

## SECTION 8 – LEAVES OF ABSENCE

Effective 4/1/11  
Replaces Policy SAME  
Dated 1/21/09; 6/1/10; 7/22/10

### 8.1 Family and Medical Leave.

Pursuant to the Family Medical Leave Act, employees who have been employed with the City one (1) year or more and have worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the leave, may be granted up to 12 weeks of family and medical leave (or up to 26 weeks during a 12-month period in accordance with the following provisions and applicable law).

- A Scope. Twelve (12) weeks of leave during a 12-month period may be taken upon the birth of the employee's child, upon the placement of a child with the employee for adoption or foster care, when the employee is needed to care for a child, spouse, or parent who has a serious health condition when the employee is unable to perform the functions of his/her position because of a serious health condition, or because of any qualifying exigency (as defined by the Department of Labor regulations) arising out of the fact that the spouse, child or parent of the employee is on active duty (or has been notified of an impending call or order to active duty).

An eligible employee who is the spouse, child, parent or next of kin of a service member who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is on the temporary disability retired list may take up to twenty-six (26) weeks of leave during a 12-month period to care for the service member.

- B. A "serious health condition" is an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider, as defined by Department of Labor regulations.
- C. "Parent" is defined as the biological parent of an employee, or an individual who stood in loco parentis to an employee when the employee was a child, i.e. anyone who took the place of a biological parent.
- D. "Son or daughter" includes a biological, adopted, or foster child, a step child, a legal ward, or a child of a person standing in loco parentis who is under 18 years of age, or 18 years of age or older and incapable of self care because of a mental or physical disability.
- E. Next of kin is defined as the nearest blood relative of a covered service member.

- F. For leave that is foreseeable, the employee must provide the Department Director with no less than thirty (30) days notice before the leave is to begin. If an employee cannot provide at least 30 days advance notice, the employee must provide as much notice as practical under the circumstances.
- G. If the leave requested is for the birth, or placement for adoption of a child, it must be taken within twelve (12) months of the birth or adoption.
- H. If an employee requests leave due to his own serious health condition or that of a family member the employee will be required to provide a medical certification of the serious health condition. The employee is also required to provide additional re-certification on a periodic monthly basis as requested by the City. Appropriate forms are available from the HR Department.
- I. The City, at its discretion, may require a second medical opinion. If the first and second opinions differ, the City, at its own expense, may require the binding opinion of a third health care provider, selected jointly by the City and the employee.
- J. Leave needed for a serious health condition of the employee or his spouse, child, or parent, or needed to care for a covered service member may be taken on an intermittent or reduced schedule only if medically necessary. If leave is requested on this basis, the City may require the employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits. Intermittent leave or a reduced leave schedule is not available for leave based upon the birth, adoption or placement of a child for foster care, unless both the City and employee agree.
- K. Spouses who are both employed by the City are entitled to a total of twelve (12) weeks of leave (rather than 12 weeks each) for the birth or adoption of a child or for the care of a sick parent.
- L. Subject to applicable law, employees with accrued and unused leave are required to use sick and vacation leave, in this order, as part of the leave requested and taken. Hours charged will reflect the employee's normal work schedule. Once all accruals are spent the employee is considered to be on leave without pay and accruals of leave will cease.
- M. Employees on unpaid leave are not eligible for holiday pay.
- N. Employees returning from family medical leave are entitled to equivalent or similar job classification provided the employee is physically capable of performing the essential functions of the job with or without reasonable accommodation.

- O. If the absence was due to the employee's own serious health condition, the employee must provide the HR Director with medical certification verifying the employee's ability to return to work and/or any limitations that might apply.
- P. Employees who due to their own medical condition are unable to return to work after expiration of their FMLA leave may request an unpaid extension of leave from the City Manager, who shall have the exclusive discretion to grant or deny the request. Subject to applicable law, leave in excess of twenty-six (26) total weeks will generally not be permitted by the City.
- Q. Employees, who fail to return to work, who fail to request an extension of unpaid leave, and/or who fail to contact the Department Director or HR Director with the reason for the inability to return, will be presumed to have voluntarily resigned after the expiration of their FMLA leave.
- R. During FMLA leave, the City will continue to pay its portion of the health insurance premiums and maintain the *employee's* coverage under the health plan in the same manner as if the employee had been continuously employed during the entire leave period provided the employee continues to pay his or her share of the premiums. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the City for the City's portion of health insurance premiums during the family leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his or her job or circumstances beyond the control of the employee. To avoid required reimbursement, appropriate certification from a health care provider may be required if the employee does not return to work because of a serious health condition.
- S. Should an employee fall into an unpaid status during an approved FMLA leave of absence, it is advised that they contact the Finance department to arrange payments for continuation of benefits for dependents.

## **8.2 Bereavement Leave.**

If an employee wishes to take time off due to the death of an immediate family member in order to attend a funeral or memorial service, the employee must notify his or her supervisor immediately. Up to three consecutive work days of paid bereavement leave will be provided to regular full-time employees per incident for in-state attendance at a funeral or memorial service; up to five consecutive work days of paid bereavement leave will be provided to regular full-time employees per incident if travel out-of-state is required to attend a funeral or memorial service (proof of attendance will be required for both paid leaves). As soon as practicable, the employee must complete the City's *Bereavement Leave Application* form which will be attached to the employee's timesheet and a copy placed into the employee's personnel file. Employee's have up to thirty (30) days from the date of death of the immediate family member to utilize the

Bereavement Leave provided the funeral/memorial services justify such or as approved by the City Manager in special circumstances.

Bereavement pay is calculated based on the base pay rate at the time of the absence and will not include any special forms of compensation. Approval of bereavement leave will occur in the absence of unusual operating requirements except as noted above. Any employee may, with the supervisor's approval, use available vacation leave for additional time off as necessary. *Immediate Family* is defined in Appendix A of this manual.

### **8.3 Military Leave.**

- A. *Military Reserve Leave for Training.* Regular employees who are members of the reserve components of any branch of the United States Military Service, or the National Guard, are granted up to thirty (30) calendar days of paid military leave per year, for the purpose of participating in required annual training, ordered under the provisions of Florida Statutes Chapters 115 and 250, or training ordered under the provisions of the United States Military or Naval Regulations for such personnel when assigned to active or inactive duty. (Fire Department combat personnel on 24-hour shift are granted up to nine (9) shifts of paid military leave per year). Any additional military leave for training will require the use of vacation or be unpaid.

Except for emergency situations, it is the employee's responsibility to provide the Department Director with as much notice as possible in advance of the need for military leave with appropriate military orders. Department Directors must reflect military leave on the employee's daily attendance record.

- B. *Military Leave for Active Military Service.* The City of Deltona, in an effort to support City Employees who serve our Country when called to active military service under Federal authority, provides for the following:
1. Employees on active military leave will receive full pay during the first thirty (30) days of continuous military service. All other benefits, remain in effect during this period.
  2. Thereafter, and for a continuous period limited to six (6) months after the initial thirty (30) days, the City will supplement military pay, to the extent that the serving employee is made "whole". Being made "whole" constitutes the employee being paid the difference between his regular City salary and the total of military pay including base pay and any incentive pay. The employee must provide copies of payroll records to document military compensation.
  3. Employees whose military leave exceeds 31 days may elect to continue health insurance for themselves and their dependents, provided that

they pay the full premium cost (both the employee and the City's share) for such coverage. Employees who elect not to continue their health insurance coverage may resume coverage under the City's group policy at the end of their active duty period.

C. *Re-employment Rights Following Military Leave and Rights During Military Leave.* Regular employees in "Reserve" or "National Guard" status who are ordered to active military service are entitled to certain considerations provided by existing Federal and/or State Law as follows:

1. Once an employee has furnished proof of "activation", a "Military Leave of Absence" will be granted for the required period of time.
2. The City may replace the affected employee with a "temporary" employee until the affected employee completes the active duty and applies to return to his previous job.
3. The returning employee must apply for reinstatement as follows:
  - a. If absent less than thirty-one (31) days, the employee will need to report to work on the next day after being released from active duty and the expiration of eight (8) hours after a period allowing for safe transportation of the employee from the place of military service to the employee's residence.
  - b. If absent more than thirty (30) days but less than 181 days, the employee must apply for reinstatement within fourteen (14) days after the completion of the military service. If submitting an application within fourteen (14) days is impossible or unreasonable through no fault of the employee, then an application for reinstatement, written or verbal, must be submitted on the next day when submission of the application becomes possible.
  - c. If absent more than 180 days, the employee has up to ninety (90) days to request reemployment after being released from active duty.
4. Employees on military leave are entitled to accrue seniority and other rights and benefits determined by longevity on the same basis as if there was no break in employment.
5. Employees on military leave are entitled to accrue other non-seniority based benefits in the same manner as employees on non-military leaves of absence.

#### **8.4 Civil Leave.**

A. *Civil Leave With Pay.* An employee may be granted necessary time off with pay when:

1. Performing jury duty.
2. When subpoenaed as a witness, when acting in an official capacity in connection with City business, or when testifying at the direction of the City Manager, or his/her designee.
3. When performing emergency civilian duty in connection with national defense as determined by the City Manager.
4. For the purpose of voting when the polls are not open at least two hours before or after the employee's scheduled hours of work. Time off with pay will be limited to two hours in this instance or the time necessary to vote, whichever is less.

B. *Civil Leave Without Pay.* If an employee is involved in a personal lawsuit not related to duties with the City, the employee has the option of using vacation leave or leave without pay.

#### **8.5 Other Leave.**

A. *Meetings, Seminars.* Employees may be granted leave with pay to attend meetings, seminars, courses and conventions related to the employee's work for the City when such attendance is authorized by the Department Director and approved by the City Manager.

B. *Educational Leave.* Upon written request, an employee may be granted leave without pay for a period of up to a total of nine months, every five years, to further his/her education or seek specialized training that is applicable to their job duties with the City of Deltona. The five-year period commences with the first day taken off. Recommendation of the Department Director and approval of the City Manager are necessary. Each Department Director must weigh and determine each case on its own merits. Where possible, the employee's position will remain open until the Department Director determines that the long-term absence of the employee is creating a problem in maintaining the workload. In each case, the City will make a reasonable effort to return the employee to his former position or to a similar position of the same classification in another department. If no opening exists, the employee will be considered for future openings if application is made.

In the event of an approved educational leave of absence, the employee will no longer accrue vacation or sick leave, once all accruals have been paid out.

## **8.6 Leave of Absence without Pay.**

The decision to grant leave without pay is a matter of administrative discretion. Leaves of absence of up to three (3) months may be granted upon recommendation of the Department Director and approval of the City Manager. Directors must weigh and make a determination on each case based on its own merits. Where possible, an employee's position will remain open until the Director determines that the long-term absence of the employee is creating a problem in maintaining the workload.

In each case, the City will make a reasonable effort to return the employee to his former position while on leave of absence without pay.

Subject to the terms, conditions, and limitations of the applicable plans, health insurance benefits will continue until the end of the month in which the approved leave of absence without pay begins. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue. When the employee returns from the leave of absence, benefits will again be provided by the City of Deltona according to the applicable plans.

An employee, or authorized representative, granted a leave of absence must keep the HR Department informed on a monthly basis of current activities while absent from work. An employee may not work for any other organization during his or her leave of absence from the City of Deltona without the City's permission.

## **8.7 Domestic Violence Leave.**

As provided by the Florida Statute 741.313 on Domestic Violence Leave, the City of Deltona grants paid leave (if accrued vacation or sick time is available) or, if accrued time is unavailable, unpaid leave for periods of authorized absence in accordance with the terms of this policy. An employee may not work for any other organization during his or her leave of absence from the City of Deltona without the City's permission.

Leaves of absence are available only to employees who have been on the City's payroll for a period of three (3) months.

### **VICTIMS OF DOMESTIC VIOLENCE LEAVE:**

A leave of absence for a definite period of time, not to exceed three (3) days in any given twelve (12) month period, may be granted for the following reasons:

- A. To seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence;
- B. To obtain medical care and/or mental health counseling to address physical or psychological injuries resulting from the act of domestic violence (for either the employee or family/household member);

- C. To obtain services from a victim-services organization;
- D. To make the employee's home secure from the perpetrator of domestic violence or to seek new housing or to escape the domestic violence perpetrator; or
- E. To seek legal assistance for issues concerning the domestic violence situation or to attend and prepare for court-related proceedings arising from the act of domestic violence.

**TERMS AND CONDITIONS OF DOMESTIC VIOLENCE LEAVE:**

- A. Except in cases of imminent danger to the health or safety of the employee, or to the health or safety of a family/household member, an employee must give the City twenty-four (24) hours advance notice of their request for leave to their immediate supervisor.
- B. A leave of absence will be granted to the employee who has been a victim of domestic violence or who has a family or household member who has been a victim of domestic violence. Except in cases of imminent danger to the health or safety of the employee, or to the health or safety of a family/household member, a leave of absence will be granted upon request and if supported by sufficient documentation of the act of domestic violence including, but not limited to:
  - 1. Documentation or report by a law enforcement official;
  - 2. Documentation or report by a domestic violence shelter; or
  - 3. Documentation or report by a medical care or mental health professional
- C. An eligible employee may use accrued vacation or sick leave so that the leave is with pay otherwise unpaid leave is authorized under this policy.
- D. An eligible employee may take up to a maximum of three (3) days of leave in a twelve (12) month period under this policy.

**The City will keep all information relating to employee leaves under this policy CONFIDENTIAL.**