

RESOLUTION NO. 3788

A RESOLUTION CREATING A LEAVE ADMINISTRATION POLICY WITHIN THE CITY OF MILES CITY PERSONNEL POLICIES

WHEREAS, the City of Miles City has established certain personnel policies for officers and employees of the City of Miles City, which are set forth in the City of Miles City Personnel Manual;

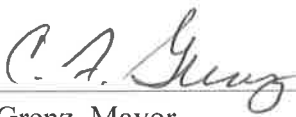
AND WHEREAS, the City wishes to adopt a new policy regarding the administration of employee leave;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. That the policy titled "Leave Administration" attached hereto as Exhibit "A" and made a part hereof, is hereby adopted by the Council, and shall be placed in the City of Miles City Personnel Policy Manual.

2. The foregoing policy shall become effective immediately upon the passage of this resolution.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 24th DAY OF MARCH, 2015.


C.A. Grenz, Mayor

ATTEST:



Lorrie Pearce, City Clerk


EXHIBIT "A"

SECTION 5

Leave Administration



City of Miles City

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Vacation Leave		
Resolution #		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that vacation time is earned based upon years of service and is an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to administer and grant annual vacation leave in accordance with Title 2, Chapter 18, Part 6 of the Montana Code Annotated.

- A. Eligible Employees:** Employees who have by statute met the six (6) month qualifying period and are considered:
1. Regular Full-Time Employees;
 2. Regular Part-Time Employees (hours earned pro-rated);
 3. Temporary Full-Time Employees;
 4. Temporary Part-Time Employees (hours earned pro-rated);
 5. Seasonal Employees (hours earned pro-rated).
- Short term employees do not earn leave or time toward the rate earned.

Employees must be employed with the City of Miles City for six (6) consecutive or qualifying months before the employee can use earned vacation. Part-time employees are entitled to pro-rated vacation benefits if they have regularly scheduled work assignments and have worked six (6) consecutive months.

- B. Vacation Leave Credits:** The earned number of vacation hours an employee is eligible to use upon completion of the qualifying period.

PROCEDURE

A. Calculation of Vacation Leave Credits:

Vacation leave credits shall be earned at a yearly rate calculated in accordance with the following schedule, in which one (1) year equals 2,080 hours of work:

VACATION RATE EARNED SCHEDULE		
YEARS OF SERVICE	VACATION HOURS PER YEAR	WORKING DAYS CREDIT PER YEAR
1 day up to 10 years	120 hours	15
10 years up to 15 years	144 hours	18
15 years up to 20 years	168 hours	21
20 years or more	192 hours	24

*Overtime hours are not counted in the calculation of vacation credits earned.

B. Rules Applied to Vacation Leave:

- Employees begin earning leave credits the first day of employment.
- Vacation leave credits earned are credited at the end of each pay period.
- No vacation time leave with pay shall be granted in advance of credits earned.
- An employee may not accrue vacation leave credits while in a leave-with-out pay status.
- An employee must continuously be employed for the qualifying period of six (6) months to be eligible to take or receive cash compensation for vacation leave upon termination.
- An employee is only required to serve the qualifying period once.
 - However, in the event of a break in service, an employee must again complete the qualifying period to be eligible to use vacation leave.
- Seasonal employment: accrued vacation leave credits may be carried over to the next season. If annual vacation leave credits are carried over, employment in two (2) or more seasons is continuous employment and can be counted toward the six (6) month qualifying period.
- Vacation leave taken over a holiday may not be charged to an employee's vacation leave for that day.

C. Vacation Leave Requests:

Prior to the date of requested leave, employees will submit all vacation leave requests on a "Leave Time Authorization" form to their Department Director for approval.

The dates when employee's vacation leave shall be granted shall be determined by agreement between each employee and his or her Department Director, with regard to the best interest of the City, as well as the best interests of each employee. Where the interest of the City requires the employee's attendance, the City's best interest overrides the employee's interest.

D. Transferred Employees:

If an employee is transferred between departments, the employee will not be entitled to a lump sum pay for accrued vacation leave credits. The department receiving the transferred employee shall assume the liability for the accrued vacation credits earned.

E. Prior Service with another Montana Agency:

To be eligible to ~~claim prior employment~~ hours from another Montana Agency (meaning any legally-constituted department, board or commission of State, County, or City Government or any political subdivision thereof), towards an employee's vacation accrual rate, an employee must fill out a "Certification of Prior Employment Hours for Annual Vacation Leave Rate Earned" form and submit it to the Human Resources/Payroll Office.

F. Leave of Absence:

If an employee who has not worked the qualifying period required for use of annual vacation leave takes an approved continuous leave of absence without pay exceeding fifteen (15) working days, the amount of time on leave of absence will not count toward completion of the qualifying period.

A leave of absence exceeding fifteen (15) days is not a break in service and the employee will not lose any accrued annual leave credits or lose credit for time earned toward the qualifying period.

An approved continuous leave of absence without pay of fifteen working days or less will be counted as time earned toward the 6 (six) month qualifying period.

CLOSING

A. "Use it or Lose it":

The maximum accumulation of vacation leave allowed is twice the number of days the employee earns annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within ninety (90) days from the last day of the calendar year in which the excess was accrued. (March 31st)

Max Vacation Hours prior to "Use it or Lose it"		
YEARS OF SERVICE	VACATION HOURS PER YEAR	MAX ACCUMULATION OF VACATION HOURS
1 day up to 10 years	120 hours	240 hours
10 years up to 15 years	144 hours	288 hours
15 years up to 20 years	168 hours	336 hours
20 years or more	192 hours	384 hours


Department Directors are responsible for actively managing vacation leave for department employees by providing reasonable opportunity for an employee to use, rather than forfeit, accumulated vacation leave. Directors are encouraged to work with an employee who has an excess vacation leave balance as early as possible in the ninety (90) day window (or at any time

the employee's leave balance exceeds two (2) times the annual vacation accrual rate) in order to allow the employee to avoid forfeiture of excess leave.

- ✓ Department Directors will receive "Vacation Accrual" reports every payroll cycle.
- ✓ The Human Resources/Payroll Office will send out "Use it or Lose It" notices to all employees with excess vacation time, with a copy to and their Directors, on or before December 1st.

B. Lump Sum Payment Upon Separation:

Upon separation from the City, an employee who has worked the qualifying period, will receive a lump sum payment of the pay attributed to unused vacation leave. The payment will be computed at the employee's rate of compensation at the time of termination.

 <p>CITY OF MILES CITY PERSONNEL POLICY</p>	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Sick Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that sick leave is earned based upon months of service, and is an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to administer and grant sick leave in accordance with Title 2, Chapter 18, Part 618 of the Montana Code Annotated.

- A. Eligible Employees:** Employees who have by statute met the ninety (90) day qualifying period and are considered:

1. Regular Full-Time Employees;
2. Regular Part-Time Employees (hours earned pro-rata);
3. Temporary Full-Time Employees;
4. Temporary Part-Time Employees (hours earned pro-rata);
5. Seasonal Employees (hours earned pro-rata).

- Short term employees do not earn leave or time toward the rate earned.

- C. Sick Leave Credits:** The earned number of sick leave hours an employee is eligible to use upon completion of the qualifying period.

PROCEDURE

- A. Conditions of Use of Sick Leave:**

- Illness;
- Injury;
- Medical disability;
- Maternity-related disability: including prenatal care, birth, miscarriage or other medical care for either employee, child or spouse;
- Parental Leave;
- Quarantine resulting from exposure to contagious disease;
- Medical, dental or eye examination or treatment;
- Necessary care or attendance to an immediate family member (or, at the Department Director's discretion, another relative) for the above reasons until other attendance can reasonably be obtained; and
- Death or funeral attendance for an immediate family member or, at the Department Director's discretion, another person.

B. Calculation of Sick Leave Credits:

Sick leave credits shall be earned at a yearly rate calculated in accordance with the following schedule, in which one (1) year equals 2,080 hours of work.

C. Rules Applied to Sick Leave:

- Employees begin earning leave credits the first day of employment.
- Full-time employees earn sick leave at a rate of eight (8) hours per month.
- Part time employees earn sick leave on a pro-rated basis, depending on how many hours are worked.
- Sick leave credits earned are credited at the end of each pay period.
- No sick time leave with pay shall be granted in advance of credits earned.
- An employee may not accrue sick leave credits while in a leave-without-pay status.
- An employee must continuously be employed for the qualifying period of three (3) months to be eligible to take or receive cash compensation for sick leave upon termination.
 - Cash compensation pay-out for unused sick leave is equal to one-fourth the accumulated sick leave credits.
- An employee is only required to serve the qualifying period once.
 - However, in the event of a break in service, an employee must again complete the qualifying period to be eligible to use sick leave.
- Seasonal employment: accrued sick leave credits may be carried over to the next season, or paid out as a lump-sum when the season is over, provided the employee has served the qualifying time.
- There is no restriction as to the number of hours of sick leave credits that may be accumulated, nor to the number of accrued sick leave credits that may be used for a bona fide employee illness or disability.
- Sick leave taken over a holiday may not be charged to an employee's sick leave for that day.

D. Sick Leave Requests:

An employee shall notify his or her Supervisor and/or Department Director of the need to use sick leave as soon as possible prior to the commencement of his or her shift, or as soon as possible thereafter in the case of an emergency.

Employees will submit all sick leave requests on a "Leave Time Authorization" form to their Department Directors as soon as they return.

E. Sick Leave in Excess of Three (3) Continuous Working Days:

- A diagnosis of sickness from a qualified doctor may be requested by the employee's Department Director for any sick leave in excess of three (3) continuous working days.
 - Sick leave records will be forwarded to the Human Resource/Payroll Office to be filed in the employee's confidential medical file.
- At the City of Miles City request and expense, an employee may be subject to an examination by a physician following a sick leave or other absence occasioned by illness or injury to ensure that the employee can complete the necessary functions of the position.

F. Transferred Employees:

If an employee is transferred between departments, the employee will not be entitled to a lump sum payout for accrued sick leave credits. The department receiving the transferred employee shall assume the liability for the accrued sick credits earned.

G. Sick Leave Substituted for Annual Leave:

At the Department Director's discretion, an employee who experiences an appropriate use of sick leave as defined in the policy while taking approved vacation leave may be allowed to substitute accrued sick leave credits for vacation leave credits.

G. Leave of Absence:

If an employee who has not worked the required qualifying period for use of sick leave and takes an approved continuous leave of absence without pay exceeding fifteen (15) working days, the amount of time for the leave of absence will not count toward completion of the qualifying period.

A leave of absence exceeding fifteen (15) days is not a break in service and the employee will not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period.

An approved continuous leave of absence without pay of fifteen working days or less will be counted as time earned toward the 3 (three) month qualifying period.

H. Abuse of Sick Leave:


The Department Director has the responsibility to monitor the use of sick leave in his or her department.

- Misrepresentation of the actual reason for charging an absence to sick leave, or chronic, persistent or patterned use of sick leave, constitutes abuse of the sick leave benefit. Abuse is subject to progressive discipline, up to termination and forfeiture of the lump sum payment.
- Absences improperly charged to sick leave may, at the City's discretion, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the City.

CLOSING

A. Lump Sum Payment Upon Separation:

Upon separation from the City, an employee who has worked the qualifying period will receive a lump sum payment equal to one-fourth of the pay attributed to unused sick leave. The payment will be computed at the employee's rate of compensation at the time of termination.

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Holiday Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that Legal State holidays are an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to observe the following Legal State holidays:

Legal State Holiday	Date
New Year's Day	January 1 st
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11 th
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25 th
Every day in which a General Election is held throughout the State of Montana	

If any of the above holidays fall on a Sunday, the following Monday is a holiday. If the holiday falls on a Saturday, the preceding Friday is a holiday.


PROCEDURE

A. Holiday Benefits and Eligibility Requirements:

1. An employee shall receive holiday benefits and pay for work performed on the day the holiday is observed, unless the employee is scheduled or required to work on the actual holiday. If the employee is scheduled or required to work on the actual holiday, the actual holiday shall be considered as the holiday for purposes of calculating holiday benefits and pay for work performed on a holiday. The employee will receive either holiday benefits for working on the day the holiday is observed or for working on the actual holiday, but not both.
2. All full-time regular or seasonal status employees shall receive regular scheduled work hours off with pay for days observed as legal holidays or authorized proclaimed workdays off, provided they are in an active pay status on either the last regularly scheduled working day prior to the holiday or the first regularly scheduled working day after the holiday. Employees whose first day of work is the day after a holiday are not eligible for holiday pay. If an employee's last day of work is the day before a holiday he or she will not receive holiday pay.
3. All part-time regular or seasonal status employees shall receive holiday pay on the following prorated basis:
 - Average less than 20 hours per week in previous pay period = 2 hours
 - Average 20-24 hours per week in previous pay period = 4 hours
 - Average 25-29 hours per week in previous pay period = 5 hours
 - Average 30-34 hours per week in previous pay period = 6 hours
 - Average 35-39 hours per week in previous pay period = 7 hours
4. A short-term worker is not eligible to receive holiday benefits.
5. Non-Exempt employees who are called to work or required to work by their Directors on a legal holiday for which they would regularly be scheduled a day off with pay, shall be eligible to receive payment at a rate of one and one half times their normal pay rate for the hours worked.
6. Exempt employees who are required to work on a legal holiday, for which they are entitled to a day off with pay, shall be eligible to receive compensatory time at a rate of one hour earned for one hour worked.

CLOSING

The Mayor or Department Directors reserve the right to require an employee to work on the day a holiday is observed.

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Jury Duty and Witness Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

The City of Miles City believes that it is the civic duty of each City employee to serve on a jury or testify in a Court proceeding if the employee is properly summoned or subpoenaed.

POLICY

It is the policy of the City of Miles City that a City employee shall be eligible to serve as a witness in court, judicial proceeding, administrative proceeding, or serve jury duty when properly subpoenaed or summoned.

PROCEDURE

A. Notification:

1. An employee shall complete an employee leave request form and inform his or her Department Director of the date and anticipated length of absence as soon as possible after being summoned or subpoenaed.
2. An employee will be required to furnish a copy of the summons or subpoena with the leave request form.

B. Rate of Compensation:


1. Employees may take leave with pay (without use of vacation or compensatory credits) and forward any payment received from the court to the Human Resources/Payroll office within three (3) working days of receiving said payment.

- Expenses such as reimbursement for parking, mileage and meals are excluded.
2. Employees may keep all costs associated with court proceedings, but must take vacation leave credits or compensatory credits during their absence from the City.

CLOSING

An employee who is properly serving as a witness in court, judicial proceeding, administrative proceeding, or serving jury duty will continue to earn and accrue all benefits that the employee would normally earn.

The Mayor or Department Directors reserve the right to request the court to excuse their employees from jury duty if they are needed for the proper operation of a department.

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Military Leave		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

PURPOSE

To establish procedures for requesting and accounting for a leave of absence by employees of the City of Miles City for participation in obligations with the United States Armed Forces.

POLICY

It is the policy of the City of Miles City to provide fifteen (15) working days paid leave in a calendar year for an employee to attend annual training camp or other similar training of the organized militia of the State or the military forces of the United States or to attend regularly scheduled training, such as drills.

Unpaid Extended Military Leave

After exhausting the fifteen (15) working days of paid annual military leave, eligible employees are entitled to unpaid extended military leave under the following conditions:

- As members of the United States Armed Forces reserve components called to active duty during a national emergency or
- As members of the state military forces, the United States Armed Forces reserve components, or the United States Armed Forces leaving a City position to enter active military service

PROCEDURE

- A. The City of Miles City shall comply with all provisions outlined in the Uniformed Services Employment and Reemployment Rights Act, (USERRA, 38 USC Sec. 2021, [4321] et seq.) as well as all relevant state laws to include Montana Military Service Employment Acts, 10-1-1001, MCA - 10-1-1027, MCA as well as all relevant State laws covering members of the

Montana Army and Air National Guard.

- B.** An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for a period of six (6) months shall be given leave of absence with pay for a period of time not to exceed fifteen (15) working days in a calendar year. It can be for attending regular encampments, training cruises and similar training programs of the military forces of the United States.
- An employee on military leave receives his or her regular gross salary and benefits.
 - This leave will not be charged against the employee's annual vacation time.
 - Unused military leave must be carried over to the next calendar year, if applicable, but may not exceed a total of 240 hours in any calendar year.
 - The City is not required to allow an employee to make up any regular or overtime hours missed as a result of attending training such as drills.
- C.** An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for less than six (6) months is entitled to unpaid leave for the purposes listed in (B).
- D.** Notification or Request for Military Leave: The employee must notify the Director of the call to military service as soon as the information is known. Service members must provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. A copy of the orders is required by City policy, and may be provided at the end of such leave should circumstances prevent the employee from providing it in advance.


CLOSING

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services.

The City of Miles City may not deny an employee:

- Initial employment;
- Reemployment;
- Retention in employment;
- Promotion; or
- Any benefit of employment.

Any questions concerning employees' rights should be directed to the Human Resources/ Payroll Office.

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Disaster and Emergency Leave		

- This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.

PURPOSE

To establish uniform procedures for managing leave during a disaster or emergency for employees of the City of Miles City.

POLICY

It is the policy of the City of Miles City to grant leave in the event of a disaster or emergency in compliance with this policy and with policies or laws relating to military leave, annual vacation leave, sick leave, leave of absence without pay and compensatory time.

PROCEDURE

A. Declared Disaster or Emergency:

The Governor, through executive order, may authorize temporary paid time off to employees when a worksite is closed because of a local disaster or emergency as provided in Title 10, Chapter 3, Parts 1 -4, MCA. Additionally, agencies may authorize, with approval by the governor, paid time off to employees when faced with a temporary localized worksite closure due to a situation not rising to the level of a disaster or emergency declared by the Governor. Finally, agencies are authorized to grant employees up to 15 (fifteen) days per calendar year of paid leave to participate in specialized disaster relief services for the American Red Cross (2-18-627, MCA).

Employees will receive approved paid time off only for regularly scheduled hours.

B. Affected Employees and Paid Time Off:

When the Governor declares a disaster or emergency pursuant to 10-3-302 & 303, MCA, and authorized temporary paid time off to employees, those affected shall receive paid time off. The

time off shall not be deducted from employees' accrued leave time or compensatory time.

Typically, employees are affected by a disaster or emergency when their lives and the lives of immediate household members, or their personal property, is endangered during a declared disaster or emergency. A City employee who is a member of the Montana National Guard and who is ordered to active Federal or State service by competent authority is not an affected employee under ~~this~~ policy.

Following a declaration of a disaster or emergency by the Governor, each Department Director shall decide on a case-by-case basis whether employees are affected and the period of time for which employees should receive paid time off, consistent with the terms of the executive order. Employees requesting emergency leave under this policy must state the reasons why they are "affected by" the emergency.

Employees who are not affected and report for work and perform regular duties and responsibilities during a declared disaster or emergency will be paid their normal salary.

C. Worksite Closure and Paid Time Off:

1. **Closure of City-Controlled Facilities:** A Department Director may declare an affected worksite closed when the site is under his or her authority and with the approval of the Mayor or his or her designee.
2. **Close of Non-City-Controlled Facilities:** In some cases, employees may be temporarily or permanently assigned to a worksite that is not a City-Controlled Facility. These facilities may be ordered closed by the appropriate authorities without seeking the Mayors approval.

E. Paid Time Off:

When facilities are ordered closed by those with the authority to do so, and under circumstances similar to those described in this policy, affected employees may receive paid disaster and emergency leave with the approval of the Mayor or his or her designee.

In the event of an approved worksite closure, Department Directors may choose to temporarily reassign employees to alternate worksites or approve paid disaster and emergency leave. The Department Director or Mayor shall determine which employees are affected by the worksite closure and which will be reassigned to alternate worksites.

Employees will receive paid time off only for regularly scheduled work hours occurring during a worksite closure.

Employees who voluntarily report for work and perform their regular duties during the closure of an affected worksite will be paid their normal salaries.

Employees will earn compensatory time in addition to their normal salary if management requires they remain at work or requires they report to work to perform essential services during the

closure of an affected worksite. This provision applies to exempt and non-exempt positions. All overtime provisions also apply.

F. Personal Disaster or Emergency:

Situations may occur when employees are affected by a personal disaster or emergency that does not rise to the level of a declaration by the Governor. In these cases, employees may take approved annual leave, compensatory time or a leave of absence without pay. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy.

G. Volunteer Services:

- **Certified American Red Cross Disaster Volunteer:** A member of the Red Cross Disaster Services Human Resources System (DSHRS) who has completed the American Red Cross specialized training program for disaster volunteers and is certified by the American Red Cross as a disaster service technician, specialist, coordinator, or officer.

During a disaster or emergency, employees may wish to volunteer their time towards the recovery effort. Employees must receive Department Director approval prior to taking disaster and emergency leave for volunteer purposes.

Employees who wish to provide volunteer service during a disaster or emergency and who are not certified American Red Cross disaster volunteers may request to take annual vacation leave, accrued compensatory time, or leave of absence without pay. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy. If requested by agency management, an employee must provide written verification of participation in the emergency recovery.


Under the provisions of 2-18-627, MCA, full time employees who are certified American Red Cross Disaster Volunteers may request up to 15 (fifteen) days (or a total of 120 hours) paid time off annually. The paid time off shall not be deducted from the employees' accrued leave if they are called upon by the American Red Cross to provide specialized disaster relief services. This leave may not be "saved" or carried over from year to year.

Employees must include verification of the request for services from the American Red Cross when requesting leave.

Employees on approved leave as certified American Red Cross Disaster Volunteers shall be paid their regular rate for regularly scheduled hours without loss of longevity, pay, accrued leave or compensatory time. Employees on approved leave are not eligible for overtime, regardless of the number of hours volunteered. The City of Miles City is not liable for employee expenses associated with the volunteer effort.

CLOSING

Any questions concerning employees' rights should be directed to the Human Resources/Payroll Office.

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Maternity and Parental Leave		

- This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.

PURPOSE

The City of Miles City believes that maternity and parental leave is an important benefit to City employees.

POLICY

It is the policy of the City of Miles City to grant unpaid leave of absence for maternity and parental leave:

- Maternity leave is an unpaid leave of absence available to female employees for temporary disability because of pregnancy and delivery.
- Parental leave is an unpaid leave of absence not to exceed fifteen (15) working days available to birth fathers or permanent employees who are adopting a child.

Eligible employees taking maternity or parental leave concurrently with Family and Medical Leave Act (FMLA) leave must follow the FMLA Leave Policy (*Family and Medical Leave Policy*) requirements. The FMLA Leave Policy takes precedence over this policy.

PROCEDURE

A. Requesting Leave:

1. Employees requesting maternity or parental leave should give at least give a 30-day advance oral or written notice of the need to take leave, or as soon as practical when advance notice is not possible.
- The leave request should include the anticipated length of absence and the employee's intended use of accrued paid leave while on maternity or parental leave.

B. Maternity Leave Use:

1. Montana law requires female employees receive a reasonable leave of absence for maternity leave (49-2-310, MCA). "Reasonable" is determined case-by-case and is based up on the employee's ability to perform her job. In the case of normal pregnancy and delivery, Department Directors must grant a minimum of six (6) calendar weeks after the birth of a child as a ~~reasonable~~ period for recovery.
2. Leave may be longer if the employee is unable to perform her job prior to delivery or if there are complications like illness or surgical delivery. If the Department Director and the employee cannot agree on a reasonable period for maternity leave, the Mayor, in consultation with the HR/Payroll Officer, should rely on the judgment of the employee's medical provider.
3. An employee shall not be required to obtain medical certification of a temporary disability for the initial six (6) calendar weeks of leave following the birth of a child. However, the Mayor, in consultation of the HR/Payroll Officer, may require the employee to provide medical certification to extend the maternity leave beyond the minimum six (6) calendar week period. The certification should state that the employee is unable to perform her employment duties and give the estimated duration of the extended leave.
4. The employee is responsible for providing timely, complete, and sufficient medical certification. The employee must provide the certification within fifteen (15) calendar days after the Department Director's request, unless it is not practicable to do so despite an employee's diligent, good-faith effort.
5. Department Directors should not ask employees probing questions regarding their medical conditions that may elicit genetic information about an employee or an employee's family members.

C. Parental Leave Use:

1. Parental leave is available to birth fathers, and non-birthing mothers who are in the same sex marriage, immediately following a child's birth, or to permanent employees who are adopting a child (2-18-606, MCA).
2. The employee's Department Director must approve a reasonable leave of absence, not to exceed fifteen (15) working days, for parental leave immediately following the birth of a child or placement of a child with the employee for adoption.
3. The employee's Department Director, in consultation with the HR/Payroll Officer, may approve less than fifteen (15) working days, if he or she determines the length of leave requested is unreasonable. The Department Director, in consultation with the HR/Payroll Officer, must provide the employee with a written response explaining why the request is unreasonable. The written notice must also include the length of leave considered reasonable and approved.

D. Accrued Paid Leave Use:

1. Both maternity and parental leaves are unpaid. However, employees may use accrued paid leave concurrently with maternity or parental leave. Employees must request the use of additional leave consistent with City policy applicable to the type of leave requested.
2. State law limits the use of sick leave to fifteen (15) days for birth fathers and adoptive parents (2-18-606, MCA,) unless the absence qualifies for the use of sick leave for another reason and the City has ~~chosen to treat~~ non-birthing mothers in a same sex marriage the same as birth fathers for purposes of this policy.

E. Concurrent FMLA Leave:

1. Eligible employees may take up to twelve (12) weeks of FMLA leave for the birth or adoption of a child. Maternity and parental leave run concurrently with FMLA leave. Maternity and parental leave should count towards an eligible employee's FMLA leave entitlement. Employees may not use maternity or parental leave to extend the length of FMLA-leave entitlements.
2. When eligible employees take maternity or parental leave concurrently with FMLA leave, the FMLA policy requirements take precedence over this policy. Department Directors and the employee must follow all medical certification procedures and timelines required by the FMLA Leave Policy and Federal regulations.

F. Reinstatement:


1. Employees returning to work at the end of a reasonable leave of absence for a maternity or parental leave must be reinstated to their original job or to an equivalent position with equivalent pay and accumulated longevity, retirement, and leave benefits.

CLOSING

Prohibited Acts:

1. As provided in 49-2-310, MCA, it is unlawful to:
 - a. Terminate employment because of pregnancy;
 - b. Refuse to grant the employee a reasonable leave of absence for the pregnancy;
 - c. Deny the employee who is disabled as result of pregnancy any compensation to which the employee is entitled as a result of the accumulation of disability or leave benefits accrued, provided that the employer requires the disability to be verified by medical certification indicating the employee is not able to perform employment duties; or
 - d. Require an employee to take a mandatory maternity leave for an unreasonable length of time.

Nothing in this policy prohibits an employee from voluntarily returning to work sooner than six (6) calendar weeks after the birth of child.

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Family Medical Leave (FMLA)		

- This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.

PURPOSE

The City of Miles City believes that Family Medical Leave is an important benefit to City employees. This policy provides the framework under which the Family and Medical Leave Act (FMLA) will be administered by the City of Miles City. This policy also provides employees information about FMLA entitlements and outlines any obligations employers and employees may have during such leaves.

POLICY

It is the policy of the City of Miles City to implement the Federal Family and Medical Leave Act (FMLA) using the City of Miles City-Family Medical Leave forms.

PROCEDURE

Department Directors, in consultation with the HR/Payroll Officer will follow all of the required steps in the Family Medical Leave forms:

1. FMLA Decision Tree: Step by Step guide to determine if FMLA applies to the employee.
2. FMLA Checklist: Step by step guide for departments and Human Resources to follow for FMLA.
3. FMLA Notice to Employee: Human Resources uses this document to give the employee notice of his or her rights under the FMLA and covers several areas of topics related to FMLA.
4. FMLA Leave Request: A combined form for the employee to request leave and the Director and Human Resources Officer to acknowledge the request. Includes instructions for filling out the form.

5. FMLA Medical Certification: A health care provider can use this form to document the need for leave.
6. Return to Work Certification: A health care provider can use this form to document that the employee is able to return to work. Human Resources will issue this form to the employee along with the approval or denial letter of the FMLA.

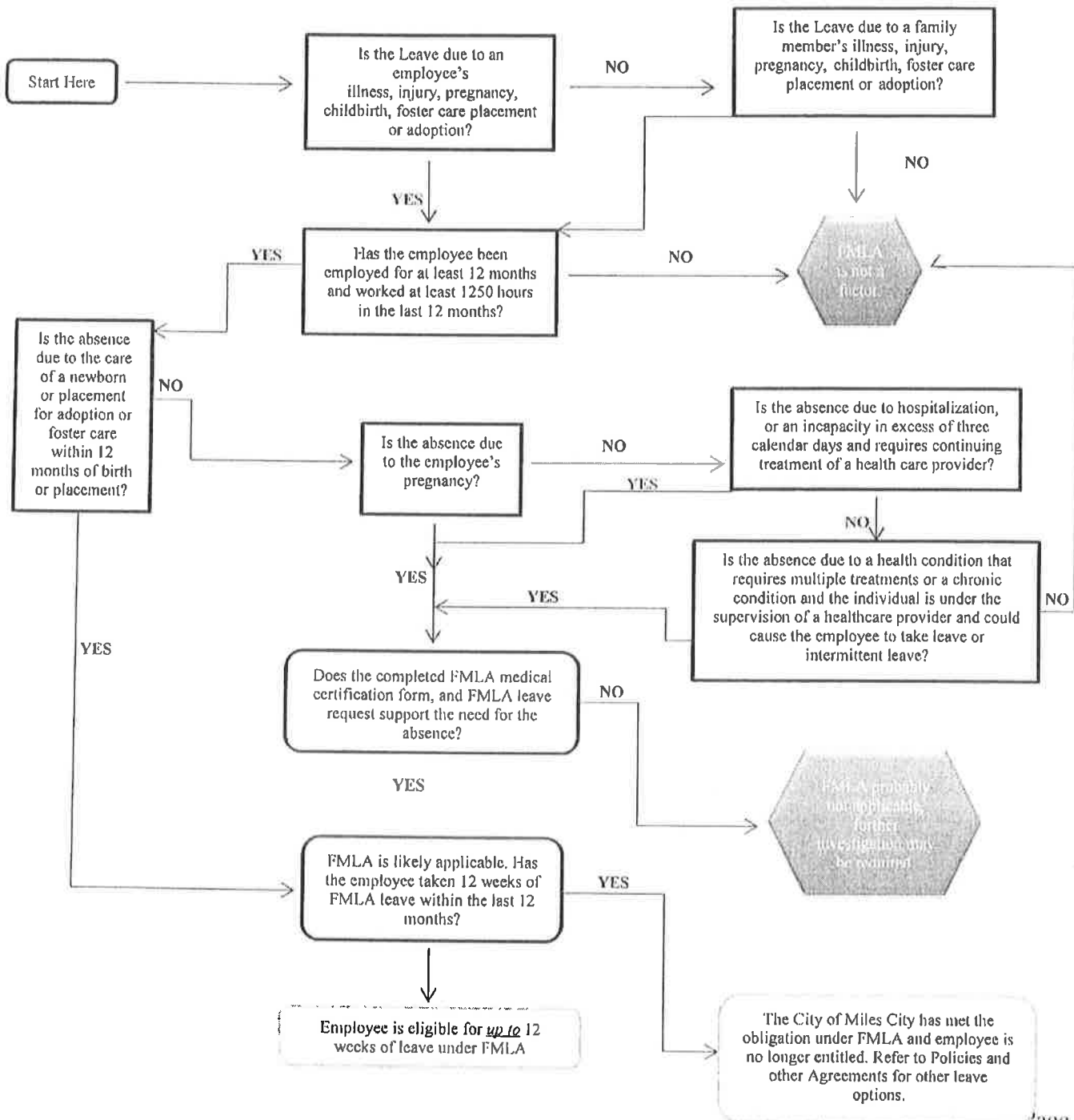
CLOSING

1. An employee who determines that the City of Miles City has violated the FMLA may either;
 - a. file a grievance;
 - b. file a complaint with the U.S. Secretary of Labor, or
 - c. file a lawsuit
2. A grievance may be filled using the City of Miles City Grievance Policy.
3. Complaints should be filed within a reasonable time and may not be filed more than two (2) years after the last action the employee contends was in violation of the FMLA, or more than three (3) years if the violation was willful.
4. A complaint to the Secretary of Labor may be made in person, by telephone, or by mail with the Wage and Hour Division, Employment Standards Administration, or the U.S. Department of Labor. No particular format is required. The complaint must be in writing and include a full statement of acts and omissions which are believed to constitute a violation. The complaint must include all pertinent dates.



CITY OF MILES CITY DIRECTOR – Understanding FMLA

FMLA Decision Tree





CITY OF MILES CITY FMLA LEAVE CHECKLIST

Human Resources/Director

The employee requests leave:

- ✓ *Thirty (30) days' notice is required when the need for leave is foreseeable*
- ✓ *When advance notice is not possible, the employee must provide notice as soon as practical, typically within 2 business days.*

The employee has called in sick 3+ days and/or requires time off work due to serious health condition for self or immediate family member.

- ✓ *Being out sick 3+ days does not mean FMLA is automatically approved...this is just a trigger for Directors that this may be a serious health condition that would qualify under FMLA.*

The Director will request Human Resources to issue to the employee the **FMLA Notice to Employees**, **FMLA Request**, and **FMLA Medical Certification** forms.

1. The employee fills out Section I of the **FMLA Request** form and then presents it to their Director. The Director, Human Resource Officer and the employee should discuss at that time the use of their accruals and timekeeping. FMLA-Sick is to be used first, prior to FMLA-Vacation, provided that the leave is for the employee's own serious health condition or to take care of a family member with a serious health condition.
2. The Human Resource Officer fills out Section II of the **FMLA Request** form
3. The employee fills out Section I of the **FMLA Medical Certification** form. The employee then has his or her treating physician complete the **FMLA Medical Certification** form and submit it to HR within 15 days

Once Human Resources receives the completed **FMLA Request** and **FMLA Medical Certification** forms, the employee and Director will be notified if the request is approved, provisionally approved, or denied in writing, the employee's letter will be sent to their home address. Human Resources will also forward the employee the **Return to Work Certificate** and Job Description if they are on approved leave for their own serious health condition.

- In Workers Compensation situations (which run concurrently with FMLA), timekeeping coding will be different. Please contact HR/Payroll with questions.
- Conversion to Leave without Pay: If the employee exhausts his or her paid leave, the department will need to code the timecard as FMLA – Leave without pay
- The HR department will send a per pay period billing statement to the employee's home for their charges on insurance premiums & some elected voluntary benefits if they are in an unpaid FMLA status.
- Depending on the length of FMLA Leave, periodic recertification may be required by the employee. Use the FMLA Medical Certification form for all recertification.
- The employee returns to work. **Return to Work Certification** reflecting fitness for duty will be required when an employee returns to work from FMLA used to treat the employee's own serious health condition. The employee must present the **Return to Work Certification**, immediately upon his or her return to work.
- If the employee is *Certified* to Return to Work with Limited or Light Duty accommodations, please contact your Director and HR to confirm if this is available prior to the employee's return.
- ❖ **FLMA Requests, FMLA Medical Certifications, Return to Work Certifications** and other FMLA supporting documentation will be maintained as confidential medical records in a file separate from the employee's personnel file. HR will maintain FMLA Records for three years.



CITY OF MILES CITY

FMLA Notice to Employee

Family & Medical Leave: Your Rights and Obligations

The *City of Miles City* provides family and medical leave (FMLA) to eligible employees in accordance with the federal Family Medical Leave Act. This notice summarizes your rights and obligations under this law.

The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 workweeks of unpaid job protection leave in a specified 12-month period, and requires group health insurance benefits to be maintained during the leave as if employees continued to work instead of taking leave.

Employees taking FMLA leave for their own serious health condition, or leave to care for a family member with a serious health condition, will be *required* to use their accrued, paid sick leave prior to being granted FMLA leave without pay. If the leave is for a reason that qualifies as FMLA leave and the employee's sick accruals are exhausted the employee is *not required* to use his or her accrued, paid vacation, subject to MCA 2-18-615. The total of the paid and unpaid FMLA leave will count against the 12-workweek FMLA leave entitlement.

A. Purpose: FMLA allows employees to balance their work and family life by taking leave for certain family and medical reasons. The FMLA seeks to accomplish this purpose in a manner that accommodates the legitimate interests of employers, and minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and women.

B. Eligibility: In order to be eligible for FMLA an employee must have been employed by the City of Miles City a cumulative total of at least 12 months prior to leave *and* have worked 1,250 hours (exclusive of vacation, sick leave, holidays) in the 12 months preceding leave time. The 12 months of employment need not be consecutive months. The 1,250 hours include only those hours actually worked. Paid leave and unpaid leave, including FMLA leave, are not included.

C. Entitlements:

→ Leave of up to a total of 12 workweeks in a 12-month period for one or more of the following reasons:

- For the birth of a son or daughter, and to care for the newborn;
 - For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
 - To care for an immediate family member (spouse, child, or parent – but not a parent “in-law” with a serious health condition; and
 - When the employee cannot perform the essential functions of his or her job because of a serious health condition.
 - *Spouses employed by the same employer* are limited to a combined total of 12 workweeks of family leave for the following reasons:
 1. Birth and care of a newborn child;
 2. For the placement of a child for adoption or foster care, and to care for the newly placed child; and
 3. To care for an employee's parent who has a serious health condition
- *Active Military duty for an employee with a spouse, son, daughter or parent who:
1. Is on active duty in the Armed Forces in support of a contingency operation
 2. Has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation
 - A “Contingency Operation” is an action or operation against an opposing military forces

→ Leave of up to a total of 26 workweeks in a 12-month period for the following reason:

1. For a caregiver (which is defined as a spouse, son, daughter, parent or nearest blood relative) of a recovering service member, to care for the individual. The recovering service member must be a member of the Armed Forces (including the National Guard and Reserves) who is undergoing medical treatment, recuperation or therapy, is in an outpatient status, or is on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one incurred while in active duty that may render the person unable to perform the duties of the member's office, grade, rank or rating. Employees are entitled to only one 26-week leave period to care for a wounded service member during the employee's employment.

- D. Advance Notice:** Thirty (30) days advance notice is required if your need for leave is foreseeable. When leave is not foreseeable notice "as soon as practicable" needs to be provided. "As soon as practicable" generally means verbal notice to the City typically within two (2) business days of learning of the need to take FMLA leave.

Employees are required to give sufficient information to their Director so that the Director understands that the employee needs leave for an FMLA-qualifying reason (the employee need not mention FMLA when requesting leave to meet this requirement, but must explain why the leave is needed).

If employees do not make their Directors aware that they were absent for FMLA reasons and the employee wants the leave counted as FMLA leave, he or she must provide timely notice, generally within two (2) business days of returning to work, that leave was taken for an FMLA-qualifying reason.

- E. Calculation of FMLA by the City of Miles City:** FMLA leave is calculated on a "Rolling" 12-month period beginning with the FMLA leave request date. At the time, an employee requests FMLA leave, records for the previous twelve months will be reviewed to determine if FMLA leave has previously been used and the amount of leave an employee is eligible to receive forward.

- F. Serious health condition:** "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
1. Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
 2. A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider;
 - or
 3. Any period of incapacity due to pregnancy, or for prenatal care; or
 4. Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.);
 - or
 5. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
 6. Leave for multiple treatments by a health care provider for a condition that likely would result in an incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

- G. Immediate family members:** An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law". The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of mental or physical disability that substantially limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans With Disabilities Act (ADA). The only exception to the above definition of immediate family member is for Military Personnel regarding Active Duty and Caregiver leave however with one additional member of the nearest blood relative.

- H. Intermittent Leave:** FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

- Intermittent/reduced schedule leave may be taken when medically necessary to care for a serious ill family member, or because of the employee's own serious health condition
- Intermittent/reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child only with the City's approval.

Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave. Employees may not be required to take more FMLA leave than necessary to address the circumstances that cause the need for leave. However, due to the intermittent schedule, the 12-week entitlement will be calculated using 480 hours for full-time employees who work forty hours a week. The amount of FMLA leave for part-time employees will be pro-rated.

Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with the City to schedule the leave so as not to unduly disrupt the City's operation, subject to the approval of the employee's health care provider. In such cases, the City may transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodates recurring periods of leave better than the employee's regular job (if available).

- I. **FMLA Approval:** Once Human Resources receives the completed FMLA forms, the employee and Director (who signed the FMLA Request form) will be notified, in writing, if the request is approved, provisionally approved, or denied. The letter will be mailed to the employee's home address.

The final decision on the amount of approved leave time will be based on the medical certification stating the time needed.

- J. **Medical Certification:** The City requires that the need for leave for a serious health condition of the employee or the employee's immediate family member be supported by a medical certification issued by a health care provider.

Exceptions to this are:

- Request for Military Active Duty:
 - You will need to provide a copy of the individual's military orders as proof of certification.
- Requests for adoption:
 - You will need to provide a copy of the adoption paperwork as proof of certification.
- Request for birth:
 - No medical certification is required in the event of birth.

The employee has 15 calendar days to obtain the required certification and return it to the Human Resources office.

The City may require the employee to obtain a second or third opinion if it doubts the validity of the medical certification. The City also may require recertification once every 30 days, at the employee's expense, during the FMLA leave. However, there are some exceptions to this time frame that would allow recertification prior to the end of this 30 day period. Examples of this would be:

- the employee requests an extension of the leave
- the City doubts the validity of the certification
- the original certification has changed
- the employee is unable to return from leave

A "health care provider" is defined as: a doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, or nurse-midwife who is authorized to practice by the State and performing within the scope of their practice as defined by State law.

- K. **Timekeeping while on leave:** It is the responsibility of the employee to make arrangements with their Director. The employee's accruals need to be utilized in the following order and coded appropriately on their timecard:

1. FMLA –Sick

2. FMLA –Vacation
3. Compensatory Time (if applicable)
4. FMLA –w/out pay

According to 29 C.F.R. Section 825.207 (i), Compensatory time cannot be charged against the employees FMLA leave entitlement.

- L. **Pay:** Prior to being granted FMLA leave without pay, an employee must exhaust all sick accruals. The total of the paid and unpaid FMLA leave will count against the 12-workweek FMLA leave entitlement.
- M. **Holiday Pay:** Yes, the holiday hours will count towards the FMLA entitlement, however in order to be paid; the employee has to be in a paid status either the day before or the day after the holiday. (MCA 2-18-603). If the employee is on an unpaid FMLA leave, they may not be eligible for the holiday pay.
- N. **While on Leave:** The City may not restrict your activities. However, we do have an Outside Employment Policy that has to be adhered to – refer to Personnel Policy manual. The protections of FMLA will not, however, cover situations where the reason for leave no longer exists, where the employee has not provided required notices or certifications, or where the employee has misrepresented the reason for leave.
- O. **Health Benefits:** The City is required to maintain group health insurance coverage for an employee on FMLA leave on the same terms as if the employee continued to work. However, during an unpaid FMLA leave or after the first 24 hours if you are on Workers Compensation (which runs concurrently with FMLA), the employee is responsible to pay their insurance premiums (health, dental, flex) and the City will continue paying the City's portion. Additional voluntary deductions, such as Additional Life Insurance, Long Term Disability & Prepaid Legal, also must be paid by the employee during any such unpaid leave in order to continue coverage. If the employee fails to make a required payment, benefits may be discontinued. If the employee fails to return to work after taking FMLA leave, the employee may be liable for repayment of health insurance premiums paid by the City during FMLA leave.
- P. **Workers' Compensation & FMLA:** FMLA and Workers Compensation leave run concurrently, provided the reason for the absence qualifies as a serious health condition under the FMLA.
- Q. **Communication while on FMLA:** Your department Director and/or Human Resources can and may check in with periodically thorough out your FMLA leave to ask you questions to confirm whether the leave need or being taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work.
- R. **Returning to Work Certification:** Under the law, you must be reinstated to the same position you had prior to taking the leave, or to an equivalent position if you return to work immediately after FMLA.
- Return to Work Certification* reflecting, light/limited duty accommodations, will be required when an employee returns to work from FMLA used to treat the employee's own serious health condition. The employee must present the *Return to work Certification* immediately upon his/her return to work.
- S. **Current Position:** Employees who are unable to return to work and have exhausted their 12-weeks of FMLA leave in the designated "12 month period" no longer have FMLA protections of leave or job restoration.
- T. **City of Miles City- FMLA Coordinator contact numbers"**
- Phone number: 406-874-8601
 - Fax Number: 406-234-2903

FAMILY AND MEDICAL LEAVE (FMLA) – REQUEST FORM

Eligible employees are entitled under the Family & Medical Act (FMLA) up to 12 weeks of unpaid, job protection leave for certain family & medical reasons. **Submit this request form to Director.** Thirty (30) days' notice is required when the need for leave is foreseeable. When advance notice is not possible, the employee must provide notice as soon as practical, typically within 2 business days. Requesting FMLA leave or being out sick 3+ days does not mean FMLA is automatically approved

SECTION I: TO BE COMPLETED BY THE EMPLOYEE

Employee Name: _____ Department: _____

Job Title: _____ Date of Hire: _____

TYPE OF LEAVE: ☐ Continuous ☐ Workers Comp ☐ Intermittent (comment below on proposed schedule):

REASON FOR LEAVE – Mark all that apply:

- ☐ Birth of a child and to care for the newborn child
- ☐ Placement of a child with an employee for adoption or foster care
- ☐ Care of child with a serious health condition
- ☐ Care of a parent with a serious health condition
- ☐ Care of a spouse with a serious health condition
- ☐ Serious health condition that makes employee unable to work
- ☐ In patient hospitalization
- ☐ Active Duty/Caregiver Military Leave
- ☐ Continuous treatment by a health care provider

EXPLANATION OF LEAVE:

Estimated LEAVE BEGIN DATE: _____ Estimated RETURN DATE: _____

ACKNOWLEDGEMENT by Employee:

-**FMLA Medical Certification** from a health care provider is *required within 15 days* to support all requests for FMLA leave due to the employee's own serious health condition or that of a family member.

Exceptions: Military Active Duty leave requires a copy of the "military orders". Adoption leave requires a copy of the adoption paperwork. Birth does not require medical certification.

-**FMLA Return to Work Certification** will be *required* when an employee returns to work from FMLA leave for the employee's own serious health condition.

-**An Employee on approved FMLA leave** must use FMLA-Sick until exhausted, then may use: FMLA-Vacation and/or Compensatory Time and/or FMLA w/out pay

I acknowledge the above FMLA request; FMLA paperwork and authorizing paid sick leave, instead of unpaid leave. I also acknowledge that the FMLA request is not valid until it has been certified and approved by Human Resources. Finally, I acknowledge, I will communicate on an ongoing basis with my Director and HR on any changes in my FMLA leave (if approved) and return date.

Employee's Signature

Date of request

Please return completed form to Human Resources. HR will respond to the request and notify the employee if any additional documentation and/or requirements. Please call #874-8601 if you have any questions.

SECTION II: TO BE COMPLETED BY EMPLOYEE'S DIRECTOR

I acknowledge, pending medical certification (if required), the above employee's FMLA request:

Director's Printed Name

Director's Signature

Date

FMLA MEDICAL CERTIFICATION

SECTION I: EMPLOYEE: PLEASE FILL OUT THIS SECTION, AND TAKE THIS FORM TO YOUR HEALTH CARE PROVIDER.

Printed Employee Name:

Reason for leave:

Patient Name (if other than employee): | Relation to employee:

**If request is for someone other than the employee, all shaded sections are required on the certification.*

Treating Physicians Name:

SECTION II: HEALTH CARE PROVIDER: PLEASE FILL OUT THIS SECTION AND RETURN AS STATED BELOW

Does the patient have a "serious health condition" ☐ Yes ☐ No (see definitions on pg. 3 of Medical Certification)

If yes, please check reason:

- ☐ 1. Hospital Stay
- ☐ 2. Incapacity plus Treatment – condition that causes more than three (3) days of incapacity and
 - ☐ two or more treatments by a health care provider; or
 - ☐ one treatment plus a continuing regimen under supervision of a health care provider

Please request employee's job description if needed to determine "incapacity."
- ☐ 3. Pregnancy – any period of incapacity due to pregnancy or prenatal care.
- ☐ 4. Chronic Serious Health Condition
- ☐ 5. Permanent or Long-Term Conditions – requiring medical supervision
- ☐ 6. Multiple Treatments for Non-Chronic Condition

A. If the leave is to care for an *immediate family member*, is the employee's presence necessary And/or beneficial to the patient's care? ☐ Yes ☐ No

B. How long will the employee's presence be necessary to assist the family member? Please be specific on timeframe:

1. Describe the medical facts that support your certification for which the patient is being treated:

2. State the approximate date the condition commenced & the probable duration of the condition:

3. Prescribed treatment (i.e., number of visits, nature & duration of treatment, etc.):

4. If any of these treatments will be provided by another provider of health services, please state the nature of the treatments:

5. Is intermittent leave or a reduced work schedule medically necessary? ☐ Yes ☐ No
If yes, describe:

FMLA MEDICAL CERTIFICATION → CONTINUED

SECTION II Continued:

6. Is the employee able to perform the essential functions of their position, at this time? ☐ Yes ☐ No
(We may provide and request your review of the employee's job description. Otherwise such information may be obtained from discussion with the employee)

7. Will the employee's work activities need to be modified upon return to work? ☐ Yes ☐ No

If so, tentative date employee may return to modified work?

Recommended modifications and duration?

8. Will any activities be limited permanently? ☐ Yes ☐ No

9. When is the anticipated return to work date with No limitations?

Comments:

Physician's Signature:

Contact person:

Health Care Provider's Address:

Phone #:

Date:

Fax #:

PLEASE RETURN THIS FORM TO CITY OF MILES CITY – HUMAN RESOURCES/PAYROLL OFFICE

FAX (preferred): 406-234-2903

Address: P.O. Box 910, ATTN: Human Resources/Payroll Office Miles City, Mt 59301

FMLA MEDICAL CERTIFICATION → CONTINUED

A "SERIOUS HEALTH CONDITION" MEANS AND ILLNESS, INJURY IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT INVOLVES ONE OF THE FOLLOWING:

1. **Hospital Care: Inpatient care** (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of ~~incapacity or subsequent~~ treatment in connection with or consequent to such inpatient care.
2. **Absence Plus Treatment:** A period of incapacity of **more than three consecutive calendar days** (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - (1) **Treatment two or more times** by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 - (2) **Treatment** by a health care provider on **at least one occasion** which results in a **regimen of continuing treatment** under the supervision of the health care provider.
3. **Pregnancy** - Any period of incapacity due to **pregnancy**, or for prenatal care.
4. **Chronic Conditions Requiring:** A **chronic condition** which:
 - (1) Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - (2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
 - (3) May cause **episodic** rather than a continuing period of incapacity e.g., asthma, diabetes, epilepsy; etc.).
5. **Permanent/Long-term Conditions Requiring Supervision:** A period of **Incapacity** which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receiving active treatment by, a health care provider**. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
6. **Multiple Treatments (Non-Chronic Conditions):** Any period of absence to receive **multiple treatments** (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, **or for a condition that would likely result in a prior of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

Definitions:

"Incapacity;" for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.

Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

FMLA - RETURN TO WORK CERTIFICATION

SECTION I: EMPLOYEE: PLEASE FILL OUT THE TOP PORTION, AND TAKE THIS FORM TO YOUR HEALTH CARE PROVIDER

THIS CERTIFICATION MUST BE PROVIDED TO YOUR **DIRECTOR PRIOR** TO YOUR RETURN TO WORK.

Employee :

Employee's Department:

Employee's Job Title:

Department Supervisor:

Department FAX number:

SECTION II: HEALTH CARE PROVIDER: PLEASE COMPLETE THE FOLLOWING AND RETURN DIRECTLY TO THE DEPARTMENT LISTED ABOVE PRIOR TO THE RETURN TO WORK DATE.

Please review the attached job description: Is the employee able to perform all the functions of his or her job?

☐ Yes ☐ No ☐ Yes, with restrictions.

Please list any restrictions or functional limitations which the department should consider:

Are the restrictions: ☐ Permanent ☐ Temporary, until (date):

Comments:

Employee is released to return to work effective (date):


Printed Name of Health Care Provider & Physician:

Specialty:

Address of Health Care Provider:

Signature of Health Care Provider: | Date:

Attn: Directors: PLEASE SEND COMPLETED FORM TO HR FOR employees FMLA File

 CITY OF MILES CITY PERSONNEL POLICY	Section 5:	Leave Administration
	Effective:	
	Last Revised:	
Leave Without Pay		

- This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.

PURPOSE

The City of Miles City believes that having a policy that establishes uniform procedures for managing employee leaves of absence with pay provides important information for all City employees.

POLICY

It is the policy of the City of Miles City to establish procedures by which an employee may request a voluntary leave of absence from employment with the City. As well as establish conditions under which approved requests for voluntary leaves of absence are administered.

PROCEDURE

Voluntary Leaves without Pay- Employee:

- Request for a voluntary leave of absence without pay shall be in writing and shall state specifically the reasons for the request, the date desired to begin the leave, and the date of return. The request shall normally be submitted by the employee to the affected Department Director. The Department Director shall recommend to the Mayor whether the request should be granted, modified, or denied. The Mayor shall then make a decision based upon the best interest of the City, giving due consideration to the reasons given by the employee, and the requirements of any applicable State and Federal laws.
- The Mayor may grant a full-time regular employee a leave of absence without pay not to exceed ninety (90) days for non-medical purposes. Non-medical leave is unpaid leave time for career advancement, personal or family situations. Such leaves may be granted after vacation accrual has been exhausted. Sick leave accruals may not be used for non-medical leaves of absence without pay.
- No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on leave of absence without pay.

- d. All time in leave of absence without pay is credited toward an employee's service time for the purpose of determining their earning rates. Service to the City is not interrupted by authorized leave of absence without pay.
- e. Time on leave of absence without pay is not allowed in computing service time for retirement purposes under Public Employees' Retirement System.
- f. Any employee on an approved leave of absence without pay may continue his or her medical, dental and optional insurance coverage by paying the full cost to the City in advance for each month or portion thereof for which he or she is absent, subject to limitations set by the insurance carrier.
- g. Upon expiration of the leave of absence, without pay, the employee shall be reinstated in the position held at the time the leave was granted or another equivalent position.
- h. Upon extenuating circumstances, the Mayor may grant an extension of a leave without pay period upon written request by the employee. Such extension may not exceed three (3) months and will be based on departmental as well as employee considerations.
- i. Employees who fail to return to work on the date specified in the leave without pay request, without receiving an extension in advance, is subject to disciplinary action up to and including termination.

CLOSING

"Absence without leave" is defined as any period of time away from an employee's job which is not approved by the employee's Department Director or Mayor.

Employees are required to notify their Directors or other appropriate Department Authority of the reason for absences as soon as possible. Failure to follow this policy is grounds for disciplinary action.

Extended absence without leave is considered to be abandonment of position, and an employee will be terminated. "Extended Absence" shall be defined as four (4) consecutive working days for purposes of this policy.