

Ordinance No. 450-2019**Council Member:** Keane

An emergency ordinance to repeal Ordinance 1419-18, passed April 1, 2019, and to amend Section 171.57 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1492-05, passed August 3, 2005, relating to military service leave of absence.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Ordinance No 1419-18, passed April 1, 2019, is repealed.

Section 2. That Section 171.57 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No.1492-05, passed August 3, 2005, is amended to read as follows:

Section 171.57 Military Service Leave of Absence; Benefits During Service

(a) ~~All officers and employees of the City who are regular active-duty members of any component of the Armed Forces of the United States, or reservists who are called to active-duty to serve in the Ohio National Guard, the Ohio Defense Corps, the Ohio Naval Militia or other reserve components of the Armed Forces of the United States, are entitled to a leave of absence from their respective duties for such time as they are in the military service on field training or active duty. If a City employee's military pay or compensation during such period of leave of absence is less than his or her City pay would have been for such period, he or she shall be paid, by the City, the difference in money between the City pay and his or her military pay for such period.~~

members of the Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio national guard, are entitled to a leave of absence from their respective positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each year in which they are performing service in the uniformed services.

(b) As used in this section:

(1) "Year" means calendar year.

(2) "Month" means twenty-two eight-hour work days or one hundred seventy-six hours, or for a public safety employee, seventeen twenty-four-hour days or four hundred eight hours, within one year.

(3) "Officer and employee" means any person holding a position in employment with the City that requires working a regular schedule of twenty-six consecutive biweekly pay periods, or any other regular schedule of comparable consecutive pay periods, which is not limited to a specific season or duration. "Officer and employee" does not include student help; intermittent, seasonal, or external interim employees; or individuals covered by personal services contracts.

(4) "Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, and performance of duty or training by a member of the Ohio organized militia pursuant to Chapter 5923 of the Revised Code. "Service in the uniformed services" includes also the period of time for which a person is absent from a position of public or private employment for the purpose of an examination to determine the fitness of the person to perform any duty described in this division.

(5) "Uniformed services" means the armed forces, the Ohio organized militia when engaged in active duty for training, inactive duty training, or full-time national guard duty, the commissioned corps of the public health service, and any other category of persons designated by the president of the United States in time of war or emergency.

(6) "Public safety employee" means a City employee who is employed as a fire fighter or emergency medical technician.

(c) Except as otherwise provided in division (d) of this section, any officer or employee of the City, who is entitled to the leave provided under division (a) of this section, and who is called or ordered to the uniformed services for longer than a month, for each year in which the employee performed service in the uniformed services, because of an executive order issued by the president of the United States, because of an act of congress, or because of an order to perform duty issued by the governor pursuant to section 5919.29 of the Revised Code is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence:

The difference between the officer's or employee's gross monthly wage or salary as an officer or employee and the sum of the officer's or employee's gross uniformed pay and allowances received that month.

(d) No officer or employee shall receive payments under division (c) of this section if the sum of the officer's or employee's gross uniformed pay and allowances received in a pay period exceeds the officer's or employee's gross wage or salary as an officer or employee for that period or if the officer or employee is receiving pay under division (a) of this section.

(e) Each officer or employee who is entitled to leave provided under division (a) of this section shall submit the published order authorizing the call or order to the

uniformed services or a written statement from the appropriate military commander authorizing that service, prior to being credited with that leave.

(f) Any officer or employee whose employment is governed by a collective bargaining agreement with provision for the performance of service in the uniformed services shall abide by the terms of that collective bargaining agreement with respect to the performance of that service, except that no collective bargaining agreement may afford fewer rights and benefits than are conferred under this section.

~~(b)~~(g) For purposes of hospitalization, life insurance, vacation leave, sick leave and longevity pay, a person on a military leave of absence shall be deemed to be in the service of the City.

Section 3. That existing Section 171.57 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No.1492-05, passed August 3, 2005, is repealed.

Section 4. That the provisions of this section shall be in full force and effect from the effective date and forward of this ordinance.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed April 15, 2019.

Effective April 17, 2019.