

## CHAPTER 5 LEAVE

### 5.01 Holidays

- A. Paid holidays are extended to full-time employees.
- B. The following official holidays shall be observed:
  - 1. New Year's Day (January 1);
  - 2. Martin Luther King, Jr. Day
  - 3. Good Friday (Friday before Easter);
  - 4. Memorial Day (last Monday in May);
  - 5. Independence Day (July 4);
  - 6. Labor Day (first Monday in September);
  - 7. Thanksgiving Day (fourth Thursday in November);
  - 8. Day after Thanksgiving (fourth Friday in November);
  - 9. Christmas Eve Day (December 24);
  - 10. Christmas Day (December 25); and
  - 11. One Floating Holiday per calendar year (employee's choice) as approved by his Department or Division Head.
    - a. In accordance with Section 142.0013(c) of the Texas Local Government Code, a firefighter shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees, at least one of which shall be designated as September 11<sup>th</sup>. For firefighters, the Floating Holiday shall be designated as September 11<sup>th</sup> Holiday.
- Additional days may be designated by the Town Council.
- C. When an official holiday occurs on a weekend, the following alternative schedule applies:
  - 1. A holiday which occurs on a Saturday shall be taken on the Friday before the holiday; and
  - 2. A holiday which occurs on a Sunday shall be taken on the Monday after the holiday.
- D. An employee shall receive holiday pay equivalent to a standard eight (8)

hour work day. Holiday time for firefighter shift shall be equivalent to twelve (12) hours.

- E. Holidays may not be accumulated beyond eighty-eight (88) hours, or one hundred thirty-two (132) hours for firefighter shift personnel.
- F. An employee who abandons his job, as defined in section 6.04.C, shall be ineligible for payment of accumulated holiday leave.
- G. An employee shall not receive pay for a holiday if he is:
  - 1. Absent without prior approval either the day before or the day following an official holiday, or
  - 2. Absent without prior approval, as defined by the employee's department or division policy, on a holiday on which the employee is normally scheduled to work.
- H. An official holiday occurring while any eligible leave is being taken shall be reflected as a holiday for payroll purposes and no deduction from such leave balance shall be made for the holiday.
- I. Employees wishing to observe religious or other holidays not listed herein shall at their option be given time off without pay or have the time charged to vacation, compensatory, holiday or exempt leave time, if available.
- J. Holiday leave shall be granted in 15 minute increments.

## **5.02 Vacation Leave**

All regular full-time and part-time employees shall accrue vacation leave during their first six (6) months of employment, but vacation leave may not be used until after completion of six (6) months of service. Eligibility for, and accrual rate of vacation benefits is determined by the date of regular full-time employment and length of service provided to the Town. The Town shall provide 15 vacation days each year with pay for each member of the fire department and police department, as defined by the Texas Local Government Code, in accordance with requirements of state law. These employees will accrue vacation leave at a rate starting from hire date so that by the end of one year of

employment the employee will have accrued 15 days of vacation leave.

- A. Regular Full-time employees with up to five (5) years of regular full-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month. Full-time employees who have completed five (5) years or more and up to ten (10) years of continuous regular full-time service with the Town shall accrue vacation leave at a rate of 10 hours per month. Full-time employees who have completed ten (10) years or more of continuous regular full-time service with the Town shall accrue vacation leave at a rate of 13.34 hours per month.

<b>REGULAR FULL-TIME EMPLOYEES (Except Firefighter Shift Personnel)</b>		
<b>Maximum of 480 Hours</b>		
<b>Months</b>	<b>Hours Per Month</b>	<b>Hours Accrued Per Year</b>
1-60	6.67	80
61-120	10.00	120
121 +	13.34	160

- B. Regular part-time employees with up to five (5) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 3.34 hours per month. Part-time employees who have completed five (5) years or more and up to ten (10) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 5 hours per month. Part-time employees who have completed ten (10) years or more of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month.

<b>REGULAR PART-TIME EMPLOYEES</b>		
<b>Maximum of 240 Hours</b>		
<b>Months</b>	<b>Hours Per Month</b>	<b>Hours Accrued Per Year</b>
1-60	3.34	40

61-120	5.00	60
121 +	6.67	80

Regular part-time public safety officer employees with up to ten (10) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 5 hours per month. Part-time employees who have completed ten (10) years or more of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month.

<b>REGULAR PART-TIME PSO EMPLOYEES</b>		
<b>Maximum of 240 Hours</b>		
<b>Months</b>	<b>Hours Per Month</b>	<b>Hours Accrued Per Year</b>
1-120	5.00	60
121 +	6.67	80

- C. Pursuant to state and/or federal law, firefighter shift personnel may be subject to special provisions regarding vacation leave. Full-time firefighter shift personnel with up to ten (10) years of continuous firefighter shift service with the Town shall accrue vacation leave at a rate of 15 hours per month. Full-time firefighter shift personnel who have completed ten (10) years or more of continuous firefighter shift service to the Town shall accrue vacation leave at a rate of 20 hours per month. Rules for vacation leave accrual for firefighter shift personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and Texas state law.

<b>FIREFIGHTER SHIFT EMPLOYEES</b>		
<b>Maximum of 720 Hours</b>		
<b>Months</b>	<b>Hours Per Month</b>	<b>Hours Accrued Per Year</b>
1-120	15.00	180

121 +	20.00	240
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Pursuant to state and/or federal law, public safety officers may be subject to special provisions regarding vacation leave. Full-time public safety officer personnel with up to ten (10) years of continuous public safety officer service with the Town shall accrue vacation leave at a rate of ten (10) hours per month. Full-time public safety officer personnel who have completed ten (10) years or more of continuous public safety officer service to the Town shall accrue vacation leave at a rate of 13.34 hours per month. Rules for vacation leave accrual for public safety officer personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and Texas state law.

<b>PUBLIC SAFETY OFFICER EMPLOYEES            (Sworn Officers and Fire Personnel/Non-Shift)            Maximum of 480 Hours</b>		
<b>Months</b>	<b>Hours Per Month</b>	<b>Hours Accrued Per Year</b>
1-120	10.00	120
121 +	13.34	160

- D. Department Heads or designees shall schedule an employee's vacation giving consideration to the ability of the remaining staff to perform the work of the department. The employee has the responsibility to assure that the leave request is made within a reasonable length of time prior to the commencement of the leave. All vacation leave for Department Heads must be approved by the Town Manager.
- E. A "month of service" for determining vacation benefits shall be allowed on parts of a month as follows: The employee's first month on the payroll shall count only if he was hired on or prior to the 15th day of the month; the employee's last month on the payroll shall count only if he terminates

on or after the 16th day of that month.

- F. Vacation leave may be accumulated from year-to-year, not to exceed two hundred forty (240) hours for regular part-time employees; four hundred and eighty (480) hours for regular full-time employees; and seven hundred and twenty (720) hours for firefighter shift personnel. The Town Manager may waive this limitation, if the needs of the Town preclude the taking of vacation leave which would otherwise be lost because of this limitation.
- G. All employees are encouraged to use vacation leave. Leave must be taken in 15 minute increments. All leave requests must be approved by the Department or Division Head so that schedules and duties may be adjusted to create minimum disruption of normal work operations.
- H. Upon separation from service, regular employees who have completed six (6) months of service to the Town shall be paid for any accrued, but unused vacation leave. All vacation leave is forfeited if the employee separates from employment prior to completion of six (6) months of employment with the Town. Additionally, an employee who abandons his job, as defined in section 6.04.C, shall be ineligible for payment of accumulated vacation leave. To maintain eligibility for payment of accrued vacation leave, an employee who resigns his position with the Town must submit a written notice of such resignation, giving ten (10) working days' notice, unless such notice has been waived by the Department or Division Head.
- I. An official holiday occurring during an employee's vacation shall not be considered vacation leave.
- J. Vacation leave shall not be advanced to employees.
- K. Vacation leave credits are not transferable between employees.
- L. Employees shall not be allowed to take in excess of ten (10) consecutive vacation days or, in the case of firefighter shift personnel, five (5) consecutive vacation shifts, without the prior written approval of the Department or Division Head, as appropriate, except when the employee is

using family and medical leave.

- M. An employee on disciplinary suspension forfeits all claims to use vacation leave for the duration of the disciplinary suspension.
- N. If an employee becomes ill while using vacation leave, vacation leave may be converted to sick leave. The presentation of a licensed physician's written statement may be required.
- O. Vacation leave may not be used by any employee who is unable to work and is receiving full workers' compensation benefits.
- P. Leave records shall be maintained by the Financial Services Department.
- Q. Temporary employees are not eligible for vacation leave.

### **5.03 Sick Leave**

The intent of sick leave is to prevent a loss of income to an employee who is absent due to an injury or illness, which is not job related. Should such an injury or illness occur to an employee, continued income should be insured through the use of sick leave. Accrued sick leave may also be used for maternity reasons including placement of a child for adoption; however, transfer of sick leave hours is not applicable for maternity reasons.

- A. Sick leave shall be accrued by all full-time employees at the rate of eight (8) hours per month. Part-time employees shall accrue sick leave at the rate of four (4) hours per month. Pursuant to state and/or federal law, firefighter shift personnel and police patrol personnel may be subject to special provisions regarding sick leave. Full-time firefighter shift personnel shall accrue sick leave at the rate of twelve (12) hours per month. Rules for sick leave accrual for firefighter shift personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and applicable Texas laws.
- B. Any accrued but unused sick leave shall be carried to the employee's credits for the following year.
- C. Regular full-time and part-time employees accrue sick leave during their

first six (6) months of employment and are eligible to use the leave upon accrual.

- D. Frequent claiming of sick leave, except as covered by the Family and Medical Leave Act, may constitute grounds for the assumption of the Department or Division Head that the employee is unable to perform the essential functions of the job.
- E. A regular employee who enters service with the Town on or prior to the 15th day of any month, or separates from service with the Town on or after the 16th day of any month shall earn sick leave for that month.
- F. After an employee's accumulated sick leave has been exhausted, accrued vacation, compensatory, or exempt leave may be used as sick leave with approval of the Department or Division Head, provided there has been no abuse of sick leave, and that all provisions of the sick leave policy are met. When absence due to illness exceeds the amount of paid leave earned and authorized, the pay of an employee shall be discontinued until the employee returns to work.
- G. Sick leave shall be granted in 15 minute increments.
- H. Sick leave may be allowed in case of doctor appointments, personal illness, physical incapacity of an employee, employee's spouse, children, parents, spouse's parents, brother, sister, or a dependent residing in the employee's household.
- I. Employees who are absent due to illness for three (3) or more consecutive days shall be required to provide their supervisor with sufficient documentation from a licensed physician. The supervisor shall provide the documentation to the Human Resources Division.
- J. A supervisor shall be responsible to notify the Human Resources Division when an employee is absent due to illness for seven (7) consecutive work days [or 3.5 shifts for fire fighters] so the time may be evaluated for family and medical leave status.
- K. Notice of employee absence due to a non-job-related injury or illness must



be given daily by the employee to that employee's immediate supervisor, Department or Division Head no later than thirty (30) minutes after the beginning of the employee's work shift. Failure to do so may cause the employee's absence to be charged to leave without pay. Emergency situations, which might prevent compliance with the provisions of this paragraph, shall be taken into consideration by the Department or Division Head.

- L. Department or Division Heads are authorized to undertake any investigations of sick leave claimed by an employee, who they may deem necessary, or to disapprove any claims not properly substantiated.
- M. An employee who has been absent because of illness or injury may be required to submit to an examination by a licensed physician at the Town's expense. In such cases, the employee may return to work upon approval of the Town's examining physician.
- N. An employee who is released by an examining physician to return to regular duty, and refuses to report for work or perform his assigned duties, is subject to disciplinary action, up to and including termination.
- O. Sick leave shall not be advanced.
- P. Sick leave credits are transferable between employees, upon request by an employee, pursuant to the conditions contained herein. These conditions shall be limited to an employee's long-term, non-job-related injury or illness, which renders the employee unable to perform the essential functions of his job. This does not include maternity reasons. A maximum of twelve (12) weeks per incident/diagnosis may be provided to the regular full-time employee and six (6) weeks per incident/diagnosis may be provided to the regular part-time employee. The employee requesting transferred credits must have exhausted all accrued leave (with the exception that a regular full-time employee may retain up to 40 hours of his accrued leave, regular part-time employee up to 20 hours of his accrued leave, and firefighter shift personnel up to 60 hours of his accrued

leave). Those employees eligible are regular full-time and regular part-time employees who have completed six (6) months of continuous regular full-time or regular part-time employment with the Town. A regular full-time employee may not transfer more than 20 hours of his sick leave to any one employee in a calendar year. A regular part-time employee may not transfer more than 10 hours of his sick leave to any one employee in a calendar year and firefighter shift personnel may not transfer more than 30 hours of his sick leave to any one employee in a calendar year.

- Q. Sick leave may not be taken by any employee who is unable to work and is receiving full workers' compensation benefits.
- R. An employee who separates from the Town, has completed a minimum of ten (10) years of continuous service with the Town and qualifies for retirement as defined by the Texas Municipal Retirement System, shall be eligible for pay for one-half (½) of accumulated sick leave, or three hundred and sixty (360) hours, whichever is less. Full-time firefighter shift personnel shall be eligible for pay for one-half (½) of accumulated sick leave, or five hundred and forty (540) hours, whichever is less.
- S. Records of employees' sick leave time used shall be maintained in the Financial Services Department.
- T. An employee on disciplinary suspension forfeits all claims to use sick leave for the duration of the disciplinary suspension.

#### **5.04 Bereavement Leave**

Bereavement leave with pay is granted by a Department or Division Head to an employee for absence from duty because of death in the employee's immediate family. Regular full-time and regular part-time employees are eligible for bereavement leave.

For purposes of this section, immediate family member is defined as the employee's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, grandfather, grandmother, grandchildren, uncle, aunt, nephew, niece, first cousin, grandparent-in-

law, legal guardian/ward and any applicable step relationship related to the foregoing, or any relative who may be residing in the same household with an employee.

No more than three (3) working days may be used for bereavement leave within a calendar year. In the event of another qualifying death and the employee's bereavement leave days have been utilized, he may use accrued leave, including sick leave, or leave without pay. If there is no balance in an employee's accrued leave, the employee may request additional bereavement leave at the approval of the Department Head and the Town Manager.

**5.05 Family and Medical Leave**

A. Regular employees who have completed six (6) months of employment with the Town are entitled to receive family and medical leave during a rolling year for one or more of the reasons listed below:

1. Birth of a child of the employee in order to care for such child (leave must be taken within a twelve (12) month period after birth);
2. Upon the placement of a child with the employee for adoption or foster care (leave must be taken within a twelve (12) month period after placement);
3. To care for the employee's spouse, son, daughter or parent who has a serious health condition; or
4. When the employee is unable to perform the essential functions of his position because of a serious health condition.

B. Military Leave

Regular full-time employees who have completed six (6) months of employment with the Town are entitled to receive military caregiver leave during a "single 12-month period" beginning on the first day of leave and ending 12 months later for the following reasons listed below:

1. A spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness.

Qualifying Exigency Leave arising from:

1. A covered military member's short-notice deployment;
2. Military events and related activities;
3. Childcare and related activities arising from active duty or call to active duty status of a covered service member;
4. Financial and legal arrangements to address a covered military member's absence;
5. Counseling provided by someone other than a health care provider, the need for which arises from the active duty or call to active duty status of a covered service member;
6. Taking up to five (5) days leave to spend time with a covered military member who is on short-term temporary rest and recuperation leave during deployment; and
7. Attending certain post deployment activities.

Eligible employees will be limited to a combined total of 26 work weeks of leave for any FMLA-qualifying reason during the "single 12-month period."

C. The provisions for using family and medical leave for 1 through 4 listed above are as follows:

1. An employee who has no accrued paid leave must receive unpaid family and medical leave up to twelve (12) weeks;
2. An employee who has less than twelve (12) weeks of accrued paid leave must first use the accrued paid leave toward the twelve (12) weeks; thereafter, the remaining balance of the twelve (12) weeks shall be unpaid family and medical leave;
3. An employee who has more than twelve (12) weeks of accrued paid leave may use the accrued paid leave over and beyond the twelve (12) weeks, if necessary, for family and medical leave causes, only upon review by the Human Resources Division and approval by the Town Manager; and
4. Family and Medical Leave may be paid or unpaid.

D. After completion of twelve (12) weeks of leave under the Family and

Medical Leave Act, if an employee is unable to perform the essential duties of his assigned position, reasonable accommodations may be made by the Town to provide for the employee to perform such duties. If reasonable accommodations cannot be made and the employee is unable to perform the essential duties of his assigned position, he may be terminated. (For eligibility and specifics of the Medical Incapacity Leave of Absence, refer to Section 5.16.)

- E. A supervisor shall be responsible to notify the Human Resources Division when an employee is absent due to illness for seven (7) consecutive work days [or 3.5 shifts for firefighters], so the time may be evaluated for Family and Medical Leave status.
- F. When Family and Medical Leave is foreseeable, an employee must provide at least thirty (30) days advance written notice.
- G. To be eligible for family and medical leave, proof of a serious health condition must be certified by a health care provider, as defined by the FMLA. An employee may be required to submit periodic written status reports to the Human Resources Division.
- H. This policy does not affect the accrual or usage of leave provisions (i.e., vacation, sick, compensatory or exempt leave, or holiday).
- I. An employee shall continue to receive health insurance benefits during Family and Medical Leave. The Town shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits. Family and Medical Leave for both husband and wife employed by the Town for the birth of a child is limited to twelve (12) weeks combined.
- J. Family and Medical Leave may be delayed or denied due to the failure of an employee to adhere to these Regulations.

#### **5.06 Jury Leave**

- A. An employee shall be granted paid jury leave when he is summoned for jury duty.
- B. The employee must notify his supervisor upon receiving a

summons for which jury leave is requested. A copy of the summons must be submitted to the employee's supervisor.

- C. All fees paid and expenses reimbursed by the court may be retained by the employee.
- D. Employees shall report to work on any business day or partial day when the jury/court is not in session.

### **5.07 Voting**

The Town encourages all employees to fulfill their civic responsibilities by participating in elections. However, all employees should make every effort to vote outside normal working hours. If employees are unable to vote in an election during their non-working hours, the Town shall allow employees to use accrued vacation leave, compensatory leave, or exempt leave for the number of hours necessary for the employee to vote.

Employees should request time off to vote from their supervisor at least two working days prior to the election day so that necessary time off may be scheduled at the beginning or end of the work period, whichever provides the least disruption to the normal work schedule.

### **5.08 Military Leave**

- A. Paid Leave for the purpose of responding to orders of military service as a member of the active service, reserve units, national guard, or other official special units shall be granted to all full-time employees for a maximum of fifteen (15) work days per calendar year subject to the following conditions:
  - 1. All requests for leave must be made within fifteen (15) days of the first day for which leave is requested and must be accompanied within a reasonable period of time by a copy of the order, directive, notice, or other document requiring absence from scheduled work;
  - 2. Leave pay shall not be granted for hours before or after the regularly scheduled working hours or for overtime hours scheduled;

3. Travel time included in the orders and paid for or reimbursed by the service shall be counted as military leave;
  4. Military leave shall not be granted for a diagnosis or treatment of any service-connected sickness or disability, for obtaining or sustaining any disability rating or for treatment at any governmental facilities;
  5. Time required for physical examinations for selection or admission to the military service to determine or maintain a selected service rating or to maintain a reserve status shall be counted as military leave. Pay shall be limited to the regularly scheduled hours lost;
  6. Time over and above the fifteen (15) day maximum allowed must be taken as eligible accrued leave, except sick leave, or unpaid leave; and
  7. The conditions of the preceding subsections shall be applied as required by applicable federal and state law.
- B. Any full-time employee who leaves his position for the purpose of entering any branch of the United States armed forces for extended active duty shall be placed in military active duty status. The Town will supplement the difference between the employee's regular rate of pay and his military pay for up to 180 days. The employee will continue to accrue vacation leave, sick leave, and retirement. The Town shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits during the supplemental period.
- C. In accordance with Chapter 43 of Title 38, United States Code, entitled "Employment and Reemployment Rights of members of the Uniformed Services," an employee may serve a total of four (4) years of active duty in the armed forces, and an additional one (1) year as requested by the United States government, and still be eligible for reappointment to his Town position. An employee's right to reappointment is not protected for periods of military active duty longer than five (5) years.

- D. A full-time employee who leaves Town employment to enter active military service shall be restored to employment in the same position held upon entrance to active military service, or in a position of comparable status and pay, if the employee:
1. Is physically and mentally qualified to perform the essential duties of the position;
  2. Was discharged, separated, or released from active military service under honorable or general conditions;
  3. Has not been in active military service for more than five (5) years; and
  4. Makes written application for reappointment and presents evidence of the discharge, release, or separation from military service according to the following schedule:

Length of Period of Service	Reapply No Later Than
Less than 31 days	Next regular work day after completion of service and time to travel from place of service to residence
More than 30 days, but less than 180 days	Fourteen (14) days after completion of service
More than 180 days	Ninety (90) days after completion of service

- E. An employee shall be allowed full credit for time spent in the military service for the purpose of computing the rate of accrual of vacation leave.

**5.09 Workers' Compensation Leave**

- A. Any Town employee becomes eligible for Workers' Compensation when he is injured in the scope of his employment for the Town of Flower Mound.
- B. When the attending physician has instructed the employee, in writing, to



remain off the job until the physician releases the employee to return to work, Texas state law prescribes that an employee shall receive Workers' Compensation payments during the recovery and recuperation period. An injured employee is entitled to medical aid and hospital services which are required at the time of injury, and at any time thereafter, as may be necessary to cure and relieve the effects of the injury.

- C. The Human Resources Division is responsible for administering, pursuant to the requirements of state law, the Town's Workers' Compensation program.
- D. A full-time employee, who is injured on the job, shall be granted injury leave not charged against his sick leave or vacation leave, to extend for such time as a physician shall certify that the injured employee is unable to work, but in no event to extend beyond twenty-four (24) continuous weeks, unless expressly authorized by the Town Manager.
- E. During the first twelve (12) weeks of such injury leave, the leave shall not be charged against sick leave nor vacation leave and runs concurrently with Family and Medical Leave. Regular full-time employees shall continue to receive their current rate of pay, exclusive of overtime. During such injury leave, the Town shall pay such employee as direct payments from salary funds an amount that, when combined with workers' compensation insurance benefits payable to such employee, would equal his base pay, but the total amount so paid for loss of time from work shall not exceed the full pay which such employee would have received for such period at his regular rate of pay.
- F. If the employee is unable to return to work upon expiration of the twelve (12) weeks, the employee shall be allowed to use any accrued leave to make up the difference between workers' compensation and full pay up to the twenty-four (24) week total.
- G. If the employee is unable to perform the essential duties of his assigned position at the end of twenty-four (24) weeks, reasonable

accommodations may be made by the Town to provide for the employee to perform such duties. If reasonable accommodations cannot be made and an employee is unable to perform the essential duties of his assigned position at the end of twenty-four (24) weeks, he may be terminated.

- H. While on injury leave, an employee shall continue to earn vacation and sick leave at the regular rate and shall remain eligible for health insurance benefits; however, the employee's portion of any additional premiums, supplemental insurance and dependent coverage must continue to be paid by the employee during such leave.
- I. An employee who is physically able and who fails to report within twenty-four (24) hours any injury to his supervisor, however minor, and fails to take such first aid treatment as may be necessary, may not be eligible for injury leave. When an employee is injured on the job, the supervisor shall complete a workers' compensation First Report of Injury immediately and submit it to his supervisor, who shall forward it to the Human Resources Division. Where an accident causes serious bodily injury or death to an employee, the supervisor shall notify his Department Head, the Human Resources Division, the Financial Services Department, and the Town Manager immediately.
- J. Part-time and temporary employees shall be eligible to receive Workers' Compensation benefits only and shall not receive a base pay, and may be granted a "leave of absence without pay" by the Town.
- K. No employee may return to work from an injury involving lost time without first obtaining a physician's release. The physician's release must be forwarded to the Human Resources Division.
- L. An employee injured in the scope of his employment for the Town may be subject to alcohol/substance screening.

#### **5.10 Modified Duty**

- A. The Town's Modified Duty program is based on the belief that it is in the

best interest of both the employee and the Town for an employee to return to work in some capacity following an on-the-job or off-the-job injury, illness, or medical condition.

- B. With the Department Head's approval, a supervisor may work to identify possible modified duty assignments for all on-the-job and off-the-job injuries, illnesses and medical conditions.
- C. Attempts may first be made to make modified duty assignments in the division/department in which the injured/ill employee currently works. If placement is unavailable, the Director of Human Resources may attempt to place the individual in another department, based on physical ability, skills and available assignments.
- D. Regardless of where the modified duty assignment occurs, the salary of an employee placed on modified duty shall be paid by the division/department to which the employee is normally assigned.
- E. When the employee returns to work on a modified duty status for less than a regular shift, the number of hours, less the number of hours for the regular shift, shall be paid by supplementing with any accrued leave.
- F. Prior to an employee being placed on modified duty, he must provide to the Human Resources Division a written release from the attending physician stipulating the following:
  - 1. The specific restrictions;
  - 2. The period of time during which the restrictions apply;
  - 3. The expected date on which the employee may return to work for modified duty;
  - 4. The date of the employee's next physician appointment; and
  - 5. A specific date on which the employee may be expected to be fully recovered and can return to normal duties.
- G. The Town reserves the right to require an independent physical analysis/assessment upon the return to modified duty work of an employee from an injury, illness or medical condition.

- H. An employee who is released to return to work in less than a full-duty status by the examining physician may be required to work in a position or department other than his original position or department. Work duties shall be assigned in accordance with the employee's limitations and the needs of the Town.
- I. Modified duty assignments shall not extend beyond ninety (90) days unless extended by the Town Manager.
- J. An employee with a modified duty assignment shall be required to provide to the Human Resources Division a physician's statement monthly or after each doctor's visit (whichever is more frequent) that states the employee's progress and the expected date of return to full duty.
- K. An employee with a modified duty assignment will be expected to cooperate and fully perform the modified duty assigned. Failure to do so by the employee may result in the termination of the modified duty assignment, and/or the employee being subject to disciplinary action.
- L. It is the responsibility of the employee to inform his modified duty supervisor, in advance, of scheduled appointments. The employee should make every attempt to minimize the time away from work.
- M. An employee on modified duty assignment whose attendance, performance, and/or conduct merits discipline shall be subject to appropriate disciplinary action initiated by the supervisor of the modified duty assignment.
- N. Modified duty assignments are at the discretion of the Town and the Town is under no obligation to provide such assignments. This policy should not be construed as creating such an obligation.

### **5.11 Leave Without Pay**

Leave without pay is granted as a matter of administrative discretion. No employee may demand leave without pay as a matter of right, but it may be granted to any regular employee. The position of any Town employee who is on leave without pay

may be filled on an interim basis.

An employee's Department or Division Head may authorize leave without pay for a period not to exceed two (2) consecutive calendar weeks. Leave without pay in excess of two (2) consecutive calendar weeks must be approved by the Department Head and the Town Manager. While on leave without pay, an employee shall remain eligible for health insurance benefits; however, the employee's portion of any additional premiums, supplemental insurance and dependent coverage must continue to be paid by the employee during such leave.

### **5.12 Absence Without Leave**

An employee failing to report for duty or remain at work as scheduled without proper notification, authorization, or excuse shall be considered absent without leave, which constitutes abandonment of duties, and shall not be in pay status for the time involved. Absence for three (3) days without proper notification or without satisfactory reason shall be considered job abandonment and the employee shall be terminated. The employee shall be ineligible for payment of eligible accumulated leave.

### **5.13 Leave of Absence**

A full-time employee may be granted a leave of absence without pay for a period not to exceed six (6) months. While on leave of absence, an employee shall remain eligible for health insurance benefits; however, the total cost of such health insurance, dependent insurance coverage, and supplemental benefits must be paid by the employee during such leave. All requests for leave of absence must be approved by the Town Manager.

At the expiration of the leave of absence term, the employee may be allowed to return to his former job with the Town, or to a comparable job for which the employee is qualified, depending on the availability of such positions and the Town's needs.

### **5.14 Exempt Leave**

The Town Manager, Department Heads, and other executive, administrative, and

professional personnel, as defined by the Fair Labor Standards Act, are excluded from the provisions of the Town's overtime policies as exempt personnel, and are expected to work whatever hours are necessary to accomplish required duties, tasks, and responsibilities. Such exempt personnel shall receive 40 hours of exempt leave on his anniversary date annually, and such leave may be used pursuant to the following terms and conditions:

1. The taking of such exempt leave must be authorized in advance by the appropriate Department or Division Head.
2. Unused, exempt leave may not be carried over from one (1) anniversary year to the next.
3. Balances of exempt leave shall not be paid upon termination of employment with the Town, or at any time.
4. Exempt leave must be taken in 15 minute increments.
5. For terminating employees, exempt leave may not be used during his final two week notice period (see Section 3.16 Separation Pay).

#### **5.15 Administrative Leave With Pay**

An employee who is suspected of a violation of state, federal, or local law; Town ordinance; a rule, regulation, or these Regulations may be subject to disciplinary action up to and including termination, or may be placed on administrative leave with pay pending the outcome of any related investigation and/or the imposition of disciplinary action.

#### **5.16 Medical Incapacity Leave of Absence**

After the expiration of all paid leave and unpaid leave due to a non-work related injury or serious health condition, a full-time employee who has been continuously employed by the Town for at least five (5) years may be granted a medical incapacity leave of absence without pay for a period not to exceed six (6) months. While on such leave of absence, the Town shall pay an employee's health insurance costs; however, the cost of dependent insurance coverage, supplemental benefits and additional benefits

offered by the Town must be paid by the employee during such leave. All requests for a leave of absence must be approved by the Town Manager.

At the expiration of the leave of absence term, the employee may be allowed to return to his former job with the Town, or to a comparable job for which the employee is qualified, depending on the availability of such positions and the Town's needs. If an employee is unable to return to full-time work, the employee shall be separated from employment with the Town; however, for a period not to exceed eighteen (18) months following such separation, the Town shall pay the employee's health insurance costs through COBRA. Additionally, the employee may elect employee-paid dependent insurance coverage under COBRA. Furthermore, supplemental insurance would no longer be available. In the event, during the aforementioned eighteen (18) month period, the employee qualifies for health insurance coverage or the payment of health insurance costs or benefits by the Federal Government or other governmental or non-governmental entity, then the Town shall cease payment of the employee's health insurance costs.

The provisions contained in this section shall not apply to work-related injuries which otherwise qualify for coverage under the Town's workers' compensation insurance policies.