

City of Ivanhoe, Minnesota

Family and Medical Leave Policy

ELIGIBILITY

To qualify to take FMLA leave under this policy, an employee must meet all the following conditions:

- Have worked for the City for 12 months (or 52 weeks) prior to the date the leave is to commence. The 12 months or 52 weeks need not have been consecutive; however, the City will not consider any service 7 years prior to the employee's most recent hire date.
- Have worked at least 1,250 hours during the 12-month period prior to the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act ("FLSA") determine the number of hours worked by an employee.
(The 1250 hours include only on-the-clock hours worked and do not include leave, PTO, or vacation hours.)

TYPES OF LEAVE COVERED BY FMLA

Leave will be granted to all eligible employees for any of the following reasons:

- The birth of a child, including prenatal care, or placement of a child with the employee for adoption or foster care;
- To care for a spouse, child, or parent who has a serious health condition;
- Due to a serious health condition that makes the employee unable to perform the essential functions of the position;
- A covered military member's active duty or call to duty or to care for a covered military member (Military Caregiver and Qualified Exigency Leave) (described below).

DEFINITIONS

- **"Spouse"** does not include domestic partners or common-law spouses.
- **"Caring for"** a covered family member includes psychological as well as physical care. It also includes acquiring care and sharing care duties. An eligible **"child,"** with some exceptions, is under 18 years of age.
- An eligible **"parent"** includes a biological parent or a person who stood in the place of a parent.
- **"Serious Health Condition"** means an illness, injury, impairment, or physical or mental condition that involves one of the following:
 - **Hospital Care:** Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;
 - **Pregnancy:** Any period of incapacity due to pregnancy, prenatal medical care or childbirth;
 - **Absence Plus Treatment:** A period of incapacity of more than three consecutive calendar days that also involves continuing treatment by or under the supervision of a health care provider.
 - **Chronic Conditions Requiring Treatments:** An incapacity from a chronic condition which requires periodic visits for treatment by a health care provider,

- continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity;
- **Permanent/Long-Term Conditions Requiring Supervision**
- **Multiple Treatments:** Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider.

LENGTH AND AMOUNT OF LEAVE

The length of FMLA leave is not to exceed twelve (12) weeks in any twelve (12) month period.

The leave year is calculated based on a calendar year basis.

The entitlement to FMLA leave for the birth or placement of a child for adoption expires twelve (12) months after the birth or placement of that child.

Special Rule Applicable to Spouses who are Both Employed by the City: If the City employs both spouses, the combined total Family and Medical Leave to which they will be entitled together will be 12 weeks in any 12-month period if the leave is taken as (1) a Family Illness Leave to care for the employee's parent or (2) Birth, Adoption and Child Care Leave.

HOW LEAVE MAY BE TAKEN

FMLA leave may be taken for 12 (or less) consecutive weeks, may be used intermittently (a day periodically when needed), or may be used to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks.

Intermittent leave may be taken when medically necessary for the employee's serious health condition or to care for a seriously ill family member. Intermittent leave must be documented in the medical certification form as medically necessary.

If an employee is taking intermittent leave or leave on a reduced schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as to not disrupt the City's business.

In instances when intermittent or reduced schedule leave for the employee or employee's family member is foreseeable or is for planned medical treatment, including recovery from a serious health condition, the City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

Intermittent/reduced scheduled leave may be taken to care for a newborn or newly placed adopted or foster care child only with the City's approval.

PROCEDURE FOR REQUESTING LEAVE AND NOTICE

All employees requesting FMLA leave must provide written or verbal notice of the need for the leave to city administrator.

When the need for the leave is foreseeable, the employee must give verbal or written notice to his/her supervisor at least thirty (30) days prior to the date on which leave is to begin.

If thirty (30) days' notice cannot be given, the employee is required to give as much notice as practicable, including following required call-in procedures.

The City requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

CERTIFICATION AND DOCUMENTATION REQUIREMENTS

For leave due to an employee's serious health condition or that of an employee's family member, the City will require the completion of a Medical Certification form by the attending physician or practitioner. The form must be submitted by the employee to the City Administrator within fifteen (15) calendar days after leave is requested. If the form is not submitted in a timely fashion, the employee must provide a reasonable explanation for the delay. Failure to provide medical certification may result in a denial or delay of the leave.

When leave is due to an employee's own serious health condition, a fitness for duty certification (FFD) will be required before an employee can return to work. Failure to timely provide such certification may eliminate or delay an employee's right to reinstatement under the FMLA.

If an employee is using intermittent leave and reasonable safety concerns exist regarding the employee's ability to perform his or her duties, a FFD certificate may be required as frequently as every 30 days during periods when the employee has used intermittent leave.

Recertification of leave may be required if the employee requests an extension of the original length approved by the City or if the circumstances regarding the leave have changed.

Recertification may also be required if there is a question as to the validity of the certification or if the employee is unable to return to work due to the serious health condition.

ANNUAL MEDICAL CERTIFICATION AND RECERTIFICATION

Where the employee's need for leave due to the employee's own serious health condition lasts beyond a single leave year, the City will require employees to provide a new medical certification in each subsequent leave year.

REINSTATEMENT

Employees returning from Family and Medical Leave will be reinstated in the same position or a position equivalent in pay, benefits, and other terms and conditions of employment.

An employee on FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

GROUP HEALTH INSURANCE AND OTHER BENEFITS, CONCURRENT LEAVE AND SUBSTITUTION OF PAID LEAVE

An employee granted leave under this policy will continue to be covered under the City's group health and dental insurance plan under the same conditions and at the same level of City contribution as would have been provided had the employee been continuously employed during the leave period. The employee will be required to continue payment of the employee portion of group insurance coverage while on leave. Arrangements for payment of the employee's portion of premiums must be made by the employee with the City.

If there are changes in the City's contribution levels while the employee is on leave, those changes will take place as if the employee were still on the job.

Rights to additional continued benefits will depend on whether leave is paid or unpaid.

Any paid disability leave benefits (Short Term Disability or Long Term Disability), sick leave, Paid Time Off (PTO) or compensatory time off available to employees for a covered reason (an

employee's serious health condition or a covered family member's serious health condition, including worker's compensation leave and Minnesota State Parenting Leave) will run concurrently with FMLA.

Minnesota Parenting Leave and all forms of paid time off (sick leave, disability leave, workers' comp leave, vacation, PTO and compensatory time off) run concurrently with FMLA. By way of example, a Minnesota Parenting Leave policy -- which permits employees who have worked for the company for at least twelve (12) months and have worked at least 1,040 hours -- should clearly state that Minnesota Parental leave will run concurrently with any other applicable leave, such as FMLA, STD, paid parental leave, sick leave, or accrued vacation and that paid leave cannot be utilized to extend FMLA or parental leave beyond twelve weeks.

FAILURE TO RETURN TO WORK AFTER FMLA

Under certain circumstances, if the employee does not return to work at the end of the FMLA leave for at least 30 calendar days, the City may require the employee to repay the portion of the monthly cost paid by the City for group health plan benefits. The City may also require the employee to repay any amounts the City paid on the employee's behalf to maintain benefits other than group health plan benefits.

ACTIVITIES PROHIBITED DURING FMLA- *This section is optional. A city may, but is not required to, use this optional policy provision.*

While on leave, an employee may not engage in activities (including employment) which have the same or similar requirements and essential functions of an employee's current position.

While on leave, an employee may not engage in any activity that conflicts with the best interests of the City. Such conduct will result in disciplinary action up to and including termination of employment.

UNPAID MEDICAL LEAVE OF ABSENCE - *This section is optional. A city may, but is not required to, use this optional policy provision.*

If an employee is ineligible for FMLA leave or has exhausted available FMLA leave benefits, it is the policy of the City to consider an employee's request for a medical or personal leave of absence. The amount of medical leave available to each employee will be determined on a case-by-case basis depending on the position held, staffing requirements, the reasons for the leave, and the anticipated return-to-work date. Employees who take unpaid medical leave are not guaranteed to return to the same position held prior to taking leave.

Employees seeking a medical leave of absence will be required to present medical documentation to support the need for the leave, on-going documentation to support the need for continued leave, and documentation to support a return to work.

During Unpaid Medical Leave, employees will be expected to keep in regular contact with human resources. When you anticipate your return to work, please notify human resources of your expected return date at least one week before the end of your leave.

Employees on an Unpaid Medical Leave of Absence may be subject to COBRA notice and continuation benefits and will be solely responsible for payment of the entire COBRA.

Failure to keep in touch with management during your leave, failure to advise management of your availability to return to work, or failure to return to work following leave will be considered a voluntary resignation of your employment.

FMLA – QUALIFIED EXIGENCY AND MILITARY CAREGIVER LEAVE

Qualified Exigency

Eligible employees (described above) whose spouse, son, daughter, or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service.

The qualifying exigency must be one of the following: (1) short-notice deployment; (2) military events and activities; (3) childcare and school activities; (3) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; (8) parental care; or (9) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

Military Caregiver Leave

An employee eligible for FMLA leave (described above) who is the spouse, son, daughter, parent, or next of kin of a covered servicemember may take up to 26 weeks in a single 12-month period to care for that servicemember.

The family member must be a current member of the Armed Forces (including a member of the National Guard or Reserves), who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy, or otherwise is on outpatient status or on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, or members on the permanent disability retired list.

DEFINITIONS

- A **“son or daughter of a covered servicemember”** means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- A **“parent of a covered servicemember”** means a covered servicemember's biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents “in law.”
- The **“next of kin of a covered servicemember”** is the nearest blood relative, other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered

servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

- **“Covered active duty” means:**
 - “Covered active duty” for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.
 - “Covered active duty” for members of the reserve components of the Armed Forces (members of the U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation as defined in section 101(a)(13)(B) of Title 10 of the United States Code.
- **“Covered servicemember” means:**
 - An Armed Forces member (including the National Guard or Reserves) undergoing medical treatment, recuperation, or therapy or otherwise in outpatient status or on the temporary disability retired list, for a serious injury or illness”; or
 - A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- **“Serious injury or illness” means:**
 - In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
 - In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered servicemember, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.

AMOUNT OF LEAVE – QUALIFIED EXIGENCY

An eligible employee can take up to 12 weeks of leave for a qualified exigency.

AMOUNT OF LEAVE – MILITARY CAREGIVER

An eligible employee taking military caregiver leave is entitled to 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date.

Leave taken for any FMLA reason counts towards the 26-week entitlement. If an employee does not take all 26 workweeks of leave to care for a covered servicemember during this “single 12-

month period,” the remaining part of the 26 workweeks of leave entitlement to care for the covered servicemember is forfeited. 29 C.F.R. § 825.127(e)(1) (2017).

CERTIFICATION OF QUALIFYING EXIGENCY FOR MILITARY FAMILY LEAVE

The City will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

CERTIFICATION FOR SERIOUS INJURY OR ILLNESS OF COVERED SERVICEMEMBER FOR MILITARY FAMILY LEAVE

The City will require certification for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Servicemember.

All other provisions of the FMLA policy, including Use of Paid Leave, Employee Status and Benefits During Leave, Procedure for Requesting Leave, and Benefits During Leave and Reinstatement, are outlined above in the FMLA policy.

