**Unpaid Leave of Absence Policy**

**POLICY STATEMENT**

The City of Hamilton (“the City”) recognizes that occasionally an employee may need to request an Unpaid Leave of Absence (LOA) to balance their work and life responsibilities and the City will endeavour to meet those requests where feasible. All requests are subject to operational requirements and will not be unreasonably denied.

**PURPOSE**

This Policy outlines how the City administers Unpaid Leave of Absences and outlines how an employee may request approval for an Unpaid Leave of Absence. Key considerations for managers responsible for making approval decisions for incoming requests are also outlined in this Policy.

**SCOPE**

This Policy applies to all permanent non-union full-time and part-time employees; and temporary full-time employees who have passed their probationary period.

Unionized employees should refer to the leave of absence provisions in their applicable collective agreement. An employee’s collective agreement takes precedence over this Policy.

This Policy does not apply to legislated leaves. Please refer to specific City policies for military leave, bereavement leave, compassionate care leave, accommodation for time required for religious observation, and jury/witness duty. For all other leaves, employees should refer to appropriate provincial legislation.

**DEFINITIONS**

**Unpaid Leave of Absence (LOA)**

Refers to a continuous Unpaid Leave of Absence that spans from one day up to a maximum duration of one year. Employees must have passed their probationary period to be eligible to make a request. Examples of reasons for requesting an Unpaid LOA include education leave, personal time, and emergency leave required in addition to the legislated minimum, etc.

Note: for unpaid leaves that qualify under Ontario’s legislated Emergency Leave / Declared Emergencies, employees should reference Ontario’s Employment Standards Act for what qualifies as an emergency.
### TERMS & CONDITIONS

| **Frequency of Unpaid LOA** | The following terms and conditions apply to this Policy:  

A one-year duration Unpaid LOA shall only be taken every five years upon receiving the required level of approval. Requests for shorter period leaves can be submitted on an as-needed basis; and are subject to the approval criteria outlined in this Policy. |
| **Lead Time of Requests** | Generally, a minimum of six months lead time for Unpaid LOA requests is required for any leave that is two (2) months or longer in duration. The employee’s Manager Once Removed may waive this requirement, as needed, on a case-by-case basis. |
| **Time Between Requests** | For Unpaid LOA shorter than two months in duration, the request must be submitted a minimum of six (6) weeks in advance of taking the leave. |
| **Cancellation of Approved Unpaid LOA Requests** | Requests for Personal Leave in accordance with the provisions of the Collective Agreement should not be subject to the 6-week advance notice (as contemplated in the Corporate LOA Policy). It is a separate entitlement in the CBA that was never intended to be subject to a notice period. |
| **Failure to Return to Work** | Employees must wait a minimum of six (6) months to resubmit a request that was initially declined. An exception to this may occur based on the reason for denial; and as outlined in the response to the original request. |
| **Requests for Early Return to Work** | If it does not cause undue hardship, the employee or the City may cancel the approved Unpaid LOA by providing at least four (4) weeks or greater advance notice for LOA’s that are one month or longer in duration. Unpaid LOA’s that are shorter than one month in duration, require two-weeks advance notice. The employee needs to submit a new request to reschedule an approved Unpaid LOA. |
| **Requests for Extensions** | In the event that the employee on Unpaid LOA does not return to work on the agreed upon return date, the employee will be deemed as having abandoned his/her employment and will be terminated without any severance and/or notice entitlement. |
| **Requests for Early Return to Work** | Requests for early return from Unpaid LOA must be made a minimum of four (4) weeks in advance of the scheduled return date. There is no guarantee that early return requests will be granted. This is dependent on operational requirements and existing contracts to backfill a position. An exception to this may be made if the employee who is returning to work accepts another posted position. |
| **Requests for Extensions** | Requests for extensions will be treated as new requests. Requests must |
Returning to Work

Evaluation and Approval Criteria for LOA Requests

- Acceptance of a position with another employer is an ineligible reason for an Unpaid LOA.

- Vacation entitlements, lieu time or any other paid leaves must be already requested, approved and scheduled prior to any Unpaid LOA commencing. Vacation days NOT scheduled will need to be taken BEFORE Personal Leave days can be approved.

- Unpaid LOA shall not be approved where there is an adverse effect on the normal vacation requests of other employees.

- Unpaid LOA shall not be approved where there is a serious impact on the normal operation of the department, or undue hardship for any other employee.

- Consideration must be given to the number of employees away at any one time.

- All employees must receive fair and equal treatment when considering a request.

RESPONSIBILITIES

Employee Responsibilities

- Make all requests for an Unpaid LOA in good faith. Submit request to manager or supervisor providing adequate Lead Time of Requests with the following information:
  - Start date for the leave
  - Specific date of return to work
  - Reason for the leave (at a high level)

- If leave granted, do not apply for job postings unless prepared to return to work immediately if accepted for such posted positions.

Benefits, Vacation, & OMERS Implications

- Be aware of and agree to any implications that taking an Unpaid LOA will have on vacation, OMERS, and benefits prior to submitting an Unpaid LOA request for approval. For example:
Employee Responsibilities Continued…

- Vacation credits are not earned during such leaves, therefore, on return to work, vacation entitlements shall be reduced accordingly.

- Benefit coverage will be made available, where possible, during all leaves of absence, as follows:
  - The City will not pay any benefits or benefit premiums beyond the first 30 days of personal Unpaid LOA
  - During Unpaid LOA, the employee can make arrangements to cover the costs of benefits premiums beyond the first 30 days through Human Resources
  - Human Resources will provide options and costs to the departing employees upon notification of the leave
  - The employee must return all option forms with post-dated cheques (where applicable) prior to the beginning of the leave if possible, but no later than thirty (30) days following the last day worked. If forms are not received within this timeframe, benefits will terminate until the employees return to work.
  - At all times, benefit coverage is subject to the policies, provisions and approval of the benefit carrier
  - Coverage will be based on the salary effective on the last day worked prior to going on leave
  - Employees will not be eligible for LTD benefits while on personal leave.

**NOTE:** In order to receive full credit for OMERS, both the employee and City’s contribution become the responsibility of the employee in such an arrangement

- Employees requesting a Leave of Absence from the City of Hamilton to accept a temporary assignment with a City affiliated Board or Agency have the following options with respect to benefits:
  - Maintain full coverage with the City under the conditions set out above; or
  - Accept full benefit coverage with the Board in their respective benefit plan; or
  - Accept a percentage in lieu in place thereof from the Board

The following will cause benefits to cease immediately:
### Manager / Supervisor Responsibilities

- Failure by the employee to remit benefit payment cheques;
- Receipt of an NSF cheque;
- Failure to return to work on the date specified as return date; or
- Receipt of written confirmation that the employee will not be returning to work with the City.

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<td>If planning not to return to work with the City, notify the City no later than two (2) weeks prior to the specified leave return date.</td>
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<td>Approve requests of Unpaid LOA of up to two months</td>
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<td>For requests that are greater than two months, escalate requests to General Manager or Designate for approval.</td>
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<td>Advise Human Resources, if applicable, of any position being left unfilled during an Unpaid LOA.</td>
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<td>Consult Human Resources for support in the event that any employee on an Unpaid LOA fails to return to work on the agreed upon return date.</td>
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<td>Advise employee of approval or denial of LOA request</td>
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<td>Make approval decisions on employee requests for Unpaid LOA that are two months or greater in duration.</td>
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<td>Communicate decision back to employee’s manager or supervisor electronically to communicate to their direct-report employee who submitted the request.</td>
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### General Manager or Designate, Executive Director, or City Manager

- Advise employee of approval or denial of LOA request
- Make approval decisions on employee requests for Unpaid LOA that are two months or greater in duration.
- Communicate decision back to employee’s manager or supervisor electronically to communicate to their direct-report employee who submitted the request.

### COMPLIANCE

In the event the employee fails to report to work at the City at the end of the Unpaid LOA period, the employee will be deemed as having abandoned his/her employment and will be terminated without any severance and/or notice entitlement.

Failure to abide by this Policy may disqualify an employee from receiving consideration of their submitted Unpaid LOA request.

### RELATED DOCUMENTS

This Policy references the following related documents:

1) Termination of Employment Policy (Non-Union)
2) Military Leave Policy
3) Bereavement Leave Policy
4) Compassionate Care Leave Policy
5) Accommodation for Time Required for Religious Observation
6) Jury/witness Duty Policy
7) Ontario *Employment Standards Act, 2000*
| HISTORY | This Policy was first written 1999-08-01. The policy was updated and reviewed by the Corporate Policy Review Group and Human Resources Leadership Team 2013-12-11; further updates were made to reflect changing legislation 2014-06-18. This Policy was approved by Senior Management Team 2014-07-17 |