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**ORDINANCE NO. 3722**

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECC 2.36.020 TO ELIMINATE DISTINCTIONS BETWEEN VOLUNTARY AND INVOLUNTARY SERVICE AND THE PROVISION OF BENEFITS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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WHEREAS, in 2001 and 2002, the City enacted and amended provisions relating to involuntary military service to provide for the payment for sixty (60) days of the difference between the employee's regular wage and monetary compensation provided to the employee for military service, as well as an extension for ninety (90) days of insurance benefits in order to lessen the impacts of involuntary service upon City employees; and

WHEREAS, federal law, specifically 43 USC 4311(a) to prohibit discrimination between persons who apply for or are required to perform military service and the extension of benefits; and

WHEREAS, in order to comply with federal law, the City hereby expands the provisions of Section 2.36.020 to provide equivalent benefits to individuals who enlist for military service; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. Section 2.36.020 of the Edmonds City Code relating to City benefits applicable during periods of military service is hereby amended to read as follows:

**2.36.020 Military service.**

A. Subject to the provisions of subsections B through G of this section, every city employee who is called to active duty or enlists for duty in the Washington National Guard, or in the Army, Navy, Air Force, Coastguard or Marine Corps of the United States of America shall be entitled to receive from the City, commencing on the first day the employee reports for active duty, or the first day of duty after expiration of accrued leave [see subsection (4) below] and continuing for the period specified below, or until the employee's discharge from service, whichever first occurs:

1. For sixty (60) days, the difference, if any, between the employee's regular salary or wages, fixed as of the last day of service rendered to the City prior to reporting for active duty, and the military compensation paid to the employee for the employee's military service, inclusive of housing and food allowances and other similar expenses; and

2. For ninety (90) days, following the expiration of leave provided for in subsection (A)(1) of this section: medical, dental and vision benefits for the employee and the employee's dependents, at the same level as provided to the employee and the employee's dependents as of the last day of service rendered to the City prior to reporting for active duty. To the extent consistent with plan documents, the employee may continue to participate in the MEBT plan for so long as the employee receives eligible compensation salary under Section A(1) or through the use of accrued leave.

3. An employee shall be entitled to utilize the total of the benefits set forth in this section once within any five (5) calendar year period. The five year period shall commence on the first day such benefit(s) are used.

4. An employee may utilize vacation, compensatory time and other forms of accrued leave for eligible for use in accordance with the terms of, and limitations on the use of, such accrued leave, prior to or in conjunction with the use of military leave, in order to supplement or extend the benefits created by this chapter. Use of such benefits shall result in an adjustment of time limits for military leave to reflect the usage of accrued leave.

B. In order to qualify for the compensation in benefits provided under subsection (A) of this section, an employee who is involuntarily called to, or enlists in active military service must execute an agreement obligating the employee to return to work at

the City upon completion of active duty and within the employment rights period established by federal law. The agreement shall provide that if the employee fails to return to city employment during the time period prescribed by law, the employee shall be obligated to reimburse the city for all compensation and benefits that are paid under this section.

C. In order to receive the compensation provided by subsection (A)(1) of this section, the employee shall be required to submit copies of his or her military pay stubs showing all compensation received from the military during the period of active service. The employee may submit such stubs once per pay period but no more frequently than once every two weeks. The City shall pay the compensation amount due under subsection (A)(1) of this section, if any, at the time of the city's next regularly scheduled payroll.

D. City employees who have already been involuntarily called to military service or enlisted in military service prior to the effective date of the amendment of this ordinance may qualify for the compensation and benefits provided herein by signing an agreement to return as provided in subsection (B) of this section. In such case, the sixty (60) days of compensation and benefits and the ninety (90) days of insurance continuation shall commence on the date the agreement is signed.

E. During the period of military leave, the employee shall not accrue or receive any other compensation, benefits, seniority or any other rights whatsoever from the city except those specifically provided for in this section and those specifically required by state and federal law, except to the extent that additional leave accrues through the use of accrued leave under subsection (A)(4) of this section.

F. Use of the term "employee" in this section in order to describe those called to military service is for convenience only and is not intended to imply that such persons remain city employees during the period of active duty. Upon completion of the last day of service for the city prior to reporting for active military service, such person is no longer a city employee for any purpose, unless and until reemployed by the city as provided under state and federal law.

G. Nothing herein shall be interpreted to expand the rights of employees to return to the city beyond those granted by state and federal law. By way of illustration and not limitation, the city reserves its right to determine whether an employee can be

reasonably accommodated in the event that he/she becomes disabled, to refuse to employ an individual who is dishonorably discharged or otherwise exercise its statutory or common law discretion as a public employer.

Section 2. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

  
\_\_\_\_\_  
MAYOR GARY HAAKENSON

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
\_\_\_\_\_  
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	01/02/2009
PASSED BY THE CITY COUNCIL:	01/06/2009
PUBLISHED:	01/14/2009
EFFECTIVE DATE:	01/19/2009
ORDINANCE NO. <u>3722</u>	

**SUMMARY OF ORDINANCE NO. 3722**

of the City of Edmonds, Washington

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On the 6th day of January, 2009, the City Council of the City of Edmonds, passed Ordinance No. 3722. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECC 2.36.020 TO ELIMINATE DISTINCTIONS BETWEEN VOLUNTARY AND INVOLUNTARY SERVICE AND THE PROVISION OF BENEFITS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 7th day of January, 2009.

  
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CITY CLERK, SANDRA S. CHASE

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

}  
S.S.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice



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DATED this 7th day of January, 2009.  
CITY CLERK, SANDRA S. CHASE  
Published: January 14, 2009.

Summary of Ordinance No. 3722

Amending Provisions of ECC 2.36.020

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

January 14, 2009

and that said newspaper was regularly distributed to its subscribers during all of said period.

*Jody Groll*

Principal Clerk

Subscribed and sworn to before me this

14th

day of

January, 2009

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

