

## **TOWN OF AMHERST** **FAMILY AND MEDICAL LEAVE POLICY**

### **STATEMENT OF POLICY**

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with job-protected leave for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees. Eligible employees can take up to **12 workweeks of FMLA leave in a 12-month period** for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness may take up to **26 workweeks of FMLA leave in a single 12-month period** to care for the servicemember.

### **DEFINITIONS**

- A. **"12-Month Period"** – means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. **"Spouse"** - does not include unmarried domestic partners. If both spouses work for the Town of Amherst their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent.
- C. **"Child"** – means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.
- D. **"Serious Health Condition"** - means an illness, injury, impairment, or a physical or mental condition that involves:

1. Inpatient care; or
2. A serious health condition that you need care for; or
3. Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or which, if left untreated, would likely result in a period of incapacity of more than three calendar days; or
4. Prenatal care by a health care provider.

E. “Continuing Treatment” – means:

1. Two or more visits to a health care provider; or
2. Two or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider; or
3. A single visit to a health care provider that results in a regimen of continuing treatment; or
4. In the case of a serious, long-term or chronic condition or disability that cannot be cured, being under the continuing supervision of, but not necessarily being actively treated by, a health care provider.

## **COVERAGE AND ELIGIBILITY**

A. To be eligible for family/medical leave an employee must:

1. Have worked for the Town of Amherst for at least 12 months: and
2. Have worked at least **1250** hours over the previous **12 month** period.

## **INTERMITTENT OR REDUCED LEAVE**

- A. An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when “medically necessary.”

“Medically necessary” means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

- B. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the department’s consent.

- C. For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro rata basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave should be used for calculating the employee's normal workweek.

### **SUBSTITUTION OF PAID VACATION TIME**

- A. An employee will be required to substitute accrued paid vacation time for any part of a family/medical leave taken for any reason.
- B. When an employee has used accrued paid vacation time for a portion of family /medical leave, the employee may request an additional period of unpaid leave to be granted so that the total of paid and unpaid leave provided equals 12 weeks.

### **NOTICE REQUIREMENT**

An employee is required to give notice as promptly as is practicable in the event of a foreseeable leave. A "Request for Family/Medical Leave" form (see attached) should be completed by the employee and returned to the Department Head. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed "Request for Family/Medical Leave" form.

### **MEDICAL CERTIFICATION**

- A. For leaves taken because of the employee's or a covered family member's serious health condition, the employee must submit completed "Physician or Practitioner Certification" form (see attached) and return the certification to the Department Head. Medical certification must be provided by the employee as soon as is reasonably possible.
- B. The Department Head may require a second or third opinion (at the Town's expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.
- C. All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

### **EFFECT ON BENEFITS**

An employee granted a leave under this policy will continue to be covered under the Town's group health insurance plan under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.

## **JOB PROTECTION**

- A. If the employee returns to work within 12 weeks following a family/medical leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, authority, and civil service status, in accordance with applicable laws.
- B. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

## **FAMILY/MEDICAL LEAVE FORMS TO BE SUBMITTED BY THE EMPLOYEE**

- 1. Request for Family/Medical Leave
- 2. Physician or Practitioner Certification – Family Member/Serious Health Condition  
Employee/Serious Health Condition
- 3. Letter from Health Care Provider attesting to fitness for duty to return from leave.

## **ADDITIONAL INFORMATION**

Additional information can be found at 1-866-487-9243, or at [www.dol.gov/fmla](http://www.dol.gov/fmla).