

ARTICLE VIII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time employees and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

Section 2. Holidays

The Town will follow the holiday schedule as published by the State of North Carolina for state employees.

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s), or have been given approved paid leave.

Employees wishing to schedule time off for religious observances, other than those observed by the Town, may request vacation leave from their respective department head. The department head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observances may be denied only when granting leave would create an undue hardship for the Town.

Section 3. Holidays: Effect on Other Types of Leave

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Holidays: Compensation When Work is Required or Regularly Scheduled Off for Shift Personnel

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their regular rate for hours actually worked in addition to any holiday pay to which they are entitled. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee will receive the hours for paid holiday leave. Whether holiday time is provided in time or pay for shift employees is determined by the Town. Employees shall receive holiday compensation in hours or pay based on the pro rata amount identified in Section 16 of this Article.

Section 5. Vacation Leave

Vacation is a privilege granted to employees by the Town. Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation should be requested in advance in methods determined by the department and approved by the supervisor.

Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the Town. Employees who wish to use leave for religious observances must request leave from their respective department heads. The department head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the Town.

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment unless approved by the Town Manager. A probationary employee who is dismissed during the probationary period will not be eligible for terminal pay for any accumulated vacation leave.

Section 7. Vacation Leave: Accrual Rate

Each full-time general employee of the Town will accrue vacation on the following schedule. Sworn law enforcement officers who work an average workweek of 42 hours (168 hours in a 28 day cycle) will earn a prorated amount based on the average number of hours in the work week. There may also be a different accrual schedule for shift fire staff. (See Section 16 of this Article for more information.)

Years of Service	Days Accrued Per Year
0 - 2	10
3 - 5	12
6 - 14	15
15 - 19	18
20 - 24	20
25 plus	21

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until the pay period containing December 31 of each fiscal year. During the pay period containing December 31, any employee with a balance exceeding 30 days shall have the excess accumulation transferred to sick leave so that only a balance of 30 days is carried forward to January 1.

Regardless of accumulated balance if an employee separates from service, the payment for accumulated vacation leave shall not exceed 30 days. Employees are not eligible to receive pay for vacation time not taken.

Employees are cautioned not to retain excess accumulated vacation leave until late in the fiscal year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of accrued vacation leave upon request in advance at those times designated by the department head which will least obstruct normal operations of the Town. Department heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed twice the annual accumulation rate provided notice is given to the supervisor at least two weeks in advance of the effective date of

resignation, thirty days for department heads.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town.

Employees who are involuntarily separated shall receive payment for accumulated vacation leave not to exceed twice the annual accumulation rate. At the discretion of the Town Manager, employees dismissed for serious violations of personal or criminal conduct may be determined ineligible to receive vacation pay.

Section 11. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave

Sick Leave with pay is a privilege granted to employees by the Town Board, not a right, and may be used only for the purposes described in this Policy. Abuse of sick leave privileges will subject the employee to disciplinary action.

Sick leave will accrue during the probationary period but may not be used except with the approval of the Town Manager when inability to use sick leave would be considered an unusual hardship. Sick Leave may be used for the following reasons: sickness, non-job related bodily injury, the first seven days of Worker's Compensation Leave, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave also may be used when an employee must care for a member of his or her immediate family who is ill. Immediate family is defined as spouse, child, parents of employee or spouse, grandparent, grandchild, brother or sister, in-law or step relations of same, or someone living in the home of the employee. Sick leave may not be used to care for a healthy child.

Sick leave may also be used to supplement worker's compensation disability leave for the seven day waiting period before worker's compensation benefits begin.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time employees working other than the basic forty-hour work schedule (sworn law enforcement officers who work an average workweek of 42 hours-168 hours in a 28 day cycle) shall be prorated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees Retirement System. A day shall be calculated based on the formula found in Section 16 of this Article.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated above for retirement or upon

reinstatement with one year of separation after reduction in force.

Section 14. Transfer of Sick Leave from Previous Employer

The Town will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the North Carolina State or Local Government Retirement Systems and the employee did not withdraw accumulated retirement contributions from that employer when leaving employment.

The sick leave will be treated as though it were earned with the Town of Blowing Rock and may be used as any other accrued sick leave by the employee. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of the six months of employment.

Section 15. Sick Leave: Medical Certification

The employee's supervisor or department head may require a physician's certificate certifying the employee's or employee's family member's illness and the employee's capability to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the department head deems desirable. The department head shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

Section 16. Extension of Sick Leave Credits

The Town Manager may advance sick leave to an employee who has exhausted sick leave because of a major operation or illness. This advance may not exceed the amount an employee can earn over the next 12 calendar months. At the time of the employee's separation, any sick leave owed the Town will be deducted from the employee's final compensation.

A probationary or regular full-time employee, who has exhausted all sick leave, compensatory time, and annual leave, may make application to the Town Manager for extended sick leave. In reviewing the application, the Town Manager shall consider the following:

- a. The nature of the employee's condition;
- b. The expected date on which the employee may return and perform regular work duties;
- c. Whether the employee's medical disability is chronic in nature;
- d. The employee's past record of sick leave usage, and whether that sick leave usage has been excessive; and,

- e. The impact of the employee's continued absence on the department to which the employee is assigned; and the impact on public health and safety.

In addition to the above considerations, the Town Manager shall have the right to deny the application for extended sick leave where:

- a. The job responsibilities of the employee are such that to grant the extended leave would have a significant adverse effect on the daily operations of the department to which the employee is assigned; or,
- b. The employee's job responsibilities are directly related to public health or safety, and extended leave would have an adverse effect on public health and safety; or,
- c. There are no readily available personnel to assume the employee's duties on a temporary basis during the extended leave.

The Town Manager may grant extended sick leave not to exceed 48 workdays. The Manager may require verification from the employee's attending physician as to the continuing nature of the medical condition in order to continue the benefits under this policy.

An employee who receives extended sick leave shall, upon returning to work, have the amount of such extended leave deducted from accrued sick leave, compensatory time, and annual leave. The deduction shall be at one-half of the rate at which the employee would otherwise accrue such sick leave, compensatory time, and annual leave, until the balance of extended sick leave is reduced to zero.

Section 17. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time employees with more or fewer hours than the basic work week (40 hours) shall be determined by the following formula:

- 1) The average number of hours scheduled for work per week by such employees shall be divided by the number of hours in the basic work week (usually 40 hours)
- 2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week (40 hours).
- 3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned, or divided by 26 shall be the number of hours of leave earned biweekly, and divided by 52 would be the amount of leave earned weekly.

Section 18. Funeral Leave

An employee may have up to three days at full pay granted in case of death in the immediate family. Additional time or time to attend funerals of other family members may be charged to vacation leave, compensatory time or leave without pay. See section 12 of this article for a definition of immediate family.

Section 19. Family and Medical Leave

The Town will grant up to 12 weeks of family and medical leave per twelve months to eligible

employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid (coordinated with the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned compensatory time may also be used during FMLA leave. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the employer 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for the following reasons:

- 1) the birth of a child and in order to care for that child;
- 2) the placement of a child for adoption or foster care;
- 3) to care for a spouse, child, or parent with a serious health condition;
- 4) the serious health condition of the employee; or
- 5) military exigency.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring intermittent or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity for more than three days would be considered a serious health condition.

If a husband and wife both work for the Town and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation, accrued compensatory time and leave without pay for the remainder of the 12-week period.

"Military Exigency" is a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

- 1) deployment of service member with seven or fewer days' notice;
- 2) military ceremonies and events such as family-assistance or informational programs related to the family member's active duty or call to active duty;
- 3) urgent, immediate childcare or arranging for alternative childcare for the children of service members;
- 4) attending school or daycare meetings relating to the child of service member;
- 5) making financial or legal arrangements related to a family member's active duty status or call to active duty; or
- 6) taking up to five days leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
- 7) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active duty service or call to active duty status or the covered military member; or
- 8) post-deployment activities for a period of ninety days after the termination of the service member's active duty status.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of FMLA leave in a single 12 month period. During a single 12 month period, the employee is eligible for a total of 26 weeks of all types of FMLA Leave combined.

The request for the use of leave must be made in writing by the employee and approved by the department head or Town Manager.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Section 20. Family Medical Leave – Certification

In order to qualify for leave under this law, the Town requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department head and filed with the Human Resources Officer.

The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the Town's Leave Without Pay policy.

Section 21. Family Medical Leave: Retention and Continuation of Benefits

When an employee is on leave under FMLA, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit by the first of each month.

After using all paid leave for which the employee qualifies, the employee on FMLA may use Leave without Pay for the remainder of the FMLA 12/26 week entitlement. An employee ceases to earn holiday or leave credits on the date leave without pay begins.

Section 22. Leave Without Pay

A full-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified

by the Town Manager.

The employee shall apply in writing to the Town Manager for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

If the employee decides not to return to work, the department head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn holiday or leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense, subject to any regulation adopted by the Town and the regulations of the insurance carrier. If the Leave Without Pay is for a circumstance that coincides with FMLA or USERRA then the provisions of those policies will apply.

Section 23. Worker's Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation Act may elect to use accrued sick leave, vacation, or compensatory time only during the first waiting period of seven days. The employee will not be required to reimburse the Town for this paid leave in the event the absence extends beyond twenty-one days and the first seven days is paid by worker's compensation. If the employee elects to use accrued sick leave, vacation, or compensatory time for the initial waiting period, he/she will be placed on leave without pay at the end of the seven days; part-time and temporary employees as well as full-time employees who do not elect to use paid leave for the initial waiting period will be placed on leave without pay effective with the date of injury. Once the waiting period is over, workers' compensation covers two thirds of regular pay.

Any worker's compensation disability that qualifies under the requirements of FMLA shall run concurrently with FMLA. An employee on worker's compensation leave without pay will be permitted to continue to be eligible for benefits under the Town's group insurance plans during the period of worker's compensation leave that is concurrent with FMLA.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. Any amounts owed are due and payable by the first of the month.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave Without Pay. An employee ceases to earn holiday or leave credits on the date Worker's Compensation Leave without Pay begins. After the period of FMLA eligibility ends, the employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense subject to the regulations of the insurance carrier.

Section 24. Military and other USERRA Leave

The Town will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and ~~other~~ related federal regulations. For the purposes of USERRA covered employees are the following:

- 1) Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard);

- 2) Army National Guard and Air National Guard;
- 3) FEMA's Disaster Assistance Teams;
- 4) Commissioned Corps of the Public Health Service;
- 5) Military Service Academies; and
- 6) Reserve Officer's Training Corps (ROTC)

Employee taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the Town's health care for up to 24 months but will be responsible for paying the insurance premiums up to 102% of the premium costs. Employees whose USERRA duty is less than 31 days will have their health insurance coverage paid as if they were at work with the Town.

Military Training

In addition to complying with the requirements of USERRA, the Town provides addition benefits for military training. Full-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen calendar days per year for military leave with pay. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a Town employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period.

If such duty is required beyond the fifteen calendar days, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of 24 months.

Part-time and temporary employees will be granted time of without pay to meet their military reserve or National Guard training obligations.

Section 25. Reinstatement Following Military and other USERRA Service

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- 1) Less than 31 days absence - employee must report to employer by the next business day.
- 2) 31 days-180 days absence - notification to the supervisor must be submitted within 14 days.
- 3) More than 180 days absence - notification to the supervisor must be submitted within 90 days.

All reporting deadlines are extended for two years if the employee is injured during USERRA service.

Section 26. Civil Leave

A full-time Town employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 27. Parental School Leave

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

- 1) The leave must be taken at a time mutually agreed upon by the employee and the Town;
- 2) The Town may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- 3) The Town may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time) taken by a full-time employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the Town.

Section 28. Voluntary Shared Leave

The Town Manager has the authority to create administrative procedures whereby employees may donate vacation to other employees who have major illnesses or need leave to care for family members with major illnesses.

Section 29. Adverse Weather and Emergency Conditions

The Town has responsibility for providing emergency services. Adequate staff are required to operate these critical services seven days per week and 24 hours per day in all weather. The Town Manager, upon recommendation of department heads, should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

- a) maintain adequate staffing of emergency services at all times;
- b) provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
- c) not pay regular salaries to some employees for not working when others are required to be at work.

Town offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the Town Manager's office. The Town Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Town offices. To the extent possible, all departments and offices will be given sufficient advance notice of any authorized closing of non-critical Town functions.

Employees in non-critical positions who leave work before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may use earned vacation or compensatory leave for days or hours not worked. Employees in designated critical positions may be subject to disciplinary action for failure to report to work as required.

Section 30. Order of Use

When an employee is out on leave (vacation, sick or other) compensatory time must be used before any other time can be applied. Once all comp time is applied other accrued time may be used. This assist in compliance with FLSA requirements that compensatory time be used within 30 days of accrual.