

AN ORDINANCE ESTABLISHING RULES AND REGULATIONS REGARDING ABSENCE FROM WORK OF THE EMPLOYEES OF THE CITY OF CONWAY; AND FOR OTHER PURPOSES:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION ONE (1). In order to establish an orderly and equitable system of annual leave and absence from work due to illness and other emergencies of the full time employees of the various departments of the City of Conway, Arkansas, the following rules and regulations relating thereto are hereby promulgated.

SECTION TWO (2). DEFINITIONS. The following words and/or terms when used in this ordinance, shall have the meaning set forth herein:

(a) Annual Leave. Annual leave shall be a specified period of time off from an employee's regular position of employment, with pay, to which said employee shall become entitled, as hereinafter set forth.

(b) Sick Leave. Sick leave shall be period of time off from an employee's regular employment, in addition to annual leave, accruing at the rate hereinafter specified, which said employee may take only for the purpose of recuperating from sickness or injury, as hereinafter defined.

(c) Sickness. Sickness, as used herein, shall include, but shall not be limited to, any disorder, malady or disease, which affects the mental or physical health of an employee to such a degree that said employee is unable to perform the ordinary duties required of him by his employment.

(d) Injury. As used herein "injury" shall include, but shall not be limited to, all accidental bodily injuries of whatever kind or nature, which an employee may sustain, while within or without the course of his employment, which incapacitates said employee to such a degree that he is no longer able to perform the ordinary duties required of him by his employment.

(e) Emergency Leave. Emergency leave shall be a period of time off from an employee's regular employment; in addition to annual leave and sick leave, which an employee may be granted when, in the sound discretion of his supervisor or department head, an emergency is deemed to exist of such a nature as to require the employee to be absent from his employment.

(f) Holidays. Holidays shall be those certain days during the calendar year, in addition to annual leave, sick leave and

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emergency leave, on which an employee will not normally be required to report to his place of employment and for which he shall receive his regular salary; Provided, however, that in the event such employee is required to work on the days hereinafter designated as holidays he shall be entitled to receive one full day's pay in addition to his regular salary in lieu of the holiday so worked or its equivalent or, in the alternative, he shall be entitled to an equal period of time off from his employment, such time off to be taken on a day other than a holiday, to the end that said employees shall have the following days off, or their equivalent, each year, or pay in lieu thereof, to-wit:

New Years Day -- January 1
Independence Day -- July 4
Labor Day -- The First Monday in September
Thanksgiving Day -- The Fourth Thursday in November
Christmas Day -- December 25

Provided, however, that in order to be eligible to receive the equivalent time or the money in lieu thereof for any holiday, as is hereinabove provided, the employee shall be required to work the schedule work days immediately before and after the holiday for which he claims equivalent time or additional pay.

SECTION THREE (3). Annual Leave. (a) No employee shall be eligible to take annual leave unless and until he shall have been continuously employed for a term of one year by that department of the City by which he is employed and he shall then be entitled to annual leave for a term which shall be computed as follows: For each full calendar month such employee shall have been continuously employed during the preceding calendar year he shall be entitled to one twelfth (1/12th) of the full annual leave for members of the department by which such employee is employed.

(b) Beginning January 1, 1968, and continuing each calendar year thereafter, each person who shall have been an employee of the Public Works Department or the Sanitation Department of the City for and during the full calendar year last past shall be entitled to annual leave with pay for a term equal to ten (10) working days during calendar year 1968, and during each calendar year thereafter so long as he shall be continuously employed.

(c) Beginning January 1, 1968, and continuing each calendar year thereafter, the Clerk-Treasurer of the City, the City Inspector, the Municipal Court Clerk, each person who shall have been an employee of the Fire Department or the Police Department of the City of Conway, Arkansas for and during the full calendar year last past shall be entitled to annual leave with pay for a term of two calendar weeks, during calendar year 1968 and during each calendar year thereafter so long as he shall be continuously employed.

(d) Any employee desiring to take his annual leave shall submit his written request therefor to the superintendent or chief officer of the department of which he is an employee, using appropriate forms prescribed therefor. The time or times of vacations for all employees of any department shall be determined by the superintendent or chief officer thereof, having due regard for the needs of the department and the welfare of the employees.⁽¹⁾ Except in cases of emergency, the approval of annual leave will be obtained in advance of the absence. In emergency situations the employee must notify his department head of the emergency within a reasonable time after the beginning of his regularly assigned shift on the first day of absence and request leave. All requests for annual leave shall specify the length of time desired, except in emergency situations where circumstances do not permit. The supervisor or department head shall advise the employee whether his request is for leave is approved or denied. Employees will be encouraged to request a continuous period of at least one week annual leave each year for vacation purposes. Short periods of leave will also be granted for attending to personal business, which shall be counted as a part of the annual leave time of that employee.

(e) In order that all employees shall be given the opportunity for a reasonable vacation period and to permit them to use all annual leave they might otherwise forfeit, each department head shall establish for his department a leave schedule for the entire leave year. Leave will be scheduled to avoid having an excessive number of employees on leave at the same time and to insure that a sufficient number of personnel will be on duty to maintain essential operations. Leave schedules shall be flexible so as to allow for leave for emergency situations which may occur, and when changes are made in a leave schedule the changes must be based on factors that are reasonable and equitable for all persons concerned. Short periods of leave taken for personal business or unforeseen emergencies may be substituted for corresponding periods of scheduled leave.

(f) Each department head may require the employees of his department to take annual leave at times as may be required by the needs of the department. Such required use of annual leave will be based upon factors that are reasonable, equitable, and do not discrim-

inate among employees. Circumstances within the contemplation of this provision are, for example, times when an employee's services cannot be utilized fully because of a breakdown of equipment, repair of machinery, inventory, fire, adverse weather conditions preventing satisfactory utilization of the employees time or work, or similar conditions. In all cases where employees are required to take leave the department head shall make proper notation thereon upon the employee's employment records.

(g) If any employee shall fail to take the full annual leave granted to him in any calendar year he may carry the unused portion thereof forward into the next succeeding calendar year, but in no instance shall an employee be permitted to carry forward more than fifty per cent (50%) of his annual leave for the year just ended. In the event any employee shall carry a portion of his annual leave forward into the next succeeding calendar year he must take such carried over annual leave during the first six months of said succeeding year or he shall lost the same. It shall be mandatory that each employee shall take fifty per cent (50%) of his annual vacation each calendar year, to be taken in one continuous term, but if any employee shall elect to work during not more than fifty per cent (50%) of his annual leave he shall be paid his regular wage or salary, plus full vacation pay for the time so worked. Upon the termination of employment of any employee the earned annual leave of that employee which shall not have been taken may then be taken.

SECTION FOUR (4). Sick Leave. (a) Sick leave will be granted to employees when they are incapacitated for the performance of their duties by sickness, injury, or pregnancy, and confinement for medical, dental, or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease which is ruled subject to quarantine by local health authorities. All employees of the City shall be entitled to sick leave with full pay. Persons covered by the provisions of this ordinance who were employees of the City of Conway, Arkansas on January 1, 1965 shall be entitled to six (6) days sick leave and such sick leave shall annually accrue at the rate of one half (1/2) day for each month of continuous employment by the same department during each calendar year, plus one day for each year of continuous employment in excess of six years.

(b) If an employee shall fail to take or utilize all of the sick leave to which he is entitled in any calendar year he may carry forward the unused portion thereof until he shall have accumulated a maximum of sixty (60) days. All accumulated and unused sick leave

of an employee shall be forfeited upon termination of the employment of that employee, unless he shall present to his department head the certificate of a duly licensed and practicing physician attesting that such employee is in fact ill or injured to the extent that he was, at the time of such termination, prevented from being gainfully employed, and it shall be the duty of such terminated employee to have an examination made of himself, at his sole expense, by the physician who is on the Board of Trustees of the Pension and Relief Fund for the department by which said employee was employed at least one time each seven (7) days for the time during which said employee is being paid for accumulated sick leave stating that such employee continues to be ill or injured to the extent that, he is prevented from being gainfully employed.

(c) Any absence from work in excess of one day due to an alleged sickness or injury shall be denied as sick leave unless the employee shall present to the head of the department the certificate of a duly licensed and practicing physician, attesting to such illness or injury. A medical certificate will not ordinarily be required for absences of less than one day. However, an employee who is absent frequently for short periods because of illness may be advised to obtain a physical checkup from a qualified physician. When there is reason to believe that an employee is abusing the use of sick leave, a medical certificate may be required for absences of less than one day.

(d) Sick leave is a qualified right of the employee to be used only in accordance with announced policies and instructions. It is within the discretion of the department head to ascertain whether the reason for absence justifies approval of the request for sick leave. When an employee is unable to report for work because of an incapacitating illness he will notify his department head within two hours after the beginning of the assigned shift on the first day of absence. Such notification may be made by telephone, work of another employee, or by any means available. Notification shall include nature and extent of illness, expected time of return to duty, and address during the period of absence. It shall be the duty of the employee to keep his department head informed of the extent of his illness and the time of his expected return to duty, and failure to do so may result in a charge of absence from work without leave.

(e) Application for sick leave of more than one day shall be made upon the form provided therefor within two days after return to duty. Sick leave of more than one day must be supported by a statement by a registered and practicing physician that the employee was incapacitated to perform his usual duties and must cover all absences beyond the first; day. In some instances where employees are not attended by a physician, a statement by the employee certifying that he was incapacitated for duty may be accepted in lieu of a medical certificate, but such statement must be filed within two days after return to duty. Unjustified leave may be changed to annual leave or absence without leave, and, when appropriate, disciplinary action ~~is~~ may be taken.

(f) Sick leave may be granted to an employee who, because of illness or injury, is unable to return to work following a period of nonpay status.

(g) Employees on extended leave (including sick leave for maternity reasons) at the time advance notice of reduction in force or displacement is received may be continued on sick leave for the duration of the illness, not in excess of the extent of the notice period. Sick leave may not be substituted for annual leave after the last day in a duty status.

(h) Sick leave may not be granted retroactively to cover any period of absence without pay which has been applied for and approved in advance, ~~except in the case of a reduction in force or displacement~~ ~~in which the employee was unable to return to work~~ ~~within the time specified in the notice of reduction in force or displacement~~. Advance sick leave may be granted retroactively within administrative discretion except as specifically prohibited above.

~~(i) If an employee sustains an accidental injury arising out of and in the course of his employment which results in the temporary total disability of such employee he may be paid his full salary or wage for a term not exceeding three months, upon presentation of the certificate of a duly licensed and practicing physician that such injury has resulted in the total temporary disability of said employee. Provided, however, it shall be the duty of such employee, at his sole expense, to have an examination made of himself at least once each thirty (30) days by a duly licensed and practicing physician and if~~

(i) If an employee sustains an accidental injury arising out of and in the course of his employment which results in the temporary total disability of such employee he may be paid his full salary or wage for a term not exceeding three months, upon presentation of the certificate of a duly licensed and practicing physician that such injury has resulted in the total temporary disability of said employee. Provided, however, it shall be the duty of such employee, at his sole expense, to have an examination made of himself at least once each thirty (30) days by a duly licensed and practicing physician and if

he shall have recovered from such disability it shall be the duty of the head of the department employing such employee to stop payment of such salary or wage as a disability and to place said employee back in service, and the time of his disability shall be considered as continuous service in his position. It is specifically provided that the within provision is intended to be and shall be in addition to and not in lieu of or in substitution for the provisions for retirement for temporary total disability as may now or hereafter be provided in any Pension and Relief act or Ordinance now or hereafter enacted by or effective in the City of Conway, but it is intended that an employee so injured shall be specifically prohibited from obtaining payment of wages, salary or benefits under both this ordinance and any pension and relief act or ordinance for the same injury, and to that end and extent the two enactments shall be mutually exclusive.

SECTION FIVE (5) BRIEF PERIODS OF ABSENCE AND TARDINESS.

Unavoidable or necessary absence from duty and tardiness for less than one hour, may be excused for adequate reason by the employee's department head. If this privilege is abused such absence will be charged to the employee's annual leave or disciplinary action may be taken. If the absence is charged to annual leave the charge shall be made in multiples of one hour. If the leave charge exceeds the period of absence or tardiness the employee will not be required to work during the additional period covered by leave.

SECTION SIX (6). LEAVE WITHOUT PAY. ^(a) Leave without pay is temporary absence from duty in a nonpay status granted upon the employee's request. It shall not be imposed as a penalty, nor shall an employee be required to request leave without pay in lieu of suspension. No employee shall be able to demand leave without pay as a matter of right, but such leave is hereby specifically made a privilege. Each request for leave without pay shall be closely examined for the purpose of ascertaining that the benefit of the City and the serious needs of the employee are sufficient to offset the costs and administrative inconveniences which result from the retention of an employee in a leave without pay status.

(b) Leave without pay for an extended period of time shall not be granted except when there is a reasonable expectation that the employee will return to work or duty at the expiration of the approved period. "Reasonable expectation to return to duty" shall mean that the

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employee will return to work in the same or a similar position, title, grade and salary in the same department as was the case when the employee began such leave, and it shall further be apparent that such leave will result in the employee's increased job ability, or protection or improvement of the employee's health, or the retention of a desirable employee.

(c) All requests for leave without pay shall be submitted in advance of the time when leave without pay is to be in effect. Such requests shall be submitted to and shall be acted upon by the head of the department employing the employee making such request, and such action shall be deemed final. In acting upon such requests all department heads shall keep in mind the needs of his department and the welfare of the employee.

SECTION SEVEN (7). ABSENCE WITHOUT LEAVE. All unauthorized absence from duty on regular work days will be considered absence without leave. Department heads are responsible for controlling absence without leave and for initiating disciplinary action against offending employees, including removal for abandonment of position and suspension, where appropriate.

SECTION EIGHT (8). It is hereby declared that the provisions of this ordinance are separable, and if any provision of this ordinance shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of the ordinance.

SECTION NINE (9). It is hereby ascertained and declared that there is immediate need, in order to protect the health and safety of the employees of the City, and therefore the welfare of the inhabitants of the City, and therefore an emergency is declared to exist and this ordinance shall be in force and be effective from and after its passage and publication, according to its terms.

ADOPTED: January 14, ¹⁹⁶⁹~~1968~~

APPROVED: _____

Mayor

ATTEST: _____

Clerk Treasurer