

City of Hickory Leave Policy

The City of Hickory Personnel Ordinance and other approved policies may apply. City of Hickory employees may be eligible for various types of paid and unpaid leave. This policy describes the types of leave available, as well as the conditions that must be met to qualify for each type of leave. It is the intent of this policy to meet the obligations set forth by ADA, FMLA, FLSA and the Worker's Compensation Act.

This policy shall be applied fairly and consistently to all full-time employees of the City of Hickory.

The term "full-time" employee shall be defined as those employees who work an established schedule of at least thirty (30) hours per week and who are participating in the Local Government Employees' Retirement System.

I. ACCRUED LEAVE

Non-exempt employees must use all of their accrued compensatory time prior to using any accrued vacation and/or sick leave.

A. VACATION LEAVE

Vacation Earned. Each full-time employee shall earn paid vacation according to his/her length of continuous service as follows:

Length of Service	Annually
0 through 5 years	10 workdays
6 through 10 years	12 workdays
11 through 15 years	15 workdays
16 through 20 years	17 workdays
Over 20 years	20 workdays

1. Employees hired on or before the 15th calendar day of each month, shall earn annual leave from the first calendar day of the month. Employees hired after the 15th calendar day of the month, shall earn annual leave after the first day of the following month. Employees on approved leave without pay do not accrue vacation leave when the leave without pay exceeds a total of five (5) working days in that month. Employees who are suspended for any amount of time during the month will not accrue vacation leave in that month. Employees on approved leave for required military training accrue vacation leave while absent.

2. Granting of Vacation Leave. Employees shall be granted the use of earned vacation leave upon request or at those times designated by department heads which will least obstruct normal operations of the department. However, an employee serving a probationary period shall not be granted vacation leave until three (3) months service has been completed unless the denial of the leave would create an unusual hardship.

- a) Employees who work twenty-four (24) hour shifts will be charged two (2) days vacation leave for one (1) twenty-four (24) hour shift off duty.
- b) Employees who work ten hour (10) shifts, one ten (10) hour shift will be charged as 1 1/4 days' (ten hours) (10) vacation leave.

3. Vacation Leave Accumulation.

a) Vacation Leave may accumulate to a maximum of sixty (60) days. When the maximum has been accumulated, additional vacation leave hours will be transferred to sick leave; this transfer will normally be done at the end of each calendar year. Employees who transfer to a different workday (12-hour workdays, 8-hour workdays or 7.5-hour workdays) will have their leave accumulation converted to equivalent workdays in the new job. The number of vacation leave days will remain the same, but the number of accumulated leave hours of vacation will be converted.

4. Terminal Pay. Upon termination of employment an employee shall be paid for accumulated vacation leave up to a maximum of thirty (30) days provided the employee has completed three or more months of continuous service. In the case of the death of an employee or in the case of an employee who retires in good standing, the maximum accumulated leave shall be sixty (60) days.

5. The City Manager is responsible for developing and maintaining appropriate rules and procedures regarding vacation leave.

B. SICK LEAVE

Sick leave with pay is not a right which an employee may demand, but a privilege granted by the City of Hickory.

1. Sick Leave Earned. Each full-time employee shall earn sick leave at the rate of one (1) working day per full calendar month of service. Employees on approved educational leave, maternity leave, or leave without pay do not accrue sick leave when the leave without pay exceeds a total of five (5) working days in a month.

- a) Non-exempt employees who are suspended for any amount of time during the month shall not accrue sick leave in that month.
- b) Exempt employees who are suspended for serious infractions of workplace conduct rules, such as rules prohibiting sexual harassment, workplace violence or drug or alcohol use or for violations of state or federal laws for one or more full work days, shall not accrue sick leave in that month. FLSA 29 C.F.R. §541.602(b)(5)

2. Granting of Sick Leave. An employee may be granted sick leave from work with pay if an absence is due to sickness, bodily injury, quarantine, required physical or dental examinations, or treatment, exposure to a contagious disease when continued work might jeopardize the health of others, or illness in the employee's family which requires the care of the employee. Three (3) days sick leave may be granted by the department head for the funeral of an immediate member of the employee's family as defined in Article V, Section 6 of the City of Hickory Personnel Ordinance.

- a) For employees who work twenty-four (24) hour shifts, one (1) twenty-four hour shift off duty will be charged as two (2) days sick leave.
- b) For employees who work ten (10) hour shifts, one ten (10) hour shift will be charged as 1 1/4 days (ten hours, 10) sick leave.

3. Sick Leave Accumulation. Sick leave shall be cumulative with no limit on the maximum accumulation. Employees who transfer to a different workday (12-hour

workdays, 8-hour workdays or 7.5-hour workdays) will have their sick leave accumulation converted to equivalent workdays in the new job. The number of sick leave days will remain the same, but the number of accumulated leave hours will be converted.

4. Credit for Accumulated Sick Leave. Employees who retire, resign in good standing, or are dismissed from employment because of reduction in force and who are reinstated within one (1) year shall be credited with their previously accumulated sick leave. Employees who are not reinstated within one (1) year shall lose all sick leave credit. No employee shall be paid for accumulated sick leave.

5. Physician Certification. The employee's supervisor may require a statement from a physician, or other acceptable proof, that the employee is unable to report for work as a condition of approving sick leave. At the end of an authorized sick leave period, the employee's supervisor may require physical and/or mental examination at the City of Hickory's expense by a physician of the City's choice to determine if the employee is able to resume his/her regular duties. If the employee is returning from FMLA leave, with certification that he or she is cleared for duty by the treating physician, no second or third fitness for duty certification may be required. See p.6, E.2.d.

6. The City Manager is responsible for developing and maintaining appropriate rules and procedures regarding sick leave.

II. FAMILY AND MEDICAL LEAVE

In accordance with the Family and Medical Leave Act (FMLA) of 1993 as amended, the City of Hickory will allow all eligible coworkers to take unpaid, job-protected leave for certain specified reasons. The maximum amount of leave a coworker may use is either twelve (12) weeks or twenty-six (26) weeks within a twelve (12) month period depending upon the reasons for the leave. Longer periods of leave or leave for other reasons may be granted in accordance with Article VI, Section 6, of the City of Hickory Personnel Ordinance. All accrued sick, vacation, compensatory time and shared leave will be applied to the leave requested and will run concurrent with FMLA Leave.

A. To be eligible for FMLA leave, a coworker must have worked at least twelve (12) months for the City of Hickory and have worked at least one thousand two hundred fifty (1,250) hours for the City of Hickory over the preceding twelve (12) months.

B. Reasons for Family and Medical Leave.

1. Family/medical leave may be taken for the following reasons:
 - a) For the birth of a child or to care for a newly-born child (up to twelve (12) weeks);
 - b) For the placement of a child with the coworker for adoption or foster care (up to twelve (12) weeks);
 - c) For the care of an immediate family member (coworker's spouse, child, or parent) with a serious health condition (up to twelve (12) weeks);
 - d) For the coworker's serious health condition that makes the coworker unable to perform the coworker's job (up to twelve (12) weeks);
 - e) For certain qualifying exigencies arising out of the fact that the coworker's spouse, son, daughter, or parent is on active duty or is under a call or order to active duty in the Armed Forces, including the National Guard or Reserves; or

f) For the care for a Covered Service Member with a serious injury or illness related to certain types of military service (up to twenty-six (26) weeks during a single twelve (12) month period).

2. The maximum amount of leave that may be taken in a twelve (12) month period for all reasons combined is twelve (12) weeks, with one exception. For leave to care for a Covered Service Member, the maximum combined leave entitlement is twenty-six (26) weeks, with leaves for all other reasons constituting no more than twelve (12) of those twenty-six (26) weeks.

C. Definitions.

1. Covered Service Member. A coworker's spouse, child, parent, or next of kin who is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A coworker's spouse, child, parent, or next of kin who was a veteran of the Armed Forces at any time during the period of five (5) years preceding the date of such medical treatment, recuperation, or therapy is also a covered service member.

2. Leave year – the twelve (12) month period measured forward from the date a coworker's first FMLA leave begins.

3. Qualifying exigencies – issues arising out of the fact that the coworker's spouse, son, daughter, or parent is on active duty in the Armed Forces, including the National Guard or Reserves, or has been notified of an impending call or order to active duty. Included are activities such as short-notice deployment, military events, arranging alternative childcare, making financial and legal arrangements related to the deployment, rest and recuperation, counseling, and post-deployment debriefings.

4. Single twelve (12) month period for caring for a covered service member – begins on the first day the coworker takes leave for this reason and ends twelve (12) months later.

5. Serious health condition – an illness, injury, impairment, or physical or mental condition that involves either:

- a) An overnight stay in a medical care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care; or
- b) Continuing treatment by a health care provider, which includes:
 - (1) A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - (a) Two (2) or more treatments by a health care provider, the first within seven (7) days and both within thirty (30) days of the first day of incapacity;
 - (b) One (1) treatment by a health care provider with a continuing regimen of care (e.g., prescription medication, physical therapy); or
 - (2) Any period of incapacity caused by pregnancy or for prenatal care; or

- (3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity; or
- (4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- (5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

6. Serious injury or illness of covered service member – an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

D. General Rules

- 1. All accrued sick, vacation, compensatory time and shared leave will be applied to the leave requested and will run concurrent with FMLA Leave.
- 2. After all available sick leave (if the use of sick leave is permitted by the City's policy on the use of sick leave), vacation leave, compensatory time and shared leave (if eligible) has been exhausted, the remainder of the twelve (12) week FMLA period may be taken without pay.
- 3. Leave taken for the birth or placement of a child must be taken within one (1) year of the birth or placement.
- 4. Spouses who are both employed by the City are entitled to a total of twelve (12) weeks of leave (rather than twelve (12) weeks each) for the birth or placement of a child or for the care of a sick parent or a total of twenty-six (26) weeks if the leave is to care for a covered service member with a serious injury or illness.
- 5. Eligible coworkers may take FMLA leave intermittently (in separate blocks of time) or by reducing the normal work schedule when medically necessary for the serious health condition of the coworker or immediate family member, or in the case of a covered service member, his or her serious injury or illness. Eligible coworkers may also take intermittent or reduced-scheduled leave for military qualifying exigencies.
- 6. When leave is needed for planned medical treatment, the coworker must make a reasonable effort to schedule treatment so as not to unduly disrupt City or departmental operations.
- 7. Coworker Notice
 - a) A coworker must provide thirty (30) days advance notice when the need for FMLA leave is foreseeable and such notice is practicable. When the need for leave is not foreseeable thirty (30) days in advance, the coworker must provide as much notice as possible.

b) If a coworker knows that he/she will need leave in the future but does not know the exact date(s), such as for the birth of a child or to take care of a newborn, the coworker shall inform his/her supervisor as soon as possible about the leave that will be needed.

8. Providing false or misleading information or omitting material information in connection with an FMLA leave may result in disciplinary action up to and including immediate termination.

E. Procedures

1. A Request for Family and Medical Leave Form must be completed by the coworker, signed by the department head, and forwarded to the Human Resources Department. If possible the request should be submitted thirty (30) days before the leave is scheduled to begin.

2. When seeking FMLA leave, a coworker is required to provide to Human Resources the information listed below. Failure to comply with these requirements may result in delay or denial of leave, or disciplinary action, up to and including termination.

a) Sufficient information for the City to determine if the requested leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the coworker is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave;

b) Medical certification supporting the need for leave due to a serious health condition affecting the coworker or an immediate family member within fifteen (15) calendar days of the City's request to provide the certification (additional time may be permitted in some circumstances). Failure to do so may result in the delay of the start of the leave, withdrawal of the designation of FMLA leave, or denial of the leave, in which case the leave of absence would be treated in accordance with standard leave of absence and attendance policies.

c) Periodic reports as deemed appropriate during the leave regarding the coworker's status and intent to return to work; and

d) Medical certification of fitness for duty before returning to work if the leave was due to the coworker's serious health condition. The City will require this certification to ensure that the coworker can perform the essential functions of his/her position.

3. Status of Job and Benefits During Leave.

a) Upon returning to work, the coworker will typically be returned to the same position held at the time leave was granted or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

b) During the first twelve (12) weeks of family/medical leave (or twenty-six (26) weeks if applicable), the City will continue to pay its portion of medical, dental, and life insurance premiums. If leave is granted for a longer period, the coworker is responsible for paying all of the cost for insurance once all accrued leave (sick and vacation) and compensatory time is exhausted. Premiums must be paid in full. Insurance benefits will be terminated if premiums are more than 90 days past due.

- c) Following the conclusion of FMLA leave, the City's obligation to maintain the coworker's health plan benefits ends (subject to any applicable COBRA rights). Moved from item f
- d) The coworker is responsible for paying the premiums for any elected insurance coverage. The coworker is responsible for contacting the Human Resources Department to make arrangements for payments.
- e) All available unused accumulated leave will be retained. The earning of additional leave, however, stops when a coworker is on leave without pay for more than five working days.
- f) A coworker who fails to return to work as scheduled after FMLA leave or exceeds the twelve (12) week FMLA entitlement (or in the case of military caregiver leave, the twenty-six (26) week FMLA entitlement), will be subject to the City's standard leave of absence and attendance policies. This may result in disciplinary action and/or termination if there is no other City-provided leave available that applies to the coworker's continued absence.

III. WORKER'S COMPENSATION LEAVE

- A. When an on-the-job injury results in a serious health condition, as defined by FMLA, the workers' compensation leave will run concurrent with FMLA. The employee shall be notified by Human Resources that the leave is being counted as FMLA leave.
- B. If the Worker's Compensation Leave exceeds the twelve (12) week FMLA period, the coworker will be responsible for paying all of the cost for insurance coverage. Premiums must be paid in full. Insurance benefits will be terminated if premiums are more than 90 days past due.

IV. SHARED LEAVE

The purpose of the shared leave policy is to provide assistance to coworkers who are unable to work due to a catastrophic illness or the catastrophic illness of the coworker's immediate family member that requires care by the coworker.

A. Criteria

1. All coworkers who have been employed full time by the City of Hickory for 1 (one) year are eligible to enroll in the shared leave bank.
2. Eligible coworkers may join the shared leave bank during open enrollment which is the month of May each year. A new membership form and donation must be completed each year to continue to be eligible to use the shared leave account.
3. Full time coworkers must be a member of the shared leave bank for one year prior to requesting shared leave. Switched items 2 and 3.
4. To become a member of the shared leave bank, a full time coworker must contribute four (4) hours of leave time per year. This leave time may be either sick leave or vacation leave. Donation of time is irrevocable.
5. The leave may not be used in conjunction with workers' compensation.

6. Maximum benefit eligible to receive is sixty (60) work days of time. This time is in conjunction with the Family Medical Leave Act. All City of Hickory provided benefits will be paid during this twelve (12) week period.
7. Shared leave may not be used for the birth of a child unless the requested leave time is due to complications beyond the six (6) weeks of normal maternity recovery.
8. Shared leave may not be used in conjunction with the short term disability insurance benefit.
9. The bank must be self-supporting. If a request is approved and the bank is low or empty, a notice will be sent to coworkers, anonymously, that the bank is low and there is a need for additional donated time. If additional time is not donated, the requesting party will be unable to receive shared leave.

B. Eligibility for Benefits

1. Only full time coworkers who have exhausted all vacation leave, sick leave and compensatory time and have a physician certified serious health condition that prevents them from returning to work for a projected minimum of twenty (20) working days may request leave from the shared leave bank. The serious health condition may be that of the coworker or a coworker's immediate family member if the physician requires the coworker to care for the immediate family member. The Family Medical Leave Act will be reviewed to determine if the illness meets the criteria of being serious. Serious health condition is defined as a condition or illness affecting one's health to the extent that inpatient care is required, or absences are necessary on a recurring basis or for more than three days for treatment or recovery. The definition of Family and Medical Leave is unpaid leave of up to twelve (12) weeks per year granted for (1) birth, adoption or placement of a child; (2) serious health condition of a spouse, son, daughter, or parent; or (3) serious health condition of the coworker.
2. The request for shared leave must be presented to Human Resources. After the request is verified to make sure the minimum criteria is met, the request will be forwarded to the Review Committee. The Review Committee will be chaired by the Assistant City Manager/CFO and will consist of one (1) Department Head, two (2) Supervisors and two (2) Line Employees. The review committee will make a recommendation to the City Manager who will have the final approval. The following factors will be considered when reviewing a coworker's request for shared leave:
 - a) Doctor's certification of a serious health condition. The certification should include the diagnosis and length of time the coworker is expected to be out of work. If the leave is to care for an immediate family member, a physician's order for this care must be included.
 - b) No abuse of sick leave time over the past three (3) years. Two of the factors that will be considered will be the opinion of the direct Department Head or the use of twelve (12) days of sick leave per year for the previous 3 years without the presence of a serious health condition. Any time that was designated as FMLA will not be considered to be abuse of sick leave.

C. Administration

1. The accrued time donated to this bank will be disclosed in the annual financial audit. Human Resources will track and administer the plan.

V. LEAVE WITHOUT PAY

A. Employees may request leave without pay from their department head by submitting a "Leave Without Pay Request" form.

B. Leaves of absence without pay may be granted to employees by the City Manager or his designee upon recommendation of the department head. Leaves will be evaluated on a case by case basis.

C. Employees may request leave without pay for the following:

1. Personal disability;
2. Personal Illness;
3. Family Illness;
4. Completion of education;
5. Special work which will benefit the City through the experience the employee gains or the type of work he or she performs;
6. Other reasons deemed justified by the City Manager;

D. Employees who are granted "leave without pay" will have exhausted all accrued vacation leave and compensatory time. For items C. 1., 2. and 3., employees must also have exhausted all accrued sick leave in order to be considered for leave without pay.

E. Department Heads may approve any leave without pay that does not exceed 5 working days. A copy of the leave documentation must be sent to Human Resources. Leave without pay of 5 days duration or greater requires approval from the City Manager or his designee.

F. Employees on leave without pay for more than 5 working days will not accrue vacation and sick leave. Employees on leave without pay will not receive holiday pay, as stated in the City of Hickory Personnel Ordinance.

G. Leave without pay shall not exceed six (6) months. In rare circumstances, the City Manager may grant an exception provided there is support for the decision from the employee's medical provider.

H. A coworker must provide thirty (30) days advance notice when the need for leave without pay is foreseeable and such notice is practicable. When the need for leave is not foreseeable thirty (30) days in advance, the coworker must provide as much notice as possible.

I. The coworker is responsible for paying all of the cost for insurance once all accrued leave and compensatory time is exhausted. Premiums must be paid in full. Insurance benefits will be terminated if premiums are more than 90 days past due.

VI. MILITARY LEAVE

A. An employee who is a member of the armed forces reserve organization or the National Guard shall be allowed leave for all required military training duty. The

employee desiring such leave shall request the same as far in advance as is possible in order that provisions may be made concerning work while the employee is on military leave. Military leave for required training shall be paid leave, up to a maximum of one hundred twenty (120) hours per calendar year; additional leave needed for training shall be charged to vacation leave or leave without pay at the discretion of the employee. No compensation shall be paid for weekend drill or training duty.

B. Employees who are ordered to active duty shall also be granted military leave. For full-time employees, this leave shall be paid leave, up to a maximum of six (6) months. If active duty is ordered for longer than six (6) months, employees may receive differential pay for an additional six (6) months. Differential pay shall be the difference between military pay and the employee's City pay, if military pay is the lesser; employees requesting differential pay must submit a report of all military compensation received.

Employees on military leave shall continue to accrue vacation and sick time and to receive all benefits provided in accordance with the City of Hickory Personnel Ordinance and applicable federal laws.

C. All employees requesting military leave shall submit to their department head an official set of orders or a letter from the commanding officer of a military unit.

VII. CIVIL LEAVE

A. An employee called for jury duty or as a court witness for the federal or state government or a subdivision thereof shall be entitled to leave with pay for such duty in addition to keeping fees for such duty.


Mick W. Berry, City Manager

1.13.11
Date

THIS POLICY REPLACES THE FOLLOWING INDIVIDUAL POLICIES: FAMILY AND MEDICAL LEAVE POLICY AND PROCEDURE, SHARED LEAVE POLICY, AND THE ADMINISTRATIVE LEAVE POLICY. THIS POLICY REFLECTS THE LANGUAGE FOUND IN THE CITY OF HICKORY PERSONNEL ORDINANCE REGARDING ACCRUED LEAVE.