

## RESOLUTION #194-2022

### AUTHORIZING AMENDING EMPLOYEE HANDBOOK/POLICIES & PROCEDURES TO REVISE EXISTING POLICIES

**WHEREAS**, The City of Margate City has Policies and Procedures that are issued on Power DMS (Document Management System); and

**WHEREAS**, The Board of Commissioners has determined that there is a need to amend and revise a number of policies in accordance with the Atlantic County Municipal Joint Insurance Fund (ACMJIF) and the Municipal Excess Liability Joint Insurance Fund (MEL), 2021-2022 Plan of Risk Management; and

**WHEREAS**, the revised policies are as follows:

<u>Policy No.</u>	<u>Title</u>
304	Sick Leave Policy Adds Seasonal employees per NJ Paid Sick Leave Law NJSA.34:11D-2
305	Bereavement Leave Policy Adds important phrases in bold for clarity
308	Family and Medical Leave (FMLA) Policy - and -
312	NJ Family Leave (NJ FLA) Policy Both Policy Nos. 308 and 312 add the following language: “City may not request a certification for leave to bond with a healthy newborn child or a child placed for adoption or foster care.”

**WHEREAS**, these personnel policies and procedures have been reviewed by Labor Attorney Vanessa James, Esquire, and Business Administrator Richard Deaney.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the City of Margate City, in the County of Atlantic, State of New Jersey that the listed policies attached hereto are hereby adopted and will be issued to employees via Power DMS.

**BE IT FURTHER RESOLVED** that these personnel policies and procedures shall apply to all City officials, appointees, employees, volunteers and independent contractors. In the event that there is a conflict between these rules and any collective bargaining agreement, personnel services contract, or Federal or State law, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail.

**BE IT FURTHER RESOLVED** that these personnel policies and procedures are intended to provide guidelines covering public service by City employees and do not represent a contract. These policies and procedures may be amended and supplemented from time to time without notice and at the sole discretion of the Board of Commissioners.

**BE IT FURTHER RESOLVED** that to the maximum extent permitted by law, employment practices for the City shall operate under the legal doctrine known as “employment at will.”

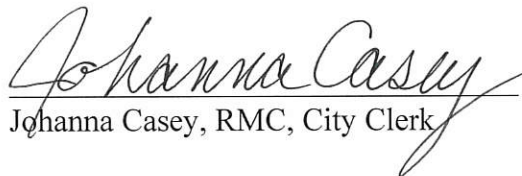
ROLL CALL:

NAME	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Becker			X			
Amodeo		X	X			
Blumberg	X		X			

DATE: October 6, 2022

CERTIFICATION

I, Johanna Casey, Clerk of Margate City, Atlantic County, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Commissioners of the City of Margate City at a meeting of said Commission held on October 6, 2022 and said resolution was adopted by not less than a two-thirds vote of the members of the Commission.

  
Johanna Casey, RMC, City Clerk

**CITY OF MARGATE**  
Employee Handbook/Policy and Procedure Manual

SECTION 3: Policies Relating to Paid and Unpaid Time Off

POLICY NO.: 304

# OF PAGES: 4

**SUBJECT: SICK LEAVE POLICY**

EFFECTIVE DATE: October 6, 2022

REVIEW DATE: October 6, 2022

REPLACES POLICY DATED: January 2022

**Accrual of Sick Time**

***Full-Time Employees***

In accordance with N.J.A.C 4A:6-1.3, Full-Time employees are entitled to one (1) working day of sick leave per month during the first calendar year of employment, and 15 working days in every calendar year of employment thereafter. At the beginning of each subsequent calendar year, in anticipation of continued employment, employees shall be credited with 15 days of sick leave.

**NJ EARNED SICK LEAVE LAW (N.J.S.A.34:11-D-1 et seq.)**

***Part-Time Employees Hired Before 10/29/2018***

All Part-Time employees, who had paid sick leave prior to the enactment of the **NJ Earned Sick Leave Law** on 10/29/2018, are “grandfathered in” and will continue to receive their allotment of paid sick leave according to their pre-enactment allotment schedule.

Part-Time employees, who had no prior paid sick leave, are entitled to the following, in accordance with the law:

The 12-consecutive-month “Benefit Year” is January 1<sup>st</sup> through December 31<sup>st</sup> of each year. In each “Benefit Year,” Part-Time employees accrue up to a maximum of 40 hours of sick time at a rate of one (1) hour of sick time for every 30 hours worked, which they can use as soon as earned, or accrue in any one year, or carry forward from one year to the next. The City tracks paid sick leave as it is earned. Every two weeks, copies of completed timesheets are sent to the HR/Admin. Assistant who maintains these records. Once a month, she sends a report of Part-Time accrued sick leave to Department Heads.

Part-Time employees can receive a monthly report through their Department Heads. If employees need to know their exact number of sick hours in between, they can call the HR/Admin. Assistant at 609-822-0424. Existing Part-Time employees are eligible to use the earned sick leave as soon as it is accrued.

### ***Part-Time and Seasonal Employees Hired After 10/29/2018***

Part-Time and Seasonal employees hired after 10/29/2018 begin accruing paid sick leave on the first day of employment in accordance with the accrual rate of one (1) hour of sick time for every 30 hours worked, up to a maximum of 40 hours/year. Newly-hired Part-Time and Seasonal employees are eligible to use the earned sick leave beginning on the 120<sup>th</sup> calendar day of their employment. Subsequently, they may use earned sick leave as soon as it is accrued.

### ***Accrual Rules Applicable to All Part-Time and Seasonal Employees***

Part-Time and Seasonal employees can carry over their accrued paid sick leave from year to year. There is no payout for unused earned Sick leave. The maximum amount of accrued paid sick leave that can be carried over to the next year is 40 hours.

The maximum increment that Part-Time and Seasonal employees can use their accrued earned sick leave is the number of hours that the employee is scheduled to work on a given shift.

Part-Time and Seasonal employees who transition to Full-Time employment will take any unused, accrued sick leave with them. Part-Time Employees who transfer to another City department will take any unused, accrued sick leave with them to the new department. The same is true for Seasonal employees who become Part-Time employees.

If a Part-Time or a Seasonal employee is separated from employment, but the employee is subsequently reinstated within six (6) months of separation, the employee is then entitled to reinstatement of previously-accrued Sick Leave. Seasonal employees are separated at the end of their Seasonal job; if they return the following year, they are rehired.

Part-Time employees and Seasonal employees absent for three (3) or more consecutive working days must submit a verification of illness or injury from a health care professional.

An employee who exhausts all paid sick leave in any one year shall not be credited with additional paid sick leave until the beginning of the next calendar year.

### ***Recordkeeping***

Under the NJ Earned Sick Leave Law, the City must retain records documenting hours worked by Part-Time and Seasonal employees as well as paid sick time used by Part-Time and Seasonal employees for a period of five (5) years. These records will be maintained in the Finance Office for Payroll purposes, and will also be maintained in the Personnel Office. The City shall permit access to such records to the NJ Department of Labor and Workforce Development upon request.

### ***Anti-Retaliation***

Under the NJ Earned Sick Leave Law, there shall be no retaliation for use of earned sick leave. This includes no retaliation for actions, such as filing a complaint with the NJ Department of Labor and Workforce Development, cooperating with an investigation, opposing policies and practices that are unlawful under the law, or informing other individuals of their rights under the law.

### **Unused Sick Leave for Full-Time Employees**

Unused sick leave shall accumulate from year to year without limit for Full-Time employees. The accumulation continues indefinitely until the time of the employee's separation from employment. Full-Time employees who retire, honorably terminate their employment, or upon their death, will be paid up to a maximum of 100 days of their accumulated unused sick time, computed at the rate of pay for the year immediately preceding their retirement, death, or honorable termination of employment, provided they have served at least 10 full years. Sick leave credits shall not accrue after an employee has resigned or retired, although his/her name may be retained on the payroll until exhaustion of vacation or other compensatory leave.

Employees who exhaust all paid sick days in any one year shall not be credited with additional paid sick leave until the beginning of the next calendar year; in no case may an employee borrow time from a future year. Paid sick days shall not accrue during a leave of absence without pay, a suspension, or other periods of inactive service unless required by law, but they shall continue to accrue during a voluntary furlough or furlough extension leave.

### **Use of Paid Sick Leave for All Employees**

Sick leave may be used for any of the following reasons:

- A. Diagnosis, care of, treatment of, or recovery from, an employee's own mental or physical illness, including preventive medical care;
- B. Exposure to a contagious disease;
- C. Aid or care for a covered family member during diagnosis, care of, treatment of, or recovery from, a family member's mental or physical illness, including preventive care. Immediate family shall be defined as an employee's spouse, domestic partner, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household;
- D. Circumstances related to an employee's or their family member's status as a victim of domestic or sexual violence, including obtaining services from a designated domestic violence agency or other victim services organization, medical attention, legal services, counseling, or relocating due to the domestic or sexual violence;
- E. Closure of the employee's workplace or of the school or place of care of an employee's child due to an epidemic or public health emergency, or because of the issuance by a public health authority of a determination that the presence of the employee or their family member in the community would jeopardize the health of others;
- F. Time to attend a school-related conference, meeting, function or other event requested or required by an administrator, teacher, or other professional school staff member responsible for the education of the employee's child, or to attend a meeting regarding care provided to the child in connection with the child's health conditions or disability.;
- G. By an employee with a disability for absences related to the acquisition or use of an aid for the disability when the aid is necessary to function on the job. In such case, reasonable proof may be required by the City.



In regard to the above, the City requires three (3) days' notice for any foreseeable use of leave. If the use of leave is unforeseeable, the employee should notify their Department Head or Designee as soon as practicable of their need to use same. Should an employee need to use (3) or more consecutive days of leave, the employee must provide the City with a health care professional's verification that the leave is being taken for one of the purposes permitted above.

### **Reporting Sick Time**

Employees needing to utilize a sick day shall contact the Department Head or Designee at least 30 minutes prior to the scheduled start of the work day. Upon request, employees shall be required to produce verification to substantiate the need for and the appropriate use of sick time. Such verification shall consist of a note from a health care professional attesting to the existence of the employee's or his/her family member's illness or injury and/or the employee's fitness to return to work, when recovered. Such note shall not include medical details regarding the actual illness of the employee or his/her family member; and the Department Head or Designee shall send the notes to the Personnel Office for filing in employees' confidential medical files.

Employees absent for three (3) or more consecutive working days may be required to submit a health care professional's verification of illness or injury. After the 10<sup>th</sup> day of absence on sick leave in one calendar year, a health care professional's verification must be submitted for all sick leave absences, regardless of duration. Any employee absent for five (5) or more consecutive days without calling out is considered to have resigned.

An absence of three (3) or more consecutive days may trigger the provisions of the Family and Medical Leave Act (FMLA) Policy No. 308 or the Family Leave Act (FLA) Policy No. 312; after such three-or-more-consecutive-days' absence, the City will send the employee information on FMLA or FLA. An employee could also be eligible for NJ Temporary Disability Insurance for which they can apply online at: [myleavebenefits.gov/worker/tdi](http://myleavebenefits.gov/worker/tdi).

Prior to an employee's return to work, the City may require the employee to be examined by a health care professional designated by the City in order to verify fitness to return to normal duties. An employee will not be permitted to return to work until the required verification is received by the City.

An employee who abuses this Sick Leave Policy will be subject to disciplinary action, up to and including termination.

### **Employees covered under a Collective Bargaining Agreement or an Individual Employment Agreement:**

The employment details set out in this policy work in conjunction with, and do not replace, amend or supplement any terms or conditions of employment stated in any Collective Bargaining Agreement that a union has with the City or in an Individual Employment Agreement. Wherever employment details in this policy differ from the terms contained in a Collective Bargaining Agreement with the City or an Individual Employment Agreement, the specific terms of the Collective Bargaining Agreement or the Individual Employment Agreement will control.

**CITY OF MARGATE**  
Employee Handbook/Policy and Procedure Manual

SECTION 3: Paid and Unpaid Time Off Policies

POLICY NO.: 305

# OF PAGES: 1

**SUBJECT: BEREAVEMENT LEAVE POLICY**

EFFECTIVE DATE: October 6, 2022

REVIEW DATE: October 6, 2022

REPLACES POLICY DATED: December 16, 2021

Full-time employees shall be granted up to four (4) working days of bereavement leave with pay for a death in their immediate family or in the immediate family of the employee's spouse. "Immediate family" means spouse, child, legal ward, grandchild, foster child, father, mother legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, aunt, uncle, son-in-law, daughter-in-law, **or any relative residing in the employee's household.**

Employees shall be granted one (1) working day of bereavement leave with pay upon the death of an employee's spouse's aunt, uncle or grandparent, **if that person does not reside in the employee's household.** In no event shall any part of bereavement leave occur more than 15 days from the date of death, except that employees shall be granted one (1) working day to attend a memorial service even if it occurs beyond 15 days from the date of death.

The City may require that the employee produce reasonable proof of death and relationship. Bereavement leave shall not be charged to sick or vacation leave and shall not be deducted from the employee's annual sick leave. Bereavement leave is not cumulative.

Procedure To Use Bereavement Leave:

1. Employees who request bereavement leave must notify their Department Head or Designee of their intent to take such leave as soon as possible. Unless impractical, employees should request bereavement leave in writing. Employee's Supervisor or Department Head or Designee will respond to the employee timely.
2. The Department Head or Designee shall note the bereavement leave on the biweekly timesheet.
3. Employees who request an extension of bereavement leave beyond the established number of days shall have such extensions charged to accumulated unused vacation or sick leave.

Bereavement leave may be extended beyond the four (4) working-day period at the sole discretion of the Business Administrator.

*This policy covers non-union employees. It also covers union employees to the extent that their collective bargaining agreements do not cover this.*

# CITY OF MARGATE

## Employee Handbook/Policy and Procedure Manual

SECTION 2: Paid and Unpaid Time Off Policies

POLICY NO.: 308

# OF PAGES: 5

**SUBJECT: FAMILY & MEDICAL LEAVE POLICY**

EFFECTIVE DATE: October 6, 2022

REVIEW DATE: October 6, 2022

REPLACES POLICY DATED: 2021

In accordance with the federal Family and Medical Leave Act ("FMLA"), the City provides eligible employees with up to 12 weeks of unpaid medical and family leave during any 12-month period and up to 26 workweeks to care for a Covered Service member. At the conclusion of the leave, subject to some exceptions, an employee generally has a right to return to the same or an equivalent position. The following outlines employees' rights and obligations under the FMLA and the City's policies implementing the FMLA.

### Leave Available

Eligible employees may take up to a total of 12 weeks of unpaid leave during any 12-month period for any one or more of the following reasons:

- The birth, adoption or placement for foster care of the son or daughter of an employee, and to care for such child;
- A serious health condition of a spouse, son, daughter or parent of an employee if the employee is needed to care for such family member; or
- A serious health condition of an employee that makes an employee unable to work. Generally, the incapacity must result in the employee's inability to work for more than three (3) consecutive days (although there are certain exceptions to this rule);
- Any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a member of the Regular Armed Forces, the National Guard or Reserves on active-duty status during the deployment to a foreign country, and/or has been notified of an impending call to active-duty status as such in support of a contingency operation.

In addition, eligible employees who are either spouse, son, daughter, parent or next of kin of a Covered Service member shall be entitled to a total of 26 workweeks of unpaid leave during a single 12-month period to care for the Covered Service member. During this single 12-month period, an eligible employee who qualifies for leave to provide care for the Covered Service member shall be entitled to no more than a combined total of 26 workweeks of leave.



## Definitions

“Covered Service member” means a member of the Armed Forces, including a member of the National Guard or Reserves, or a recent veteran who has been discharged, other than dishonorably, within the five (5) years preceding the family member’s initial request for leave, who has a serious injury or illness who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

“Eligible Employee” means an individual who has been employed by the City for at least 12 months; has worked at least 1,250 hours during the preceding 12-month period; and is employed at a worksite with at least 50 employees within 75 miles of that worksite.

“Next of Kin” means the nearest blood relative of the individual.

“Qualifying Exigency” covers a number of broad categories of reasons and activities, including short-notice deployment to a foreign country, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities agreed to by the employer and the employee.

“Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider. It generally includes a period of incapacity due to pregnancy, prenatal care, a chronic health condition, a permanent or long-term health condition, or restorative or preventive treatment.

“Serious Injury or Illness” means an injury or illness incurred by a Covered Service member in the line of duty or on active duty in the Armed Forces, the National Guard or Reserves, incurred in the line of duty on active duty or whose pre-existing condition has been aggravated by his/her active-duty service, that may render the Service member medically unfit to perform the duties of the member’s office, grade, rank or rating.

## Eligibility

Any employee who has been employed by the City for 12 months or more and worked 1,250 hours or more in the 12-month period preceding the first day of the requested leave may be eligible for an unpaid leave of absence of up to 12 weeks during any 12-month period.

**The 12-month period shall be determined by using a rolling 12-month period that commences with the first day of leave taken.**

Leave to care for a child after birth, adoption, or foster care must conclude within 12 months of the child’s birth or placement. If both spouses work for the City, they may only take a total of 12 weeks between them during the 12-month period in order to care for a child after birth, adoption or foster care, or to care for a parent with a serious health condition, and a combined 26 weeks in a single 12-month period for military caregiver leave, or

a combination of military caregiver leave and other FMLA qualifying reasons. Each spouse may be entitled to additional leave for other qualifying reasons under the FMLA, such as the employee's own illness or for the serious illness of the employee's child.

#### Notice

When the leave is foreseeable, at least 30 days' advance notice to the City, in writing, is required. If 30 days' notice cannot be provided, as much notice as is practical should be provided. Failure to give reasonable notice may delay the availability of the leave.

#### Certification

Where leave is taken to care for a family member with a serious health condition or because of the employee's own serious health condition, medical certification is required, and periodic recertification may be required. In addition, where the leave is taken because of the employee's own serious health condition, a certification of fitness to return to work will be required.

At its expense, the City may require an examination by a second healthcare provider designated by the City. If the second healthcare provider's opinion conflicts with the original medical certification, the City at its expense may require a third, mutually-agreeable, healthcare provider to conduct an examination and provide a final and binding opinion.

Note: The employer may not request a certification for leave to bond with a healthy newborn child or a child placed for adoption or foster care. If the baby were born with a serious health condition, the "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act Form WH-380-F" would be required as part of the leave request.

For military exigency leave, an employee may be required to provide certification that the covered military member is a member of the regular Armed Forces, the National Guard or Reserves, who is on active duty or called to active duty in support of a contingency operation, as well as certification from the employee about the nature and details of the specific exigency, the amount of leave needed, and the employee's relationship to the military member. For military caregiver leave, the employee may be required to provide information from the health care provider and employee and/or Covered Service member to support such leave.

**Absent unusual circumstances, medical certifications must be provided within 15 days. The City will also require periodic status reports from employees concerning their intended return date.**

Failure to provide requested documentation may result in denial of leave. The City may attempt to clarify or authenticate the certification or may require additional certifications to support the need for leave. When leave is taken to care for a family member, the City may require the employee to provide documentation or a statement of family relationship (e.g. birth certificate or court document) and proof of the need to care for the family member.

#### Utilization of Paid Leave

Generally, FMLA leave is unpaid. However, depending upon the circumstances, employees may be entitled to receive short-term disability, workers' compensation benefits, paid family leave benefits, or other state-

sponsored wage replacement benefits which pay a portion of normal compensation. These benefits will run concurrently with the employee's unpaid leave. An employee who is eligible for these benefits may also choose to use accumulated paid leave during their approved unpaid leave. Employees may not receive more than 100% of salary at any time.

#### Coordination with other Leave Policies

The period of time attributable to the employee's absence due to any workers' compensation, disability, or sick leave, will be counted against available leave under this policy to the extent permitted by law. In the event that additional family, medical or sick leave is available pursuant to state laws, this leave will also run concurrently with FMLA leave to the extent permitted by law.

#### Intermittent Leave

When medically necessary, leave taken because of a serious health condition of an employee or family member or to care for a Covered Service member may be taken on an intermittent or reduced work schedule basis. The employee and the City shall attempt to work out a schedule for such leave that meets the employee's needs without unduly disrupting the City's operations, subject to the approval of the employee's health care provider. The City may require an employee taking intermittent or reduced work schedule leave to transfer temporarily to an alternative position with equivalent pay and benefits that is better suited to the leave schedule.

Note: The FMLA leave taken for bonding with a healthy newborn, adopted or foster child can only be taken on a continuous basis. It can be taken on an intermittent basis only if allowed by the employer. Taking FMLA leave to care for a family member with a serious health condition, e.g. a newborn with a serious health condition, can be taken in an intermittent, continuous or reduced schedule.

#### Employment and Benefits Protection

During the leave, health benefits will continue for up to 12 weeks in each rolling 12-month period under the same conditions as if the employee continued to work. Employees must, however, pay the same amount for any benefits continued as they do prior to the leave. Other benefits, if any, will continue during the leave under the same conditions as if the employee continued to work, specifically seniority, vacation and sick leave.

If paid leave is substituted for unpaid FMLA leave, the City will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the employee's FMLA leave is unpaid, the employee must pay his/her portion of the premium in accordance with a payment method that is devised and mutually agreed upon between the employee and the City.

Employees should consult with their Department Head and the HR/Admin. Asst. Kelle Amodeo in the Business Administrator's/Personnel Office prior to taking an approved leave. Both **NJ FLA** and **FMLA** are administered and coordinated locally by Kelle Amodeo. She can be reached at 609-822-0424 extension 117.

If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums. With regard to the employee's contribution portion of his/her health benefits pursuant to Chapter 78, P.L. 2011, and any voluntary supplemental health benefits that the employee may have, the employee is solely responsible for making payment arrangements with the City or for any voluntary benefits, to the respective insurance company. Your healthcare coverage may cease if your payment is more than 30 days' late. With regard to any pension contribution that you may have, you must contact the CFO Lisa McLaughlin to make payment arrangements concerning contributions or credits paid

toward your pension benefits. If you fail to return to work after your FMLA leave for any reason except for circumstances beyond your control, you must pay back all unpaid health insurance premiums.

Before returning to work following a medical leave (except for intermittent or reduced schedule leave) due to the employee's own serious health condition, the employee will be required to present a fitness-for-duty certification from his/her health care provider that he/she is medically able to resume work. If the date on which the employee is scheduled to return to work from FMLA leave changes, the employee is required to give notice of the change, if foreseeable, to the City within two (2) business days of the change.

Subject to some exceptions, most employees will be returned to the position they left or to a position equivalent in pay, benefits, and other terms of employment. Individuals identified as "key employees" (the highest paid 10% of salaried employees at the work site or within a 75-mile radius of that work site) at the beginning of their leave may not be returned to their former or equivalent position if restoration will cause substantial economic injury to the City. Employees will be informed of their key employee status at the beginning of the leave period.

A failure to return from FMLA leave for reasons other than the employee's own serious health condition may result in termination of employment. In the event that an employee cannot return to work at the end of FMLA leave due to a continuation of his/her own serious health condition, they must contact the City before the expiration of the leave to discuss their options under state and federal law. State leave laws may provide additional leave similar to that provided under the FMLA. The City will comply with these state law provisions to the extent they provide for more generous benefits; however, as stated above, any leave taken pursuant to state law will run concurrently with FMLA leave to the extent permitted by law.

#### Family Temporary Disability

During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or a child placed into foster care with the employee, the employee may be eligible for up to 12 weeks of Family Leave Insurance (FLI) payments through the State of New Jersey in a 12-month period. FLI is a separate monetary benefit paid by the state and not a separate leave entitlement, and will thus run concurrently with FMLA and/or NJ FLA leaves.

# CITY OF MARGATE

## Employee Handbook/Policy and Procedure Manual

### SECTION 1: Paid and Unpaid Time Off Policies

POLICY NO.: 312

# OF PAGES: 4

### **SUBJECT: NJ Family Leave (NJ FLA) POLICY**

EFFECTIVE DATE: October 6, 2022

REVIEW DATE: October 6, 2022

REPLACES POLICY DATED: 2021

The City provides eligible employees with up to 12 weeks of unpaid, job-protected leave for specified family reasons under the New Jersey Family Leave Act (NJ FLA).

#### Eligible Employees

To be eligible for NJ FLA leave, an employee must have worked at least 12 months for the City and have worked at least 1,000 hours for the City over the previous 12 months.

#### Qualifying Reasons for Leave

An employee may take NJ FLA leave to care for:

- A newly born or adopted child or a child placed into foster care with the employee, but the leave must start within 12 months of the birth of the child or the placement of the child.
- A family member (sibling, grandparent, grandchild, child, spouse, domestic partner, civil union partner. Parent-in-law, or parent of a covered individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship) with a serious health condition.

#### Leave Benefits

An employee may take up to a maximum of 12 weeks of NJ FLA leave in a 24-month period, which is measured as a rolling 24-month period that commences with the first day of NJ FLA leave taken.

You may take NJ FLA leave to care for a seriously ill family member:

- As a single block of time
- By reducing your normal weekly [but not daily] work schedule for no more than 24 consecutive weeks in a 24-month period.
- Intermittently in increments lasting at least one (1) week, but less than 12 weeks in a consecutive 12-month period, when medically necessary.



- Employees permitted to take intermittent or reduced-schedule leave must try to schedule their leave so that it will not unduly disrupt the City's operations. The total time which an intermittent leave is taken may not exceed a 12-month period, if such leave is taken in connection with a single serious health condition. Employees who take intermittent days for caregiving or bonding will be able to claim benefits for up to 56 days.

Intermittent leaves taken in connection with more than one serious health condition episode must be taken within a consecutive 24-month period, or until such time as the employee's 12-week family leave entitlement is exhausted, whichever is shorter. An employee taking a family leave on a reduced leave schedule shall not be entitled to such leave for more than a consecutive 24-week period. An eligible employee shall be entitled to only one leave on a reduced-leave schedule during any consecutive 24-month period. Any remaining family leave to which the employee is entitled subsequent to the expiration of a leave taken on a reduced-leave schedule may be taken on a consecutive or intermittent basis.

Note: The leave taken for bonding with a healthy newborn, adopted or foster child can only be taken on a continuous basis. However, this leave can be taken on an intermittent basis only if allowed by the employer. Taking FMLA leave to care for a family member with a serious health condition, e.g. a newborn with a serious health condition, can be taken in an intermittent, continuous or reduced schedule.

Depending on the purpose of the employee's leave, the employee may choose to use accrued paid leave concurrently with some or all of his/her NJ FLA leave. The employee will be eligible to accrue seniority or benefits, including vacation and holidays, during any period of NJ FLA leave. The CFO Lisa McLaughlin will notify employees of their options to continue to participate in the City's group health plans during NJ FLA leave.

#### Required Notice and Certifications

When requesting NJ FLA leave, an employee must provide the City 30 days' written notice. If advance written notice is not possible because of an emergency, the employee must provide the City with reasonable verbal notice and then follow up with written notice.

The employee also must give the City a medical certification supporting the need for leave. The City reserves the right to require second or third medical opinions and periodic re-certifications. The employee must also provide periodic reports during his/her leave regarding the employee's status and intent to return to work as deemed appropriate by the City. If an employee fails to provide the required documentation, the City may delay the start of the employee's NJ FLA leave, withdraw any designation of NJ FLA leave or deny the leave, in which case the employee's absences will be treated in accordance with the City's standard leave of absence and attendance policies, and the employee may be subject to discipline up to and including termination of employment.

If an employee provides false or misleading information or omits material information about an NJ FLA leave, the employee will be subject to discipline up to and including immediate termination of employment.

Note: The employer may not request a certification for leave to bond with a healthy newborn child or a child placed for adoption or foster care. If the baby were born with a serious health condition, the "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act Form WH-380-F" would be required as part of the leave request.



### Benefits Protection

While on NJ FLA designated leave, the employee's health benefits will be maintained under the same conditions as if the employee continued to work. If the employee decides to return to work when his/her NJ FLA leave of absence ends, the employee may be reinstated to the same or equivalent job with the same pay, benefits and terms and conditions of employment. If the employee decides not to return to work when the NJ FLA leave of absence ends, the employee may be required to reimburse the City for the health insurance premiums paid on his/her behalf during the leave of absence (except if the failure to return to work was caused by the continuation, recurrence or onset of serious health condition which would entitle the employee to a leave of absence under the law or other circumstances beyond the employee's control).

### Returning to Work after NJ FLA Leave

On returning to work after NJ FLA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits and other employment terms and conditions. Any employee who fails to return to work as scheduled after NJ FLA leave or exceeds the 12-week NJ FLA entitlement will be subject to the City's standard leave of absence and attendance policies. This may result in termination if the employee's continued absence is unauthorized (e.g. if the employee has no other City-provided leave available to him/her).

### Retaliation Prohibited

The City and the NJ FLA prohibit the interference with, restraint of or denial of any right provided under the NJ FLA and/or discharge or discrimination against any person for opposing any practice made unlawful by the NJ FLA or for involvement in any proceeding under or relating to the NJ FLA. The City encourages employees to bring any concerns or complaints about retaliation or compliance with the NJ FLA to the attention of the Personnel Officer, who is also the Business Administrator Rich Deaney, who can be reached at 609-822-0432, or the HR/Admin. Assistant Kelle Amodeo, who can be reached at 609-822-0424, extension 117.

### New Jersey Family Leave Insurance (FLI)

During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or child placed into foster care with the employee, the employee may be eligible for up to 12 weeks of Family Leave Insurance (FLI) payments through the state in a 12-month period. FLI is a monetary benefit paid by the state and not a separate leave entitlement, and will thus run concurrently with FMLA and/or NJ FLA leaves.

An employee's job is not protected while receiving FLI benefits – unless the employee is eligible for leave under the FMLA, NJ FLA, or is otherwise designated for an approved family leave of absence.

Employees must provide the City with advance notice of need for leave, as follows:

- At least 30 days before to bond with a newborn or newly adopted child, unless the time of the leave is unforeseeable or the time of the leave changes for unforeseeable reasons.
- In a reasonable and practicable manner for leave to care for a seriously ill family member on a continuous, non-intermittent basis, unless an emergency or other unforeseen circumstance precludes advance notice.

- At least 15 days before leave to care for a seriously ill family member or leave to bond with a newborn or newly adopted child on an intermittent basis unless an emergency or other unforeseen circumstance precludes advance notice.

Maternity Coverage: For working mothers who are pregnant or who have just welcomed a new baby, there are two programs available to you:

- Temporary Disability Insurance provides benefits for expectant mothers when they need to stop working before giving birth and while recovering afterward.
- Family Leave Insurance provides benefits after the recovery period so that new mothers can bond with their babies during the first year.

You can check this out online at <https://myleavebenefits.nj.gov/labor/myleavebenefits/worker/maternity/>

**Both NJ FLA and FMLA are administered and coordinated locally by HR/Admin. Assistant Kelle Amodeo who is located in the Business Administrator's/ Personnel Office. She can be reached at 609-822-0424 extension 117.**