

ORDINANCE 17, 2003

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA, AMENDING THE MUNICIPAL CODE TO CREATE A MILITARY LEAVE
POLICY

STATEMENT OF PURPOSE AND INTENT

The Common Council of the City of Valparaiso, Indiana recognizes that as a part of the response by the United States of America to the September 11, 2001 terrorist attacks and subsequent impending attacks, that the Department of Defense has activated many military reservists. As a direct result of this activation, employees of the City of Valparaiso, Indiana may be temporarily leaving their civilian jobs for duty in the armed services.

The responsibilities of employers to these employees are governed in part by the "Uniformed Services Employment and Reemployment Rights Act of 1994" (USERRA) which aims to minimize the disadvantages to civilian employment that may result for military service. USERRA helps protect any employee who temporarily leaves a civilian job for "uniformed service" which includes service in the Army, Navy, Air Force, Marines, Coast Guard, Army and Air National Guard, as well as the commissioned corps of the Public Health Service. Uniformed service includes all forms of active duty: inactive training duty, and examinations to determine fitness to perform these duties.

In the 2002 Second Regular Session of the General Assembly of the State of Indiana, a Senate Concurrent Resolution was introduced "urging employers to support employees serving in reserve units and in the National Guard". The Resolution recommended that "Indiana employers with the means to do so are supporting their employees who are called up to serve in the National Guard and in reserve units by such actions as pledging to make up the difference between employees' civilian and military pay and continuing the workers' benefits.

The Valparaiso Common Council, in conjunction with the City Administration, stands behind and proudly supports any and all City employees called to active duty and service to our country. The Council and Administration desire to establish terms and conditions of the employment of those City employees while on active duty related to official orders of the President of the United States of America or the Governor of the State of Indiana, which ratify and go beyond the minimum requirements of the law so that those City employees and their families and dependents are properly supported.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, the chapter 34.03 of the Municipal Code of the City of Valparaiso, Indiana be created as follows:

Sec, 34.03 LEAVE OF ABSENCE FOR MILITARY TOUR OF DUTY

(a) Covered Employees,

1. The terms of employment policies embodied within this section apply to all regular full-time employees of the City of Valparaiso and sworn officers called to military tour of duty in the Armed Forces of the United States of America, the commissioned corps of the Public Health Service, military duty in the "uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) 38 U. S. Code §4301, or the Indiana National Guard for service related to the deployment of troops upon official Order of the President of the United States or the Governor of the State of Indiana, herinafter referred to as "active duty".
2. Each covered employee shall be considered as remaining in the employ of the City of Valparaiso, Indiana, in an inactive status while on active duty related to an ordered deployment of troops. Each covered employee shall continue in such inactive status until such time as he or she is released from active duty in good standing, or the date of receiving written confirmation of said covered employee being deceased and where applicable, the date on which he or she resumes active employment with the City of Valparaiso.

3. Each covered employee must return to active employment with the City of Valparaiso within thirty (30) days after such time as he or she is released from active duty in good standing or from hospitalization continuing after discharge. Upon return to employment, each covered employee, if still qualified to perform the duties of the position he or she held immediately prior to being called to active duty, shall be restored to such position or to a position of the like seniority, status and pay. If any covered employee is not qualified to perform the duties of the position he or she held immediately prior to being called to active duty, by reason of disability sustained during such service, but is qualified to perform the duties of any other position in the employ of the City, he or she shall be offered employment, and if such covered employee so requests, shall be employed in such other position the duties of which the covered employee is qualified to perform as will provide him or her like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances in his or her case.

(b) Wages and Benefits

1. Each covered employee shall be allowed to opt to receive compensation at his or her current rate of pay for all unused leave days available on his or her last day of active employment with the City before reporting for active duty
2. Following the paid leave in ¶ 1 herein, each covered employee shall receive a regular scheduled paycheck from the City in an amount equal to the difference between his or her current gross City wage and his or her gross military wage (including all entitlements) for active duty. It is the employee's responsibility to inform the Human Resources and the Clerk-Treasurer's office if the gross military wage is less than the employee's gross City wage. In no event shall the total of gross military pay for active duty and gross City wages (including any amount paid under §1 herein,) exceed in any calendar year the total gross wages that would have been earned by the covered employee in his or her City position had he or she not been called to active duty. Reconciliation of the amounts owed to or by the city shall occur as needed following the employee's return to active City employment
3. For purposes of computing the covered employee's gross City wages, each covered employee shall receive that annual increase he or she would have received had he or she not been called to active duty.
4. Leave days will not accrue during such time the covered employee is on active duty.
5. Time on the job and seniority will accrue during such time that the covered employee is on active duty.

(c) City's Group Insurance and Life Benefits

1. The covered employee shall have the choice of terminating such coverage upon the City receiving written confirmation that the subject employee is on active duty and is formally covered for medical insurance purposes as an employee of the United States Government, or continuing such coverage subject to continued payment of his or her share of the premium. The covered employee shall be responsible for seeing that proper documentation is sent to the Human Resources Department in a reasonable period of time upon going on active duty.
2. Dependents of covered employees with the City's group insurance coverage at the time the covered employee reports to active duty, may remain covered while the covered employee is activated to active duty, subject to the provisions set forth in ¶ 1 herein.

3. Any life insurance provided to the covered employee by the City will continue under the rules of the policy while the covered employee is on active duty.

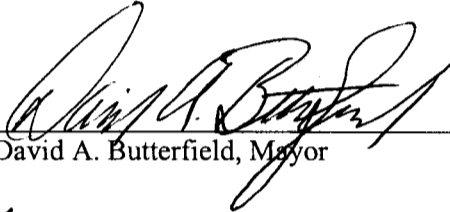
(d) Pension Benefits

To the extent allowed by law, the City shall during each covered employee's term of active duty, continue to pay all pension benefits due the employee by virtue of his or her employment.

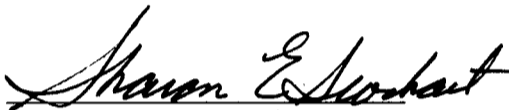
The City Administration shall amend any personnel policy in place addressing "Leave of Absence", where necessary, in order to comply with the provisions of this ordinance. Any changes to current policy manuals shall be presented to the Board of Public Works & Safety for approval.

This ordinance shall be in full force and effect after its passage by the Council and approval by the Mayor.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a 5-0 vote of all members present and voting, this 24th day of March, 2003.



David A. Butterfield, Mayor

ATTEST: 

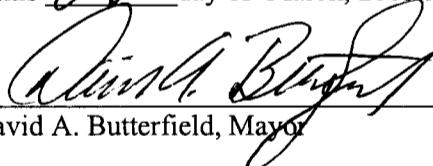
Sharon E. Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 24th of March 2003, at the hour of 7:10 o'clock P.M.



Sharon E. Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 24th day of March, 2003 at the hour of 7:10 o'clock P. M.



David A. Butterfield, Mayor