

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL 121 - 2021

December 1, 2021

AN ORDINANCE

Amending the Article 140, Personnel Code of the Codified Ordinances (Also referred to as the Personnel Policy); Part One Administrative Code - General and Administrative Provision by adding Section H to Article 143. 13 Holidays and Leave Time, entitled Paid Parental Leave of Absence (Non-Union).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE That Section H be added to Article 140.13 and read as follows:

H: Paid Parental Leave of Absence for the Non-Bargaining Unit

POLICY STATEMENT: The following policy addresses paid parental leaves of absence for City employees in order to assist and support new parent relationships through its leave policies and programs and to assist with balancing work and family matters, by providing Paid Parental Leave. This policy provides eligible employees with a period of paid time off for activities related to the care and well-being of their newborn, adopted or fostered child. .

Employees are eligible to request a Paid Parental Leave of Absence within twelve (12) months of the date of birth, adoption or fostering. Employees are required to complete and submit the appropriate leave of absence paperwork for any absence of more than five (5) workdays, in accordance with the Employee Leave of Absence policy.

Employees will be provided up to six (6) consecutive week's Paid Parental Leave to an eligible parent following the birth or adoption or fostering of a child/children. Pay during leave shall be 100% of an employee's base rate at full time, or 40 hours per week. Employees are not required to expend available benefited time before Paid Parental Leave (i.e. vacation, personal or compensatory). Employees will continue accruing vacation and personal days during the duration of a Paid Parental Leave. Pension deductions will also continue during this time frame.

Paid Parental Leave of six (6) consecutive weeks shall run concurrent with the terms of the Family Medical Leave Act of 1993 (FMLA), in order to conclude the remainder of the total amount of leave time available by federal, state and local law as detailed in Section II of this policy, CONCURRENT PAID PARENTAL & FMLA LEAVE GUIDELINES.

2 Except as otherwise provided in collective bargaining unit agreements, all City of Allentown full time employees absent from work without available benefited leave time (i.e. vacation, personal or compensatory) will be considered Absent Without Leave (AWOL) and may be disciplined in accordance with

the City of Allentown's disciplinary process subject to the following exceptions: - Where an employee has been approved for a Paid Parental leave of absence;

- Where an employee has been approved for an official leave of absence (e.g. under the Family and Medical Leave Act of 1993; Director's Leave);

- Where an employee has been approved for a leave of absence under an approved, short-term disability, long-term disability, or workers' compensation plan;

Where an employee has been approved for a leave of absence based upon the statutory requirements under the Americans with Disabilities Act;

Where an employee has been approved for a military leave of absence.

The employee shall coordinate such leave request with the Department of Human Resources.

Employees are required to follow department call off procedures. Unauthorized absences are not permitted and may result in discipline up to and including termination.

Disclaimer: No statements in this policy are intended or set forth as contractual commitments or obligations of the City to any individual employee or group of employees, or to establish an exception to the employment-at-will doctrine beyond that specified in the Civil Service Statutes and Rules or pertinent collective bargaining agreement. If there are differences between the various collective bargaining agreements and this policy, the pertinent collective bargaining agreement takes precedence. Disclaimer: This policy shall operate in accordance with City Code pertaining to use of accrued or accumulated sick days.

I. ENTITLEMENT TO PAID PARENTAL LEAVE Before an employee may utilize Paid Parental Leave, it must be determined if the employee is an "eligible employee" and if the reason for leave is one of the two (2) qualifying reasons. An eligible City employee may be qualified for up to six (6) weeks of paid, job-protected parental leave.

A. "ELIGIBLE EMPLOYEE" DETERMINATION In order to be eligible for paid parental leave, a full-time non-union employee with the City of Allentown must have (1) worked for the City of Allentown for at least twelve months, and (2) worked at least 1,250 hours during the twelve month period preceding the leave.

B. QUALIFYING REASONS Paid Parental Leave under the terms of this policy is available to eligible employees for one or more of the following qualifying reasons:

1) Because of the birth of child/children of the employee, or to care for the newborn child/children (within one year of birth);

2) Because of the placement of a child/children with the employee for adoption or foster care, or to care for the newly placed child/children (within one year of placement);

II. CONCURRENT PAID PARENTAL & FMLA LEAVE GUIDELINES

The Paid Parental Leave provides eligible and qualified employees with up to six (6) weeks of paid leave. For the duration of the employee's leave, his or her job will be protected and his or her health care benefits will continue. An employee's absence will begin to count toward his or her entitlement on the first day of the leave.

Under the terms of the Family Medical Leave Act of 1993 (FMLA), eligible employees shall be entitled to a total of twelve (12) weeks of leave in a rolling twelve (12) month period. In order to determine how many weeks of FMLA leave is available, the City will look back over the past twelve (12) months to determine how much, if any, of the employee's twelve (12) week FMLA entitlement has already been used including the six (6) consecutive weeks of Paid Parental. If the employee has used a portion of his or her FMLA entitlement in the previous twelve (12) months, he or she shall be entitled to take whatever portion of the twelve (12) weeks that remains available in combination with six (6) consecutive weeks Paid Parental Leave.

It is important to note that FMLA leave will run concurrently with other paid leave unless the employee's collective bargaining agreement provides otherwise. If an employee is eligible for short term disability benefits, his or her paid leave under either program will also be counted toward his or her twelve (12) week entitlement.

For the duration of FMLA leave guidelines please reference the City of Allentown, Employee Leave of Absence policy. 4

III. PROCEDURES FOR REQUESTING PAID PARENTAL LEAVE

In all cases, employees must complete two steps.

(1) Obtain all necessary forms.

(2) Complete and submit the Paid Parental Leave of Absence Request and the Certification of Health Care Provider form, if necessary, to the City's Human Resource Department.

IV. CITY'S RESPONSE

Upon receipt of an employee's completed Paid Parental Leave Request and the appropriate supporting documentation, the City will make a determination of the employee's eligibility and qualification, and approve or deny the request. The Director of Human Resources may provisionally approve a leave pending the submission of the Certification of Health Care Provider form.

If the employee fails to provide the required medical documentation within the fifteen (15) day period, the City may revoke the provisional leave. The Director of Human Resources will notify the employee and the employee's Director (and Bureau Chief, if applicable) of the revocation immediately. The employee may then be marked absent without leave (AWOL) and may be subject to disciplinary action.

Employees on Paid Parental Leave are to comply with the City's Employee Leave of Absence policy, are precluded from outside employment while on the leave and may, if necessary, be required to submit additional documentation to further substantiate the leave

SECTION TWO: That this Ordinance will take effect in ten days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency

Article 140.13 Holidays and Leave Time

Holidays, vacation, personal and sick leave are granted to all full-time employees according to length of employment and union/non-union status. Employees who are union members, or whose positions are covered by a collective bargaining agreement are granted leave time in accordance with contract provisions. Employees who are not covered by a collective bargaining agreement are granted leave in accordance with the provisions outlined below. Any provisions outlined below which are not addressed in either collective bargaining agreement apply to all full-time non-bargaining employees.

HOLIDAYS

Paid holidays are provided to all full-time non-bargaining employees effective with the date of hire. If an employee requests a sick day before or after a holiday, a medical certification must be submitted upon return to work. Below is a listing of holidays observed by the City of Allentown:

New Year's Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Good Friday	Day after Thanksgiving
Memorial Day	Christmas Day
Independence Day	

A. VACATION TIME

The following vacation schedule has been established for all full-time nonbargaining unit employees:

Date of hire prior to January 1, 1998

<i>Years of Completed Service</i>	<i>Vacation Leave Allowance</i>
1 year but less than 2	1 Per Month
2 years	15 days
3-5 years	16 days
6-10 years	18 days
11 years	19 days
12 years	20 days
13 years	21 days
14 years	22 days
15 years +	25 days

Date of hire after December 31, 1997

<i>Years of Completed Service</i>	<i>Vacation Leave Allowance</i>
1 st year	.625/day per each completed month
2 – 3 years	10 days
4-5 years	14 days
6-10 years	16 days
11 years	17 days
12 years	18 days
13 years	19 days
14 years	20 days

15 years +	25 days
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Vacation time accrues after the completion of the first four months of employment.

Accrued vacation time is to be taken in the current year during which it becomes available. Up to 10 days of unused vacation time may be carried over from one year to the next.

Approval is required by the Bureau Manager for all requests, with consideration given to ensure adequate departmental staffing. Seniority will dictate when conflicting requests are made simultaneously or at the beginning of the current year. Approval of other requests made throughout the year will be granted on a first-come-first-served basis.

B. PERSONAL DAYS

Non-bargaining unit employees receive eight (8) personal days earned per year.

Personal time cannot be used until after the completion of the first four months of employment.

Personal days must be used during the calendar year in which they are earned, and not carried over from one calendar year to the next.

Sick Bonus – Non-bargaining unit employees that use three (3) days or less sick days in a calendar year are eligible for one (1) additional bonus personal day in the following year. (14770 §1 11/18/09)

C. SICK TIME

Sick time is provided for all non-bargaining employees and accrues at 1-3/4 days per month, up to 200 days. If an employee needs to call off sick, the supervisor must be notified within one hour of the employee's normal starting time. If employee does not report off in the required time period the employee will receive no pay for that day's absence.

Beginning from date of hire, sick leave accrues as follows:

1-3/4 days per month

Employees must complete a four (4) calendar month waiting period before using sick leave. Sick leave will be earned during the 4 month period of employment, but cannot be used until after the 4 months of employment.

The City will not make sick leave payments to any person whose injury or illness is attributable to employment outside the City services and the City reserves the right to demand repayment of the sick leave benefits made under such circumstances.

Medical certification for non-bargaining employees is required for sick leave in excess of five (5) consecutive days.

For a non-bargaining unit employee who reaches their sixth occasion of sick leave usage within a twelve-month period will be required to submit a City medical certification form. The City will notify the employee after the 5th occasion that a medical certification will be required with the 6th occasion.

If the employee is diagnosed with a chronic, on-going or recurring health condition, the employee may submit a letter from his/her physician stating the nature of the illness and the dates of the sick occasions that relate to this diagnosis and those occasions will be recorded as one. Future occasions relating to this same diagnosis will require the employee to submit a City medical certification form from the physician indicating that the latest occasion of sick leave relates to the original diagnosis and then the employee will not be charged with additional occasions.

Sick Time Pay-Out – At normal, full retirement employees eligible for pension will receive ten (\$10.00) dollars per day for unused sick leave days to a maximum of 100 days. Employees vesting in their pension are not entitled to this payout.

Sick Bonus – Non-bargaining unit employees that use three (3) days or less sick days in a calendar year are eligible for one (1) additional bonus personal day in the following year.

D. LEAVE OF ABSENCE

The City of Allentown recognizes that circumstances may arise which require that a full-time employee be absent for an extended period of time for medical reasons. In such instances, the employee may be granted an unpaid leave of absence, depending upon the circumstances of the individual's situation and based on the Bureau Manager's approval.

An unpaid leave of absence begins as of the date the employee is deactivated from City payroll.

Personal Leave of Absence - Any regular full-time non-bargaining unit employee may apply in writing to the Human Resources Department for an unpaid City leave for personal reasons if he/she has completed at least one year of continuous service for the City of Allentown and has used all accrued vacation time. The length of total leave time approved, including any paid time (such as vacation time) will not exceed one year.

Such a leave of absence will not exceed 180 consecutive calendar days measured from the date the leave commences.

To qualify for leave of absence the employee must have utilized all of her/his "available" and/or "accrued paid leave."

A personal leave of absence is approved by the Bureau Manager of the employee's absence does not impact the operational needs of the City. A leave that would cost the City more than the salary savings of the employee for the unpaid period, or would undermine the City's service delivery because of the specialized training, critical nature of the job, or seasonal workload fluctuations, will not be granted a leave of absence.

Employees requesting a leave of absence should request the leave in writing, to their Bureau Manager at least 30 calendar days before the leave would commence if possible. The request should include the purpose of the leave, the starting date, the duration of the leave in work days and the return to work date.

An employee will be eligible for medical benefits through COBRA coverage at their own expense during the unpaid personal leave of absence.

F. FAMILY AND MEDICAL LEAVE ACT ("FMLA")

The City of Allentown recognizes that it sometimes may be difficult for employees to balance the demands of a job with personal and family needs. The Family Medical Leave Act of 1993 ("FMLA") requires certain employers to allow eligible employees to take up to 12 weeks of leave (paid and/or unpaid) to care for a newborn or newly adopted child, to recuperate from their own serious illness, or to care for a seriously ill family member. For purposes of this policy, "family members" include: (1) the employee's spouse, (2) the employee's parent, (3) the employee's natural or adopted child or dependent stepchild. For FMLA purposes, the year shall begin on the first date FMLA leave is taken.

An eligible employee is one who has at least 12 months of service with the City of Allentown and has worked at least 1,250 hours for the City during the previous 12-month period. Eligibility is determined at the time the employee requests the leave.

An employee of the City of Allentown who has worked for the City for at least one (1) year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and works at a worksite which employs fifty (50) or more employees within seventy-five (75) miles, is eligible for leave under the Act. Spouses, both of whom are employed by the City of Allentown, are limited to a total of twelve (12) weeks of leave between them, in any twelve (12) month period, except in circumstances where either spouse or their child is affected by a qualifying serious health condition.

Your twelve (12) weeks of leave may be taken intermittently or your weekly schedule may be reduced in hours, only if written approval from the City of Allentown is given. If you need intermittent or reduced leave schedules due to a medical necessity, your request may be accommodated, provided you make every effort to schedule your absences so as to minimize the impact on the City of Allentown business operations.

Eligible Conditions: Family and medical leave may be requested for:

- *Birth, adoption, or foster care* – A new parent or foster parent may apply for leave within one year after child is born or placed in the parent's home. If both parents work for the City of Allentown, they will be entitled to a total of 12 weeks between them.
- *The employee's serious health condition, as defined by the law.*
- *A family member's serious health condition, as defined by law.*
- *For qualifying exigencies arising out of the fact that the employee's spouse, child or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.*

A covered employer also must grant an eligible employee who is a spouse, child, parent, or next of kin of a current service member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of **26 workweeks** of unpaid leave during a "single 12-month period" to care for the servicemember.

Use of Paid leave Prior to FMLA Leave: For non-bargaining unit and SEIU employees, leave time will run concurrent with Family medical leave. However, for Police and Firefighters leave time will not run concurrent and employees will be allowed to take the 12 week family medical leave after leave time has been exhausted, if requested by the employee, in writing.

If an employee requests leave under FMLA because of his/her own serious health condition, the employee must first use his/her accumulated sick leave, accumulated vacation days and any accrued vacation or personal days. If an employee requests leave to care for an adopted child with a serious health condition, he/she must first use accumulated vacation and personal days and any accrued vacation days. If these days are fewer than 12 weeks required under the law, the City will grant additional days without pay but with paid medical benefits provided by the Act to a total of 12 weeks.

FMLA leave taken because of an employee's serious health condition shall not be considered when calculating occasions of sick leave used. During the term of FMLA leave, employees will accrue seniority, sick leave, vacation leave and personal days.

Prior Notice and Authorization: The City of Allentown requires that you provide the City with a thirty (30) days' advance notice when FMLA leave is needed, if your need is foreseeable. Otherwise, you must provide the City of Allentown with as much notice as is possible. The City may delay the taking of foreseeable FMLA leave until 30 days after the required notice is provided if these conditions are not met. If you are taking leave for personal illness or the illness of a family member, the City of Allentown requires that you submit medical certifications from a physician. When you request such leave, we will provide you with the appropriate forms.

Forms: When the City receives a medical certification indicating that the employee has a serious health condition and will be on medical leave for longer than five (5) days, the employee will be notified in writing that medical leave will be charged to the yearly entitlement under the provisions of the FMLA.

The employee will be required to provide medical certification of a serious health condition to the City of Allentown in accordance with FMLA and as will be further explained to the employee requesting FMLA leave at the time of such request. When an employee requests such leave, the City will provide the employee with the appropriate forms. The Department of Labor-Certification of Health Care Provider form must be completed by a Physician and returned within 15-days following the request.

While on FMLA leave, employees are requested to report periodically to the City every 30 days regarding the status of the medical condition and their intent to return to work.

In accordance with our uniform medical leave of absence policy, if you take FMLA leave for personal illness, the City of Allentown will also require a medical certification, on a City of Allentown Medical Certification form, indicating whether you are able to return without restrictions or unable to return from leave due to your health condition. Restoration may be denied until such certification is provided.

Return from FMLA Leave: At the conclusion of FMLA leave, most employees will be restored to their original or equivalent positions with the equivalent pay, benefits and other terms and conditions of employment. The City of Allentown is not obligated to restore any employee whose job position has been eliminated during the leave period. The City of Allentown reserves the right to deny restoration to certain highly compensated employees if necessary to avoid substantial and grievous economic injury to the City of Allentown's operations. These "key" employees are among the ten percent (10%) most highly compensated employees and will be notified of their status as "key" employees at the time they make their request for family medical leave. If it is anticipated that it may be necessary to deny restoration to a "key" employee, the City of Allentown will notify that employee and offer him/her an opportunity to return to work. If that employee elects not to return to work, the City of Allentown will nevertheless reconsider at the end of the leave period whether or not it will be possible to reinstate that employee without suffering substantial and grievous economic injury.

Health Care Coverage: During the period of your FMLA leave, the City of Allentown will continue your health care coverage as if you were continuously employed. Failure to make timely co-payments, for those required, may result in the termination of your health care coverage. Provisions for the payment of your health care co-payments will be made at the time of your leave request. The use of FMLA leave will not affect your exempt status under the Fair Labor Standards Act if you are already considered exempt. If you fail to return to work at the conclusion of your leave period,

you are obligated to repay the City of Allentown the cost of your health care premiums paid for by the City during the period of your leave.

Other Terms and Conditions: The City of Allentown will not interfere with, or restrain or deny the exercise of any right provided under the FMLA. We will not discharge or discriminate against any person for opposing any practice made unlawful by the FMLA nor will we discriminate against or discharge any person because of involvement in any proceeding under or related to the FMLA. The Secretary of Labor is authorized to investigate and attempt to resolve complaints of violations and may bring an action in any federal or state court against a company for violating the FMLA. The FMLA will be enforced by the Department of Labor's Wage and Hour Division. An eligible employee may also bring a civil suit for violations of the FMLA. It should be noted that the FMLA does not affect any federal or state law prohibiting discrimination, nor does it supersede any state or local law which provides for greater family medical leave benefits. The FMLA does not affect an employer's obligation to provide greater leave benefits if that is required under a collective bargaining agreement or employment benefit plan or contract. No rights provided for under the FMLA may be diminished or waived by the agreement, plan or contract. A copy of your rights under the FMLA is posted at the City of Allentown, and we are always happy to answer any questions concerning the FMLA or other concerns you may have as an employee. When FMLA is requested, we will provide you with a summary of your rights and obligations, and the expectations that we have of you in exercising leave. If an employee should find that an additional leave of absence is needed at the end of the FMLA leave period, that employee should feel free to contact the City of Allentown Human Resource Department. Requests for additional leave of absence will be handled on an individualized basis.

G. OTHER COMPENSATED LEAVE

Additional instances may arise when a non-bargaining unit employee needs to be away from work for reasons unrelated to vacation, personal or sick time. The following instances are identified:

1. Bereavement Leave

All full-time non-bargaining unit employees will be granted the following paid bereavement leave to attend the funeral to mourn the recent death of a family member:

<i>Relative</i>	<i>Days of paid leave</i>
Spouse, Spouse's immediate family; parents, children, brothers, sisters, grandparents and grandchildren.	4 (Days off may begin on the day of the death but will end no later than one week following the day of the Funeral.)
Other Family Members: Spouse's brother or sister.	1 (Day for the Funeral)

Employees who become eligible for funeral leave while on sick or vacation leave will be paid funeral leave rather than sick or vacation leave.

An employee should make every effort to notify their supervisor prior to taking such leave. The City of Allentown reserves the right to demand proof of any death and relationship for which leave is taken.

2. Military Leave

a. Training - Time off with pay is provided for employees who are required to attend active training. The leave(s) include scheduled work weekends, summer training, etc.

1. The employee may request leave verbally or in writing, however, the request must be in as much in advance as possible. In addition, it is asked that the employee submit two (2) copies of the orders pertaining to the military duty to Human Resources along with the request or upon receipt.

2. Employees are required to complete the Military Benefits Request form in order to receive pay.

b. Active Duty – Request leave under 2.a.1 above. Pay for the difference between the employee's City pay and the employee's military pay begins. Any cash benefits received from military (with the exception of quarters allowance BAQ, hostile fire, VHA) shall be included in calculations for differential. Credit will be given the reservist with appropriate annual and anniversary salary increases from the City.

1. Pension – Employee will pay the full amount as a member of the pension system on the full salary the employee would have earned if still employed by the City for the time that the employee wishes credit. Employee will have up to three times the length of the employee's immediate past period of military service to make up the missed contributions, with a maximum repayment period of five (5) years. The employee will have the option of paying member contribution, as a lump sum payment or by payroll deduction over the period specified herein.

2. Seniority – Credit as if reservist had not left.

3. Term Insurance – Coverage will be provided as if the reservist had not left City employment.

4. Health Coverage – Coverage will be provided for reservist and dependents.

5. Dental Coverage – Reservist and dependents can participate in the City's plan by paying the current employee amount of the premium cost.
 6. Vacation, Sick Leave and Personal Days – Employee's options are to be paid the vacation balance when employee leaves, employee can take vacation prior to leaving, or employee can request to hold in escrow vacation which is available at time of active duty call-up.
3. Court Appearances - The City recognizes when an employee will need to be excused from work to appear in court (if subpoenaed) to testify on matters pertaining to their City job. Subpoenas shall be submitted with attendance records to the Human Resources Office. Prompt notification of the supervisor is required.
 - a. Witness fees for City-related court appearances must be submitted to the City in order for the employee to receive full pay.
 - b. Employees shall make their own arrangements for court appearances not related to their job (e.g. vacation, personal day).
 4. Jury Duty – The City recognizes an employee's obligation to fulfill a jury duty summons. Employees are permitted time off with pay; however, instances may occur when it is necessary for the employee to request the Court to reschedule the dates of attendance.
 - a. An employee must notify his/her supervisor immediately upon receipt of a jury duty summons. A copy of the summons will be put in the employee's personnel file.
 - b. Employees will continue to receive full pay for jury duty service. However, upon return to work, a receipt must be submitted of payment received for services rendered as a juror. The amount received for jury duty equal to the payment is to be reimbursed to the City within ten (10) working days following the employee's return to work. If reimbursement payment is not received, the employee's next paycheck will be adjusted to reflect the amount due to the City.
 - c. If jury duty extends beyond thirty (30) days, the City reserves the right to request written confirmation from the court administrator attesting to the need for the employee to continue serving as a juror for the duration of the trial.