

Employment, Illness,
Disability and Absence
Ordinance
for the Town of Hollis

Enacted: November 07, 2012
Special Town Meeting

Employment, Illness, Disability and Absence Ordinance for the Town of Hollis

Section 1. Authority

This Employment, Illness, Disability and Absence Ordinance is enacted pursuant to the Town's home rule powers conferred by Article VIII, part second of the Maine Constitution and Title 30-A, §§2001, 2109 and 3001 of the Maine Revised Statutes Annotated. In the event any State or Federal law is amended in any manner that would affect any section of this Ordinance, this Ordinance shall be automatically amended to comply with such amendments.

Section 2. Purpose.

The purpose of this Ordinance is to establish a written document outlining certain terms and conditions regarding employee compensation and employment during times of extended illness, long term disability or absence.

Section 3. Optional income insurance coverage.

The Maine Municipal Association which is the Town's Insurance provider offers optional Disability Income Insurance to those employees that qualify (at the employee's expense) to provide weekly pay for up to 52 weeks should the employee suffer long term illness or disability and not be able to work. These benefits begin the first day of an accident and the eighth day of an illness. This coverage is available at time of hire for non-elected employees and time of election for elected employees and during specific times of the year may be offered by Maine Municipal as open enrollment.

Section 4. Absence due to illness or disability.

Any employee who is sick, ill or not able to function at a sufficient level to do the essential functions of the job they were hired/elected to do shall be considered absent due to illness. In certain circumstances, employees may be required to submit to a "fitness for duty" examination (see below). If an employee whether appointed or elected has a medical condition or illness that keeps them out of work for five (5) consecutive days or more, they must provide the Town with a note from their doctor before returning to work. Any employee with an illness that could be contagious or hazardous to other employees must provide a doctor's note stating they are no longer contagious or a threat to other employees or the public before returning to work. Certain absences due to illness or disability may also qualify for worker's compensation coverage, and/or may also qualify for Family and Medical Leave. In such event, the requirements of worker's compensation coverage and/or FML may also apply.

Fitness for Duty: All employees are expected to be physically and mentally fit to perform their jobs in a safe manner at all times. If the employee is not able to perform his or her job, or taking any medication that might affect their ability to do their job, the employee must inform their supervisor immediately. If a supervisor believes the employee is not fit to perform his or her duties, the employee may be relieved from duty and may be requested to undergo a medical examination to determine fitness for duty. This exam will be paid for by the Town, and the employee will be compensated during the exam period. Any employee who refuses to cooperate with a determination of whether he or she is fit for duty may be subject to corrective

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action, up to and including termination. If the employee is not fit for duty, he or she may be eligible for benefits, such as sick leave, family and medical leave, workers' compensation, or others as provided in this Ordinance. This Ordinance provision will be interpreted and applied so as to conform to applicable law, including the Americans with Disabilities Act, the Maine Human Rights Act, and the Family and Medical Leave Act, as and if applicable.

Section 5. Time cards.

All Town of Hollis employees' whether appointed or elected must complete a time card each week and sign it. The card should accurately reflect the number of hours in each category: regular, over time, sick, vacation, bereavement, holiday, and other. At least one member of the Board of Selectman shall review and approve the time cards each week. The Selectmen may review the data provided on the time cards, meet with employees and make recommendations to the individual employee and/or the Budget Committee so that the pay reflects the number of hours actually worked.

Section 6. Paid time off.

No Town of Hollis employee either appointed or elected shall receive compensation when out for an illness, disability or other reason of more than their accrued sick time plus any applicable vacation time unless otherwise defined in this Ordinance. If any employee receives either Optional Income Insurance coverage payments or worker's compensation payments during any absence that qualifies as FML-qualifying leave, that employee may elect, but is not required, to use accrued sick or vacation time to bring their pay up to their usual weekly base pay. Once accrued sick and vacation time are exhausted for any employee, either appointed or elected, the Town shall stop paying that individual when they fail to appear for work and perform their duties as scheduled, unless otherwise defined in this Ordinance or otherwise required under State or federal law.

Holiday Pay. Employees that average 20 hours or more per week will receive pay for holidays that close the Town Hall during a regularly scheduled work day.

Personal Day. Eligible employees may use one (1) day of their available or unused sick time per year as a personal day.

Sick Leave. Sick leave shall be earned at the rate of six (6) work days for each year worked for any employee who averages 20 hours or more per week. The maximum amount of sick leave an employee, either hourly or salaried, may accumulate is twelve (12) days. Additional sick time shall not accrue while any employee is out on any unpaid leave. On-call, stipend, temporary, part-time, and seasonal employees are not entitled to sick leave benefits, regardless of the amount of hours they work in any given week.

Storm Days. If the Town office is closed or closing early due to inclement weather on a regularly scheduled work day, employees that are scheduled to work that day will be paid for their regular pay for the day.

Vacation Time. See Section 10 Paragraph 4.

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Section 7. Termination for failure to appear at work.

Except as provided for in any other part of this ordinance, any employee who fails to report to work for more than three (3) days without notice or excuse shall be terminated, except in circumstances where the employee is unable, through no fault of his/her own, to provide such timely notice.

Section 8. Notice of termination of employment.

The Board of Selectmen shall notify the employee in writing that they are no longer employed by the Town of Hollis whenever an employee has reached the limit of their employment due to the provisions of this Ordinance.

Section 9. Filling positions vacated due to illness, disability or resignation of a Town Employee either appointed or elected.

Any position other than Selectman vacated for any reason shall be filled, either on a permanent or temporary basis depending on the circumstances, by an appointment of the Board of Selectmen. If the position is that of an elected office, the appointment will be until the next election, either November or June. The person hired would be an interim appointment for elected offices until another person is elected to fill the seat. In the event one of the Selectmen vacates or is removed from office, an election must be held as soon as reasonably possible to fill the seat.

Section 10. Categories of Leave.

A. Bereavement Leave.

Full-time and part-time employees shall be excused from work with pay for up to five (5) calendar days in the event of the death of spouse, domestic partner (as defined by the Maine Municipal Employee Health Trust), child or parent and up to three (3) calendar days in the event of the death of another member of the immediate family. Immediate family is defined to mean brother, sister, mother-in-law, father-in-law, grandfather, grandmother, grandchildren, step-father, step-mother, stepchildren or other relative living in the same household as the employee. The Department Head with the Board of Selectmen's approval may grant bereavement Leave.

B. Leave for Military Reserve Training / Active Duty.

In accordance with State and Federal Law, eligible employees will be granted time off from work for annual training obligations or active service in the United States armed services. Employees engaged in active military service will be placed on military leave of absence status. Employees should advise Department Head or the Selectmen of the dates of their military service and present any military orders as far in advance as possible, unless military necessity prevents such notice. The Town will pay employees the difference between service pay and the employee's regular compensation for a period of up to two weeks in any one-year period, provided that the employee on Reserve Service furnishes his/her Department Head or the Selectmen an official

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statement by military authorities giving his/her rank, pay and allowances. Employees should confer with their Department Head or the Board of Selectmen concerning the rights and requirements of re-employment.

C. Loss of work for Jury Duty.

The Town shall pay to employees, both hourly and salaried, their regularly scheduled pay for time missed while serving on or appearing for jury duty as required (along with a reasonable amount of time for travel to and from the court house). Jury duty and/or subpoenas to appear in Court must be presented to the Town to be eligible for such pay. The employee shall sign over their court pay check to the Town when received.

D. Vacation.

Vacation time shall be in accordance with this Ordinance.

- I. After the first six (6) months of employment, one (1) week of vacation time will be awarded;
- II. After one (1) year of continuous employment, two (2) weeks of vacation time will be awarded;
- III. After four (4) years of continuous employment, three (3) weeks of vacation time will be awarded;
- IV. After nine (9) years of continuous employment, four (4) weeks of vacation time will be awarded;
- V. A week of vacation is equal to the weekly hours the Town Hall is open, but must not exceed the employee's regularly scheduled base workweek pay, or exceed 40 hours of pay for hourly employees (a week of vacation pay is equal to the average amount of pay the employee would receive in a regularly scheduled work week);
- VI. Employees who are regularly scheduled to work less than twenty (20) hours per week are not eligible for vacation time;
- VII. Attendance time at regularly scheduled meetings, i.e. Budget Committee, Planning Board, etc. does not add to the regularly scheduled workweek for purposes of determining vacation time or eligibility;
- VIII. It is the responsibility of the employee to arrange coverage for their job function during any vacation. No vacation period will be approved if the absence would leave the Town without a qualified employee to perform necessary Town and customer services. (For example, Paragraph 4, sub-paragraph 8, refers to those jobs that are similar to that of Treasurer, it would not be prudent for the Town to have the Treasurer on vacation at the same time the Deputy Treasurer was

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absent. The department needs to be organized in such a way that these things do not occur.);

- IX. When calculating Budgets for the year all Department Heads use a fifty two (52) week year, and therefore no employee shall receive more than fifty two (52) weeks of pay or compensation in any given year. It is the intention of the Selectmen that an employee that has vacation time allotted uses it during that year. Vacation time cannot normally be carried into another year without the recommendation of the Department Head and written approval of the Board of Selectmen; and,
- X. Upon separation, employees who leave in good standing (including providing the Town a minimum of two (2) weeks' notice) will be paid for any accrued and unused vacation.

E. Personal Leave of Absence.

In exceptional circumstances, a full time employee, either elected or appointed, may be granted a personal leave of absence without pay and without accrual of sick and vacation time or contribution by the Town towards any employee benefits. Such a leave of absence may be granted only at the discretion of the Selectmen with the recommendation of the Department Head concerned, and only after any applicable FML leave, vacation time and sick time has been exhausted. Such leave of absence without pay shall not exceed six (6) months in length without further approval of the Selectmen, and shall only be granted when it appears, because of the past record of the employee, or because of the purpose for which the leave is requested, that it is in the best interest of the Town to grant the leave.

F. Family and Medical Leave Act (FMLA)

A. Federal FMLA

Employees who have worked for the Town for at least twelve (12) months and at least 1,250 hours during their prior twelve (12) months with the Town may take up to twelve (12) weeks of unpaid leave (FMLA leave) for the following reasons:

- I. Birth of a child of the employee;
- II. Placement of a child into the employee's family by adoption or by a foster care arrangement;
- III. Care of the employee's spouse, parent, or child who has a serious health condition;

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- IV. Inability of the employee to perform the functions of the employee's position due to a serious health condition;
- V. "Military Family Leave" due to "any qualifying exigency" arising out of the fact that the spouse, child, or parent of the employee is on active duty or has been notified of an impending call to active status in either the National Guard or Reserves.

In addition, employees who have worked for the Town for at least twelve (12) months and at least 1,250 hours during the prior twelve (12) months may take up to twenty-six (26) weeks of unpaid "Military Family Leave" leave to care for a seriously injured service member (regular armed forces, National Guard or Reserves) who is the spouse, child, parent or next of kin of the employee. The 26-week period includes any 12-week period permitted for any other qualifying FMLA reason.

B. Maine FMLA

Employees who have worked for the Town for 12 months but for less than 1,250 hours during the past year and are not eligible for Federal FMLA may be eligible for a 10-week Family and Medical Leave under Maine law, and should follow the procedures set forth herein to apply for a leave. Please note that depending upon the number of employees employed by the Town, both the State and Federal FMLA may not apply to the Town.

Maine FMLA law permits family and medical leave to be taken for the following reasons:

- I. Birth of a child of the employee or a child of the employee's domestic partner;
- II. Placement of a child under 16 years of age into the employee's family by adoption or by a foster care arrangement;
- III. The serious health condition of the employee's spouse, parent, child, sibling (who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements), domestic partner, or domestic partner's child, or the death of one of the aforementioned individuals who is a member of the military and who dies while on active duty.
- IV. Inability of the employee to perform the functions of the employee's position due to a serious health condition;
- V. The donation of an organ by the employee; or
- VI. The death or serious health condition of the employee's spouse, domestic partner, parent, sibling (who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements), or child, if that person is a member of the military and dies or incurs a serious health condition while on active duty.

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C. Procedures

Any FMLA leave taken by an employee during the preceding twelve (12) month period will be used to determine the amount of available leave pursuant to the Family and Medical Leave Act. For example, if an employee used four weeks of leave beginning February 1, 2010, four weeks of leave beginning June 1, 2011, and four weeks of leave beginning December 1, 2011, the employee would not be entitled to any additional leave until February 1, 2012. On February 1, 2012, the employee would be entitled to four weeks of leave, and on June 1, 2012, the employee would be entitled to an additional four weeks, etc.

The right to FMLA for the birth and/or placement of a child into an employee's family may only be taken within the twelve (12) months after the date of the birth or placement of the child. In the case of unpaid leave for the birth or placement of a child, intermittent leave or working a reduced number of hours is not permitted, unless both the employee and the Town agree. If both spouses are employed by the Town, the combined leave shall not exceed twelve (12) weeks.

For purposes of this policy, a serious health condition means an illness, injury, impairment or physical or mental condition that involves:

- I. any period of incapacity or treatment in connection with or consequent to in-patient care in a hospital; hospice or residential medical care facility;
- II. any period of incapacity requiring absence from work or other regular daily activities for more than three (3) calendar days that also involves continuous treatment by or under the supervision of a healthcare provider; or
- III. continuous treatment by or under the supervision of a healthcare provider for a chronic long-term health condition that is incurable or so serious that if not treated would result in a period of incapacity of more than three (3) calendar days; or
- IV. prenatal care.

In the case of unpaid FMLA leave for serious health conditions, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. Where an employee requests intermittent leave or leave on a reduced hours basis due to a family member's or the employee's own serious health condition, the Town has the option, in its sole discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular job.

Employees are required to use their available vacation time during any unpaid FMLA leave period, and available sick/personal time is required to be used when unpaid family leave is

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taken because of the employee's serious health condition. In the case of family leave due to reasons other than the employee's serious health condition, the employee may opt to use available sick/personal time. The remainder of the FMLA leave will be unpaid. An employee on a FMLA leave may be eligible for benefits under the Town's Income Protection Insurance Policy. Employees out on paid Worker's Compensation leave or receiving paid Income Protection Insurance may elect to use available sick and/or vacation leave during their absence, but are not required to do so.

When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the Town at least thirty (30) days' notice of the employee's intention to take leave. If the date of birth or placement of a child requires the employee's leave to begin in less than thirty (30) days from the date of notice to the Town, the employee must provide such notice as soon as practical. Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must:

- I. give at least thirty (30) days' notice, or as soon as practical if treatment starts in less than thirty (30) days; and
- II. make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the Town, subject to the approval of the healthcare provider.

Where the need for leave is unforeseeable, the employee must give notice as soon as practical. Any FMLA leave request based on a family member's or an employee's own serious health condition must be supported by certification from a healthcare provider. The employee must provide a copy of the certification to the Town in a timely manner; (Fifteen calendar days will be allowed to provide the certification.) Certification from the healthcare provider must contain:

- I. the date the serious health condition began;
- II. the possible duration of the condition;
- III. the appropriate medical facts regarding the condition;
- IV. if the leave is based on the care of a spouse, child or parent, a statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue;
- V. if the leave is based on the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her job;
- VI. in the case of intermittent leave or leave on a reduced hours basis for planned medical treatment, the date and duration of the treatment should be specified; and

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VII. in the case of intermittent leave or leave on a reduced hours basis for medical conditions that do not necessarily involve planned medical treatment, an estimate as to the anticipated frequency and timing of the absences should be given.

During FMLA leaves of absence, the Town will continue to pay its portion of the health insurance premium and the employee must continue to pay his/her share of the premium. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage. If the employee does not return to work after the expiration of any unpaid FMLA leave, the employee may be required to reimburse the Town for payment of health insurance premiums during the family leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his/her job or circumstances beyond the control of the employee.

During FMLA leave, the employee shall not accrue employment benefits, such as vacation pay, sick pay, pension, etc. Employment benefits accrued by the employee up to the day on which the family leave of absence begins will not be lost.

The Town may require an employee on FMLA leave to report periodically on his/her status and the intention of the employee to return to work, and also periodic recertification of the medical condition. An employee taking leave due to the employee's serious health condition is required to obtain certification that the employee is able to resume work prior to the return from any FMLA leave. Employees with chronic or continuing health issues may be required to provide recertification every six (6) months.

Employees who return to work from FMLA leave within or on the business day following the expiration of the ten/twelve/twenty-six (10/12/26) weeks are entitled to return to their job or an equivalent position without loss of benefits or pay.

Upon returning to work from a FMLA leave within or on the business day following the expiration of the ten/twelve/twenty-six (10/12/26) weeks, up to two vacation days may be taken during the next 90 days.

Applications for FMLA leave must be submitted in writing and signed by the employee's immediate supervisor. Applications should be submitted at least thirty (30) days before the leave is to commence or as soon as possible if thirty (30) days notice is not possible. All necessary forms are available from the Town's designee. Appropriate forms must be submitted to the Town's designee to initiate a family leave and to return the employee to active status.

Each employee taking leave that meets the requirements for FMLA leave will be provided the "Response to Your Request for Leave" form. Other forms relating to FMLA leave can be obtained from the Town office.

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G: VICTIMS OF VIOLENCE LEAVE: The Town will grant reasonable and necessary unpaid leave from work for eligible regular full-time and part-time employees who are victims of domestic violence, stalking, or sexual assault as provided for in State law Title 26 MRSA Section 850 (Employment Leave for Victims of Violence):

Leave will be granted for an employee to:

- I. Prepare for and attend court proceedings;
- II. Receive medical treatment or attend to medical treatment for a victim who is the employee's daughter, son, parent or spouse; or
- III. Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

The leave must be needed because the employee or the employee's daughter, son, parent or spouse is a victim of violence, assault, sexual assaults under Title 17A, Chapter 11, stalking or any act that would support an order for protection under Title 19A, Chapter 101. As soon as an employee becomes aware of the need of a leave of absence, they must make a written request for leave to his/her supervisor. This request shall be forwarded to the Town Clerk or the Town Selectmen's' designee for approval as soon as possible. The request must specify the length of leave requested, the reason for the leave, and estimated dates of departure and return. Employees utilizing such leave are required to use any banked and accrued vacation, sick and/or compensation time during such period(s). Employees who have no such leave banked and accrued shall receive unpaid leave.

H. FAMILY SICK LEAVE: An employee may use up to a maximum of forty (40) hours of "Family Sick Leave" per fiscal year due to the illness of a member of the employee's immediate family. "Immediate family" shall mean the following individuals living in the employee's household: spouse, domestic partner, father, mother, child, stepchild, or other family member. Family Sick leave may also be used for transporting such immediate family members to health care appointments. Eligible employees may use such time for doctor, dental and other health care provider visits. Employees utilizing such leave are required to use any banked and accrued vacation, sick and/or compensation time during such period(s). Employees who have no such leave banked and accrued shall receive unpaid leave.

I. SCHOOL ACTIVITY LEAVE: An employee may use up to a maximum of twelve (12) hours of his/her accrued sick leave per year for the purpose of attending their children's school activities. Employees requesting leave for school activities are expected to notify their department head within forty-eight (48) hours before such leave is needed. Employees utilizing such leave are required to use any banked and accrued vacation, sick and/or compensation time during such period(s). Employees who have no such leave banked and accrued shall receive unpaid leave.

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SECTION 11: SEVERABILITY: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions of this Ordinance that can be given effect without the invalid provision or application.

SECTION 12: EFFECTIVE DATE: This ordinance shall become effective November 7, 2012.