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1-25-11  
ORDINANCE NO. 12470

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AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 2, ARTICLE III, DIVISIONS 1, 6 AND 9, SECTIONS 2-138, 2-160, 2-161 AND 2-180 OF THE PERSONNEL ORDINANCE.

SECTION 1. BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 2, Article III, Division 1, Section 2-138, be and the same are hereby amended by deleting the definition of "*Regular rate*" and substituting in lieu thereof the following:

*Regular rate:* Unless otherwise provided, shall mean:

- (1) For all hourly employees, the normal hourly rate of pay.
- (2) For all salaried employees, the weekly rate shall first be determined. To determine the weekly rate, a biweekly salary is divided by two (2). The weekly rate shall then be divided by the total number of hours in which the salary is intended to compensate to give the regular rate.
- (3) For all employees in the Fire Department who are (i) engaged in fire protection and emergency response activities, (ii) members of the Fire and Police Pension Fund and (iii) normally scheduled to work a twenty-four hour shift, the employees annual salary divided by three thousand one hundred and twenty (3,120) hours or one hundred and twenty (120) hours per bi-weekly pay period. This is an equalized pay rate that shall be used for calculation of bi-weekly pay and for payment of accrued personal leave but shall not be used for the calculation of any overtime pay.

SECTION 2. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 2, Article III, Division 6, Section 2-160, be and the same is hereby amended by repealing the existing section and substituting in lieu thereof the following:

**Sec. 2-160. Holiday Leave**

The following shall be recognized holidays: New Year's Day; Dr. Martin Luther King, Jr.'s Birthday; Good Friday; Memorial Day; July 4; Labor Day;

Thanksgiving Day; the Friday following Thanksgiving Day; Christmas Day. When any of these days falls on a Saturday, then the preceding day (Friday) will be observed as a holiday. When any of these days falls on a Sunday, the next day (Monday) will be observed as a holiday.

Memorial Day shall be observed on the Monday which is nationally recognized. Other special holidays may be designated by the city council by resolution.

Employees in the Fire Department who are (i) engaged in fire protection and emergency response activities, (ii) members of the Fire and Police Pension Fund and (iii) normally scheduled to work a twenty-four hour shift, shall not take the recognized holidays and shall be required to take holidays as required by the Fire Chief, including the requirement that any firefighter working a twenty-four hour shift must take twelve (12) hours of personal leave in each twenty seven (27) day scheduling period.

SECTION 3. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 2, Article III, Division 6, Section 2-161, be and the same is hereby amended by repealing the existing section and substituting in lieu thereof the following:

**Sec. 2-161. Personal leave.**

- (a) (1) Personal leave shall be granted to regular full-time (permanent) employees, probationary employees and executive, special and administrative assistants in lieu of sick leave, annual leave, City Hall closure or leave time granted in the City Charter.
- (2) When feasible, every city employee shall be given an approved holiday as set out in Section 2-160 of this Code; any employee who does not work on such a holiday shall be charged applicable hours of personal leave. An employee shall not be charged personal leave when an approved holiday falls on his or her regularly scheduled day off. When an employee must work on one of such holidays, he or she shall not be charged with the use of personal leave. In all cases, department heads shall attempt to arrange working schedules to permit employees to use personal leave on holidays. The provisions of this subsection (a) (2) shall not apply per se to any operation conducted by personnel of the city that requires work on more than five days per week.
- (b) (1) Effective July 2, 2010, employees in the Fire Department who are (i) engaged in fire protection and emergency response activities, (ii) members of the Fire and Police Pension Fund and (iii) normally scheduled to work a twenty-four hour shift, shall earn

personal leave at a rate of 17.08 hours per two-week accrual period (equivalent to the established biweekly payroll period) during the first ten complete years of continuous service. This calculation of personal leave is based upon an equalized pay system of one hundred and twenty (120) hours per bi-weekly pay period, the removal of any "Kelly Days" previously provided and the requirement for these employees to take twelve (12) hours of mandatory personal leave every twenty-seven (27) day work period.

Beginning with the first accrual period of the eleventh year of continuous service, such employees shall earn personal leave at a rate of 19.85 hours per two-week accrual period. Beginning with the first accrual period of the eighteenth year of continuous service, such employees shall earn personal leave at a rate of 22.15 hours per two-week accrual period.

YEARS OF SERVICE	0-10	11-17	18+
Hours accrued biweekly	17.08	19.85	22.15
Hours accrued annually	444	516	576
Days accrued annually	37	43	48

- (2) Personal leave shall be earned by sworn firefighting personnel who are not regularly scheduled to work a twenty-four hour shift and by sworn police personnel at a rate of 11.08 hours per two-week accrual period (equivalent to the established biweekly payroll period) during the first ten years of continuous service. Beginning with the first accrual period of the eleventh year of continuous service and with each year of continuous service thereafter, said employees shall earn personal leave at the rate of 12.62 hours per two-week accrual period of employment. Beginning with the first accrual period of the eighteenth year of continuous service and with each year of continuous service thereafter, said employees shall earn personal leave at a rate of 13.85 hours per two-week accrual period of employment.

YEARS OF SERVICE	0-10	11-17	18+
Hours accrued biweekly	11.08	12.62	13.85
Hours accrued annually	288	328	360
Days accrued annually	36	41	45

- (3) Personal leave shall be earned by all other regular and probationary employees at a rate of 11.08 hours per two-week accrual period (equivalent to the established biweekly payroll period) during the first ten years of continuous service. Beginning with the first accrual period of the eleventh year of continuous service and with each year of continuous service thereafter, said regular and probationary employees shall earn personal leave at the rate of 12.31 hours per two-week accrual period of employment. Beginning with the first accrual period of the eighteenth year of continuous service and with each year of continuous service thereafter, said regular and probationary employees shall earn personal leave at a rate of 13.54 hours per two-week accrual period of employment. Regular and probationary employees who are paid on a weekly basis shall earn and accrue personal leave on a biweekly basis in the same manner as employees who are paid on a biweekly basis.

YEARS OF SERVICE	0-10	11-17	18+
Hours accrued biweekly	11.08	12.31	13.54
Hours accrued annually	288	320	352

Days accrued annually	36	40	44
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- (4) The Fire Department schedule for employees engaged in fire protection activities and shall be established by the head of the Department of Fire so as to minimize compensatory leave and overtime pay to the extent possible. This shall include the ability to require employees scheduled for more than two hundred and four (204) hours in any twenty-seven day work period to take personal leave to reduce the employee's schedule to two hundred and four (204) hours during any twenty-seven (27) day period. A twenty-four hour shift on duty shall count as two days worked and twenty-four hours off duty shall count as two days off for the purposes of this subsection. The Fire Department schedule for employees engaged in fire protection activities is established to be a twenty-seven-day work period during which each shift shall be scheduled to work nine twenty-four-hour shifts.
- (5) All other employees in the Departments of Fire and Police not governed by the provisions in subsection (b) (1) or (2) above shall be governed by the provisions of subsection (b) (3) above.
- (c) New hires, rehires and persons reinstated shall earn personal within the accrual period of employment if they receive pay for a minimum of one-half (equivalent to the standard hours per week) of the applicable period. Personal leave shall also be earned by an employee who is on a leave of absence with pay, but shall not be earned by an employee who has leave without pay or is suspended without pay for more than one-half (hours in excess of the standard hours per week) of the applicable accrual period. Earned personal leave shall be accumulated subject to the following limitations:
- (1) Personal leave shall be earned before it is taken and shall be scheduled so as to meet the operational requirements of the City and, insofar as possible, the preference of the employee.
- (2) The end of the personal leave year shall be defined as the first accrual period in March that includes the last calendar day in February. The beginning of the subsequent personal leave year shall commence the day after the first leave accrual is added in March. Each employee shall be eligible to carry over from one leave year to the next leave year not more than ten (10) days (days equivalent to standard hours for a two week period) of personal leave in addition to his/her personal leave days carried over from the previous leave year. Such carry over shall also be limited by the provisions of subsection (c) (7).

- (3) Personal leave shall not be taken in excess of twenty-five consecutive working days if such would necessitate the hiring of another person to perform the work of the person seeking leave. Personal leave for more than twenty-five consecutive working days must be approved in advance by the employee's department head.
- (4) Except upon separation from employment subject to the provisions of Section 2-180(c) of this Code, accumulated personal leave shall not be paid in cash in lieu of time off unless by resolution of the governing body of the city it is so authorized.
- (5) All employees shall provide no less than twenty-four hours notice to their respective departments of their intention to take personal leave; in cases of a verified emergency or death in the immediate family of the employee, an employee shall notify his/her supervisor of the emergency or death as soon as practicable. Any employee who fails to give the required notice may be subject to disciplinary action. In any situation when a personal leave day is taken for personal illness of the employee or a non-job-related injury, the employee shall notify his/her supervisor no less than fifteen (15) minutes prior to the commencement of his/her working day. Additionally, the employee must keep his/her supervisor informed of his/her condition and (2) furnish a doctor's statement if requested by the supervisor. Failure to furnish a doctor's statement to justify the employee's use of personal leave when requested or failure to provide a doctor's statement clearing an employee to return to work shall be cause for disciplinary action.
- (6) Employees shall not accrue personal leave while receiving payments under the injured on duty program. Notwithstanding the foregoing, any employee who is on an approved injured on duty leave during any leave year may not carry over to the next leave year more than ten days of personal leave in addition to the number of days of personal leave that such employee had carried over from the previous leave year. Such carry over shall also be limited by the provisions of subsection (c)(7) even if the employee is receiving injured-on-duty pay, at the end of the leave year.
- (7) No employee may carry over more than 150 days of personal leave to calendar year 1993 or any subsequent calendar year. Provided further, that no employee employed after March 27, 1990, may carry forward to calendar year 1994 or any subsequent leave year more than 100 days of personal leave.
- (8) Any personal leave which is required to be taken by this Code, but which is not used by an employee, shall be deducted from such employee's accumulated personal leave at the end of the respective leave year in which such leave was required to be taken.
  - (d) Any employee who is subject to the provisions of subsection (b)(1) above who transfers to any job position with the City of

Chattanooga which is subject to the provisions of subsection (b)(2) or (3) shall automatically have one-third of his or her hours of accrued personal leave subtracted. Any employee subject to the provisions of subsection (b)(2) or (3) above who transfers to any job position with the City of Chattanooga which is subject to the provisions of subsection (b)(1) above shall automatically have fifty percent of his or her hours of accrued personal leave added to his or her accrued personal leave. Any employee who is subject to the provisions of subsection (b)(1), (b)(2), or (b)(3) above and who transfers to an agency previously exempted from this Division 6 shall be subject to the operating agreement between the City and the respective agency. An employee transferring from an agency with a leave system different from this code shall not transfer any accrued leave. For the purposes of accruing future personal leave, the original employment date shall be used.

- (e) Personal leave shall accumulate as aforesaid and shall be taken subject to the discretion of the heads of the respective departments. Personal leave shall be granted at the request of the employee within a reasonable time for the request unless the operations of the department would be unduly disrupted by the employee's absence.
- (f) Accrued personal leave shall not be counted as part of the employee's "credited service" for pension purposes under the General Pension Plan. At the time of payment for personal leave, accrued personal leave shall not have deductions made for the General Pension Plan (Fire and Police Pension Fund participants also excluded – contributions only on base salary). Payment of personal leave shall not exceed the annual maximum payable under Section 2-161(c) (7).
- (g) Buy-back of personal leave. Upon application of an employee, the City of Chattanooga may purchase back from its employees personal leave which they have accrued, but only under the following circumstances and conditions which must be agreed to by each employee seeking to sell the leave:
  - (1) No more than sixty (60) days of leave will be purchased from any employee during his/her employment with the City;
  - (2) The City will pay to the employee seventy percent (70%) of the employee's daily salary for each day of leave sold back to the City by the employee;
  - (3) The employee agrees in writing that the cap on the amount of days that employee is entitled to accumulate over his/her career will be reduced on a day-for-day basis for the number of days the City is purchasing;

- (4) The City will not purchase any days which would lower the employee's total accumulated leave below thirty (30) days unless authorized in writing by the Mayor;
- (5) The practice of buying back leave will be subject to the availability of funds to do so at the time of the request, the determination of which availability will be at the sole discretion of the city administration; and
- (6) Funds realized by employees from the sale of leave will be excluded from pension-eligible earnings and will be treated as earned income.

SECTION 4. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 2, Article III, Division 9, Section 2-180, be and the same is hereby amended by repealing the existing section and substituting in lieu thereof the following:

**Sec. 2-180. Notice upon separation from service; personal leave on resignation or retirement.**

- (a) An employee who desires to resign in good standing shall submit a written resignation at least two (2) weeks in advance, setting forth his/her reasons for resigning.
- (b) Employees with up to six (6) months' service may be given one (1) week's notice of dismissal and employees with more than six (6) months' service may be given two (2) weeks' notice of dismissal except that, if in the discretion of the supervisor the interests of the City will thus be best served, payment of compensation for the notice period may be made in lieu of continued work for that period; provided, however, that, when a supervisor terminates an employee for cause, the employee shall not be entitled to compensation for the notice period.
- (c) Whenever an employment relationship is terminated, whether because of resignation, retirement, discharge or death, such employee shall receive pay for any accrued personal leave at the Regular Rate the employee is earning upon termination, provided, however, that no such payment shall be made which would increase such employee's pension benefit; in the event an employee is entitled to payment for accrued personal leave which would have the effect of increasing his or her pension benefit if paid in a lump sum upon termination, the City shall pay to such employee upon termination of employment a lump sum payment for a portion of such personal leave which would not have the effect of increasing such



employee's pension benefit, and the balance of such pay for accrued personal leave shall be due and payable in January of the next calendar year. Accrued personal leave shall not be counted as part of the employee's "credited service" for pension purposes under the general pension plan. At time of payment for personal leave, accrued personal leave shall not have deductions made for the general pension plan. Payment of personal leave shall not exceed the annual maximum payable under Section 2-161(c)(7).

SECTION 5. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two

(2) weeks from and after its passage.

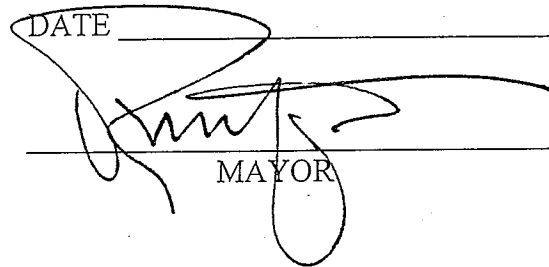
PASSED on Second and Final Reading

January 25, 2010.

  
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CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

DATE \_\_\_\_\_, 2010

  
\_\_\_\_\_  
MAYOR

CRF/kac/mms