

POLICY # A4-1.1

FAMILY AND MEDICAL LEAVE ACT (FMLA) ALL EMPLOYEES

The Family and Medical Leave Act of 1993 (FMLA) grants unpaid leaves of absence to eligible employees for up to 12 weeks during any 12-month period for:

- birth or adoption of a child
- when needed to care for a spouse, child or parent who has a serious health condition;
- when an employee is unable to perform his/her own job because of the employee's own serious health condition.

Requirements:

To be eligible for a leave under this policy, you must be employed by the Town for at least 12 months at the time the leave is requested (these 12 months need not be consecutive) AND have completed at least 1,250 hours during the 12-month period preceding the leave request. The Town of Wayland has adopted the 12-month "roll back" method for determining the amount of leave entitlement. That is, to determine whether you are entitled to FMLA leave, the Human Resources Department will examine your use of FMLA leave over the preceding 12-month period.

Notice:

An employee wishing to utilize FMLA leave must submit a notice of request, which must include his/her intent to return to work. This request must be submitted to both the employee's supervisor and the Human Resources Director.

- The Town will require written medical certification in all instances of employee or family member illness. Medical certification will be provided to the Town on a certification form available in the Human Resources Department and must be submitted within 15 days of the start of the leave. The Town may require an employee to provide a second opinion regarding his/her own or his/her family member's illness. If a second opinion is required, it will be at the Town's expense.

Employees must give 30 days notice of their need to take FMLA leave to their department head when such event is foreseeable. In emergency situations, notice should be given as soon as practicable.

This leave will coincide with any leave taken under sick leave or worker's compensation.

Use Of Leave/Leave Integration:

Employee Illness - The Town will require use of all sick leave and all vacation leave available to the employee at the beginning of the leave period. Use of personal days will not be required (although may be used). Sick bank leave provisions may apply where applicable.

Family Member Illness - The Town will require use of all sick leave and vacation time available to the employee at the beginning of the leave period. The Town will require the use of available sick leave where the Town By-law or collective bargaining agreement allows for non-personal use of such time. Use of personal days will not be required.

Mother - birth The Town may allow the use of sick leave up to the first 8 weeks as well as the use all vacation leave available to the employee at the beginning of the leave period. Use of personal days will not be required. Sick bank leave provisions may apply where applicable.

Father - birth The Town will require the use of all sick leave and vacation time available to the employee at the beginning of the leave period. Use of personal days will not be required.

Entitlement to FMLA leave for the birth or placement of a child expires 12 months after that birth or placement. The law specifically limits the leave that may be taken by spouses who work for the same employer to a combined total of 12 workweeks during any 12-month period for the birth or placement of a child.

Adoption - Mother/Father The Town will require the use of all sick leave and vacation time available to the employee at the beginning of the leave period. Use of personal days will not be required.

Intermittent Leave/Reduced Leave:

Intermittent leave is allowed when medically necessary. In the case of a birth or an adoption, intermittent or reduced leave, may be allowed on a case-by-case basis, as determined by the appointing authority in conjunction with the Human Resources Director.

Employees who are taking intermittent or reduced leave will submit specific hours of work on a weekly basis as part of the Town's regular attendance tracking system. In addition, however, a copy will also be sent directly to the Human Resources Director for the purpose of tracking FMLA leave.

Benefits While On FMLA:

- **Payment of Share of Health and Life Insurance** - While in a pay status, i.e., on vacation or sick leave, an employee's share of insurance premiums will be automatically deducted from his/her paycheck. When an employee is not in a pay status, the employee will be required to submit his/her share of the health and life insurance premiums to the payroll department every four weeks beginning the four weeks after the employee's last pay period. Failure to submit payment within thirty days will result in cancellation of benefits.

You will be notified by certified mail of your need to submit payment of premiums after fifteen days of non-payment. You will again be notified by certified mail that effective five days from the date of the letter, health and life

insurance benefits will be cancelled. Reinstatement of insurances will involve paying all past premiums owed to the Town.

- **Accumulation of Benefits While on Leave** - Any accumulation of benefits will depend on whether the employee is in a pay status or not and will be governed by the Town By-laws, appropriate collective bargaining agreements and/or FMLA.

Other Requirements:

- **Periodic Updates While On Leave** - When an employee is on leave of an undetermined length of time, the Town will require periodic updates at 30, 60 and 90 days.
- **Medical Certification to Return to Work** - The Town will require an employee on leave for his/her own health condition to submit to the Human Resources Director certification from his/her medical authority attesting to the ability of the employee to return to work. A letter from the medical authority stating any limitations or accommodations will suffice.
- **Failure to Return to Work** - If an employee fails to return to work after any FMLA leave, unless failure to return is through no fault of the employee's own, then the Town will require reimbursement for all health and life insurance premiums paid by the Town during the FMLA leave. The Town will recoup these payments in any legal way necessary.
- **Medical Certification for Failure to Return to Work** - The Town will require that an employee who claims his/her failure to return is due to a continuing medical condition submission of medical certification attesting to this fact within 30 days of the end of the FMLA period. If the employee fails to submit certification, the Town will assume that failure to return is not due to a continuing medical condition and will recoup its paid share of health and life insurance premium payments in any legal way necessary.
- **Continued Leave** - If an employee finds that the 12-week FMLA leave entitlement is not sufficient, he/she may, in the accordance with the Personnel By-law or collective bargaining agreement, as applicable, request an extended leave period.

National Defense Authorization Act (NDAA):

Federal passage of the NDAA has amended the FMLA to provide additional FMLA rights to eligible employees in the area of military service. Following are the amendments:

- **Qualifying Reason** - Eligible employees are entitled to 12 weeks of leave due to a qualifying emergency arising out of the fact that a spouse, son, daughter or parent of the eligible employee is on active duty or has been notified of an impending

call to active duty status. Further definition will be forthcoming from the US Secretary of Labor.

- Leave Entitlement – An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member.

For additional information, contact the Human Resources Department.

Personnel Board Revised: January 1, 2016