

RESOLUTION NO. 17-26

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES,
STATE OF CALIFORNIA, REPEALING RESOLUTIONS 95-12 AND 13-28, AND
ADOPTING THE FOLLOWING POLICIES: ALTERNATIVE WORK SCHEDULE;
FAMILY AND MEDICAL LEAVE; PAID SICK TIME; AND, TRANSITIONAL
RETURN TO WORK**

WHEREAS, the Town Council is authorized under the provisions of Ordinance 89-06 to adopt rules for the administration of the personnel system created in said ordinance; and,

WHEREAS, given a new resolution (Resolution 17-04, establishing Personnel Rules) has been adopted providing updated recruitment and selection procedures as part of the Personnel Rules, it is appropriate to repeal Resolution 13-28 adopting earlier recruitment and selection procedures; and,

WHEREAS, given the length of time that has passed since the adoption of Resolution 95-12 on April 5, 1995 and the recent modifications to the Family and Medical Leave Act, it is necessary to adopt an updated Family and Medical Leave policy; and,

WHEREAS, it is desirable to have an Alternative Work Schedule policy in place in order to promote a healthy work-life balance and allow employees to work a flexible work schedule; and,

WHEREAS, in accordance with California Labor Code, section 245 *et seq.*, it is necessary to adopt a Paid Sick Time policy in order to allow limited-term employees paid sick days to address their medical needs; and,

WHEREAS, it is desirable to have a Transitional Return to Work policy in place in order to assist injured employees who are temporarily precluded from performing their normal duties in returning to work.


NOW, THEREFORE, BE IT RESOLVED, the Town Council of the Town of Mammoth Lakes does hereby repeal Resolutions 95-12 and 13-28 and adopt the following policies: Family and Medical Leave, as provided in Exhibit A; Alternative Work Schedule, as provided in Exhibit B; Paid Sick Time, as provided in Exhibit C; and, Transitional Return to Work, as provided in Exhibit D.

APPROVED AND ADOPTED THIS 17TH DAY OF MAY, 2017.



SHIELDS RICHARDSON, Mayor

ATTEST:

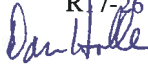


JAMIE GRAY, Town Clerk



**TOWN OF MAMMOTH LAKES
POLICIES AND PROCEDURES**

**SUBJECT: FAMILY AND MEDICAL
LEAVE POLICY**

Number: 200.04
Effective Date: 05/2017
Revised:
Authority: Town Council
Adopted by Resolution No.: R17-26
Town Manager: 

I. Purpose and Scope

The purpose of this policy is to establish a procedure for providing family and medical leave to employees of the Town of Mammoth Lakes (“Town”). This policy shall provide employees with a general description of their rights under the Family and Medical Leave Act of 1993 (FMLA), the California Family Rights Act of 1994 (CFRA), and the California Pregnancy Disability Act (PDL). In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

This policy applies to all Town employees who meet the eligibility requirements in section III. B.

II. Definitions

The Town applies the definitions set forth in the FMLA and CFRA laws and regulations. In general, as of the date this policy is adopted, these definitions are as follows. In the event of any conflict between the definitions here and those in the applicable laws and regulations, the laws and regulations shall control.

12-month period: A rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

12-month service member period: A single 12-month period measured forward from the first day service member family leave is taken.

Child: A child either under 18 years of age, or older than 18 who is incapable of self-care because of a disability, for whom the employee has actual day-to-day responsibility for care, including biological, adopted, foster, or step-child. For purposes of a son or daughter on covered active duty or call to covered active duty, or for service member family leave, the child may be of any age.

Covered active duty: 1. In the case of a member of a regular component of the Armed Forces, duty during the deployment with the Armed Forces to a foreign country, and; 2. In the case of a member of a reserve component of the Armed Forces, duty during the deployment with the Armed Forces to a foreign country where they may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.

Covered service member: 1. A member of the Armed Forces (including a member of the National Guard or Reserves), who is undergoing recuperation for a serious injury or illness, or; 2. A veteran who is undergoing recuperation 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 preceding period of five years.

Domestic Partner: As defined by Family Code §297 and §299.2, “domestic partner” shall have the same meaning as “spouse” for purposes of CFRA leave.

Next of kin: The nearest blood relative of a covered service member other than the covered service member’s spouse, parent, son, or daughter, in the order specified in FMLA.

Parent: A biological, adoptive, step, or foster parent of an employee or other individual who stood in place of a parent to an employee when the employee was a child.

Qualifying exigency: Includes:

1. Notification of a call to covered active duty seven or fewer days from date of deployment;
2. Military events and related activities, including post-deployment activities (e.g. official ceremonies, support programs, counseling, etc. related to covered active duty or a call to such);
3. Attending to childcare and school activities;
4. Attending to financial and legal matters;
5. To spend up to five days with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment; and,
6. Any additional activities related to the call to covered active duty otherwise agreed to by the employer and employee.

Serious health condition: An illness, injury (including on-the-job injuries), impairment, or a physical or mental condition of the employee or a child, parent, or spouse of the employee that involves either inpatient care or continuing treatment, including but not limited to prenatal care or treatment for substance abuse.

1. Inpatient care generally is a stay in a hospital or other medical facility (admitted to the facility with the expectation of an overnight stay);
2. Incapacity is the inability to work or go to school or to perform regular daily activities for more than three calendar days due to a serious health condition or the treatment of or recovery from such condition and involving continuing treatment (two or more visits within 30 days) by a health care provider;
3. Continuing treatment is ongoing medical treatment or supervision 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.

Serious injury or illness: An injury or illness that was incurred by a member or veteran of the Armed Forces in the line of duty while on active duty (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty) and, in the case of a member, renders the member medically unfit to perform his or her duties, or in the case of a veteran, manifested itself before or after becoming a veteran.

Spouse: A husband or wife as defined or recognized under California State law for purposes of marriage.

Veteran: A person who served in the active military, naval, or air service, and who was discharged or released under conditions that were not dishonorable.

III. Policy

A. General Provisions

In accordance with the FMLA, the Town will grant job-protected family and medical leave to eligible employees for up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) per 12-month period. The leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy. FMLA leave will be granted for any one or more of the following reasons:

1. To care for a child following the child's birth, adoption, or placement in foster care with the employee. Leave must be taken within the 12-month period following the child's birth or placement with the employee.
 - i. When both parents are employed by the Town and request leave for the birth or placement for adoption, or foster care of a child, the Town will not grant more than a combined total of 12 workweeks of family/medical leave.
2. To care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition;
3. The employee's own serious health condition that makes the employee unable to perform the functions of their position;
4. The employee must attend to a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces (under FMLA only, not CFRA), or;
5. Leave to care for a spouse, son, daughter, parent, or next of kin who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (under FMLA only, not CFRA).
 - i. If spouses both work for the Town and each wishes to take leave to care for a covered injured or ill service member, the spouses may only take a combined total of 26 weeks leave.
6. Leave granted under any of the reasons provided by state and federal law will be counted as family/medical leave and will be considered as part of the 12 workweek entitlement (26 workweek entitlement if leave is to care for a service member) in a rolling 12-month period. No carryover of unused leave from one 12-month period to the next 12-month period is permitted.

B. Eligibility

FMLA/CFRA Eligibility

To qualify for family or medical leave under this policy, the employee must meet all of the following conditions:

1. The employee must have worked for the Town for 12 months and have worked at least 1,250 hours during the 12-month period immediately preceding commencement of the leave. The 12 months of employment need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the Town's intention to rehire the employee after the service break.
2. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee was on leave during the week.
3. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave are not counted in determining the 1,250-hour eligibility test for an employee under FMLA/CFRA. These hours of leave however, are counted towards determining an

employee's 12-month period of employment. An employee must have worked a minimum of 1,250 hours exclusive of any leave taken.

4. Full-time employees, who work an 80-hour work schedule per pay period, are entitled to up to 480 hours of FMLA/CFRA leave in a 12-month period.
5. Part-time employees will have their FMLA/CFRA period prorated to the employee's regular workweek. For example, if an employee works 40 hours per pay period (20 hours per week), that employee is entitled to up to 240 hours of FMLA/CFRA leave.

PDL Eligibility

The Town provides pregnancy disability leaves of absence without pay to eligible employees who are temporarily unable to work due to a disability related to pregnancy, childbirth, or related medical conditions. Time off needed for prenatal or post-natal care, severe morning sickness, doctor-ordered bed rest, childbirth, loss or end of pregnancy, and recovery from childbirth would all be covered under pregnancy disability leave (PDL).

1. Employees are eligible without regard to length of service or full-time status. Employees are entitled to leave only during the period of actual disability as determined by a healthcare provider.
2. PDL does not need to be taken in one continuous period of time. It can be taken on an as-needed basis, intermittently, or on a reduced work schedule when determined medically advisable by the employee's healthcare provider, even for short periods of disability, such as severe morning sickness, prenatal care, and doctor-ordered bed rest.
3. Employees are granted unpaid leave for the period of the disability, up to a maximum of 17 1/3 weeks. The 17 1/3 weeks is calculated as the number of hours the employee would normally work within this time. For full-time employees, it is calculated using 80 hours per pay period. For employees who work less than 80 hours per pay period, the number of hours that constitutes 17 1/3 weeks shall be calculated on a pro-rata or proportional basis.
4. The Town will attempt to accommodate an employee affected by pregnancy if medically advisable and reasonably feasible to do so. The Town is not required to create a new position or displace another employee to accommodate a pregnant employee. The Town may transfer to accommodate an intermittent or reduced schedule pregnancy disability leave. The employee will receive the same pay and benefits in the alternative position.

C. Time off and use of Accrued Leave

FMLA/CFRA and PDL are unpaid leaves. However, FMLA (non-PDL)/CFRA eligible employees must use (and PDL eligible employees may use) available paid leave hours, except as required by law when receiving SDI or PFL, or integrate available paid leave with SDI or other supplemental payments, so they can receive some remuneration while away from work. The use of an employee's accrued leave balance runs concurrently with the use of FMLA/CFRA and/or PDL. When the employee has exhausted paid leave in excess of 80 hours, the employee may request an additional period of unpaid leave to be granted so that the total of paid and unpaid leave equals 12 weeks under FMLA/CFRA and 17 1/3 weeks under PDL.

1. For FMLA (non-PDL)/CFRA, an employee is required to use all paid leave in excess of 80 hours, prior to the authorization of unpaid leave to care for the employee's own serious health condition or the employee's child, spouse, or parent who has a serious health condition. Once the employee reaches a paid leave balance of 80 hours, they can elect to continue use of their paid leave, or begin unpaid leave and retain their balance

of 80 hours or less. Employees on unpaid leave will not continue to accrue paid leave and will not be paid for holidays during the leave.

2. Employees on leave under FMLA/CFRA/PDL who have exhausted all their paid accruals and are therefore experiencing financial hardship, may be eligible for continuation of paid leave through a donation program. See the Town's *Catastrophic Leave Policy*.
3. The employee may take FMLA/CFRA or PDL leave in 12 consecutive weeks, may use the leave intermittently or, under certain circumstances, may use the leave 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 (480 hours for full-time employees) or 26 workweeks to care for an injured or ill service member, over a 12-month period.
 - a. If an employee requests a reduced or intermittent work schedule, the Town may require the employee to transfer to an available alternative position for which the employee is qualified and which provides equivalent pay and benefits and which better accommodates the intermittent or reduced work schedule than the employee's regular position.
 - i. Example of intermittent leave: An employee who was in a skiing accident has requested time off for physical therapy. The health care provider's note states the employee will need to attend appointments two (2) or three (3) times per week, two (2) hours per session.
 - ii. Example of reduced schedule: An employee requests to have every Thursday off for a period of four (4) weeks while they receive chemotherapy treatments. The health care provider's medical certification verifies the treatment and time needed to perform the treatment.
 - iii. For intermittent and reduced schedule leaves, an employee must make a "reasonable effort" to schedule treatment/visits so as not to unduly disrupt the Town's operations.

D. Coordination of Leaves

1. FMLA with CFRA

- a. FMLA and CFRA run concurrently except for PDL and leaves for the registered domestic partner. Time taken to care for a registered domestic partner is covered under CFRA, but not FMLA.

If the employee acts in loco parentis for a child of the employee's registered domestic partner, FMLA and CFRA run concurrently. However, if the employee does not act in loco parentis (in place of a parent) for that child, FMLA and CFRA would run separately for a leave to care for the child of the registered domestic partner.

2. PDL with FMLA

- a. Since pregnancy and related medical conditions can also qualify as "serious health conditions", PDL and FMLA run concurrently.

3. PDL with CFRA

- a. PDL does not run concurrently with CFRA; they are two (2) separate and distinct leaves. Therefore, at the conclusion of PDL, the employee is still eligible to take up to 12 workweeks of CFRA leave to the extent that CFRA leave has not previously been used in the 12-month period.

- b. Where the employee has used all 17 1/3 weeks of PDL before the birth of a child and their health care provider determines that a continuation of the leave is medically necessary, the Town may, but is not required to, allow an eligible employee to use CFRA leave prior to the birth of her child.
- c. The Town is not required to provide more CFRA leave than the amount to which the employee is otherwise entitled.
- d. If the child has been born by the end of the 17 1/3 weeks of PDL, the employee may take “baby bonding time”, if she has not previously exhausted CFRA leave entitlement time. Leave taken for “baby bonding time” is to be completed within 12 months of the child’s birth.
- e. If all qualifications are met, a total maximum leave of 29 1/3 weeks for pregnancy, childbirth, and care of the newborn can be utilized (17 1/3 weeks FMLA/PDL leave followed by 12 weeks CFRA leave).

E. Procedure for Requesting Leave

- 1. All employees requesting FMLA/CFRA and/or PDL leave must provide written notice of the need for leave to their supervisor.
- 2. If the leave is based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee must notify their supervisor at least 30 days before leave is to begin.
- 3. When an employee becomes aware of a need for FMLA/CFRA leave less than 30 days in advance, the employee must provide notice of the need for leave either the same day, or the next business day.
- 4. When the need for FMLA/CFRA leave is not foreseeable, absent unusual circumstances, the employee must immediately provide notice to their supervisor and to the Human Resources Department. Email and/or telephone notification is acceptable.

F. Notice Obligations

- 1. Eligibility Notice Obligations
 - a. Within five (5) business days after the employee has provided this notice, the Human Resources Department will complete and provide the employee with a Notice of Eligibility and Notice of Rights and Responsibilities.
 - b. The Notice of Eligibility determines whether an employee has met the statutory eligibility criteria for leave (has worked 12 months for a minimum of 1,250 hours).
 - c. The Notice of Rights and Responsibilities informs an employee that the FMLA/CFRA/PDL leave may be designated and counted against the employee’s annual FMLA/CFRA/PDL entitlement. To determine leave entitlement, the Town uses a rolling 12-month period measured backward from the date an employee uses leave.
 - d. An employee is not required to use FMLA/CFRA/PDL by name to satisfy the notice obligation, but must provide sufficient specific information to the Town to place the Town on notice that the condition may be FMLA/CFRA/PDL-qualifying. The notice provided by the employee should include information with respect to the anticipated timing and duration of the leave.
- 2. Designation of Leave
 - a. Within five (5) business days after receiving sufficient information to determine whether the requested leave is FMLA/CFRA/PDL-qualifying, the Human Resources Department will complete and provide the employee with a Designation Notice.

- b. The Designation Notice informs the employee whether the particular leave requested will be designated as FMLA/CFRA/PDL leave and the number of hours, days, or weeks that will be designated.
- c. The Designation Notice may also include a fitness-for-duty certification requirement and the employee's Job Function Analysis (JFA) to ensure the employee's ability to perform essential job functions. A fitness-for-duty certification and the employee's JFA may also be provided to the employee at a later date if deemed necessary by the Human Resources Department.
- d. In the event the leave is not deemed qualifying, the Designation Notice will provide the reason(s) why the leave was denied.

G. Medical Certification

If an employee requests FMLA/CFRA and/or PDL leave due to their serious health condition or that of a family member, the Town may require the need for time off be verified by a medical certification signed by the treating health care provider.

1. Employees must provide the Human Resources Department with the medical certification within five (5) business days of the request for leave. The medical certification should be complete and provide sufficient information to determine whether a serious health condition exists.
2. Leave requested due to a "qualifying exigency" related to military service must be supported by a certification of its necessity. Leave taken due to the need to care for a service member shall be supported by a certification by the service member's health care provider or other certification allowed by law.
3. The Human Resources Department will advise the employee in writing if the certification is incomplete or if the information is insufficient to determine if a serious health condition exists and what additional information is necessary. The employee has seven (7) calendar days, absent extenuating circumstances, to cure any deficiencies. Should the employee fail to do so, or the certification is not provided at all, the Town may deny the request.
4. If the leave request is made because of the employee's own serious health condition, the Town may require, at its expense, a second opinion from a health care provider that the Town chooses. The health care provider designated to give a second opinion will not be someone who is employed on a regular basis by the Town. If the second opinion differs from the first opinion, the Town may require, at its expense, the employee to obtain the opinion of a third health care provider designated or approved jointly by the Town and the employee. The opinion of the third health care provider shall be considered final and binding on the Town and the employee.
5. If the Town questions the appropriateness of the leave or its duration, medical certification may be requested at a later date. The employee is required to provide the certification within 15 calendar days after the request.
6. The Town may also request authentication of the certification. Authentication involves only the verification that the certification was performed by the health care provider, not disclosure of additional medical information.
7. The Town may not require the disclosure of a specific serious health condition (diagnosis) of an employee or family member. If the leave is for the employee's own serious health condition, the certification must include the following:
 - Date of commencement of the serious health condition;
 - Probable duration of the condition; and
 - Inability of the employee to perform any one or more of the essential functions of their position because of the serious health condition.

8. If the leave is to care for a family member, the Town may require certification of the condition involved. The certification need not disclose the serious health condition involved, but must include the following:
 - Date of commencement of the serious health condition;
 - Probable duration of the condition;
 - Estimated amount of time for care by the health care provider; and
 - Confirmation that the serious health condition warrants the participation of the employee.
9. The Human Resources Department may contact the health care provider directly to authenticate the certification. An employee's supervisor may not contact the employee's health care provider under any circumstances.
10. The Town may request recertification(s) of medical conditions in cases when the basis for the leave has changed or when the employee requests an extension of the leave.
11. The employee is responsible for the costs of certification and recertification, and the Town may deny or discontinue approved leave until the certification or recertification is provided.

H. Continuation of Benefits

1. Employees will continue to receive the same group health benefits (as they were enrolled in prior to FMLA/CFRA/PDL leave) while on FMLA/CFRA leave for up to 12 weeks in a 12-month period; and up to 17 1/3 weeks for PDL.
2. The Town is responsible for the continued payment of the Town's share of the employee's group health benefits while the employee is on FMLA/CFRA and/or PDL and is required to maintain prior coverage levels. For employees taking leave on account of pregnancy, benefits will be continued for the duration of the pregnancy disability (up to a maximum of 17 1/3 weeks). In the event an employee disabled by pregnancy also takes baby bonding leave under the CFRA, benefits will be continued for the duration of the CFRA period as well. For absences beyond these periods, the employee will be eligible for benefit continuation in conjunction with federal COBRA guidelines.
3. Benefits other than group health benefits, and all benefits for leave longer than specified above, will only be provided to the extent they would be provided if the employee was on a leave of absence without pay.
4. The Town is required to continue health coverage for the duration of the FMLA/CFRA and/or PDL leave that is unpaid. If an employee exhausts CFRA leave to care for their registered domestic partner and has not used all of the FMLA leave entitlement, the Town is required to provide health benefits for the duration of any remaining unpaid FMLA leave.
5. If the Town changes or adds health benefits or plans while an employee is on unpaid leave under FMLA/CFRA and/or PDL entitlement, the changes apply to the employee on leave to the same extent as if the employee were continuously employed. Any changes in premium rates, including an increase or decrease in the employee's share of the premiums, also apply. The Town's obligation to maintain health benefits ends upon termination of the employment relationship under the following circumstances:
 - i. Employee notifies the Town that they do not intend to return from the FMLA/CFRA and/or PDL leave;
 - ii. Employee fails to return after exhausting the FMLA/CFRA and/or PDL leave or;
 - iii. The employment relationship would have terminated regardless of FMLA/CFRA and/or PDL leave.

6. Employees participating in a 457 deferred compensation plan may continue to make contributions in accordance with the terms of the plan during the leave.
 - i. The Town will fully contribute to the CalPERS retirement plan and 457 deferred compensation plans on behalf of eligible employees who use accrued leave for FMLA/CFRA and/or PDL leave. Accrued leave constitutes “earnings” for purposes of employer contributions.
 - ii. Employees who have exhausted accrued leave for purposes of family leave are not considered to have maintained “earnings” during FMLA/CFRA and/or PDL leave. As such, the Town is not required to fully contribute to a CalPERS retirement plan on behalf of the employee or contribute to 457 deferred compensation plans.
7. Employees who have comprehensive leave to use during the period that they are using FMLA/CFRA and/or PDL will continue to accrue leave at a pro-rated amount based on the amount of leave they are using. Once comprehensive leave is exhausted, the employee will no longer accrue comprehensive leave until such time they return to work.
8. Employees who have comprehensive leave to use during the period that they are using FMLA/CFRA and/or PDL and who receive the benefit stipend, will continue to receive the benefit stipend at a pro-rated amount based on the amount of leave they are using. Once comprehensive leave is exhausted, the employee will no longer be entitled to a benefit stipend until such time they return to work.
9. An employee’s use of FMLA/CFRA and/or PDL, will not result in the loss of any employment benefit the employee earned before using leave.

I. Requests for Reasonable Accommodation Relating to Pregnancy, Childbirth, or Related Condition

An employee may request a reasonable accommodation for pregnancy, childbirth, or related medical conditions if she provides the Town with medical certification from her health care provider. In addition to other possible forms of reasonable accommodation, a pregnant employee may transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated. Where transfers are made based on the employee’s health needs, the employee will receive the pay that accompanies the alternative position. Such reasonable accommodation will not involve the Town creating additional employment that would otherwise not be created, discharging other employees, transferring another employee with more seniority, violating a collective bargaining agreement, or promoting any employee (including the pregnant employee) to a position for which they are not qualified.

J. Return from Leave

1. At the conclusion of leave under FMLA/CFRA and/or PDL resulting from an employee’s own serious health condition, the Town may require a fitness-for-duty certification. The Town may seek a fitness-for-duty certification only for the condition that caused the need for leave. The Town may require the fitness-for-duty certification be conducted by its own medical provider.
2. The Town is not entitled to request a fitness-for-duty certification for each leave of absence taken on an intermittent or reduced leave schedule. It may, however, request a fitness-for-duty certification when reasonable safety concerns exist regarding the employee’s ability to perform his or her duties.
3. So that an employee’s return to work can be properly scheduled, an employee on PDL is requested to provide the Human Resources Department with at least two weeks of advance notice of the date she intends to return to work.

4. Upon return from FMLA/CFRA and/or PDL, an employee will, when possible, be reinstated into their original position or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions, unless the employee is no longer able to perform one or more essential functions.
5. If an employee on FMLA/CFRA and/or PDL would have been laid off had they not been on leave, or if the employee's job is eliminated during the absence and no equivalent or comparable job is available, then the employee is not entitled to reinstatement.
6. Employees shall retain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

IV. Employee Protection

The Town may not use the taking of FLMA/CFRA and/or PDL leave as a negative factor in employment actions such as hiring, promotions, placing an employee on controlled leave, or disciplinary actions. No employee shall be denied the exercise of any right provided by FMLA/CFRA and/or PDL.

V. Responsibility for Review

The Human Resources Manager shall be responsible for reviewing this policy as needed or at least every five (5) years.