

MTHONJANENI MUNICIPALITY



LEAVE POLICY

1. BACKGROUND

The Municipality recognizes a need to have its own Leave Policy which directs the employees as to how should they apply for leave and when can it be granted or declined. This policy has to be in line with the Conditions of Services and also the Basic Conditions of Employment. Employees need to have a rest from their daily tasks or when they are not feeling well or when they have to do their own personal things outside work.

2. PURPOSE OF THIS POLICY

- 2.1 To ensure that leave is taken by all the employees accordingly.
- 2.2 To eliminate potential or suspected abuse of leave by ensuring that before leave is taken proper procedures have been followed.
- 2.3 To ensure that employees apply for leave on the prescribed form.
- 2.4 To ensure that all leave applications are approved by Heads of Departments.
- 2.5 The onus is on the employee to ensure that he/ she has sufficient leave available.

3. LEGAL FRAMEWORK AND REQUIREMENTS

- 3.1 This policy is premised from the relevant provisions of the Basic Conditions of Employment Act(75 of 1997);
- 3.2 It also derives its legitimacy from the Municipal Structures Act (117 of 1998), the MunicipalSystems Act (32 of 2000);
- 3.3 This policy will be implemented in terms of the objects of other relevant sister policies within the Municipality.
- 3.4 This policy is implemented in furtherance of the spirit of the Labour Relations Act (66 of 1995).

4. APPLICATION OF THIS POLICY

- 4.1 This Policy shall apply to all Contract and Permanent Municipal employees.
- 4.2 This policy may be extended to the trainees attached to the Municipality.

5. CLASSIFICATION OF LEAVE

5.1 Leave of absence from duty on working days shall be classified as follows:

- a) Annual Leave
- b) Special Leave
- c) Sick Leave

- d) Maternity Leave
- e) Family responsibility Leave
- f) Study Leave
- g) Injury on duty Leave
- h) Time-off

6. APPLICATION AND APPROVAL OF LEAVE

- 6.1 All applications for leave shall be in writing on the forms supplied by the Municipality.
- 6.2 Annual leave application must be submitted to an immediate superior / designee at least 21 calendar days before commencement of leave, this rule may be waived in the case of annual leave of an occasional nature not exceeding 3 days, or in case of emergency, a shorter notice will be acceptable.
- 6.3 Under normal circumstances no employee shall commence any leave other than IOD / sick leave prior to approval of leave request by the Head of Department, however if extraordinary circumstances occur, a leave applied for after coming back from that occasion of absence of leave shall not be unreasonably declined by the Municipality.
- 6.4 A medical certificate from a registered medical practitioner must be submitted together with the sick leave application.
- 6.5 Change of address shall be communicated in advance.
- 6.6 All applications shall be lodged with the immediate supervisor.
- 6.7 The Municipal Manager may approve an application for leave of absence by a person directly accountable to him / her.
- 6.8 Leave of absence for the Municipal Manager shall be granted by the Mayor or Deputy Mayor in the absence or non-availability of the Mayor.
- 6.9 The Heads of Departments shall approve all types of leave with the exception of special leave for employees directly reporting to them.
- 6.10 The immediate supervisors of employees shall be required to recommend employee's leave applications for approval.
- 6.11 Leave of absence, with the exception of sick leave, maternity leave or IOD leave, is subject to the Municipality's operational requirements and is only valid after having been approved.

- 6.12 Operational requirements of the municipality shall not be used as a basis for unfairly denying leave to employees especially when there are predetermined arrangements.

7. LEAVE RECORD AND CANCELLATION

7.1 Leave Records

- 7.1.1 Any leave of absence due, granted and taken shall be recorded in a leave register entrusted to the Human Resources Department, and an employee shall have access to his / her leave record at all reasonable times during office hours.
- 7.1.2 The superiors of the employee shall have access to inspect the records of the employees under their control.
- 7.1.3 All leave days shall be reconciled on quarterly basis.

7.2 Cancellation of Leave

- 7.2.1 Leave of absence granted to an employee, with the exception of sick leave, maternity leave, IOD leave may be cancelled, postponed or interrupted at any time by the Head of Department concerned, should this be deemed necessary in the interests of the Municipality, and as such an employee shall be compensated by the Municipality for irrecoverable expenses or obligations entered into by him / her before he / she was notified of the postponement, cancellation or interruption.
- 7.2.2 Proof of any such irrecoverable expenses referred to in clause 6.2.1 shall be upon onus of the employee.
- 7.2.3 An employee who is recalled while on leave, shall be entitled to take the non-expired portion of his leave at a later date, as may be arranged.
- 7.2.4 If an employee, whose leave of absence is interrupted, has to travel in order to resume his duties, any reasonable expenses, with due consideration of the circumstances, for the journey there and back, shall be paid and he / she shall be deemed to be on duty during any time spent travelling.
- 7.2.5 Any cancellation or postponement of leave shall be notified to the employee in writing.
- 7.2.6 Notwithstanding any compelling circumstances, the municipality may not postpone any leave due to any employee for an indefinite period.
- 7.2.7 Any leave or portion of leave granted to an employee may be cancelled at his/ her request at any time before he proceeds on leave, or the period for such leave as if it was not taken and he / she shall be credited in the leave register with any leave not taken.

8. LEAVE CREDIT IN THE EVENT OF AN EMPLOYEE'S TERMINATION OF SERVICE

- 8.1 Should services of the employee be terminated after leave has been granted to him/ her, any unused leave shall be placed to his / her credit.
- 8.2 Approved annual leave falling within the period of serving a notice of termination shall become null and void with immediate effect.
- 8.3 Annual Leave other than sick leave cannot be taken during the notice period for termination of service

9. RESUMPTION OF SERVICE FROM ANNUAL LEAVE

- 9.1 After resumption of service, an employee will be expected to work for the duration of the annual leave cycle however annual leave of occasional nature may be taken from time to time as and when necessary.

10. LEAVE GRANTED IN ERROR

- 10.1 If more leave than that which is due to the employee has been granted to him in error, but in good faith, and taken by him, such leave granted in excess shall be deducted from any leave due to him at a later date.
- 10.2 If such employee for any reason whatsoever, should leave the service of the Municipality before having the necessary leave to his credit to make such deduction possible, the value of such leave taken in excess shall be deducted from any salary or moneys due to him / her.

11. TERMINATION OF SERVICES

When the services of an employee have been terminated for whatsoever reason, a transaction by transaction audit of the annual leave shall be done for the purpose of verifying the accuracy and correctness of the balance of annual leave.

12. PERIODICAL LEAVE AUDIT

- 12.1 Leave shall be audited by the municipality on a periodical basis in order to verify accuracy and correctness of leave records.
- 12.2 Should errors be found they will be rectified and affected employees will be informed accordingly.

13. LEAVE ENTITLEMENTS

- 13.1 Leave entitlements shall be governed by the Conditions of Service and in case where a particular type of leave is not covered by the Conditions of Service, this policy will be of effect.
- 13.2 Anything mentioned in this policy is auxiliary to the Conditions of Service and where there is contradiction, the Conditions of Service shall prevail over this policy.

14. TAKING OF ANNUAL LEAVE

14.1 Annual Leave

- 14.1.1 An employee is by law entitled to 24 working days leave after every annual leave cycle or to the number of annual leave days stipulated in his /her contract of employment. The leave cycle of the Municipality shall be from January to December.
- 14.1.2 The Municipality must grant to an employee at least **16** consecutive working days annual leave within a leave cycle.
- 14.1.3 The Municipality may not permit or require an employee to take annual leave during:
- (a) Any other period of leave to which the employee is entitled; or
 - (b) Any period of notice of termination of employment
- 14.1.4 Application for annual leave must be submitted in line with the provisions of this policy.
- 14.1.5 Conversion of annual leave into sick leave shall be permitted in the event that the employee fell sick during the course of the annual leave subject to production of a medical certificate covering all claimed sick leave days.
- 14.1.6 The Human Resources Division shall issue reminders to employees about taking of annual leave immediately after the end of the leave cycle.

14.2 Compulsory Leave

- 14.2.1 An employee is obliged to take his/ her compulsory leave every year and this is designed to ensure that employees do receive a rest period away from their daily tasks.
- 14.2.2 In accordance with clause 3.1.2 of Part B of the Collective Agreement, an employee is required to take leave within each leave cycle as follows:
- 14.4.3 A 5-day worker shall take a minimum of 16 days leave;

14.4.4 A 6-day worker shall take a minimum of 19 days leave.

14.4.5 An employee is entitled to retain a maximum of 48 days of accrued leave.

15. ABSENCE AS A RESULT OF SICKNESS OR INJURY WHILE ON DUTY

15.1 All employees shall be entitled to sick leave of not more than 80 working days in a 3 year cycle as per the Conditions of Service.

15.2 Should the employee's health condition fail to improve after absents himself / herself for a period of two consecutive days on grounds of illness without medical certificate, such employee will be required to produce a medical certificate as from the first day immediately following the two consecutive days of the medical certificate -free period.

15.3 An employee who has been granted a maximum available period of sick leave and who when this has expired, is still not fit to perform his duties properly by reason of poor health, may be granted a further period of sick leave with or without pay or half pay at the discretion of the municipality and on the production of satisfactory medical evidence that further leave is required, provided that whatever vacation leave due has been used up.

15.4 An employee granted sick leave on half pay or without pay in terms of this policy may elect to apply for medical boarding.

15.5 If, during his vacation leave, an employee develops indisposition or contracts a disease not due to his willfulness or negligence, and produces a certificate from a registered medical practitioner stating that the nature of the disease or complaint was such as to make it essential for the employee not to attend work in order to recover, the number of working days of such period of the annual leave for which the employee was thus required to recover, shall be converted into sick leave, and his annual leave shall be credited with a number of days referred to.

15.6 An application for sick leave of more than two consecutive working days shall be supported by a medical certificate.

15.7 The municipality may at any time, cause an employee thus applying for sick leave to be examined by the registered practitioner appointed by the municipality.

15.8 The Head of Department or the Municipal Manager shall not require a medical certificate to be produced in support of an application for sick leave for a period of two consecutive working days or less.

- 15.9 The sick leave policy provided for herein are intended to cover only the period during which an employee is prevented from performing his / her duties because he /she is confined to his / her residence, hospital, nursing institution, sanatorium or other similar place, by reason of a disease and incases of serious complaints and for such reasonable period thereafter as his/ her medical advisors may deem necessary for him to recover in order to resume his duties.
- 15.10 Sick leave shall not be granted to employees who, in the opinion of the Council's appointed registered medical practitioner, suffer from any minor disease or complaint which should not in the ordinary course of events, prevent an employee from performing his/her duties.
- 15.11 Sick leave shall be granted only in respect of a complaint, disease or injury not caused by unhealthy or immoral ways of living, participation in sport for monetary reward and for money prizes or resulting from the employee's own serious or willful misconduct.
- 15.12 Notwithstanding anything to the contrary herein, no sick leave amounting to more than half a day shall be granted to an employee and any absence of an employee for the duration of less than half a day shall not be recorded as sick leave.
- 15.13 Should an employee be found guilty of abuse of sick leave in a departmental or disciplinary enquiry, a penalty of unpaid sick leave for the period of absence concerned or any other sanction may be imposed on the employee in question.
- 15.14 If an employee is absent from duty as a result of illness for a continuous period of more than 6 months and the full recovery of the employee is questionable according to the medical reports, the Human Resources Department may arrange either for the appointment of a Medical Council in accordance with the statute of the Pension Fund / Provident Fund with a view to consider retirement owing to lasting medical disability of the employee concerned, or that sick leave be granted for at most two further periods of not more than three months each, following which a Medical Council shall be appointed on condition that, if the physician is of the opinion at an early stage that the employee is going to remain medically unfit permanently, the matter shall be referred (without delay) to the relevant Pension /Provident Fund.
- 15.15 Taking of sick leave in lieu of unpaid maternity leave shall be permissible on condition that a medical certificate is issued by a registered medical practitioner for a specified number of days.
- 15.16 When an employee is treated via the EAP the first 14 (fourteen) days absent from work will not be taken from his/her sick leave
- 15.17 If an employee relapses all costs for treatment and time-off will be at his/her own expense

16. SPECIAL LEAVE

Special leave will be granted:-

- 16.1 When subpoenaed to appear as a witness in Court, for the period he/she is required to be present in Court and a minimum period it takes to travel to and from Court;
- 16.2 For purposes of isolation on the instruction of a doctor in cases where a member of his family has contracted an infectious disease, or where such employee has been in close contact with any person who has contracted an infectious or contagious disease, or if it is suspected that he/she suffers from such disease;
- 16.3 Where he/she is unable to perform his/her duties as a result of an accident to which the provisions of the Compensation for Occupational Injuries and Diseases Act of 1993 (Act 130 of 1993), or any amendment thereof are applicable, or which is covered by the Council's Insurance Regulation in respect of employees not being workers within the meaning of the Act (notwithstanding anything contained in the latter's contract of service with the Council), for the period during which he is unable to perform his/her duties : Provided that any workmen's compensation accruing to such employee shall be paid to the Council.
- 16.4 Under Exceptional circumstances for any purposes not provided for in this policy and for such period and on such conditions as the municipality may prescribe from time to time.
- 16.5 Any Special leave shall not exceed 10 working days in an annual leave cycle and the limitations excludes contents of clauses number 15.1, 15.2 and 15.3 above.
- 16.6 Application for special leave shall be bona fide and must be approved by the Municipal Manager and shall not be unreasonably refused.
- 16.7 exigencies of the service must be taken into consideration and supporting documents where required must be provided with the application for a special leave

17. EXAMINATION AND STUDY LEAVE

- 17.1 Applications for special leave for examinations must be accompanied by written notification by the institution concerned of the specific day on which the examination shall be written.

- 17.2 Special leave shall be granted as follows: one (1) working day per examination paper in order to prepare for examinations and 1 working day per examination paper on the date of examination, provided the field of study is related to activities of the municipality.
- 17.3 After the examination, applicants must submit written proof of the results of the examination that has been written.
- 17.4 If an applicant fails to do so, the days concerned will be debited against the applicant's own annual leave or be converted into leave without pay where no vocational leave is available.
- 17.5 Employees shall be granted special study leave for attendance of tutorials or block classes as prescribed by the academic institution on a 50:50 basis that is a special study leave day for one annual leave day taken for attendance of tutorials or block classes in each academic year subject to submission of a written official notification from the academic institution concerned.
- 17.6 Other matters pertaining to the study arrangements for employees are dealt with in the employee Training and Skills Development Policy of the municipality.

18. MATERNITY LEAVE

- 18.1 In terms of the provisions of the Basic Conditions of Employment Act, (Act 75 of 1997) and Conditions of Services an employee is entitled to at least three (3) consecutive months' maternity leave with pay and the fourth (4th) month without Pay but can claim UIF.
- 18.2 An employee is to submit the Expected Date of Delivery Medical Certificate to the Employer at least four months prior to the commencement of maternity leave
- 18.3 An employee may commence maternity leave:
- 18.3.1 at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- 18.3.2 on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- 18.4 No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- 18.5 An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

- 18.6 An employee must notify an employer in writing, unless the employee is unable to do so, on the date on which the employee intends to:-
- 18.6.1 commence maternity leave; and
 - 18.6.2 return to work after maternity leave.
- 18.7 Notification in terms of subsection 17.5 must be given –
- 18.7.1 at least four weeks before the employee intends to commence maternity leave; or
 - 18.7.2 if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- 18.8 Ante- and Post Natal Care
- 18.8.1 All pregnant female employees may, within the first 7 months of pregnancy be granted 1 day every 4 weeks, without loss of salary, to attend a clinic or visit a doctor.
 - 18.8.2 During the last 2 months of pregnancy she may visit a clinic or doctor twice every 4 weeks without loss of salary on a pre arranged sick leave.
 - 18.8.3 Where clinics attended are on the premises or within the vicinity of the municipal premises, the employee must return to work immediately after being attended to at the Clinic.
- 18.9 An employee to whom maternity leave with remuneration has been granted for maternity purposes and who leaves the municipality within 12 months from the date of expiry of such leave shall be responsible for the reimbursement of all salary payments made by the municipality during such leave.
- 18.10 The Municipality will pay Financial Managements Intern 50% of their remuneration during her maternity leave.
- 18.11 Financial Management Interns must claim the rest of her remuneration in terms of the Unemployment Insurance Act (Act No. 63 of 2001).
- 18.12 In the event of an employee who has been in the service of the municipality for a period of less than 12 months, on the date of commencement of maternity leave, such employee shall be responsible for the payment of all employee benefits, contributions, with the exclusion of the municipality's contributions.

19. PATERNITY LEAVE

- 19.1 There shall be no paternity leave provided by the municipality to any person.
- 19.2 Paternity leave related to responsibilities will be taken care of under the provisions of the family responsibility leave.

20. FAMILY RESPONSIBILITY LEAVE

- 20.1 This section applies to:
- 20.1.1 an employee who has been in employment with the municipality for longer than four months; and
 - 20.1.2 an employee who works for at least four days a week for the Municipality.
- 20.2 An employer must grant an employee, during each annual leave cycle, at the request of the employee, five days' paid leave, which the employee is entitled to take in terms of the conditions of services –
- 20.2.1 when the employee's child is born;
 - 20.2.2 when the employee's child is sick; or
 - 20.2.3 in the event of the death of :
 - (i) the employee's spouse of life partner; or
 - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- 20.3 Subject to subsection (19.5), an employer must pay an employee for a day's family responsibility leave:-
- 20.3.1 the wage the employee would ordinarily have received for work on that day; and
 - 20.3.2 on the employee's usual pay day.
- 20.4 An employee may take family responsibility leave in respect of the whole or a part of a day.
- 20.5 Before paying an employee for leave in terms of this section, the Municipality reserves a right to require reasonable proof of an event contemplated in subsection (19.2) for which the leave was required.
- 20.6 An employee's unused entitlement to leave in terms of this section lapses at the end of the annual leave cycle in which it accrues.

20.7 A collective agreement may vary the number of days and the circumstances under which leave is to be granted in terms of this section.

21. LEAVE WITHOUT PAY

21.1 In the following circumstances an employee will be subjected to leave without pay:

21.1.1 If he/she /family member fails to inform his Supervisor of his absence within two hours of the employee's clocking time

21.1.2 Disappears from his workstation for more than two hours without notifying the Supervisors

21.1.3 Failure to report for duty subject to confirmation with the immediate Superior

21.1.4 Unauthorized leave

21.1.5 Incarceration

21.1.6 Alleged Intoxication on duty which will lead to the employee being turned away from work

21.2 Leave pay will be calculated in terms of the provisions of section 21 and 35 of the Basic Conditions of Employment Act, 75 of 1997 as illustrated in clause 20.3below.

21.3 If the annual leave of an employee has been used in full, the municipality may ,at its discretion, grant leave without pay to such employee, provided that no period of leave without pay shall affect the period of service of the employee.

21.4 The amount to be deducted from the salary of an employee taking leave without pay, shall be calculated on the following basis:

Annual salary divided by twelve (months)

Answer divided by 4.33 (weeks)

Answer divided by 5 (days)

Answer equals to daily rate

21.5 The leave without pay must be recorded in the unpaid leave register.

21.6 The employer's contributions to the Retirement / Pension Fund and Medical Aid Scheme will be maintained provided that the employee will pay over his or her contribution to Financial Services on or before the last working day of the month.

22. LONG SERVICE LEAVE

An employee shall qualify once for the following long service leave at the completion of the following period from 1 July 2011:

YEARS SERVICE	LONG SERVICE LEAVE BONUS
10 Years	10 days
15 Years	20 days
25 Years	30 days
30 years	30 days
35 years	30 days
40 years	30 days
45 years	30 days

The encashment or the taking of the leave must take place in the same year that employee qualifies for the long service leave subject to operational requirements where the employee elects to take leave.

An employee with 10 or more years' service with the Municipality and who reaches pensionable age, who is medically boarded or retrenched will be paid a pro rate long service bonus for any uncompleted period stipulated above.

Employees may elect to convert a once-off leave bonus to cash or utilize it for vacation purposes

22. CALCULATION OF LEAVE

22.1 In order to calculate any leave and the value of the annual leave in terms of this leave provision it shall be accepted that all employees work a five day week.

22.2 Any leave is calculated to include the first workday of leave and to exclude the workday on which duty is resumed.

- 22.3 An employee who commences employment before or on the 15th day of the month shall accrue a full month's allocation, should he /she leave the employ of the municipality before the end of a 12-month period.
- 22.4 An employee who commences employment before the 15th day of the month shall not accrue any monthly annual leave allocation should she /he leave the service of the municipality before the end of a 12-month period.
- 22.5 Annual leave shall be paid for in terms of the requirements of Section 35 (5) of the Basic Conditions of Employment Act, No 75 of 1997 and any applicable Collective Agreement.

23. MANDATORY TIME OFF CONCESSIONS

- 23.1 Depending on operational requirements, employees may be allowed time off from 12h00 on the last working day preceding Christmas Day and New Year's Day and Easter Holidays, however, a skeleton staff component has to remain on duty to provide essential services on these days, with the *proviso* that they will be granted time-off at a later date by arrangement with their Supervisor.
- 23.2 Employees may also be allowed time-off in other deserving cases at the discretion of the municipality.
- 23.3 Informal written concessions may be granted in lieu of time worked in except, by agreement between the employee and the Supervisor.
- 23.4 The time-off rendered in Clause 22.1, 22.2 and 22.3 will not be debited against the employee's leave balance and time-off.
- 23.5 Employees' who are in any form of leave including unpaid leave during the granting of time-off to employees in general shall not claim compensatory time-off as a result of granting of general time-off.

24. TIME-OFF

- 24.1 Employees who qualify for monetary compensation for overtime worked and those who only qualify for grating time-off for overtime worked will be granted time-off upon submission of a valid overtime claim.
- 24.2 The time-off granted shall be credited to the employee's time-off balance which shall be kept int he Human Resource Division.
- 24.3 Time-off granted shall lapse after the period of 12 months after approval in respect of employees falling within post level 5 and below and after 18 months for employees falling within post level 4 and above.

- 24.5 Time off granted shall not be encashable or exchanged for cash except on termination of service provided it falls within a period of twelve months reckoned from the date of approval.
- 24.6 Time-off granted may be taken even whilst the employee is serving a notice of termination of services with the municipality provided that this is not taken within the last 5 working days of employment.
- 24.7 Time-off not taken shall lapse at the end of employment contract or at the termination of employment relationship.

25. COMMENCEMENT OF THIS POLICY

- 25.1 This policy will come into effect on the date of adoption by the Council.

26. INTERPRETATION OF THIS POLICY

- 26.1 All words contained in this policy shall have an ordinary meaning attached thereto, unless the definition or context indicates otherwise.
- 26.2 Any dispute on interpretation of this policy shall be declared in writing by any party concerned.
- 26.3 The Office of the Municipal Manager shall give a final interpretation of this policy in case of a written dispute.
- 26.4 If the party concerned is not satisfied with the interpretation, a dispute may then be pursued with the South African Local Government Bargaining Council or Arbitration

27. PERMANENT/TEMPORARY WAIVER OR SUSPENSION OF THIS POLICY

- 27.1 This policy may be partly or wholly waived or suspended by the Municipal Council on a temporary or permanent basis after consultation with Management and Trade Unions.
- 27.2 Notwithstanding clause No. 26.1 the Municipal Manager may under circumstances of emergency temporarily waive or suspend this policy subject to reporting of such waiver or suspension to Council and Trade Unions.

28. AMENDMENT AND/OR ABOLITION OF THIS POLICY

- 28.1 This policy may be amended or repealed by the Council after consultation with Management and Trade Unions

29. COMPLIANCE AND ENFORCEMENT

- 29.1 Violation of or non-compliance with this policy will give a just cause for disciplinary steps to be taken.
- 29.2 It will be the responsibility of all Managers, Supervisors, Executive Committee and Council to enforce compliance with this policy.

Policy reviewed by	:	Corporate Services Directorate
Presented to LLF	:	
Presented to CSPC	:	
Presented to ExCo	:	
Council adoption	:	