

- Leave of absence
- Vacation leave

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**DIVISION 14. RULE 14. LEAVES OF ABSENCE AND OUTSIDE EMPLOYMENT**

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**Sec. 14-168. Attendance; workweek; overtime compensation, etc.**

- (a) Definitions. Unless otherwise indicated, the following words shall, for purposes of this section, have the following meanings:
- (1) *Compensatory time or compensatory time off.* Hours during which eligible employees are not working but which are counted as hours worked during the applicable workweek for purposes of overtime compensation and for which the employee is compensated at the employee's regular rate of pay.
  - (2) *Eligible employee.* All employees of the City of Houston other than exempt and noncovered employees as defined in this subsection and those employees subject to article 1269m, Texas Revised Civil Statutes, and classified as fire protection or law enforcement personnel.
  - (3) *Exempt employees.* All executive, professional, administrative and seasonal recreation employees of the City of Houston who are exempted from the overtime compensation requirements of the Fair Labor Standards Act of 1938, as amended and the pertinent regulations and opinions interpreting that act and who have been designated as such by the human resources director and the civil service commission.
  - (4) *Non-covered employees.* All employees of the City of Houston who:
    - a. Are excluded from coverage under the Fair Labor Standards Act of 1938, as amended, and the regulations and administrative opinions interpreting that act; and
    - b. Are designated as such by the human resources director and the civil service commission. In reaching the determinations required by this subsection or subsection (a)(3) above, the director and the civil service commission shall be guided by the various criteria which are applied to determine whether overtime must be paid under the wage and hour provisions of the Fair Labor Standards Act of 1938, as amended.
  - (5) *Overtime.* Time actually worked in excess of 40 hours in a workweek.
  - (6) *Regular rate of pay.* Regular rate of pay shall include:
    - a. Base pay;
    - b. Longevity pay; and
    - c. Shift differential pay.

The term "regular rate of pay" shall not include compensation excluded under Section 7(e) of the Fair Labor Standards Act of 1938, as amended or the interpretative regulations and administrative or judicial opinions construing that section.

- (7) *Workweek*. The workweek shall consist of 40 hours of actual work within the consecutive 168 hour period beginning with the day shift on Saturday.
  - (8) *Time actually worked or actual work*. The time the employee is actually on duty or on a council declared holiday, on authorized sick leave, vacation leave, compensatory time off, death in the family leave or any other authorized leave. However for clarification, if the holiday falls on an eligible employee's day off, and the employee does not work on the holiday, the employee will receive holiday compensation, but those hours will not count towards the overtime calculation for that week.
- (b) All departments of the city shall maintain accurate, complete and permanent records of all employee attendance and time actually worked during each work week. Each department director or designee shall make such reports of attendance and time actually worked as may be prescribed by the civil service commission. Department directors or designees shall certify the correctness of the reports. The reports shall be forwarded to the human resources department on a weekly basis.
- (c) All eligible employees of the City of Houston shall be compensated for working overtime beyond their regularly scheduled workweek by the payment of either monetary compensation at the rate of 1½ times their regular rate of pay or compensatory time at the rate of 1½ hours for each overtime hour worked. The following shall apply to the payment of overtime compensation:
- (1) The department director or designee of the department in which the employee works shall verify that the overtime is needed to complete a required city service or operation.
  - (2) The department director or designee may determine whether overtime shall be paid in cash or compensatory time. Where overtime is paid in cash it shall be paid in the pay period in which it is earned or as soon thereafter as is possible, taking into consideration both the workweek and the payroll system used.
  - (3) Where the employee is granted compensatory time the following shall apply:
    - a. The number of hours of compensatory time that may be accumulated shall not exceed 240.
    - b. Accrued compensatory time must be used within 120 calendar days from the date accrued, provided that it does not unduly disrupt departmental operations.
    - c. Eligible employees shall be paid for accrued compensatory time not taken within 120 days from the date of accrual. Such payment shall be in cash at the greater of:
      1. The employee's average regular rate of pay over the employee's last three years of employment by the city preceding the date of payment; or
      2. The employee's regular rate of pay for the pay period immediately preceding the date of payment.Such payment shall be made in the first full pay period following expiration of the 120-day period.
    - d. Each department shall maintain detailed records of the accumulation and use of compensatory time on a form prescribed by the human resources director.
    - e. Accumulated compensatory time shall be used in accordance with the first-in-first-out (FIFO) accounting principle.
    - f. Any compensatory time accrued prior to April 15, 1986 and not used shall be carried on the records of the department until such time as it is used by the

employee. The employee shall not be entitled to monetary compensation for any compensatory time accrued prior to April 15, 1986.

- (d) A department director or designee may, subject to the operational requirements and needs of the department, require an eligible employee to work on a city council declared holiday.

- (1) *Definitions.* In this subsection only, the following definitions will apply:

*Actual hours worked.* The time an employee is working on duty performing assigned work required and authorized by the department director for the holiday starting with the actual time the work begins on the holiday and ending with the actual time the employee completes the required work or stops for the day on the holiday.

*Eligible employee.* For purposes of holiday compensation, holiday premium pay, and short notice premium pay, all permanent, full-time employees of the City of Houston other than those employees who are: (i) subject to Chapter 143 of the Texas Local Government Code, (ii) classified as fire protection or law enforcement personnel or (iii) subject to other civil service systems and/or other meet and confer or collective bargaining agreements under Chapter 143 or 174 of the Texas Local Government Code.

*Holiday.* A date that the city council has declared as a holiday on which city offices will be closed.

*Holiday compensation.* The payment an eligible employee is to receive for the observance of a holiday, to be paid at one times the regular rate of pay, for the appropriate number of hours as indicated below.

*Holiday hours.* The hours accrued in lieu of payment for holiday premium pay.

*Holiday premium pay.* The payment or accrual an eligible employee is to receive in addition to base pay and any other additional pay not provided by this subsection, for the appropriate number of actual hours worked on the holiday as indicated below. It is to be paid at one times the regular rate of pay times the appropriate number of actual hours worked on the holiday as indicated below, or accrued at one times the appropriate number of actual hours worked on the holiday as indicated below.

*Regular or scheduled hours.* The time an employee is usually and regularly scheduled to work on a day on which a holiday falls. The term excludes scheduled overtime hours.

*Short notice call to duty.* The director or designee determines that extraordinary circumstances or a true emergency exists that requires an employee to report to work or return to work on a holiday. Extraordinary circumstances or a true emergency occurs when the employee is provided less than 24 hours notice in advance of the starting time of the shift or hours to be worked on the holiday. It does not apply to those, scheduled or not, who know 24 hours or more in advance that they are required to work on the holiday.

*Short notice premium pay.* The payment or accrual an eligible employee is to receive in addition to base pay and any other additional pay not provided by this subsection, for the appropriate number of actual hours worked on the holiday as a result of Short Notice Call to Duty, regardless of the employee's regular work schedule. It will be paid at one and one-half times the regular rate of pay times the appropriate number of actual hours worked on the holiday as indicated below, or

accrued at one and one-half times the appropriate number of actual hours worked on the holiday as indicated below.

- (2) If an eligible employee's regular or scheduled hours to work fall on a holiday, but the employee is not required to and does not work on the holiday, the employee will be paid only holiday compensation at one times the regular rate of pay for the number of hours the employee is regularly scheduled to work on that day. Hours may not be accrued in lieu of payment.
- (3) Where an employee's regularly scheduled day off falls on a holiday, the employee may be given a day off in lieu of the holiday or the employee may receive straight-time payment equal in value to the employee's regularly scheduled workday at the employee's regular rate of pay. The department director shall determine whether the employee shall be paid for the holiday or be given a day off at a later date. For purposes of computing overtime, cash payment granted will not be considered payment for hours worked. If a day off in lieu of the holiday is granted, it must be granted and taken within 180 calendar days of the holiday or be paid.
- (4) If an eligible employee's regular or scheduled hours to work fall on a holiday and the employee is required to work on the holiday, but the employee does not work on the holiday because the employee has an excused absence or authorized leave for the date of the holiday, the employee will be paid only holiday compensation at one times the regular rate of pay for the number of hours the employee is regularly scheduled to work on that day; and no leave balance will be debited for that day. Hours may not be accrued in lieu of payment.
- (5) If an eligible employee's regular or scheduled hours to work fall on a holiday, and the employee is required to work on the holiday, but does not work, resulting in an unexcused absence, the employee will be paid only holiday compensation at one times the regular rate of pay for the number of hours the employee is regularly scheduled to work on that day. In addition, disciplinary action may be taken, the same as if the employee did not work on any scheduled non-holiday work day.
- (6) The department director or designee has discretion to determine whether holiday premium pay or short notice premium pay will be paid or hours accrued under the circumstances set out in items (7) and (8) below. The number of hours will be the same whether they are paid or accrued.
- (7) If an eligible employee is required by the department director or designee to work, and does work, on a holiday (regardless of whether regularly scheduled, or called to report to work more than 24 hours in advance of the starting of the shift), the employee will be paid or will accrue hours for the hours actually worked on the holiday for which the employee had 24 hours or more notice ("full notice hours") as follows:
  - a. Except as provided in (b) below, if the employee works on a holiday, the employee will be paid at one times the regular rate of pay for all actual full notice hours worked on the holiday, and additionally will receive holiday premium pay for the number of actual full notice hours worked on the holiday (For illustration purposes only: Total = 1 × regular rate of pay × number of actual full notice hours worked on the holiday, plus either 1 × regular rate of pay × number of actual full notice hours worked on the holiday or accrual of 1 × number of actual full notice hours worked on the holiday).
  - b. If the employee works fewer than the number of hours in his regular or scheduled hours on the holiday, or if not regularly scheduled to work on the holiday, fewer than the number of hours in the most frequently occurring daily schedule in the employee's work schedule the employee will be paid at one times the regular rate of pay for all actual full notice hours worked on the holiday, and additionally will receive holiday premium pay for the number of

actual full notice hours worked on the holiday, plus holiday compensation only for the remaining hours of the regular or scheduled hours not worked on the holiday or if not regularly scheduled to work on the holiday, the remaining hours of the most frequently occurring daily schedule in the employee's work schedule. (For illustration purposes only: Total = 1 × regular rate of pay × number of actual full notice hours worked on the holiday, plus either 1 × regular rate of pay × number of actual full notice hours worked on the holiday or accrual of 1 × number of actual full notice hours worked on the holiday, and also paid additionally 1 × regular rate of pay × number of remaining regular or scheduled hours not worked on the holiday, or if not regularly scheduled, the remaining hours in the most frequently occurring daily schedule in the employee's work schedule not worked on the holiday.)

- (8) If an eligible employee was not previously scheduled to work on a holiday but is then required by the department director or designee to report to work or stay at work with less than 24 hours notice before the time required to report to work, the employee will be paid or will accrue hours for the hours actually worked on the holiday for which the employee had less than 24 hours notice ("short notice hours") as follows:
- a. The employee will be paid at one times the regular rate of pay for all actual short notice hours worked on the holiday, and additionally will receive short notice premium pay for the number of actual short notice hours worked on the holiday. Such payment will be made without regard to the employee's usual shift or regular scheduled hours. (For illustration purposes only: Total = 1 × regular rate of pay × number of actual short notice hours worked on the holiday, plus either 1.5 × regular rate of pay × number of actual short notice hours worked on the holiday or accrual of 1.5 × number of actual short notice hours worked on the holiday.)
  - b. An employee required or called in to work on short notice call to duty should work only the hours necessary to do the required work and should not be required to work an entire shift or be held over unless operationally necessary.
- (9) Holiday hours accrued must be used as follows:
- a. If accrued, the accrued holiday hours must be used on or before the 180th day after the date of the holiday for which they were accrued or they shall be paid in the first full pay period immediately following the expiration of the 180 days.
  - b. Eligible employees who accrue holiday hours must make a good faith effort to use the accrued hours before the 180 day period expires. These hours shall be used before other forms of leave except Family and Medical leave or injury on duty leave.
  - c. If an eligible employee has failed to submit a request for accrued holiday leave on or before the thirtieth day before the relevant period expires, the department may, upon notice to the employee, convert a request for vacation or sick leave to accrued holiday leave in order to avoid the conversion of the accrued holiday leave to pay. Departments also may direct employees with accrued holiday leave hours that are within 30 days of conversion to pay to take such leave before it expires and becomes payable.
  - d. All accrued holiday hours of police and firefighter trainees not used on or before the date the trainee is scheduled to become a sworn classified officer or firefighter will be paid at one times the regular rate of pay with an effective date on the final day prior to the date on which the trainee is scheduled to become a sworn classified officer or firefighter.
  - e. All remaining accrued holiday hours not used on or before the date an eligible employee separates from city employment are forfeited and will not be paid.

(10)

Holiday compensation paid in lieu of base pay for a holiday observed is to be included in pay reported for pension purposes so as not to reduce base pay or service for pension purposes. Holiday premium pay is not to be included in pay or service reported for pension purposes.

- (11) An eligible employee who is scheduled to work, but does not work and is not paid for the last scheduled workday (unless the day is an authorized furlough day) before the holiday or is scheduled to work but does not work and is not paid for the first scheduled workday (unless the day is an authorized furlough day) after the holiday will not be paid holiday compensation, holiday premium pay, short notice premium pay, or accrue holiday hours for the holiday.
  - (12) If a holiday falls on a day that an eligible employee is on approved work-related injury leave or on transitional duty, the holiday will be compensated under EO 1-33 and other applicable policies, but not under this section.
- (e) Any employee who is exempt and, as a result, not eligible for overtime pay as prescribed in this section, may, notwithstanding and other provisions of this section to the contrary, be eligible for compensatory time and straight time (hour-for-hour) basis, upon the recommendation or their department director and the approval of the human resources director, subject to the following criteria:
- (1) The employee is in a classification assigned to pay grades 24 and below.
  - (2) The overtime work must be performed under unusual circumstances, which shall mean additional hours not ordinarily required to perform the employee's regularly assigned tasks including, but not limited to, unscheduled work hours on a council declared holiday or work performed over a confined period of time due to a special project assignment or a condition of emergency.
  - (3) An employee may not receive more than 40 hours of compensatory time hereunder in any calendar year quarter.
  - (4) Compensatory time granted under this subsection and its use shall be reported to the human resources director in accordance with subsection (c)(3)d., above.
  - (5) Any compensatory time granted must be used within 120 calendar days following the payroll period in which it was earned, and the employee's department director shall afford the employee a reasonable opportunity to use the time within that period. Compensatory time that is not used within the 120-day period is forfeited.
  - (6) Compensatory time granted hereunder may not be converted to any other form of leave benefit or be paid as a cash benefit under any circumstances, including the death, resignation or termination of the employee.
  - (7) The human resources director may, subject to the review and approval if the mayor, issue administrative guidelines to the department directors for the granting and reporting of such compensatory time.
- (f) Under certain extraordinary circumstances, the mayor may extend, amend and augment the above requirements in the following manner:
- (1) The mayor will declare that an extraordinary and/or catastrophic condition exists and will order the human resources director, in consultation with the appropriate department directors, to issue an event-specific procedure to provide compensation time to certain exempt employees.
  - (2) The procedure will extend eligibility for compensatory time to exempt employees in specified pay grades required to address the extraordinary condition, but shall in no case, specify pay grades beyond pay grade 26.
  - (3) Maximum hours accumulated in a calendar year quarter may be increased, but shall in no case exceed 60 hours.
  - (4)

The time period for using the compensatory time accumulated under this special subsection may be increased, but shall in no case extend beyond 365 calendar days from the pay period in which the compensatory time was granted.

- (g) Notwithstanding the provisions of section 14-168(e), full-time exempt employees may be eligible to be compensated in cash in the form of special assignment pay for time worked in excess of 40 hours in one week, subject to the following limiting criteria:
- (1) The work performed must be at a city-operated health clinic facility that is open to the public and provides a service to the public;
  - (2) The work performed by the full-time, exempt employee must directly involve providing critical service to the public as such a facility;
  - (3) The hours worked must be in addition to the normal 40 hours of the work week; and
  - (4) The employees must be employed by the city in a licensed medical professional capacity.

Special assignment pay is subject to approval by the human resources director and requires conclusive justification by the director of the department requesting the special assignment pay. Authorized special assignment pay will be reviewed on an annual basis by the human resources director in conjunction with the requesting department. When authorized, the amount of assignment pay will be established on an individual basis for each affected classification by the human resources director but may not be payable at more than 1½ times the employee's regular hourly rate of pay. Authorized assignment pay will be funded by the requesting department's personnel budget.

(Code 1968, § 12-168; Ord. No. 73-2017, § 1, 10-10-73; Ord. No. 73-2069, § 1, 10-17-73; Ord. No. 73-2606, § 1, 12-26-73; Ord. No. 74-1173, § 1, 7-9-74; Ord. No. 77-1304, § 1, 7-5-77; Ord. No. 77-1412, § 1, 7-19-77; Ord. No. 8-305, §§ 1, 2, 2-19-80; Ord. No. 83-1231, § 1, 8-9-83; Ord. No. 83-1760, § 1(2), 10-26-83; Ord. No. 84-144, § 1, 1-31-84; Ord. No. 85-894, § 1, 6-13-85; Ord. No. 86-488, § 1, 4-9-86; Ord. No. 86-516, § 1, 4-15-86; Ord. No. 88-31, §§ 1, 2, 1-6-88; Ord. No. 92-1437, § 1, 11-4-92; Ord. No. 93-1267, § 1, 10-13-93; Ord. No. 96-1290, §§ 13—16, 12-4-96; Ord. No. 01-1143, § 1, 12-12-01; Ord. No. 05-91, § 1, 1-25-05; Ord. No. 08-1113, §§ 2, 3, 12-3-08; Ord. No. 09-930, §§ 2—13, 9-7-09; Ord. No. 2010-551, § 2, 7-7-2010; Ord. No. 2010-1017, § 2, 12-15-2010)

### Sec. 14-169. Reserved.

*Editor's note—*

Former § 14-169, which pertained to sick leave for city employees, was repealed by § 1 of Ord. No. 84-1962, enacted Dec. 19, 1984. The repealed provisions derived from § 12-169 of the 1968 Code and Ord. No. 71-1593, § 1, enacted Sept. 1, 1971; Ord. No. 72-1729, § 1, enacted Sept. 26, 1972; Ord. No. 75-3, § 1, enacted Jan. 2, 1975; Ord. No. 75-1463, § 1, enacted Aug. 19, 1975; and Ord. No. 76-1440, § 1, enacted Aug. 31, 1976.

### Sec. 14-170. Vacations.

- (a) Permanent employees in the classified and unclassified service who regularly work the prescribed work week for their department shall be allowed vacation with pay in accordance with the employee's service time and the following schedule:

Years 1 through 4	80 hours
Year 5	120 hours
Years 6 and 7	128 hours
Years 8 and 9	136 hours
	144 hours

Years 10 and 11	
Year 12	152 hours
Year 13	160 hours
Year 14	168 hours
Year 15	176 hours
Year 16	184 hours
Year 17	192 hours
Year 18 and beyond	200 hours

Service time for purposes of the foregoing accrual rates shall be based upon the employee's total eligible length of service with the city, and for a rehired employee credit shall be afforded for prior service time. Accruals shall be allocated on a fractional basis per pay period, with applicable service time adjustments commencing on the first pay period following the employee's service time anniversary date. Accruals during the first six months of service shall be subject to subsection (c) below.

Accruals of vacation time shall be limited as follows:

- (1) Except as provided in item (2) below, accruals of vacation time shall be limited to a maximum of 360 unused hours.
- (2) Persons who are actually employed by the city on October 1, 2003, and who have a commencement date for vacation benefits purposes that is prior to January 1, 2000, shall be subject to an accrual limit of 720 unused hours for so long as they remain continuously employed by the city without a gap in service.

Once the applicable limit is reached, accruals shall be suspended and shall not recommence until the employee reduces the balance by use of benefits.

- (b) When vacation absence is requested and approved by the commission, the absence during that period shall not be converted to any other type of authorized absence, such as absence with pay, without pay, or sick or injury leave, without approval of the civil service commission.
- (c) No employee will accumulate any vacation leave until he has been in the city's service for a period of six months. If he continues in the city's service beyond said six months' period, such employee will be allowed such vacation leave as would have accrued during such six months' period of time.
- (d) *Reserved.*
- (e) Vacation leave may be accumulated to a total of 360 or 720 working hours, as applicable, subject to the following:
  - (1) Each employee of the city shall, upon termination of employment, receive in a lump sum payment, the full amount of his salary for his unused accrued vacation leave. If the termination results from the death of the employee, then the amount shall be payable to the beneficiaries of the employee.
  - (2) Each employee, upon leaving the employment of the city, shall be paid accumulated vacation in the amount to be determined by taking the average of the hourly base pay of the employee, plus the longevity rate he has attained and has received or been entitled to receive during his last 60 calendar days of employment; provided, however, that the employee has received, for at least another 60 calendar day period of time, a higher base pay than that which he was paid during his last 60 calendar days of employment, then the amount of such payment shall be determined by taking the average of the hourly base pay of the employee for the 60-day calendar period for which he was paid a greater hourly base pay, plus the longevity rate he has attained.

The computation of the "hourly base rate of pay" shall be based upon the hourly equivalent for 80 hours of scheduled work (excluding overtime) per biweekly pay period, regardless of the actual work hours scheduled per day. For a rehired employee, all computations shall be based upon the employee's then current term of service.

- (f) Employees who take an extended leave of absence without pay for personal reasons, consisting of 80 or more hours of absence, shall not accumulate vacation allowances during such absences.
- (g) The provisions of this section are inapplicable to police officers and fire fighters serving in positions that are classified under Chapter 143 of the Texas Local Government Code. Vacation leave benefits for employees so classified shall be as provided by applicable provisions of Chapter 34 of this Code, the aforesaid Chapter 143, and any applicable agreements established between the city and employee bargaining groups under Chapter 143.

*(Code 1968, § 12-170; Ord. No. 70-137, § 1, 1-28-70; Ord. No. 71-1593, § 2, 9-1-71; Ord. No. 75-3, § 2, 1-2-75; Ord. No. 75-139, § 2, 1-28-75; Ord. No. 90-1138, § 1, 9-19-90; Ord. No. 96-1076, §§ 1—4, 10-16-96; Ord. No. 03-923, §§ 1—4, 10-1-03)*

#### **Sec. 14-171. Leave with pay.**

- (a) Attendance of permanent employees at conventions, conferences and meetings of like nature is not to be considered a leave from duty but shall be noted on the payroll and such attendance must be authorized by the mayor.
- (b) In the case of death in the immediate family, the department director may excuse an employee for as many as three calendar days. Immediate family shall include father, mother, sister, brother, husband, wife, child, grandparents, and other relatives if, in the opinion of the department director, such employee's presence due to his individual relationship and the circumstances of the case, would be required. Such absences and the reasons therefor must be reported to the human resources director on forms prescribed by his office.
- (c) Absence of full-time employees during religious holidays may be charged to vacation time, or debited to overtime the employee may have accumulated; but such absences must be approved by the department director and reported promptly to the human resources director.
- (d) Permanent employees who leave to serve as members of the uniformed military forces of the United States are to be given pay for whatever time they may have accumulated as vacation time prior to their leaving but shall not accumulate leaves with pay during absences which extend for periods of longer than one month unless otherwise provided by law.

*(Code 1968, § 12-171; Ord. No. 73-2606, § 2, 12-26-73; Ord. No. 90-1138, § 3, 9-19-90; Ord. No. 96-1290, § 17, 12-4-96; Ord. No. 05-91, § 1, 1-25-05)*

#### **Sec. 14-172. Leave without pay; voluntary leave without pay program.**

- (a) Department directors may grant, upon good reason, leaves of absence without pay for as many as 14 consecutive calendar days for permanent employees in the classified or unclassified service. All leaves in excess of 14 calendar days shall be reported promptly to the civil service commission on forms prescribed by the commission. Civil service commission approval of leaves without pay extending for more than ten working days shall be required before such leaves shall be authorized. The commission, with the exception of those leaves known as military leave, shall not approve of more than 90 consecutive calendar days of leave at any one time, but the civil service commission may subsequently approve extensions of a leave as long as a total of 180 calendar days of leave without pay in one 12-month period is not exceeded. Leaves without pay extending for more than 180 calendar days shall be authorized only after the request for the same is approved by the city

council. A leave for less than 180 days and more than 14 calendar days may be cancelled by the civil service commission upon reasonable notice to the employee.

- (b) Employees who begin a leave on Monday shall be paid for the preceding Saturday and Sunday. Employees who begin a leave on Tuesday or other week day which immediately follows a council-approved holiday, or who return from a leave on the day immediately following such a holiday, shall be paid for that holiday. Saturdays, Sundays, off-days and holidays which come during a leave without pay shall be without pay, as also shall Saturdays, Sundays and off-days which terminate a leave.
- (c) If an employee returns to work before his leave expires, the employee's department director shall notify promptly the human resources department in writing, and, furthermore, the employee's department director will notify the human resources department in writing if an employee fails to return on the working day next following the end of this leave. Failure to return within three days from a leave shall be taken as evidence of a resignation without notice.
- (d) In time of war or emergency, an employee who serves in the uniformed military forces of the United States shall be granted a military leave without pay but shall be eligible for reinstatement to his former position only if he is able to present to the civil service commission a certificate of honorable discharge within 90 days after his discharge, is physically and mentally qualified for reinstatement, and if his services with the military forces began at or about the time he left the city's service therefor. If and when he is reinstated, he shall receive full seniority credit for the time he was absent for military service. Physical or mental incapacity to perform his former duties shall not make him ineligible for placement in some other work provided he is qualified therefor.
- (e) When budgetary constraints require a reduction in expenditures, the mayor is authorized to implement, as needed, a program of voluntary and/or involuntary leaves of absence without pay (furloughs) whereby employees will not come to work and will not be paid on a regular work day. The mayor must designate and approve the parameters of such a program (the Furlough Plan) in advance. The Furlough Plan must specify: (1) whether furloughs will be voluntary, involuntary, or both, (2) the limited duration of time either or both shall be in effect, (3) whether furloughs will be citywide or department specific, (4) the date(s) either or both programs will be activated and implemented, (5) the civil service systems and respective employee groups, pay grades or classifications affected, (6) the minimum and maximum number of days or hours to be taken as furlough, and (7) the time period during which furloughs must be taken. Furloughs must affect all designated employee group members consistently (i.e. all employees in each affected group will be treated the same as all other members of that group) and (8) all Federal and State laws concerning labor standards and pay will be followed.
- (f) At the direction of the mayor, the director will promulgate procedures for each type of furlough authorized consistent with sections 14-172(a) through 14-172(e) of this Code and the parameters specified in the Furlough Plan. During the course of a furlough, whether voluntary or involuntary, the mayor may alter or revise specific components of the program to respond to changes in the city's financial condition and the director will modify procedures accordingly. Any furlough taken will be appropriately noted on each affected employee's attendance records and will in no way be regarded as an unauthorized absence, a permanent reduction in pay, a reduction in force or contribute toward disciplinary action. A furlough shall not affect the employee's accrual of sick and vacation leave or eligibility for health insurance or other benefits, subject, however, to any relevant provisions in an applicable pension agreement.

*(Code 1968, § 12-172; Ord. No. 88-581, § 1, 4-13-88; Ord. No. 96-1290, § 18, 12-4-96; Ord. No. 05-91, § 1, 1-25-05; Ord. No. 2010-1001, § 2, 12-8-2010)*

#### **Sec. 14-173. Outside employment of employees.**