CITY OF STOUGHTON
NON-FMLA POLICY
"LEAVE OF ABSENCE POLICY" (proposed)

I. PURPOSE
This policy outlines the provisions for employees that do not meet the eligibility requirements of the Federal and Wisconsin Family and Medical Leave Acts.

II. POLICY
The City of Stoughton will provide to full time employees, when staffing and work load allows up to 12 weeks of time off for FMLA qualifying events.

A. ELIGIBILITY
If the employee meets the FMLA qualifying event parameters, the City will evaluate the request for time off. Non-FMLA time off requests will be evaluated by the Human Resources and Risk Management Director, Department Head, and the Mayor, taking in to consideration staffing levels workload and specific department needs.

B. FMLA QUALIFYING EVENT
a. The birth or placement of a child for adoption or, under the federal FMLA, for foster care;

b. To care for the employee's spouse, child, domestic partner (under Wisconsin FMLA) or parent (includes a parent-in-law and domestic partners' parents under the Wisconsin FMLA) with a serious health condition;

c. Care for a child does not include the children of the employee's domestic partner

d. Family leave due to an employee's spouse, child or parent being on exigent active duty or having been notified of an impending call or order to exigent active duty as a member of the reserve components of the Armed Forces or a retired member of the Regular Armed Forces or Reserve, in support of a contingency operation.

e. For the employee's own serious health condition that renders the employee unable to perform his/her job.

C. NON-CONTINUOUS OR INTERMITTENT LEAVE
If approved, employees will be permitted to take leave on an intermittent (blocks of time) or reduced work schedule (1) when it is medically necessary to care for a family member with a serious health condition or because of the employee's serious health condition; (2) when it is necessary to care for a family member or next of kin who suffered an injury or illness while on active duty (3) to care for a newborn, adopted or foster child.

Medical or family caretaking leave should be planned so as not to unduly disrupt the City's operations. Employees requesting non-continuous leave that is foreseeable based on planned medical treatment for purposes of providing care to a child, spouse or parent with a serious health condition or for the employee's own serious health condition may be required to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than the regular employment position of the employee. An employee temporarily transferred will receive the same pay and benefits, but may be assigned different duties.
The City allows for intermittent leave to be taken in no less than one hour increments. The employee may not take, or be required to take, more leave than medically necessary to address the circumstances that caused the need for the leave.

D. PAYMENTS ON FMLA LEAVE:
The City may require employees(?), or employees may choose, to substitute paid leave for which they are eligible (such as vacation days, personal leave, compensatory time or sick leave) for unpaid leave available under the federal FMLA; or employees may choose to substitute available accrued leave for unpaid Wisconsin FMLA. –(?) QUESTION: Because this is a "NON-FMLA" Policy do we want to require the use of available time?
As with all leaves of absence, no employee may pursue or engage in employment when on a leave of absence- NON- FMLA.

E. HOW TO APPLY FOR NON-FMLA/LEAVE OF ABSENCE:
1. The employee must submit a Request for Leave form to Human Resources and Risk Management Director at least 30 days, or as soon as practicable, in advance of taking a leave. If circumstances do not permit an employee to give notice in advance of taking leave, the employee must notify Human Resources and Risk Management Director and submit the Request for Leave form as soon as possible, but no later than two working days after learning of the need. Failure to may result in the delay or denial of the NON- FMLA leave. You may be subject to discipline under City policies.

2. If the leave is for a family member's or the employee's serious health condition, the employee must submit a medical certification form from the employee's or the family member's health care provider within 15 days. If an employee does not provide the required certification by the designated deadline the leave may not be approved. The eligible employee may be subject to discipline under City attendance policies unless he or she uses accrued paid leave (like vacation) and/or is granted a non-FMLA leave of absence.

3. Periodic re-certifications may be required under certain circumstances.

4. Forms are available through the Human Resources and Risk Management Director.

F. HEALTH INSURANCE BENEFITS
Group health insurance coverage will be maintained for employees while they are on FMLA leave, on the same terms as if the employee continued to work. The employee will be required to pay his/her regular portion of health insurance premium payments on a schedule established by the City.

The City may recover its share of health insurance premiums paid during a period of unpaid NON- FMLA leave from an employee if the employee fails to return to work (for a minimum of 30 calendar days) after the expiration of the leave. The City may not collect the premiums if the reason the employee does not return is due to continuation, recurrence or onset of a serious health condition that would entitle the employee to leave under FMLA, or other circumstances beyond the employee's control. The eligible employee would have to qualify for FMLA and meet the requirements.

The City may discontinue health insurance benefits if the employee fails to make a premium payment within 30 days of the due date after providing written notice to the employee of the cancellation of coverage for non-payment.

G. OTHER BENEFITS

Benefits that accumulate based upon hours worked shall not accumulate during the leave of absence/NON-FMLA. The NON-FMLA leave will be counted as an absence under the City's attendance policy. In addition, an employee may be disqualified from an attendance reward program, and/or any reward may be reduced for having taken unpaid NON-FMLA leave.

Other City benefits [i.e. life insurance coverage and income continuation insurance] may be continued during periods of unpaid NON-FMLA leave, and arrangements should be made for employee's portion of the payments with the Human Resources and Risk Management office.

H. RETURN TO WORK

Any employee returning from their NON-FMLA leave for their own serious health condition must provide a "Fitness for Duty" statement signed by their treating physician. (QUESTION: This is a NON-FMLA- do we want to offer job protection rights?)

III. DEFINITIONS

A. Incapable of Self-Care

The individual requires active assistance or supervision to provide daily self-care in three or more of the ***activities of daily living*** (i.e. grooming, hygiene, bathing, dressing, eating) or ***instrumental activities of daily living*** (i.e. cooking, cleaning, shopping, utilizing public transportation, paying bills, maintaining a residence, using telephones and directories, and using a post office).

B. Parent

Biological parent, foster parent, adoptive parent, stepparent or legal guardian of an employee or parent-in-law or domestic partners' parents under the Wisconsin FMLA. Under the federal FMLA, "parent" includes an individual who provided day-to-day care to the employee when the employee was a child.

C. Serious Health Condition

An illness, injury, impairment or physical or mental condition that involves:

1. Inpatient care in a hospital, hospice or residential medical care facility; or

2. Outpatient care that requires continuing treatment or supervision by a health care provider (generally defined as requiring two direct, continuous and first-hand contacts by a health care provider); or

a. A period of incapacity of more than 3 consecutive calendar days (and any subsequent treatment or period of incapacity relating to the same condition) that also involves:

i. treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (i.e. physical therapist) under orders of, or on referral by, a health care provider; or
ii. treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of a health care provider.

- The first or only in person treatment visit must take place within seven days of the first day of incapacity.
- Whether additional visits or a regimen of continuing treatment is necessary within the 30 day period shall be determined by the health care provider.

b. any period of incapacity due to pregnancy or for prenatal care;

c. chronic conditions requiring periodic treatment (defined as at least twice a year) by or under the supervision of a health care provider that continue over an extended period of time and may cause an episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);

d. permanent/long term conditions requiring supervision for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, or the terminal stages of a disease);

e. multiple treatments by or under the supervision of a health care provider 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 treatment, such as cancer (chemotherapy), severe arthritis (physical therapy), or kidney disease (dialysis).

D. Child
Biological, adopted, or foster child, stepchild, legal ward or, under the federal FMLA, the child of a person having day-to-day care of the child, or a child of a person standing "in loco parentis," who is under 18 years of age or 18 years of age and older and incapable of self-care because of a serious health condition.

E. Covered Servicemember (Federal FMLA) (QUESTION? How do we want to handle this?)
A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in 7 outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

F. **Domestic Partner (Wisconsin FMLA)** Same-sex couples who register in their county of residence and same-sex and opposite-sex couples who are not required to register.

1. To qualify as registered domestic partners, two individuals must meet the following criteria: at least 18 years of age and capable of consenting to the relationship, not married to, or in a domestic partnership with another individual, not more closely related than second cousins (whether of the whole or half blood or by adoption), they must share a common residence, and be members of the same sex.

2. To qualify as domestic partners without registration, two individuals must meet the following criteria: at least 18 years of age and capable of consenting to the relationship, not married to, or in a domestic partnership with another individual, they must share a common residence, they must not be related by blood in a way that would prohibit marriage under Wis. Stat. 763.03, they must consider themselves to be members of each other's immediate family; and they must agree to be responsible for each other's basic living expenses.

G. Next of Kin

The nearest blood relative other than the covered servicemember's spouse parent, son or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemembers' next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

H. Work Week

The employee's usual or normal schedule (hours/days per week) prior to the start of FMLA leave.

ADOPTED BY THE COMMON COUNCIL: September 8, 2009

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