

**TOWN OF VIENNA, VIRGINIA  
ADMINISTRATIVE REGULATIONS**

|   |                              |   |
|---|------------------------------|---|
| <u>Subject:</u><br><br><b>LEAVE, HOLIDAYS, AND FMLA</b> | <u>Regulation No:</u><br>2.9 | <u>Effective Date:</u><br>November 15, 2018 |
| Supersedes: November 7, 2011; July 1, 2015 (LEAVE)      |                              |   |

**I. PURPOSE**

- A. The Town of Vienna (“the Town”) is committed to establishing and maintaining a paid-leave benefit package that is legally compliant, competitive in the marketplace and is sufficiently generous to ensure a work-life balance that is enriching and healthful for its employees.
- B. For this purpose the Town’s leave package includes Annual (Vacation), Sick Leave, Family Leave, Injury Leave, Civil Leave, Holiday Leave, Administrative Leave, Military Leave, and others, as described in this Administrative Regulation, and as established by Town Council in Chapter 11-10, the Personnel Code, of the Town’s Code of Ordinances.
- C. For the further purpose of fiscal accountability, Annual and Sick Leave are not considered earned until the last day of the pay period in which the leave is accrued. Rules and procedures are established in this regulation for the use of leave, in order to provide for adequate business continuity of Town operations.

**II. ANNUAL LEAVE**

A. Annual Leave Accrual and Maximum

- 1. Full-time permanent employees earn Annual Leave at the following rates, based on their employment anniversary date:

| <b>Length of Town Service</b>  | <b>Hours per Pay Period</b> |
|--------------------------------|-----------------------------|
| 0 through 2 Years              | 4                           |
| 2 Years 1 Day through 5 Years  | 5                           |
| 5 Years 1 Day through 8 Years  | 6                           |
| 8 Years 1 Day through 11 Years | 7                           |
| Over 11 Years                  | 8                           |

- 2. Permanent part-time employees whose normal workweek is less than 40 hours per week will accrue annual leave at one-half the regular accrual rate.
- 3. Upon the hiring of an Exempt employee, the Town Manager may, at their discretion, grant the accrual of annual leave at a higher rate than the entry level in recognition of prior years of public service employment.
- 4. Annual leave continues to accrue while an employee is on any type of paid approved leave, except in those cases where an employee is receiving workers’ compensation payments or is on catastrophic sick leave, as approved by Council.

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5. The maximum amount of annual leave that an employee may accumulate is 240 hours in a year. Any annual leave in excess of 240 remaining at the end of each calendar year will be forfeited by the employee.
6. After the initial probation, a terminating or retiring employee will receive payment of any unused annual leave up to a maximum of 240 hours, plus any additional annual leave earned from December 31 to the date of separation.
7. In order to accrue annual leave, a full time employee must work or be on approved paid leave status for at least 40 hours during each pay period. Part-time employees must work or be on approved leave status for at least 20 hours during each pay period in order to accumulate annual leave.
8. Former Town employees who resigned in good standing and are later rehired by the Town will earn annual leave at the rate based on their combined years of service. There shall be no reinstatement of any leave upon the rehiring of a former employee.

**B. Use of Annual Leave**

1. Annual leave must be taken in at least one-half hour increments.
2. New employees may use annual leave as soon as it is accrued (after the last day of the first pay period).
3. All requests for annual leave must be approved in advance by the employee's immediate supervisor and as determined by the department head.
4. In a personal emergency, the employee must contact their supervisor no later than one hour into their normally scheduled workday to request emergency annual leave. Police personnel must contact the on-duty supervisor at least one hour prior to the beginning of their shift. Additionally, employees must notify their supervisor at least four hours prior to the beginning of their next assigned work day/shift if they need to request additional time off.
5. Each department will determine a procedure for the manner in which an employee is to request leave and obtain approval.

**III. SICK LEAVE**

**A. Sick Leave Accrual and Maximum**

1. Full-time permanent employees earn sick leave at the rate of four (4) hours per pay period.

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There is no increase in accrual rates throughout the employee's service.

2. Permanent part-time employees whose normal workweek is at least 20 hours per week will accrue sick leave at one-half the regular rate.
3. Sick leave continues to accrue while an employee is on any approved paid leave status, except in those cases when an employee is receiving workers' compensation payments or is on catastrophic sick leave, as approved by Council.
4. In order to accumulate sick leave, a full-time employee must work or be on approved paid leave status for at least 40 hours during that pay period. Part-time employees must work or be on approved leave status for at least 20 hours during each pay period in order to accumulate sick leave.
5. There is no cap in the accumulation of sick leave. Upon regular retirement from the Town, an employee will receive payment for 25% of the remaining unused sick leave, up to 1,040 hours, at the rate of pay at their day of separation.
6. Employees who are participants in the Town's Civilian Pension Plan or the Police Pension Plan may have the remainder of their unused sick leave applied toward service credit for retirement benefits purposes in one of those two plans.

**B. Use of Sick Leave**

1. Sick leave must be taken in at least one-half hour increments.
2. Employees may use sick leave for the following purposes:
  - a. A period of personal illness
  - b. Death of a parent, child, sibling, spouse, or grandparents related by marriage, blood or adoption. The maximum number of days granted per occurrence is three.
  - c. Serious illness of the immediate family where the employee's attendance is required. The maximum number of days granted per occurrence is three, except as provided for under the rules of the Family and Medical Leave Act.
  - d. Medical and/or dental appointments for the employee only, except as provided for under the rules of the Family and Medical Leave Act.
3. New employees may use sick leave as soon as it is earned (after the last day of the first pay

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period).

4. Employees are required to notify their supervisors of illness before the start of their shift but, in an emergency, no later than one (1) hour into their normally scheduled workday. The same conditions apply if they cannot return to work for their next scheduled shift.
5. Police personnel must notify the on-duty supervisor at least one (1) hour prior to the beginning of their scheduled shift. Additionally, police personnel must notify the on-duty supervisor at least four (4) hours prior to the beginning of their next assigned shift as to whether or not they are still too ill to return to duty.
6. The department head or their designee has authority to approve sick leave. Approval may include a doctor's certificate or other proof of illness indicating the duration and nature of the illness. Failure to provide such verification, if requested, may result in loss of pay for the day(s) taken. Further corrective action may also be imposed.
7. Each department will determine a procedure for the manner an employee is to request leave and obtain approval.
8. The Town may investigate any absence for which sick leave is requested.
9. If an employee is required to visit a specific physician designated by the Town, the Town will pay for the visit.

**IV. RESTRICTED LEAVE**

- A. When an employee has established a pattern of abuse of leave privileges, he/she may be placed on restricted leave status.
- B. This status does not remove from the employee the ability to use their accrued leave benefits. However, specific procedures must be followed in order to use the leave.
  1. For obtaining approval for sick leave, the employee must directly contact their supervisor or designee at least one hour prior to normal starting time. Upon returning to work, the employee must present a doctor's notice certifying the illness. Unless such a certificate is received, the time off will be noted as absent-without-leave.
  2. All requests for annual leave must be submitted in writing to the supervisor at least forty-eight (48) hours in advance. Failure to do so may result in the lost time being charged to absence-without-leave or pay.

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3. Emergency leave can be conditionally approved for an employee on restricted leave status. However, final approval for emergency leave is contingent upon the employee submitting within twenty-four (24) hours of their return verification of the emergency's existence.
- C. Restricted leave may be implemented by a supervisor or department head for a period not to exceed six (6) months. The employee will be notified in writing in advance of the restricted leave conditions.
- D. Failure to follow the restricted leave procedure, or the continued abuse of leave, may result in corrective action, up to and including dismissal.

**V. FAMILY AND MEDICAL LEAVE**

A. The Town provides all eligible employees with up to 12 weeks of unpaid family and/or medical leave in accordance with the Family and Medical Leave Act of 1993 (FMLA). The absence or a portion thereof may be covered by paid leave if the employee has leave accrued to their credit.

B. Leave Accrual during Unpaid Leave

An employee does not accrue annual or sick leave during any period of leave without pay.

C. Paid Leave and FMLA

1. Employees have the option of using paid leave for absences covered under family and medical leave.
2. FMLA does not change any Town leave policies.
3. If an employee's accrued leave balances are used for FMLA, the employee will be entitled to the number of unpaid workdays which, when combined with the number of days of other leave taken, equal 12 workweeks.

D. Reporting during Absence

The Town may require an employee to report periodically concerning their status and intent to return to work.

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E. Definitions

1. *Active Duty:* Duty under a call or order to active duty under a provision of law referred to in 10 United States Code (USC) § 101 (a)(13)(B).
2. *Contingency Operation:* Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services under Section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10, USC, Chapter 15 of Title 10, USC, or any other provision of law during a war or during a national emergency declared by the President or Congress.
3. *Covered Service Member:* A current 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 on the temporary disability retired list, for a serious injury or illness.
4. *Eligible Employee:* An eligible employee is defined as one who has been employed by the Town for at least 12 months and worked at least 1,250 hours (as designated by the federal FMLA) during the 12 months before the start of leave. (Employment prior to a continuous break in service of seven years or more will not be included when determining eligibility.) The required 1,250 hours do not have to be worked during consecutive months; however, the 1,250 hours of work requirement applies to the 12 months immediately preceding the start of leave. Note: Employees who are not eligible for family and medical leave at the beginning of a period of approved leave may become eligible during this period and begin family and medical leave once he/she meets the eligibility requirements.
5. *Employment Benefits:* Employment benefits, for the purposes of this policy, are defined as benefits provided by the Town to eligible employees including group life insurance; health insurance; and annual and sick leave.
6. *Family/Medical Leave:* Family/Medical Leave is defined as leave without pay (or use of employee's accrued leave) for up to 12 weeks during a single 12-month period for the following reasons: (a) Due to the birth of a child or the placement of a child with an employee for adoption or foster care; (b) because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition; or (c) because an employee's own serious health condition makes him/her unable to do their job. For a VRS Hybrid Plan employee, paid leave may include the use of Short Term Disability.

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7. *Health Care Provider:* For the purposes of this policy, health care providers include the following: A doctor of medicine or osteopathy who is licensed to practice medicine or surgery by the state in which he/she practices; or, any other person determined by the Secretary of the Department of Labor to be capable of providing health care services; and others capable of providing health care services to include podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners and nurse-midwives authorized to practice in the state and performing within the scope of their practice as defined by law, and Christian Science practitioners.
8. *Key Position:* A key position is defined as a position occupied by an employee who is among the highest paid 10 percent of all Town employees.
9. *Next of Kin:* Used with respect to a covered service member, the nearest blood relative of that individual (other than the individual's spouse, parent, son or daughter) in the following order of priority: blood relatives who have been granted legal custody of the service member, siblings, grandparents, aunts and uncles, and first cousins, unless the service member has designated in writing a different blood relative for purposes of military caregiver leave.
10. *Outpatient status:* With respect to a covered service member, the status of a member of the Armed Forces assigned to: A military treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
11. *Parent:* A parent is defined as a biological, adoptive, step or foster father or mother or any other individual who is charged with the duties and responsibilities of the parent when the employee is a son or daughter. A parent does not include parent-in-law.
12. *Qualifying Exigency:* (a) Issues arising from a covered military member's short notice deployment (i.e., deployment of seven or less days of notice) for a period of seven days from the date of notification; (b) military events and related activities or sponsored family support programs; (c) certain childcare and related activities arising from the active duty or call to active duty status of a covered service member; (d) making or updating financial and legal arrangements to address a covered military member's absence; (e) attending counseling (not provided by a health care provider) for oneself, the military member, or child of the military member, the need for which arises from the active duty or call to active duty status of the covered military member; (f) taking up to five days of leave to spend time with a military member on short-term temporary rest and recuperation leave; (g) attending certain post-deployment activities sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status; (h) time required addressing issues arising from the death

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of a covered military member; and (i) any other events which employer and employee agree is a qualifying exigency.

13. *Serious Health Condition/Illness:* A serious health condition/illness is defined as an illness, injury, impairment or physical or mental condition that involves: (a) Inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a healthcare provider.
14. *Spouse:* A spouse includes individuals in lawfully recognized same-sex and common law marriages and marriages that were validly entered into outside of the United States if they could have been entered into in at least one state. Civil unions are not considered marriages under the FMLA.
15. *Son or Daughter:* A son or daughter is defined as a biological, adopted or foster child, stepchild, legal ward, or other persons for whom the employee acts in the capacity of a parent. The child must be under age 18 or be age 18 or older and incapable of self-care due to a mental or physical disability.
16. *Twelve-Month Leave Period:* A 12-month period in which leave is taken by the “rolling” 12-month method, measured backward from the date of any FMLA leave with the exception of leave to care for a covered service member.

**F. FMLA for Eligible Employees not Military-Related**

Eligible employees may take up to 12 workweeks of unpaid family and medical leave during a single 12-month period for the following reasons:

1. The birth of a child (to be taken within 12 months of the child’s birth).
2. The placement of a child with the employee for adoption or foster care (to be taken within 12 months of the date of placement).

FMLA associated with child birth or child placement is to be taken in one block of time up to 12 weeks, unless the employee and the Town agree otherwise.

3. In order to care for a child, a dependent son or daughter under age 18 or over 18 years of age who is incapable of self-care due to a mental or physical disability, a spouse or a parent who has a serious health condition that involves in-patient care in a hospital, hospice, or residential medical care facility; or, continuing treatment by a health care provider.

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4. Because of a serious personal health condition that renders the employee unable to perform the functions of their position.

The Town may request certification that the employee is unable to work at all or is unable to perform any of the essential functions of the employee’s position within the meaning of the Americans with Disabilities Act.

**G. Leave to Care for a Covered Military Service Member**

1. Eligible employees may take up to 26 workweeks of unpaid family and medical leave during a single 12-month period to care for a covered service member. This 12-month period begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established for other types of FMLA leave.
2. The same requirements for notice to the Town and for medical certification applies as for non-military personnel.

**H. Leave Related to Active Duty or A Call to Active Duty (Qualifying Exigency)**

1. Eligible employees may take up to 12 workweeks of unpaid family and medical leave during a single 12-month period for a qualifying exigency.
2. If leave is required because of a qualifying exigency arising from the fact that a family member is on active duty, has been notified of an impending call to active duty, or the call to active duty is foreseeable, the employee is to give such notice to the Town as is reasonable and practicable.
3. The Town may require that a request for leave because of a qualified exigency be supported by a certification.

**I. Workers’ Compensation and FMLA**

An employee’s absence due to a covered workers’ compensation injury or illness will be counted as time off on FMLA if the reason for the leave is due to a qualifying serious illness or injury and the Town properly notifies the employee in writing that the leave will be counted as FMLA leave.

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J. Intermittent FMLA Leave and Reduced Scheduled Leave

1. When medically necessary, an employee may take family or medical leave on an intermittent leave basis or leave that creates a reduced work schedule.
2. An intermittent leave schedule is one that allows the employee to take leave periodically for a few hours a day, or for a few days, on an as-needed basis.
3. A reduced schedule is a leave schedule permitting the employee to reduce their usual number of hours worked per workweek or per workday.
4. Intermittent leave may be charged in no less than one-half hour increments.
5. While an employee is on an intermittent or reduced leave schedule, the Town may temporarily transfer the employee to an alternate position that better accommodates the recurring leave, as long as the new position carries equivalent pay and benefits.

K. Placement of Employees on Family Medical Leave

1. An employee who is eligible, or who appears to be eligible for FMLA leave, may be placed on FMLA leave by the Town if it appears that the employee meets the criteria for FMLA leave, even if the employee has not applied for such leave.
2. If the Town designates missed time as FMLA leave, the employee will be required to submit documentation and a completed medical certification within a specified time period. If an employee fails to submit the documentation and/or certification within that designated time, or submits incomplete documentation and/or certification and does not provide an acceptable explanation, the employee may be subject to discipline, denied further leave and/or denied the use of paid leave.
3. If the FMLA designation is incorrectly assigned, the Town will restore the previously designated FMLA covered days.

L. Notice of Leave

1. If possible, an employee must submit a written request for family and medical leave at least 30 days before the anticipated beginning of the leave. If an emergency or unforeseen event precludes such advance notice, the employee must give notice as soon as possible.

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2. Any leave taken by an employee that may be covered under the FMLA must be designated as Family Medical leave.

**M. Certification and Reporting**

1. The FMLA allows employers to request information from employees and health care providers, in the form of certifications. There are four types of certifications an employer may require:
  - a. A certification of the employee's own serious health condition, which provides information on the employee's medical situation, work restrictions, etc.;
  - b. A certification of a family member's serious health condition, which provides medical facts about the family member and information on how often and for how long the family member will require care;
  - c. A certification of the employee's need for military caregiver leave, which provides information on the family member's medical situation, military duty, etc.; and
  - d. A certification of the employee's need for qualifying exigency leave, which gives information about the facts underlying the employee's request.
2. An employee requesting family medical leave must complete the Family and Medical Leave Certification Form within 15 days from the date that leave is requested.
3. Failure to provide the requested medical certification in a timely manner, or if incomplete or insufficient medical certification is received, the employee has seven days to correct deficiencies. Failure to do so may result in denial of leave until the certification is provided.
4. The Town may require, at its own expense, a second independent medical opinion.
5. If the second opinion differs from the first, the Town may, at its own expense, require a third opinion from a health care provider designated or approved jointly by the employee and the Town. The opinion of the third health care provider will be considered final and binding upon the employer and the employee.
6. The Town may require an employee to report periodically during the leave period on their leave status and intention to return to work, and to provide subsequent re-certifications on a reasonable basis.

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N. Status of Employee Benefits

1. Health Insurance

The Town will continue to contribute to the health insurance premiums of employees covered under FMLA as discussed below:

- a. When an employee is using paid leave under the provisions of FMLA, payroll deductions for the employee portion of the health insurance premiums continue.
- b. When an employee is on leave without pay under the provisions of FMLA, the employee portion of the health insurance premiums must be paid by the employee.
- c. The employee may choose to pay the Town on a pay-as-you-go basis to maintain health insurance coverage, or on a deferred payment plan, as approved by the Human Resources Director, under a signed agreement.
- d. If an employee who has a deferred payment plan fails to return to work at the end of leave under FMLA, he/she will be required to reimburse the Town for the cost of the premiums advanced by the Town to maintain the employee's coverage during the leave.
- e. There will be no recovery of premiums if an employee fails to return to work due to the serious health condition or other circumstances beyond their control.
- f. If an employee fails to make premium payments or other arrangements for repayment, the Town will follow the same procedures to terminate coverage as it would for any other employee similarly situated. An employee will be allowed to re-enroll in the health insurance program upon return to work from family and medical leave.

2. Life Insurance, Pension, & Optional Benefits Contributions

- a. The Town will continue to pay basic life insurance premiums while an employee is on family and medical leave, even if the leave is unpaid.
- b. During periods when leave is unpaid, the employee must make arrangements with the Finance Department to pay for their portion of pension and optional benefits.

3. Returning from Leave

An employee who takes leave because of their own serious health condition will be required to provide medical certification that he/she is fit to resume work with or without

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reasonable accommodations, up to 3 (three) days prior to date of return to work. An employee failing to provide the requested medical certification will not be permitted to resume work until appropriate medical certification is submitted.

4. Reinstatement to Position

- a. At the end of family and medical leave, an employee may be reinstated to their original position or to an equivalent position in the organization.
- b. If an employee is in a position determined to be “key” in the organization, he/she may be denied reinstatement following an FMLA absence. A “key” position is one in which the employee is salaried and is among the highest- paid 10% of the Town’s workforce.
- c. The key employee may be denied reinstatement when:
  1. The Town demonstrates that denying reinstatement is necessary to prevent substantial and grievous economic injury to its operations;
  2. The Town notifies the employee that the Town intends to deny reinstatement at the conclusion of the FMLA leave, when it determines that substantial and grievous economic injury would occur; and
  3. The Town provides a reasonable alternate deadline for the employee to return to work to avoid being denied reinstatement.

**VI. TRANSFER OF SICK LEAVE**

- A. Sick leave may be transferred from one employee to another under certain conditions. Such a transfer may be permitted:
1. When the receiving permanent full or part-time employee is non-probationary;
  2. After the receiving employee has exhausted all of their accrued annual and sick leave plus compensatory time;
  3. When used by the receiving employee due to their own extended illness or injury or that of a child, spouse or parent by blood, marriage or adoption; and
  4. When the transferring employee donates no more than 160 hours to any one individual and, in so doing, does not deplete the balance of their own sick leave accumulation below 100 hours.

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- B. All donated leave will be processed anonymously by the Town and will not be subject to release to the recipient, unless the donating employee agrees to be identified.
- C. Any employee who donates sick leave relinquishes all rights to the leave that is transferred. Donated leave will be transferred from the giver to the receiver as needed, on a first in, first out, basis in order of receipt by the Human Resources Department. Any unused leave by the benefitting employee will be restored to its original donor.
- D. Transferred leave may not be re-transferred to another leave recipient.
- E. All applications for both transferring and receiving leave are to be submitted to the Human Resources Department on a designated form. The Human Resources Director will review and the Town Manager will approve all requests for donations. The decision of the Town Manager will be final.
- F. An employee may receive donated leave in amounts so that the total of all is 12 weeks of paid leave status in any 12-month period, unless otherwise authorized by the Town Manager.
- G. While using transferred leave, the receiving employee may accrue personal annual and sick leave.
- H. Within 30 calendar days of the Town Manager's authorization of an employee's participation in the program, the receiving employee must begin to use the transferred leave on a continuous basis until he/she returns to work. Should the employee not begin to use the transferred leave within 30 calendar days of approval, the authorization will expire.
- I. When separating from the Town's service, an employee may donate up to 160 hours of sick leave to an employee currently authorized for participation in the leave transfer program.
- J. An employee may not participate in any portion of the leave transfer program if he/she has received discipline for abuse of sick leave in the previous six months.

**VII. ADVANCED SICK LEAVE**

- A. With the approval of the Town Manager, sick leave not to exceed 40 hours may be advanced to a full-time permanent employee with over one year of service in case of serious illness or disability.
- B. The advanced sick leave is charged to future earnings of sick leave and, at the option of the employee, can be charged to future earnings of annual leave.

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- C. In the event an employee leaves the Town service prior to liquidation of the advanced sick leave, the Town must be reimbursed for the outstanding advanced balance. The equivalent cash amount may be withheld from the final pay or collected by other appropriate and legal action.
- D. Advanced sick leave may not be approved more than once in a 12-month period.

**VIII. CATASTROPHIC LEAVE**

- A. When all other leave benefits have been exhausted, the Town Manager may request the Town Council to grant catastrophic sick leave to a full-time employee with over one year of service, in cases of serious personal illness or disability.
- B. The catastrophic sick leave may not exceed one-half day for each of month of a permanent employee's credited service with the Town. All such requests will consider the following:
  - 1. The nature and seriousness of the illness or disability;
  - 2. The prospects of eventual return to work;
  - 3. The employee's length of employment with the Town;
  - 4. The employee's leave record, not including any absences covered by the Family and Medical Leave Act; and
  - 5. Other justifications deemed appropriate by Council.
- C. Such catastrophic leave may be charged to future accruals of either or both sick and/or annual leave.

**IX. INJURY LEAVE**

- A. An employee who sustains an injury or occupational disease which arose out of and in the course of employment with the Town, when such injury is accepted as compensable under Virginia's Workers' Compensation Act, will be granted injury leave with pay for a period during which he or she is not receiving Workers' Compensation benefits.
- B. While on injury leave, other leave benefits will cease to accrue until the employee returns to duty.

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- C. Injury leave may be granted for up to seven days and cease when the Town’s workers’ compensation insurance carrier begins payment of salary benefits.

**X. ABSENT WITHOUT LEAVE (AWOL)**

- A. An employee who has not had prior authorization to use annual leave, sick leave or compensatory leave will be placed on AWOL status without pay. Upon returning to work, this status may be reversed, if there is justification to do so that is sufficient and acceptable to the supervisor. Otherwise, the absence without leave will prevail and the employee will be subject to corrective action.
- B. An AWOL of three consecutive days will be deemed a “quit” without notice and the employee will be separated from the Town’s employment.

**XI. LEAVE WITHOUT PAY**

- A. Leave without pay may be approved for a permanent employee by the Town Manager for a period not to exceed six months.
- B. Annual and sick leave will not accrue during a period of leave without pay.
- C. A period of leave without pay does not constitute a break in service for Town employment purposes, but may change the anniversary date if the employee is absent for more than 30 days (except in cases covered by Workers’ Compensation and the Family and Medical Act) and has not paid for benefits, including contributions to the Virginia Retirement System.
- D. For leave without pay that is in excess of 30 days, the employee is responsible to pay the full amount of their health insurance premium and of their portion of the Virginia Retirement System contribution, as appropriate.

**XII. CIVIL LEAVE**

The Town provides Civil Leave to allow employees to perform their civic duty, as provided below. An employee must notify their supervisor promptly upon receipt of a summons, subpoena or other appropriate documentation to appear in Court, deposition or proceeding, or serve as an Elections Officer, and provide a copy of such as necessary. After serving, the employee must submit to the Town proof of such service or attendance. Any mileage reimbursement provided may be retained by the employee.

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A. Jury Duty

1. An employee summoned to serve on jury duty will be allowed to take Civil Leave in accordance with §18.2-465.1, of the Code of Virginia. An employee who serves on jury duty will be considered the same as if he/she had reported to work without loss of pay and without charge to any type of other leave..
2. An employee who is appears for jury duty for four or more hours in one workday, including travel time, will not be required to start any work shift that begins on or after 5:00 p.m. on the day of their appearance for jury duty or begins before 3:00 a.m. on the day following the day of their appearance for jury duty.

B. Voting

For voting in a primary or general election, an employee will be provided one hour off without loss of pay and without charge to any other type of leave. It is expected that an employee notify their supervisor in advance that he/she requires the time off to exercise the right to vote.

C. Witness Summons and Subpoenas

1. An employee requested to testify on behalf of the Town or the Commonwealth in a court of law or equity will be placed on Civil Leave and will be paid as if he or she had reported for work as scheduled, except when the employee is a defendant in a criminal case, in accordance with §18.2-465.1 of the Code of Virginia.
2. Civil Leave for witness service is not authorized when the service is related to a private party and not on behalf of the Town or the Commonwealth.

D. Officer of Elections

1. An employee who serves as an officer of elections will be allowed to take Civil Leave in accordance with § 24.2-118.1 of the Code of Virginia. In order to take Civil Leave for this purpose, the employee must give reasonable advance notice to their supervisor.
2. No employee who serves for four or more hours, including travel time, on their day of service shall be required to start any work shift that begins on or after 5:00 p.m. on the day of service or begins before 3:00 a.m. on the day following the day of service.

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E. Attendance by Crime Victims at Proceedings

1. Pursuant to § 40.1-28.7, of the Code of Virginia, the Town will allow an employee who is a victim of a crime to leave work to be present at all criminal proceedings relating to a crime against the employee, as long as the employee has provided the Town with adequate documentation and, if applicable, copy of the notice of each scheduled criminal proceeding.
2. The Town may limit the leave provided if the employee's absence creates an undue hardship to the Town's operations.
3. The employee may use Annual Leave or Compensatory Leave for this purpose. If no paid Leave is available to the employee, the employee may be authorized Leave without Pay.
4. The Town will not refuse to hire, will not discharge from employment, or discriminate against an individual in compensation or other terms or conditions because the individual leaves work to attend a criminal proceeding in compliance with law.

**XIII. ADMINISTRATIVE LEAVE**

Administrative Leave is not earned and may only be authorized by the Town Manager, in discussion with the appropriate department head(s) and the Human Resources Director.

A. Individual Employee

1. In the event that unusual circumstances preclude an employee from satisfactorily fulfilling the duties of their position, the individual may be placed on administrative leave. The leave may be with or without pay for a period not to exceed 90 calendar days per occasion.
2. Time spent on administrative leave will not be charged to any other leave, except as determined by the Human Resources Director.
3. While on administrative leave without pay, the employee will cease to accumulate annual and sick leave.

B. Emergency Administrative Leave

1. If Town offices are unavailable to business due to extreme weather conditions or other circumstances beyond the control of employees, as determined by the Town Manager, employees may be placed on emergency administrative leave with pay.
2. By establishing emergency administrative leave, the Town Manager authorizes all employees, except those designated as **essential** personnel, to remain home from work, to arrive work late, or leave work early without the use of personal leave or leave without pay.

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In other words, the time that would otherwise be considered part of the shift, would be paid as if worked.

3. Supervisors determine the status of their staff—whether essential or non-essential—and ensure that non-essential staff leaves the work area when administrative leave is established. Such leave will be limited to the time periods designated by the Town Manager or their designee.
4. Emergency administrative leave hours are considered productive hours in determining eligibility for overtime pay. ,

#### **XIV. UNSCHEDULED (LIBERAL) LEAVE**

- A. When it is deemed advisable to provide employees flexibility regarding reporting to or remaining at work due to inclement weather or other emergency, the Town Manager may announce that Unscheduled (Liberal) Leave is in place.
- B. Liberal Leave is a global pre-approved, unscheduled, leave for **non-essential** Town employees. Liberal Leave does not apply to those designated as essential personnel.
- C. Liberal Leave is intended for use by an employee who is unable to come to work or must leave work early because of the inclement weather conditions or immediate local emergency.
- D. Employees must notify their supervisors about their decision to use Liberal Leave at least one hour before their regular start time or time of unscheduled departure, whenever possible.
- E. Employees may use annual leave, compensatory leave, or leave without pay for the time designated.

#### **XV. HOLIDAY LEAVE**

- A. The Town observes 12½ holidays every year, plus an extra holiday every fourth year. These are granted to employees with pay.
- B. Temporary and seasonal employees are paid for the holiday only if the holiday falls on a regularly scheduled workday, and only for the hours scheduled to be worked.
- C. Generally, if an approved holiday falls on a Saturday, the previous Friday is considered the holiday. If the holiday falls on a Sunday, it is typically observed on the Monday immediately following, with modification for Christmas Eve and Christmas Day, on occasion. Other

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exceptions may only be made by Town Council, through the Town Manager.

D. Town holidays are as follows:

| <b>Holiday</b>                    | <b>Date Observed</b>                 |
|-----------------------------------|--------------------------------------|
| New Year's Day                    | January 1                            |
| Martin Luther King Day            | 3 <sup>rd</sup> Monday in January    |
| Washington's Birthday             | 3 <sup>rd</sup> Monday in February   |
| Memorial Day                      | Last Monday in May                   |
| Independence Day                  | July 4                               |
| Labor Day                         | 1 <sup>st</sup> Monday in September  |
| Columbus Day                      | 2 <sup>nd</sup> Monday in October    |
| Veteran's Day                     | November 11                          |
| Thanksgiving Day                  | 4 <sup>th</sup> Thursday in November |
| Fall Holiday                      | 4 <sup>th</sup> Friday in November   |
| Christmas Eve ( <b>half day</b> ) | December 24                          |
| Christmas Day                     | December 25                          |
| Inauguration Day                  | Every 4 <sup>th</sup> (Odd) Year     |

**XVI. MILITARY LEAVE**

**A. Military Leave and USERRA**

1. A military employee will be allowed to take Military Leave in accordance with § 44-93, of the Code of Virginia, pursuant to the Uniformed Services Employment and Reemployment Act (USERRA).
2. For any military employee who has not been recalled to active military duty pursuant to Title 10 of the United States Code or called forth by the Governor of Virginia pursuant to § 44-75.1 or 44-78.1, of the Code of Virginia (but is serving on inactive duty training [IDT], annual training [AT], etc.), a maximum of 15 days of military leave will be provided for each federal fiscal year, in compliance with § 44.93, of the Code. While on Military Leave, the employee will be paid as if he/she had reported for work.
3. For purposes of annual military training duty, the paid work days will consist of eight hours each.

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**B. Recall to Active Duty**

**1. Activation**

A military employee who is recalled to federally funded military duty pursuant to Title 10 of the United States Code or called forth by the Governor of Virginia pursuant to § 44-75.1 or § 44-78.1, of the Code of Virginia, will be authorized Annual Leave and/or Leave of Absence without Pay without loss of seniority or leave accruals during the days in which he/she is engaged in military duty.

**2. Reemployment Rights**

- a. Upon honorable or general conditions release from active duty, the military employee may make written application to the Town for reemployment within 14 days of their release from duty or from hospitalization following release if the length of the member's absence by reason of service in the uniformed services does not exceed 180 days; or, 90 days of their release from duty or hospitalization following release if the length of absence exceeds 181 days. An employee who serves 30 days or less may report to work after safe travels and an eight-hour rest period.
- b. When released from duty, the employee will be restored to the previous position held with the Town or to a position of like seniority, status and pay, or to a comparable vacant position for which the employee is qualified, unless to do so would be unreasonable. This does not apply when the cumulative length of the absence and of all previous absences from a position of employment with the Town by reason of military service exceeds five years.

**XVII. COMPENSATORY LEAVE TIME**

- A. Compensatory "leave" is time taken that has been earned only as a result of overtime worked by that employee. Additional details are contained within A.R. 2.8, the policy that guides Overtime, Compensatory and Holiday Pay. Compensatory time is guided by the federal Fair Labor Standards Act.
- B. For Non-Exempt employees—that is, those who get paid overtime premium pay in accordance with the Fair Labor Standards Act—the following rules apply:
  - 1. In lieu of receiving cash overtime payment for time worked in excess of 40 hours per seven-day workweek, or other designated work period for law enforcement personnel, the employee and supervisor may agree to compensation in compensatory

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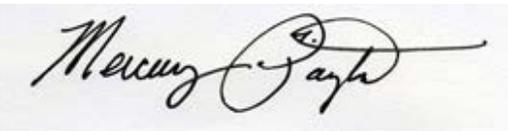
time.

2. Compensatory time is earned at one and one-half hours for each hour of overtime worked.
3. The maximum accumulation of compensatory time for Non-Exempt employees is 120 hours, after which overtime worked will be paid out.

C. Although not legally required, the Town extends compensatory leave time to FLSA-Exempt employees. Exempt employees are ineligible for payment of compensatory time. Other applicable rules are outlined in A.R. 2.8.

**XVIII. APPLICABLE DOCUMENTS**

- Sick Leave Transfer Request (HRD 2.9-1)
- Leave Donations Request (HRD 2.9-2)
- Leave without Pay Request (HRD 2.9-3)
- Annual Leave Payout Request (HRD 2.9-4)
- Catastrophic Sick Leave Request (HRD 2.9-5)
- Advance Sick Leave Request (HRD 2.9-6)
- FMLA Notice of Eligibility
- FMLA Designation Notice
- FMLA Employee Medical Certification
- FMLA Family Member Medical Certification
- FMLA Military Leave Qualifying Exigency
- FMLA Military Leave Certification of Injury or Illness

|   |                  |
|---|------------------|
| <i>Signature Town Manager:</i>  | <i>Date:</i>     |
|  | November 7, 2018 |