

ORDINANCE NO. O-05-10

**Amending Division 2 of Chapter 102 of Gadsden  
City Code Regarding Family and Medical Leave**

Whereas, Section 565 of the National Defense Authorization Act for FY2010, Pub.L. 111-84, further amended the Family and Medical Leave Act of 1993, Pub.L. 103-3, codified at 29 U.S.Code §§2601 et seq., regarding military caregiver leave and qualifying exigency leave, as last revised by the City Council in adopting Ordinance No. O-27-09;

Now, Therefore, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GADSDEN, ALABAMA, as follows:

Section 1. Section 102-122 of the Gadsden City Code is amended to read as follows:

**DIVISION 2. FAMILY AND MEDICAL LEAVE**

**Sec. 102-122. Qualifying reasons for leave.**

- (a) Family and medical leave shall be provided to eligible employees under the following circumstances:
- (1) For birth of a son or daughter, and to care for the newborn child, as provided in 29 CFR §825.120.
  - (2) For placement with the employee of a son or daughter for adoption or foster care, as provided in 29 CFR §825.121.
  - (3) To care for the employee's spouse, son, daughter or parent with a serious health condition, as provided in 29 CFR §§825.113 and 825.122.
  - (4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job, as provided in 29 CFR §§825.113 and 825.123.
  - (5) Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty in a foreign country (or has been notified of an impending call or order to covered active duty in a foreign country) in the armed forces, including the National Guard or Reserve, as provided in 29 CFR §§825.122 and 825.126, as amended by Section 565 of Public Law 111-84.

(6) To care for a covered service member with a serious injury or illness incurred in the line of duty while on covered active duty (or existed before the beginning of active duty and was aggravated by service in line of duty on covered active duty) in the armed forces at any time during the period of five years preceding the date on which the covered service member undergoes medical treatment, recuperation or therapy (or, in the case of a member of the armed forces who is not a veteran, is otherwise in outpatient status or is otherwise on a temporary disability retired list for a serious injury or illness), if the employee is the spouse, son, daughter, parent or next of kin of the covered service member, as provided in 29 CFR §§825.122 and 825.127, as amended by Section 565 of Public Law 111-84.

(b) An eligible employee may take up to 12 weeks of annual FMLA leave for (a)(1) through (a)(5). An eligible employee may take up to 26 weeks of annual FMLA military caregiver leave for (a)(6).

Section 2. The provisions of this ordinance shall be effective on publication.

Section 3. The sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable. If any section, subsection, paragraph, sentence, clause and phrase of this ordinance is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this ordinance. The city council declares that it is its intent that it would have enacted this ordinance without such invalid or unconstitutional provisions.

Section 4. The provisions of this ordinance repeal any prior ordinance or provision of the Gadsden City Code to the extent of any conflict.

I certify that the City Council of the City of Gadsden, Alabama, duly adopted this ordinance at a public meeting held on January 12, 2010.

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Iva Nelson, City Clerk

APPROVED on January \_\_\_\_\_, 2010

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Sherman Guyton, Mayor