

RESOLUTION NO. 4495

A RESOLUTION ESTABLISHING CITY OF MILES CITY PERSONNEL POLICIES REGARDING POLICY TITLE

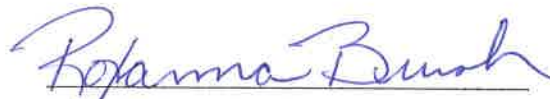
WHEREAS, the City of Miles City has established certain personnel policies for employees of the City of Miles City, which are set forth in the City of Miles City Personnel Manual;

AND WHEREAS, the City Council finds that certain revisions to such policies should be adopted;

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


1. That the following new policy: FAMILY MEDICAL LEAVE (FMLA) attached as Exhibit "A"
2. Such policy shall become effective February 14, 2023 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 14TH DAY OF FEBRUARY, 2023X.


John Hollowell, Mayor

ATTEST:


Mary Rowe, City Clerk

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|--|---------------|----------------------|
|  <p>CITY OF MILES CITY PERSONNEL POLICY</p> | Section 5: | Leave Administration |
| | Effective: | 3/24/2015 |
| | Last Revised: | 2/14/2023 |
| FAMILY MEDICAL LEAVE (FMLA) | | |
| Resolution #4495 | | |

- **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.

Eligibility

An eligible employee can take up to 12 weeks of leave per year if he/she has worked for at least 1,250 hours within the previous 12 months and have been employed for 12 months. These months need not be consecutive. For an employee to be eligible for FMLA the employer must employ 50 or more employees within 75 miles of the worksite.

Types of Leave Covered

Family or Medical Leave can be taken for the following reasons:

- The birth of a child and in order to care for that child;
- The placement of a child for adoption or foster care and to care for the newly placed child;
- To care for a spouse, child or parent with a serious health condition (described below);
- The serious health condition (described below) of the employee;
- Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty;
- Military caregiver leave (also known as covered servicemember leave) to care for an injured or ill servicemember or veteran.

Employees are required by law to provide at least a 30-day notification of intent to use Family or Medical Leave whenever possible. Employees will be required to use their paid sick leave for any

part of the 12-week period. The remaining portion of the leave will be unpaid leave.

It is the practice of the City of Miles City to designate an eligible employee who is out for more than three days, due to a work place injury or illness under FMLA. Worker's Compensation and FMLA will run concurrently when necessary and when the employee is eligible.

Amount of Leave

Employees will only be provided a total of 12 weeks in a rolling 12-month period looking back from the first day of the leave request. (For example: If an employee took 12 weeks leave beginning July 1, 1996 and requested to take 12 weeks leave beginning May 1, 1997, the request would be denied because the employee used 12 weeks looking back from May 1, 1996 through April 30, 1997.)

Employees can take up to 26 weeks for FMLA circumstance related to military caregiver leave during a single 12 month period. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available. This leave will also be based on a look back period.

If both spouses work for the City of Miles City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not parent-in-law) with a serious health condition, the spouses may only take a total of 12 weeks of leave.

Certification of Medical Condition

Upon request of your supervisor, Human Resource Officer, and/or the Mayor, employees must provide certification explaining the serious health condition or the family member's condition. It should detail:

- the date on which the condition began
- the probable duration of the condition
- appropriate medical facts regarding the condition
- a statement that the employee is needed to care for a spouse, parent or child
- a statement that the employee's own health condition makes it impossible for him or her to work

If the City of Miles City is not satisfied with the certification, it may require a second opinion at our expense. In the event of conflicting opinions, a third provider will be retained, also at our expense, to render a binding decision.

Employee Status and Benefits During Leave

While an employee is on leave, the City of Miles City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the company may require the employee to reimburse the city/town the amount it

paid for the employee's health insurance premium during the leave period.

The employee is required to continue to pay their share, if any, of premiums for health benefits. If in a paid status, these will continue to be taken from paychecks, if in a leave without pay status, the employee will be required to submit the payment to the Human Resource Officer in person or by mail. The payment must be received by the 5th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide notice prior to the loss of coverage.

Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider before returning to work. Generally an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefit and other employment terms.

Under certain conditions, employees who are designated as "key" may be denied job restoration rights. These employees must be in the highest paid 10% of the work force and their absence must mean a substantial economic loss to the company. If a person designated as "key" still takes family leave, the City of Miles City will pay the health care premiums, but no guarantees are made about returning them to the positions they left.

An employee who fails to return to work on his or her regularly scheduled work day after the pre-approved leave without pay period will be considered to have voluntarily resigned unless the leave period is extended, in advance, by the Mayor. Providing false or misleading information or reasons to justify a FMLA absence may result in discipline, up to and including termination. FMLA provisions indicate that at the City of Miles City discretion, health care premiums may be recovered from employees who do not return to work.