporting for active military service, such person is no longer a City employee for any purpose, unless and until re-employed by the City as provided under federal law.

G. The provisions of this Subsection 2.25.020(B) shall apply only to those City employees who are involuntarily called to active military service. Employees who voluntarily enlist or who otherwise volunteer for such active service are not eligible.

H. Nothing herein shall be interpreted to expand the rights of employees to return to the City beyond those rights granted by state and federal law. By way of illustration and not limitation, the City reserves its right to determine whether an employee can be reasonably accommodated in the event he/she becomes disabled, to refuse to reemploy an individual who is dishonorably discharged or otherwise exercise its statutory or common law discretion as a public employer.

2.35.030 Other military leave and obligations.

The City will comply with all provisions of state and federal law relating to

military leaves and benefits, including, but not limited to, 38 U.S.C. §4301, *et seq.*, and RCW 38.40.060.

Section 2. The Edmonds City Code Section 2.35.045 Shared leave, paragraphs A and B are hereby amended to read as follows:

2.35.045 Shared leave.

A. Intent. The purpose of shared leave is to permit City employees at no additional employee cost to the City other than the administrative cost of administering the program, to come to the aid of a fellow employee who is suffering from or has an immediate family member, suffering from an extraordinary or severe illness, injury, impairment, or physical or mental conditions which has caused, or is likely to cause, the employee to take leave without pay or to terminate his or her employment. In addition to these purposes, the shared leave program may be used by employees who have been involuntarily called to military service.

B. A department director, with the Mayor's approval, may permit an employee to receive shared leave under this ordinance if:

1. The employee suffers, or has an immediate family suffering from an illness, injury, impairment or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to go on leave without pay or to terminate his or her employment with the City. In addition, the shared leave program may be utilized by an employee who has been involuntarily called to active duty in the Washington National Guard, or in the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States. An employee seeking to utilize the share leave program due to an involuntary call to military service need not establish compliance with paragraphs 2 through 4 below.

2. The employee is depleted or will shortly deplete his or her total of accrued vacation, sick leave, compensatory time, holiday time, and/or other paid leave.

3. Part of the use of shared leave, the employee is abided by the sick leave policy.

4. The employee is diligently pursued and is found to be ineligible for state industrial insurance benefits.

5. Use of shared leave will not significantly increase the City's costs except for those costs which would otherwise be incurred in the administration of this program and which would otherwise be incurred by the employee's department.

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Section 3. Effective Date. The policies adopted herein shall be effective as to non-represented employees

from and after their passage. The policies shall not be effective as to any represented employee until such time as the policies have been approved by a memorandum of understanding with the bargaining unit, which represents the employee.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR GARY HAAKENSON

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY _____

W. Scott Snyder

FILED WITH THE CITY CLERK: 11/02/2001

PASSED BY THE CITY COUNCIL: 11/05/2001

PUBLISHED: 11/11/2001

EFFECTIVE DATE:

11/16/2001

ORDINANCE NO. 3373

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SUMMARY OF ORDINANCE NO. 3373

of the City of Edmonds, Washington

On the 5th day of November, 2001, the City Council of the City of Edmonds, passed Ordinance No. 3373. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF EDMONDS CITY CODE CHAPTER 2.35 RELATING TO VACATION AND SICK LEAVE TO ADD A NEW SECTION 2.35.025 MILITARY LEAVE, AMENDING THE PROVISIONS OF SECTION 2.35.045 SHARED LEAVE, SUBSECTIONS H AND B, TO PROVIDE FOR USE BY PERSONS INVOLUNTARILY CALLED TO MILITARY SERVICE; PROVIDING FOR WHEN THE POLICIES HEREIN ADOPTED SHALL BE EFFECTIVE WITH RESPECT TO BARGAINING UNIT EMPLOYEES, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 6th day of November, 2001.

CITY CLERK, SANDRA S. CHASE