

**SECTION 5
LEAVES OF ABSENCE**

Many times it is necessary for employees to be absent from work for a short period or sometimes for a longer time frame. During these absences, it is important that outlined provisions adequately ensure the protection and security needed for employees and their families. Just as the Town has this responsibility, the employee should use opportunities for absences wisely, making all effort to return to work as quickly as feasible to do so.

5.1 ANNUAL LEAVE

1. All full-time Pay Plan Town employees shall accrue annual leave at the following rate over the applicable pay periods in the calendar year:

<u>Length of Full-Time Service</u>	<u>Accumulated Per Year</u>
0-4 years	96 Hours
5-9 years	120 Hours
10-14 years	144 Hours
15-19 years	168 Hours
20+ years	192 Hours

All part-time employees who are covered by the Pay Plan and who are scheduled to work at least an average of 30 hours per week during a two-week pay period shall accrue annual leave on a prorated and length of service basis according to the budgeted number of workweek hours. This policy will apply, on a temporary basis, to employees covered under the Virginia Retirement System's Hybrid Retirement Plan from the date of hire through June 30, 2014.

2. Requests for annual leave must be approved in advance by the employee's supervisor.
3. The maximum accumulation of annual leave that can be carried over from one calendar year to the next is 240 hours for employees completing less than 20 years of service and 320 hours for employees completing 20 years of service or more. Any leave in excess of 240 hours, or 320 hours respectively, shall be added in February of each year to the employee's total accumulated sick leave.
4. Time off taken by employees under this policy shall be considered time worked in accruing annual and sick leave, as well as in the calculation of overtime pay.
5. Employees shall not be eligible to receive pay for more days of annual leave than they have accrued as of the immediately preceding pay period. Leave without pay must be approved in advance as outlined in Section 5.10.

6. Upon termination of employment, non-probationary employees hired as of June 30, 2012, may be entitled to payment for unused annual leave as noted below.

<u>Length of Employment</u>	<u>Maximum Payout Hired Before June 30, 2012</u>
0 – 19 Years	240 Hours
20 + Years	320 Hours

7. Non-probationary employees hired on or after July 1, 2012 may be entitled to payment for unused annual leave as noted below.

<u>Length of Employment</u>	<u>Percentage Of Unused Annual Leave</u>	<u>Maximum Payout If Hired On Or After July 1, 2012</u>
< 1 Year	0%	0 Hours
1 – 9 Years	50%	120 Hours
10 – 19 Years	75%	180 Hours
20 + Years	100%	320 Hours
Work Related Disability:		
1 – 9 Years	100%	240 Hours
10 – 19 Years	100%	240 Hours
20% Years	100%	320 Hours

8. In the event that an employee not on the Pay Plan moves to a position which is on the Pay Plan, years of service as a non-Pay Plan employee shall not be counted towards length of service for the purpose of leave benefits. This provision does not apply to employees who transferred from non-Pay Plan status to Pay Plan status prior to July 1, 1990.
9. For the purposes of calculating annual leave accrual, all Department Heads and the Deputy Town Managers shall have five years of service added to their actual number of years of service. At the time of termination of employment, regardless of the reason, vacation payout will be determined by adding the additional five years of service to the actual years of service.

5.2 SICK LEAVE

1. All full-time Pay Plan employees shall accrue sick leave over the applicable pay periods each calendar year at the rate of 104 hours per year. Part-time Pay Plan employees, scheduled to work at least an average of 30 hours per week during a two-week period, shall accrue sick leave on a prorated basis, according to the budgeted number of workweek hours. This policy will apply, on a temporary basis, to employees covered under the Virginia Retirement System's Hybrid Retirement Plan from the date of hire through June 30, 2014. Time taken off by employees

using sick leave shall be counted as time worked for the purpose of annual and sick leave accumulation. The Town shall pay sick leave on a prorated basis according to the budgeted number of workweek hours.

2. Employees may use sick leave for the following purposes:
 - A. Period of personal and/or family illness, birth or adoption of a child, and any additional absence as defined by Section 5.8 FAMILY LEAVE.
 - B. A death in the immediate family, above and beyond leave benefits established under Section 5.9 FUNERAL LEAVE.
 - C. Serious illness of the immediate family where the employee's attendance is required;
 - D. Medical appointments for the employee, his/her child, spouse, or parent;
 - E. Pregnancy and related medical conditions;

In (C) above, "immediate family" shall include the employee's spouse, mother, father, sister, brother, son, daughter, grandparent, grandchild, or any of these step relatives or relatives-in-law.

3. Employees must notify their supervisor no later than one hour into their normal scheduled workday if they intend to use sick leave. A Department Head may establish procedures for earlier notification of intent to use sick leave when Town operations require scheduling another employee to substitute for the ill employee.
4. The Department Head or his/her designee shall have the authority to grant sick leave. Whenever a question arises concerning the legitimacy of the use of sick leave, a certifying statement from a practicing physician may be required. Failure of an employee to provide proof of illness may constitute a reason for nonpayment for the days taken. This failure also may be construed as grounds for further disciplinary action.
5. Whenever possible, medical appointments should be scheduled during non-working hours.
6. Full-time Pay Plan employees not using sick leave during an entire calendar year shall receive one additional day of annual leave to be credited in February of the next calendar year. Similarly, part-time employees who are eligible for sick leave and who do not use sick leave during an entire calendar year shall receive an

additional prorated day of annual leave based on the budgeted number of hours per week.

7. Total accumulated sick leave shall be unlimited. However, the maximum payout at retirement for employees hired by June 30, 2012 may not exceed 50% payment for all sick leave accrued, but not used. This payment shall not exceed 720 Hours. The maximum payout at retirement for employees hired on or after July 1, 2012 may not exceed 15% for all sick leave accrued, but not used. The payment shall not exceed 150 hours.
8. An employee who uses all accrued sick leave may be eligible for a loan from the Sick Leave Bank. (Refer to Section 4.21 SICK LEAVE BANK.) Participation in the Sick Leave Bank is restricted to employees covered under Retirement Plans 1 and 2 of the Virginia Retirement System (VRS).
9. If an employee is laid off, pursuant to Section 6.4 of these Rules, and is re-employed within one year of the lay-off date, he/she shall be credited with any balance of prior accumulated sick leave, provided the employee remains eligible to participate in Retirement Plans 1 or 2 of the Virginia Retirement System (VRS).

5.3 FLEXIBLE LEAVE PLAN

The Flexible Leave Plan (FLP) is a comprehensive program that recognizes the many diverse needs of employees for time off from work. Hours accrued in the Flexible Leave Plan may be used for any purpose when scheduled in advance or at times when unforeseen circumstances cause an unscheduled absence.

1. Enrollment

Employees covered under Plan 1 or Plan 2 of the Virginia Retirement System and hired prior to January 1, 2014 who are covered under Plan 1 or Plan 2 of the Virginia Retirement System may elect to participate in the FLP or the Town's Annual Leave and Sick Leave plans.

Employees hired on and after July 1, 2014 will automatically enroll in the FLP at the time of hire if they are covered under the Hybrid Retirement Plan of the Virginia Retirement System (VRS).

2. Flexible Leave Plan (FLP) Accruals

Full-time employees receive FLP accruals based on their years of continuous service as a Pay Plan employee with the Town. For the purposes of calculating annual leave

accrual, all Department Heads, the Deputy Town Managers, the Town Manager and Town Attorney shall have five years of service added to their actual number of years of service. Leave shall accrue at the following rate over the applicable pay periods in the calendar year:

<u>Years of Service</u>	<u>Flexible Leave Accrual Hours Per Year</u>
0 – 4	160
5 – 9	179
10 – 14	198
15 - 19	218
20+	237

Employees may accumulate no more than 480 FLP hours by the end of any calendar year. Hours in excess of 480 will be forfeited. It is solely the employee’s responsibility to monitor his/her FLP balance.

3. Any scheduled holiday that falls during the employee’s FLP absence will not be deducted from FLP accrual hours.
4. Funeral leave is not deducted from FLP accrual hours. The Town provides up to 40 hours per calendar year, to cover any absence related to the death of a family member as defined in Section 5.9, Funeral Leave.
5. Requests for leave must be approved in advance by the employee’s supervisor, if possible.
6. Employees must notify their supervisor no later than one hour into their normal scheduled workday if there is a need for leave due to illness or an urgent event. A Department Head may establish procedures for earlier notification of intent to use FLP when Town operations require scheduling another employee to substitute for the absent employee. Unscheduled leave use will be monitored. A supervisor has the right to request verification of unscheduled absences by requiring a physician’s note when the absence is the result of a medical condition outside of FMLA. Failure to notify the supervisor of an unscheduled absence and/or excessive unscheduled leave is considered grounds for counseling and/or disciplinary action.
7. Full-time Pay Plan employees not using unscheduled leave during an entire calendar year shall receive one additional day of flex leave to be credited in February of the next calendar year. Similarly, part-time employees who are eligible for flex leave and who do not use unscheduled leave during an entire calendar year shall receive an additional prorated day of flex leave based on the budgeted number of hours per week.

8. Flexible leave may be used to supplement the short-term disability benefits provided to VRS Hybrid Retirement Plan participants.
9. Time taken off by employees under this policy shall be considered time worked in accruing leave under the FLP.
10. Time taken off by employees under this policy shall not be considered time worked for the calculation of overtime pay and/or compensatory time.
11. Employees shall not be eligible to receive pay for more days of leave than they have accrued as of the immediately preceding pay period. Leave without pay must be approved in advance as outlined in Section 5.10.
12. Upon termination of employment for a reason other than retirement, non-probationary employees on the FLP will be entitled to payment for unused FLP accrual hours as noted below:

<u>Length of Employment</u>	<u>Percentage Of Unused Leave</u>	<u>Maximum Payout</u>
< 1 Year	0%	0 Hours
1 – 9 Years	25.0%	120 Hours
10 – 19 Years	37.5%	180 Hours
20 + Years	66.6%	320 Hours

Upon retirement, non-probationary employees on the FLP will be entitled to payment for unused FLP accrual hours as noted below:

<u>Length of Employment</u>	<u>Percentage Of Unused Leave</u>	<u>Maximum Payout</u>
< 1 Year	0%	0 Hours
1 – 4 Years	37.5%	180 Hours
5 – 9 Years	50.0%	240 Hours
10 – 19 Years	62.5%	300 Hours
20 + Years	75.0%	360 Hours

At the time of termination of employment, regardless of the reason, the payout will be determined by adding the additional five years of service to the actual years of service for all Department Heads and the Deputy Town Managers.

5.4 ADMINISTRATIVE LEAVE

Employees placed on administrative leave during internal investigations or other instances may or may not be authorized to receive compensation. In cases where compensation is not approved, vacation or sick leave may not be used.

5.5 EXEMPT LEAVE

Employees who are exempt from the overtime provisions of the Fair Labor Standards Act may receive paid time off for hours physically worked beyond their normal forty-hour workweek. Additional hours should be approved in advance by the Department Head or selected designee and recorded on the appropriate payroll sheet. These hours may be banked in the Exempt Leave Bank based on one hour for each hour physically worked in excess of forty hours per week. Exempt time cannot be banked in increments of less than one hour per day. An exempt employee may accrue a maximum of eighty hours of exempt leave time. Additional hours worked beyond the maximum will not accrue until worked in a pay period where the balance in the bank falls below eighty hours.

Requests to use exempt leave require prior approval by the employee's supervisor and Department Head. Leave hours taken must be reflected on the appropriate payroll sheet. Upon termination of employment, the exempt employee shall not be paid for any untaken accrued exempt leave time.

5.6 COURT LEAVE

Any Pay Plan employee called for service on a jury shall be granted leave with full pay for the duration of the period for which called. Any employee who is summoned or subpoenaed to appear in a court of law (except a defendant in a criminal case) when a case is to be heard shall be granted leave with full pay for the duration of the period for which called. No charge shall be made against the employee's accrued leave. The employee must give reasonable notice of the court-related absence. If released from jury duty during normal working hours, employees are required to report to work on that day, or use accrued leave for the remainder of the day.

Leave without pay shall be granted to any Wage employee called for service on a jury or any wage employee who is summoned or subpoenaed to appear in a court of law (except a defendant in a criminal case) when a case is to be heard.

5.7 MILITARY LEAVE

An employee entering active military duty shall have his/her job status protected in full compliance with Federal and State requirements.

Pay Plan employees who are members of the National Guard, Reservists, or the Virginia State Defense Force and National Defense Executive Reserve shall be granted a maximum of 15 days (150 hours) with pay per Federal Fiscal year (October 1 – September 30) to attend training approved by the Governor, his designee, or other appropriate military official in the case of reservists. No charge for this training shall be made against annual leave and no loss of pay or seniority shall result from the taking of this leave. Once military leave is exhausted, the employee may opt to use his/her accrued leave for other military leave absences. However, the employee may not be required to use his/her accrued leave while on military leave.

Pay Plan employees, with a minimum of twelve months of employment with the Town, will be entitled to additional benefits when serving in an active duty status for a purpose other than annual training and drills. The employee is responsible for providing the Human Resources Manager with a copy of the military orders and military pay information for the employee's military service. The additional benefits are as listed:

1. Compensation from the Town in the amount of the difference between the annual base pay provided by the Town and the employee's annualized military pay, including all forms of pay and allowances.
2. Group life insurance coverage for the employee during the employee's military leave of absence. The applicable premiums will be paid to Minnesota Life by the Town.

5.8 FAMILY/MEDICAL LEAVE

Family/ Medical leave shall be granted to employees for a maximum of 12 weeks within the 12-month period, which begins with a qualifying occurrence. In order to be qualified for Family/Medical Leave, the employee must have been employed by the Town for a minimum of 12 months and must have worked 1,250 hours during the 12-month period prior to commencement of leave.

During this period, Pay Plan employees shall accrue annual and sick leave and shall continue to be enrolled under Town sponsored insurance plans with the Town paying the current contribution for an individual employee and the employee paying in advance for any additional insurance coverage that he/she may elect to have (even if the employee is on leave-without-pay).

Family leave shall be granted in the following events:

- birth of a son or daughter of the employee and in order to care for such son or daughter;
- placement of a son or daughter with the employee for adoption or foster care;
- care of a spouse, child, or parent with a serious medical condition;
- a serious health condition that makes the employee unable to perform the functions of his/her position. A "serious health condition" is a physical or mental illness or an injury requiring inpatient hospital care or continuing health care treatments.
- any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty, or has been notified of an impending call or order to active duty in support of a contingency operation.

Employees shall be granted up to a maximum of 26 weeks within the 12-month period to care for a covered servicemember with a serious injury or illness if the employee is the spouse,

child, parent or next of kin of the servicemember. An eligible employee is entitled to a combined total of 26 weeks of unpaid leave during a single 12-month period for any FMLA reasons.

For continuing serious health conditions, the employee is entitled to 12 work weeks of leave within a twelve-month period. This leave may be intermittent or on a reduced leave schedule. For a birth or adoption, the leave option expires one year after the event.

The Town does require that the employee obtain and provide to Human Resources a physician's certification of the existence of a serious medical condition of the employee, spouse, parent, or child. All certificates must include the date of the onset of illness or injury, the probable duration, and other appropriate medical factors.

Where an employee takes leave to care for a spouse, child, or parent, the certification shall state that the employee is needed to care for the family member and provide an estimate of the amount of time needed for this purpose. Where an employee takes leave because of a serious health condition, the certificate must state that the employee is unable to perform the functions of his/her position.

Where the employee takes intermittent leave, or leave on a reduced leave schedule, for a serious medical condition, the certificate must include a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the leave. Where the employee takes intermittent leave or leave on a reduced leave schedule to care for a spouse, child, or parent with a serious medical condition, the certificate shall state that the employee's intermittent leave or leave on a reduced leave schedule is necessary for such care or will assist in their recovery, and the expected duration and schedule of such leave.

Where an employee takes leave for qualifying exigencies while his/her spouse, child, or parent is on active duty or called to active duty status in support of a contingency operation, a "Certification of Qualifying Exigency for Military Family Leave" shall be completed and submitted to Human Resources.

Where an employee takes leave to care for an eligible servicemember, the employee shall complete and submit "Certification for Serious Injury or Illness of Covered Servicemember" form to Human Resources.

If the Human Resources Manager is not satisfied with the certification, a second opinion may be required and paid for by the Town. The Town may pay for a third opinion if the first two conflict. The third opinion shall be binding.

If an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the Town may require such employee to transfer temporarily to an available alternate position offered by the Town for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the regular employment position of the employee.

Employees who wish to take family leave must provide at least thirty days notice of intention when the event is foreseeable such as a birth, adoption, or planned medical treatment. The Town may designate leave as FMLA for an employee if notified that the employee has a serious health condition, rather than wait for the employee to request it.

The employee shall charge FMLA to accumulated leave balances. After exhausting these sources, the employee will be placed on leave-without-pay for the remainder of the family/medical leave unless eligible for a loan from the Town's Sick Leave Bank.

The Town may recover health premiums paid on behalf of the employee during leave-without-pay if that employee fails to return to the job unless that failure is attributable to the continuation of the medical condition or other circumstances beyond the employee's control.

At the end of family/medical leave, the employee shall resume his/her former position. If for reasons unrelated to the leave, this job no longer exists, a position of equivalent pay and benefits, and other terms and conditions of employment shall be provided. For certain highly compensated employees, as defined by federal law, the Town may deny restoration if restoration would cause substantial and grievous economic injury to the Town. The Town shall notify the employee of the denial of restoration when the Town determines such injury would occur, and, in cases where leave has commenced, the employee elects not to return to employment after receiving such notice.

If the employee is unable to return to work at the conclusion of FMLA, an assessment will be conducted to determine a potential date for the employee's return to work.

5.9 FUNERAL LEAVE

The Town shall grant a maximum of 40 hours per calendar year to each full-time Pay Plan employee for a death in his/her immediate family ("immediate family" is defined as the employee's spouse, mother, father, sister, brother, son, daughter, grandparent, grandchild, aunt, uncle, niece or nephew, as well as any of these step relatives or relatives-in-law). If the absence extends beyond 40 working hours, the employee would be eligible to use his/her sick leave. Funeral leave not used in a calendar year may not be carried over to the next year. Part-time employees who are covered by the Pay Plan and who work at least an average of 30 hours per week during a two-week period shall be eligible to take funeral leave on a prorated basis according to the budgeted number of workweek hours.

5.10 LEAVE-WITHOUT-PAY

Upon recommendation of the Department Head and Human Resources Manager and the approval of the Town Manager, leave-without-pay may be granted to an employee for a period not to exceed one year. Leaves of absence without pay for five days (40 hours) or less in a pay period may be granted by the Department Head, after approval by the Human Resources Manager.

An employee who is exempt from the overtime provisions of the Fair Labor Standards Act generally shall take leave-without-pay in one-workweek increments. However, leave-without-pay may be granted to an exempt employee in one-day increments when the employee's absence is due to personal reasons, or due to sickness or disability. In addition, leave-without-pay may be granted to an exempt employee in increments of less than one workday for absences due to personal reasons, sickness or disability, when: 1) permission for leave either has not been requested or has been denied; 2) accrued leave has been exhausted; or 3) leave-without-pay was chosen by the employee.

The employee must use all accumulated leave balances before leave-without-pay status will commence.

Except as provided in Section 5.7 or 5.8, an employee in leave-without-pay status for more than 40 hours per pay period for two consecutive pay periods shall not accrue benefits nor be eligible for Town contributions to group insurance plans, unless otherwise determined by the Town Manager. If continued participation in Town-sponsored insurance plans is requested and granted, the employee must pay all related costs at least one month in advance.

An employee who has failed to report to his/her workstation without prior authorization to use accrued leave time or without proper notification, pursuant to Section 5.2 on the use of sick leave and 5.3 of the Flexible Leave Plan, shall be placed on leave-without-pay status. Upon return to work, the employee must explain the absence to his/her supervisor and shall be subject to disciplinary action at the discretion of the supervisor. Absence of an employee without proper authorization or notification for three consecutive workdays shall be accepted as the employee's voluntary resignation.

5.11 LEAVE RECORDS

The Department of Finance shall maintain records pertaining to leave. Current leave and compensatory time balances shall be entered on each employee's biweekly pay statement. An employee's leave record may be inspected by him/her at any reasonable time.

5.12 LEAVE TO PARTICIPATE IN CHILDREN'S SCHOOL ACTIVITIES, VOLUNTEER AT SCHOOLS, OR TO PERFORM COMMUNITY SERVICE.

The Town shall grant a maximum of eight hours per calendar year of paid leave for all full-time Pay Plan employees to volunteer at schools or to participate in a community service project. Leave shall be granted to Pay Plan part-time employees working at least 30 hours or more per week on a prorated basis according to the budgeted number of workweek hours. The Department Head shall approve the purpose, date and duration of this leave in advance.