

## **SECTION 60-5**

### **SUBJECT: LEAVE OF ABSENCE WITHOUT PAY**

#### **I. PURPOSE:**

- a. To establish procedures by which an employee may request a voluntary leave of absence from employment with the City.
- b. To establish conditions under which approved requests for a voluntary leave of absence are administered.
- c. To formalize past city practice regarding employment of city employees on extended temporary disability leave, resulting from illness or injury to the employee.

#### **II. STATEMENT OF POLICY:**

- a. Voluntary Leaves Without Pay-Employee "Sabbaticals."
  - i. Requests 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 head. The department head shall recommend to the City Manager whether the request should be granted, modified, or denied. The City Manager 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.
  - ii. The City Manager 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.
  - iii. No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on leave of absence without pay.
  - iv. All time in leave of absence 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.
  - v. Time on leave of absence is not allowed in computing service time for retirement purposes under Public Employees' Retirement System.
  - vi. Any employee on an approved leave of absence may continue his or her medical, dental and optical 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.

- vii. Upon expiration of the leave of absence, the employee shall be reinstated in the position held at the time the leave was granted or another equivalent position.
- viii. Upon extenuating circumstances, the appointing authority may grant an extension of a leave period upon written request by the employee. Such extension may not exceed three months and will be based on departmental as well as employee considerations.
- ix. Employees who fail to return to work on the date specified in the leave request without receiving an extension in advance are subject to disciplinary action up to and including termination.

b. Extended leaves of absence resulting from illness or injury.

- i. Leaves of absence for temporary disability resulting from work-related illness or injury lasting more than thirty (30) consecutive days, shall be considered extended disability leaves of absence without pay under this policy.
- ii. Any city employee suffering a work-related illness or injury for which Worker's Compensation wage loss benefits are paid for more than thirty (30) consecutive days, shall be entitled to request a leave without pay for up to twelve (12) months, inclusive of leave time permitted under the city's policy for Family and Medical Leave (FMLA). Medical certification of the condition shall be submitted to the city and may be executed by a person licensed by the State of Montana to practice medicine, osteopathy, podiatry, dentistry, clinical psychology, optometry, or chiropractic, or by a nurse practitioner or nurse midwife authorized by State law, or Christian Science practitioners appropriately listed.
- iii. Such extended leave requests shall be made, in writing, to the affected employee's department head, who will then review and forward such request to the City Manager, together with a recommendation, taking into consideration the affected department's staffing needs and burdens placed on other employees. The City Manager shall then make a decision regarding the employee's status 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.
- iv. Extended temporary non-job related disability leave without pay will be considered or granted only after the affected employee has exhausted all appropriate leave, compensatory time, and FMLA benefits. However, an employee cannot be required to exhaust annual leave balances for reasons of illness unless the employee agrees per MCA 2-18-615.
- v. If granted, the employee shall submit physician re-certifications of the medical condition no more than once each thirty (30) days while on leave.

- vi. Re-certifications may be obtained earlier than every thirty (30) days if:
  - 1. circumstances described by the previous certification have changed significantly (e.g., duration, frequency, or severity of the condition); or
  - 2. the employer receives information that casts doubt on the employee's stated reason for the absence.
- vii. Before returning to work, the employee must receive full medical clearance from a physician confirming his ability to perform all necessary duties of his former position.
- viii. It is a condition of employment with the City, that the employee be able to perform essential duties of his job. If, after the affected employee has been on extended leave for a period of twelve (12) consecutive months the affected employee is unable to obtain the required medical clearance and there exists no reasonable accommodation(s) as defined by the American Disabilities Act without undue hardship on the City and employee, the employee's position will be deemed vacated by the City and his employment with the City will be terminated.
- ix. If the injured employee is capable of returning to work within two (2) years from the date of occupational illness or injury and has received a medical release to return to work, the employee will be entitled to reapply for job openings with the City, and will be and will be given preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational ability.

c. Other rules applicable to disability leave.

- i. No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on disability leave of absence without pay.
- ii. All time in disability leave of absence 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
- iii. Time on disability leave of absence is not allowed in computing service time for retirement purposes under Public Employees' Retirement System.
- iv. Any employee on an approved disability leave of absence may continue his or her medical, dental and optical insurance coverage by paying the employee's share of the 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.
- v. Employees on a work-related sick leave, who are receiving a wage-loss benefit through the worker's compensation system, are not eligible to use their sick leave benefits simultaneously.

- d. Upon expiration of the disability leave of absence, the employee shall be reinstated in the position held at the time the leave was granted or another equivalent position.

EFFECTIVE: Immediately

DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution #5758 – April 19, 2016