



CITY OF WATAUGA – PERSONNEL, ADMINISTRATION AND FINANCIAL POLICIES AND PROCEDURES MANUAL

POLICY TITLE	Military Leave
INITIAL EFFECTIVE DATE	April 24, 2017
LAST REVISION DATE	Replaces <i>Section 14.6 and 19.8</i> of the Personnel, Administration and Financial Policies and Procedures Manual approved on February 24, 2014.
POLICY NUMBER	8.05

OBJECTIVE This policy is intended to explain the benefits available to eligible employees under the Uniformed Services Employment and Reemployment Rights Act of 1994 and the City of Watauga. It is not intended to create any rights to leave beyond those created by this law. Employees who would like additional information regarding military leave should contact the Human Resources Department.

SCOPE This policy applies to all employees.

POLICY

A. Applicability

The City of Watauga complies with all state and federal laws relating to employees in reserve or active military service and does not discriminate against employees who serve in the military. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period of time are generally ineligible for extended paid military leave in excess of 15 days, reemployment rights, or any other military leave benefits under this policy.

Military leave is paid and unpaid leave for the purpose of allowing employees to fulfill voluntary and involuntary duty and training in the uniformed services under competent authority and includes active duty, active duty training, initial active duty for training, inactive duty training, full-time National and State Guard duty, fitness for duty examinations, and funeral honors duty as provided by the Uniformed Services Employment and Reemployment Rights Act of 1994. Uniformed services means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

B. Reinstatement for Military Veterans

Former full-time or part-time regular employees who leave the City service to enter military service will be reinstated upon completion of military service in compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 and applicable State statutes. Generally, such employees must have completed a term of service of not more than five (5) years, and separation from military service must have been under “honorable conditions”. Veterans must be qualified to perform the duties of the position and apply for reappointment within ninety (90) days of completion of service or release from hospitalization. Reinstatement must be in a position of like status, seniority and pay. If a veteran cannot perform his former job because of a service-incurred disability, then he will be offered a position he can perform, if available, with the nearest possible similarity in status, seniority and pay.

C. Military Training Leave

1. **Eligibility** A regular employee, who is a member of the National Guard or reserves of the United States armed forces shall, upon notification to the Department Director and submission of appropriate documentation, be granted leave for a period required to perform active duty for training. Temporary employees will be given authorized leave without pay for this purpose.
2. **Definition** Active duty for training means to be engaged in short periods of authorized military training such as cruises, training schools, weekly or weekend drills, and other similar activities.
3. **Length of Leave** In accordance with § 431.005, Texas Government Code, a regular employee engaged in authorized military training or duties will receive pay and accrue benefits as if the employee were on the job, for up to fifteen (15) workdays (three calendar weeks) in any one (1) year.
4. **Leave in excess of fifteen (15) days** An employee eligible for military leave who is ordered or authorized to participate in training or other duty for more than fifteen (15) work days in one (1) calendar year will be placed on leave without pay for any time in excess of fifteen (15) work days. The employee may elect to use accumulated vacation, holiday, and compensatory time leave balances for those days in excess of fifteen (15) work days. If the employee elects to use these leave balances, the leave may be taken in amounts consistent with the employee's regular work schedule with the City, or in amounts less than the employee's regular work schedule with the City. Other types of paid leave shall not be used for this purpose. For example, if the employee was regularly scheduled to work forty (40) hours per week for the City, the leave may be used at a rate of up to forty (40) hours per week or less. Section D. 4, 6 and 7 shall also apply in the instance an employee elects to utilize the authorized accumulated leave balances for days in excess of fifteen (15) workdays. Upon reemployment, Section D. 2 shall apply.

5. **Notice to Department Director** An employee shall give notice to his supervisor within seventy-two (72) hours of receiving written or verbal military orders regarding dates for military training leave. Annual or quarterly training schedules should be given to the Department Director as the schedules become available to the employee.
6. **Rescheduled Work Days** An employee who participates in weekend military training that occurs on a scheduled workday may reschedule a workday rather than have the absence charged to military leave, if the employee reschedules the workday within the same workweek and approved by the Department Director.

D. Military Active Duty Leave

1. **Eligibility** A regular employee, who leaves a position with the City for the purpose of entering any branch of the United States armed forces for extended active duty, shall be placed in military active duty status and granted a leave of absence. The employee should give the Department Director advance notice of the employee's intent and, for reemployment purposes, submit a copy of the orders for inclusion in the employee's personnel record.
2. **Length of Active Duty** In accordance with § 4312, Title 38, United States Code, an employee may serve a total of five (5) years on active duty in the armed forces, (six (6) years for Navy Nuclear Program) and still be eligible for reemployment. An employee's right to reemployment is not protected for periods of military active duty longer than five (5) years (six (6) years for Navy Nuclear Program), except where service extends beyond five (5) years due to military orders requiring that the individual is retained on active duty.
3. **Re-employment** A full-time employee who returns from active duty in the United States armed forces is entitled to reemployment in the same position held upon entrance to active duty, or in a position of comparable status and pay, if the employee:
 - a. is physically and mentally qualified to perform the duties of the position;
 - b. was discharged, separated, or released from military active duty under honorable or general conditions;
 - c. has not been on military active duty leave for more than five (5) years (six (6) years for Navy Nuclear Program); and
 - d. makes a written application for reappointment after discharge, separation, or release from military active duty and presents evidence of the discharge, separation, or release from military active duty, according to the following time lines defined by the Uniformed Services Employment Reemployment Rights Act (USERRA) 38 U.S.C. §§ 4301 through 4333:
 - i. Less than 31 days Active Duty: The employee must report to work at the next regular scheduled work period after a reasonable time to return home safely and an 8-hour rest period.
 - ii. More than 30 but less than 181 days Active Duty: The employee must submit a written application within fourteen (14) days of release of

service.

- iii. More than 180 days Active Duty: The employee must submit a written application within ninety (90) days of release of service.

These deadlines may be extended for two (2) years or more when an employee suffers service-related injuries that prevent them from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.

4. **Credit for Military Service** Accrual of benefits while on active duty shall not be allowed. However, a regular employee with the City upon reemployment from military active duty will be allowed full credit for time spent in the military service for the purpose of computing seniority, vacation and sick leave, and service longevity from the date of reemployment forward.
5. **Paid Leave Use** The employee may elect to use any accrued paid military training leave, and/or accumulated vacation, holiday and compensatory time leave balances. If the employee elects to use these leave balances, the leave may be taken in amounts consistent with the employee's regular work schedule with the City, or in amounts less than the employee's regular work schedule with the City. Other types of paid leave accrued shall not be used for this purpose. For example, if the employee was regularly scheduled to work forty (40) hours per week for the City, the leave may be used at a rate of up to forty (40) hours per week or less.

Benefits, such as vacation, holiday and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave. While on unpaid military leave, benefit accruals will be suspended and will resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, they will be treated as though they were continuously employed for purposes of determining benefits based on length of service, such as vacation accrual and longevity pay.

6. **Insurance Benefits** An employee who is out on a military leave of absence will retain their health insurance coverage for the first 31 days of uniformed service. Employees out on military leaves of absence which extend beyond the 31 days, will be eligible for COBRA benefits for up to 24 months. **See Policy 2.03 Consolidated Omnibus Budget Reconciliation Act COBRA.**

Upon an employee's return to employment following military service, the City will provide health insurance coverage immediately, even if a waiting period is normally required for new or returning employees.

7. **T.M.R.S. Benefit** If the employee elects to use other accrued paid leave consistent with the employee's regular work schedule or paid leave less than the regular work schedule, the employee's portion will continue to be deducted at the regular percentage rate and the City will continue to match that portion as required. In cases where paid leave is less than the regular work schedule is used and in cases where leave without pay are used,

the employee may, upon reemployment apply for credit as if they had never left and with no loss of any accrued benefits. The employee will receive service credits for the months while on active duty when discharged under honorable conditions and an application along with a copy of the DD214 is received by T.M.R.S. To obtain monetary credit the employee has up to five (5) years to deposit with T.M.R.S. the amount of money that would have been deducted had the employee never left to serve in the military.

- E. **Title 38, United States Code, Chapter 43, Uniformed Services Employment Reemployment Rights Act** USERRA supersedes any State law (including any local law or ordinance) contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided, including the establishment of additional prerequisites to the exercise of any right or the receipt of any such benefit.
- F. **Local Government Code Chapter 143** Chapter 143 of the Local Government Code Section 143.072 governs Military Leave as it relates to Police Officers and Firefighters. Military Leave Time Accounts shall be maintained separate for each department and will be administered according to Section 143.075 of Chapter 143 of the Local Government Code.

G. General Military Leave Time Account

This policy applies to all eligible full-time, part-time and probationary employees, whether the employees are civil service or non-civil service employees. This policy does not apply to temporary employees.

All employees may donate leave on a voluntary basis to the General Military Leave Time Account to be utilized by eligible civil service and non-civil service employees who have been called to active federal military duty.

Military leave donations made to the General Military Leave Time Accounts shall not be transferred to the Fire Department Military Leave Time Account or Police Department Military Leave Time Account.

1. Eligibility to Receive Donated Time

To be eligible to use military leave time donations, a civil service or non-civil service employee must meet the following criteria:

- a. Is a regular full-time, part-time or probationary employee;
- b. Is not a temporary employee;
- c. Is a member of the Texas National Guard or the Armed Forces Reserves of the United States;
- d. Has been called to active federal military duty while serving as an employee of the City of Watauga;
- e. Has exhausted all vacation leave, holiday leave, military leave and compensatory time; and
- f. Is not currently receiving leave from the Fire Department Military Leave Time Account or Police Department Military Leave Time Account.

2. Guidelines and Procedures

- a. Employees may donate vacation leave, holiday leave, sick leave or compensatory leave time in increments of not less than one (1) hour to the General Military Leave Time Account by submitting a "Military Leave Donation Form" to Human Resources. **See Appendix I**
- b. Leave time (vacation, holiday, sick or compensatory leave) donated to the General Military Leave Time Account will not, under any circumstances, be returned to the donating employee.
- c. Non-civil service employees may not donate military leave to the Fire Department Military Leave Time Account or the Police Department Military Leave Time Account.
- d. An eligible non-civil service employee may use donated military leave from the General Military Leave Time Account if the employee has exhausted all of the employee's vacation leave, holiday leave, military leave and compensatory time.
- e. An eligible civil service employee may use donated military leave from the General Military Leave Time Account if the employee has exhausted all of the employee's vacation leave, holiday leave, military leave and compensatory time, and the employee is not receiving donated military leave from the Fire Department Military Leave Time Account or Police Department Military Leave Time Account.
- f. To use donated military leave from the General Military Leave Time Account, an employee must submit a "Request to Use Hours from the Military Leave Time Account Form" to Human Resources. **See Appendix II**
- g. Hours will be used in increments of not less than one (1) hour.
- h. Distribution of accumulated military leave donations will be divided at the end of each pay period to employees who have been granted authorization to receive military leave donations from the General Military Leave Time Account.
- i. Donations and disbursements are made on an hourly basis regardless of the cash value of the time donated or used.
- j. Donations and disbursements will be divided equally among all eligible employees, except that no employee shall receive military leave donations from the General Military Leave Time Account that exceed the number of regular hours the employee worked during their normal work schedule each pay period before being called to active federal military duty.
- k. The Human Resources Department is responsible for receiving requests for donations of hours, maintaining account balances and ensuring distribution of paid hours is in compliance with this policy.

H. Fire Department and Police Department Military Leave Time Accounts for Civil Service Employees

In accordance Section 143.075 of the Local Government Code, this policy establishes Military Leave Time Accounts for civil service employees. The City shall maintain two separate civil service military leave time accounts: (1) the Fire Department Military Leave Time Account for eligible civil service Fire Department employees; and (2) The Police Department Military Leave Time Account for eligible civil service Police Department employees.

Eligible civil service Fire Department employees may donate vacation leave, holiday leave, sick leave or compensatory leave time to the Fire Department Military Leave Time Account and/or to the City's General Military Leave Time Account. Eligible civil service Fire Department employees may use military leave from the Fire Department Military Leave Time Account or from the City's General Military Leave Time Account. A civil service Fire Department employee is not authorized to use military leave from both the Fire Department Military Leave Time Account and the City's General Military Leave Time Account at the same time.

Eligible civil service Police Department employees may donate vacation leave, holiday leave, sick leave or compensatory leave time to the Police Department Military Leave Time Account and/or to the City's General Military Leave Time Account. Eligible civil service Police Department employees may use military leave from the Police Department Military Leave Time Account or from the City's General Military Leave Time Account. A civil service Police Department employee is not authorized to use military leave from both the Police Department Military Leave Time Account and the City's General Military Leave Time Account at the same time.

Leave time donated to the Fire Department Military Leave Time Account shall not be transferred to the Police Department Military Leave Time Account or the City's General Military Leave Time Account. Leave time donated to the Police Department Military Leave Time Account shall not be transferred to the Fire Department Military Leave Time Account or the City's General Military Leave Time Account.

1. Eligibility

To be eligible to use leave hours from the military leave time account, a firefighter or police officer must meet the following criteria:

- a. Must be a member of the Texas National Guard or the Armed Forces Reserves of the United States;
- b. Has been called to active federal military duty while serving as a firefighter or police officer for the City of Watauga; and
- c. Has served on active duty for a period of three (3) continuous months or longer.

2. Guidelines and Procedures

- a. Civil service employees may donate vacation leave, holiday leave, sick leave or compensatory leave time in increments of not less than one (1) hour to their department's

Military Leave Time Account by submitting a "Military Leave Donation Form" to Human Resources. [See Appendix I](#)

- b. Leave time (vacation, holiday, sick or compensatory leave) donated to any Military Leave Time Account will not, under any circumstances, be returned to the donating employee.
- c. Civil service employees may use donated military leave from their department's Military Leave Time Account only after the employee has been on continuous active military duty for three (3) continuous months or longer.
- d. To use donated military leave from their department's Military Leave Time Account, an eligible civil service employee must submit a "Request to Use Hours from the Military Leave Time Account Form" to Human Resources. [See Appendix II](#)
- e. Hours will be used in increments of not less than one (1) hour.
- f. Distribution of accumulated military leave donations will be divided at the end of each pay period to eligible civil service employees who have been granted authorization to receive military leave donations from their department's Military Leave Time Account.
- g. Donations and disbursements are made on an hourly basis regardless of the cash value of the time donated or used.
- h. Donations and disbursements from the Fire Department Military Leave Time Account shall be divided equally among all eligible civil service Fire Department employees, except that no employee shall receive military leave donations from the Fire Department Military Leave Time Account that exceed the number of regular hours the employee worked during their normal work schedule each pay period before being called to active federal military duty.
- i. Donations and disbursements from the Police Department Military Leave Time Account shall be divided equally among all eligible civil service Police Department employees, except that no employee shall receive military leave donations from the Police Department Military Leave Time Account that exceed the number of regular hours the employee worked during their normal work schedule each pay period before being called to active federal military duty.
- j. The Human Resources Department is responsible for receiving requests for donations of hours, maintaining account balances and ensuring distribution of paid hours is in compliance with this policy.



Military Leave Donation Form

I, _____ Department _____

Name (Please print)

Hereby voluntarily authorize the transfer of:

_____ hours of my accumulated vacation leave time

_____ hours of my accumulated holiday leave time

_____ hours of my accumulated sick leave time

_____ hours of my accumulated compensatory time

(select one) to the:

_____ Police Department Military Leave Time Account

_____ Fire Department Military Leave Account

_____ General Military Leave Time Account

I understand and agree that I release all my rights to any monetary compensation or time off for hours transferred. I have not been coerced, threatened, harassed, or compensated for authorizing the transfer and release of accumulated leave time hours. I understand that no leave time transferred in this manner shall be paid to me upon termination of my employment.

Employee Signature

Date

Approved by:

Human Resources Director

Date



Request to Use Hours from the Military Leave Time Accounts

I, _____ Department _____
Name (Please print)

Select One:

GENERAL MILITARY TIME LEAVE ACCOUNT

_____ I am a Civil Service Employee; _____ Non-Civil Service Employee. I am requesting to use donated military leave from the General Military Leave Time Account. I meet all of the following criteria:

1. I am member of the Texas National Guard or the Armed Forces Reserves of the United States;
2. I was called to active federal military duty while serving as a non-civil service employee of the City of Watauga;
3. I have exhausted all vacation leave, holiday leave, military leave and compensatory time; and
4. If I am a civil service employee, I am not currently receiving donated military leave from the Fire Department or Police Department Military Leave Time Accounts.

CIVIL SERVICE MILITARY LEAVE TIME ACCOUNTS

_____ I am a Civil-Service Employee employed by the:

_____ Fire Department _____ Police Department

I am requesting to use donated military leave time from the:

_____ Fire Department Military Leave Time Account

_____ Police Department Military Leave Time Account

I certify that I meet the following criteria:

1. I am a member of the Texas National Guard or the Armed Forces Reserves of the United States;
2. I was called to active federal military duty while serving as a firefighter or police officer for the City of Watauga; and
3. I will serve on active duty for a period of three (3) continuous months or longer.
4. I understand that I am not eligible to receive leave hours from the Civil Service Military Leave Time Account until after I have served on active federal military duty for a period of three (3) continuous months.
5. I understand that I may not receive donated military leave from the City's General Military Leave Time Account at the same time that I am receiving donated military leave from the Fire Department or Police Department Military Leave Time Accounts.

Employee Signature

Date

Approved by:

Human Resources Director

Date