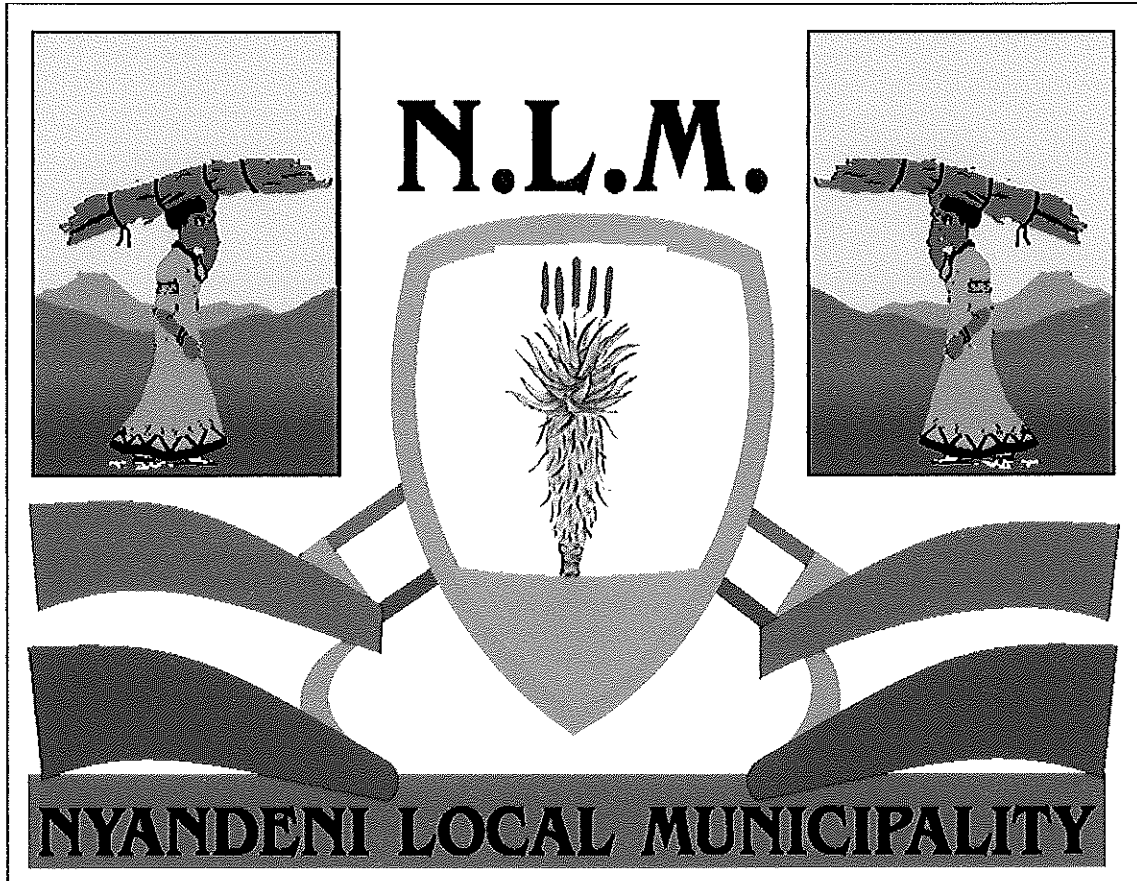



# LEAVE POLICY



APPROVED BY:

  
MRS N. NOMANDELA  
MUNICIPAL MANAGER

DATE: 29 July 2013

APPROVED BY:

  
CLR T. SOKHANYILE  
MAYOR

DATE: 29 July 2013

## **1. DEFINITIONS**

- 1.1 All expressions used in this policy which are defined in the Labour Relations Act, 1995, shall bear the same meaning as in the act.
- 1.2 Words importing the masculine gender include the feminine.
- 1.3 All references to days shall be working days.

## **2. PREAMBLE**

This leave policy is based on the collective agreement of the Local Government Bargaining Council on Conditions of Service and seeks to regulate the leave of employees in a fair manner, protecting the rights of both the employee and the employer.

## **3. OBJECTIVE**

The objective of this policy is to define the provisions that regulate leave of absence of employees.

## **2. MANDATES**

- 2.1 Labour Relations Act, 1995.
- 2.2 Basic Conditions of Employment Act, 1997.
- 2.3 SALGBC Collective Agreements on Conditions of Service.

## **3. PURPOSE**

The purpose of this policy is to describe the following types of leave that may be granted to staff members.

- 3.1 Annual Leave
- 3.2 Parental & Family Responsibility Leave
- 3.3 Sick Leave
- 3.4 Study Leave
- 3.5 Disability Leave
- 3.6 Special Leave

## **4. SCOPE**

- 4.1. This policy covers all fulltime employees of the municipality, as well as casual employees employed on an hourly/Daily/Monthly Basis.

## 5. ELIGIBILITY

An employee may be granted leave after completion of a leave application form if she or he has a permanent contract/fixed-term contract provided that no other binding agreement or regulation applies.

### 5.2 ANNUAL LEAVE

5.2.1 An employee will be granted the following annual leave in a leave cycle.

5.2.1.1 Twenty Four (24) days for a five-day worker and

5.2.2.2 Twenty Seven (27) days for a six day worker.

5.2.2 An employee is required to take leave within each leave cycle as follows.

5.2.2.1 A five day worker shall take a minimum of Sixteen days leave (16),  
and

5.2.2.2 A six day worker shall take a minimum of Nineteen (19) days leave.

5.2.3 All leave accrued as at 31 December 2003 shall be dealt with as follows:

5.2.3.1 The value of such accrued leave shall be determined at the rate of pay as at 31 December 2003.

5.2.3.2 Employees shall either take or encash such leave within a period of two years calculated from 1 January 2004.

5.2.3.3 Notwithstanding the provisions of the clause above, an employee is entitled to retain a maximum of forty- eight (48) days of accrued leave.

5.2.4 Leave accumulated subsequent to 1 January 2004 may be accumulated to a maximum of forty eight days inclusive of days referred to in the clause above.

5.2.5 Any leave in excess of forty eight (48) days may only be encashed should the employee be unable to take such leave as a result of operational requirements. If, despite being afforded an opportunity to take such leave, an employee fails, refuses or neglects to take the remaining leave due to him/her during this period, such remaining leave shall fall away.

5.2.6 In the event of termination of service, the cash value in respect of unused annual leave credit, limited to a maximum of 24 working days for that special annual leave cycle, as on the last day of service, plus unused leave accrued before to a maximum of 48 days, shall be payable based on the salary notch at the date of termination.

5.2.7 Application for annual leave of 5 days or more should be arranged 14 days before commencement considering the circumstances of the office and that of

the employee. Employees should confirm with their supervisors whether their application for leave of absence has been approved to avoid unauthorized leave.

### **5.3 THE GRANTING OF ANNUAL LEAVE ON A PRO RATA BASIS**

5.3.1 Employees who are appointed after the commencement of an annual leave cycle shall be entitled to annual leave on a pro rata basis determined as a fraction of the entitlement as in 5.2.1 above.

5.3.2 Temporal Employees on fixed term contracts shall be granted annual leave that is proportional to their term of employment at a rate of one-twelfth of the annual credit applicable to the employee category as in 5.2.1 per month of service.

### **5.4 ANNUAL LEAVE WITH FULL PAY GRANTED IN EXCESS**

5.4.1 An employee may not be granted annual leave with full pay in excess of that which the employee is entitled to as set out in 5.2.1. If due to a bona fide error, such over-grant must be deducted from the subsequent leave cycle and if the employee leaves the employment of the municipality, the over-grant must be regarded as an overpayment which must be recovered from her or him.

### **5.5 LONG SERVICE BONUS**

5.5.1 An employee shall qualify for the following additional leave together with the following monetary award as recognition for continuous service at the completion of the following:

- |         |                    |  |
|---------|--------------------|--|
| 5.5.1.1 | 5 Years' service:  | 5 Days accumulative leave plus a once off payment equal to 2% of the employee's annual salary  |
| 5.5.1.2 | 10 Years' service: | 10 Days accumulative leave plus a once off payment equal to 3% of the employee's annual salary |
| 5.5.1.2 | 15 Years' service: | 15 Days accumulative leave plus a once off payment equal to 4% of the employee's annual salary |
| 5.5.1.2 | 20 Years' service: | 15 Days accumulative leave plus a once off payment equal to 5% of the employee's annual salary |

- 5.5.1.2 25 Years' service: 15 Days accumulative leave plus a once off payment equal to 6% of the employee's annual salary
- 5.5.2 On termination of service, an employee shall be paid his leave entitlement, including the leave mentioned in terms of 5.1 above, calculated in terms of the relevant provisions of the Basic Conditions of Employment Act 75 of 1997.
- 5.5.3 The initial date of employment of an employee shall be maintained for the purposes of determining the actual service period of the employee and for the calculation of the long service bonus;
- 5.5.4 Long Service may further be acknowledged by a symbolic occasion

## **5.6 USE OF ANNUAL LEAVE FOR TREATMENT OF SUBSTANCE ABUSE**

### **5.6.1 If an employee:**

- (a) Has completed a reasonable period of satisfactory service and
- (b) Abuses alcohol or is drug addicted, she or he may utilize annual leave or probably future annual leave for relevant treatment.

5.6.2 After at least twelve months, If expert evidence indicate that the employee has been rehabilitated, the municipality may convert the annual leave which were utilized during the period of treatment to special leave.

## **5.7 NORMAL SICK LEAVE**

5.7.1 The new three year cycle started on 1 January 2004 during which eighty (80) working days sick leave with full pay may be granted, irrespective of whether an employee has been appointed on any later date than the commencement of the said three-year cycle. Unused sick leave credits shall lapse at the end of the 3year cycle.

5.7.4 An employee shall be required to submit a medical certificate from a registered Medical Practitioner if 2 or more consecutive days are taken as sick leave. The certificate shall describe the illness & the period necessary for recuperation. Medical Practitioners, for this purpose, include only Practitioners as defined by the Health Professionals Council of South Africa (specialist medical physicians, general medical practitioners, dental practitioners and registered homeopaths) or Traditional Healers registered with a recognised professional Council in terms of legislation. The head of division, with the consent of the employee concerned, may contact Medical Practitioners to ascertain the seriousness of illnesses. The head of Municipality/delegated authority

may at any time nominate one or more registered Medical Practitioners and request an employee to subject to an examination.

- 5.7.5 The employer is not required to pay an employee if an employee is absent on more than two occasions during eight week period and on requested by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness of injury.
- 5.7.6 An employee who is absent due to ill-health must report her or his absence within 24 hours or if circumstances do not permit, within a reasonable time. Reasonable time will be determined on the basis of the nature of illness and whether the official had access to communication facilities (eg Telephone, faxes etc.). Notice of being ill may also be given by the employee by message. The onus however rests with the employee to ensure that the notice has reached her or his supervisor. In the event of the employee not being in a position to report his/her illness, a report or an affidavit stating the reasons for not reporting in time should be submitted on return before a decision is made as to the condition of pay.
- 5.7.7 If a pattern of absenteeism due to sick leave warrants concern, a supervisor shall require a medical certificate if an employee usually takes sick leave on Friday and/or Monday, before/after a public holiday and/or pay date.
- 5.7.8 If an employee presents a medical certificate demonstrating that she or he became ill whilst on annual leave, the municipality shall convert the days covered by the certificate to sick leave.

## **5.8 ADDITIONAL PAID SICK LEAVE**

- 5.8.1 Employees who have a balance of at least 60 working days unused sick leave at the end of a three year cycle, shall receive an additional 20 working days paid sick leave to which he will be entitled in the ensuing cycle, provided that in respect of any sick leave cycle no employee shall become entitled to more than 100 working days sick leave on full pay;
- 5.8.2 If the maximum period of sick leave to which an employee is entitled has been granted to him and, owing to reasons of ill health, he is not able to resume duty, the Municipality may grant such employee an additional 60 working days sick leave in respect of chronic illnesses and/ or illnesses requiring hospitalization, which shall be made up as follows:
- 30 working days on full pay;
  - 30 working days on half pay,

The following conditions shall apply:

- 5.8.2.1 Provided that the employee has submitted a satisfactory certificate from a Registered medical or dental practitioner, or a Traditional Healer registered with a recognized professional council in terms of legislation; and
- 5.8.2.2 If the employer is satisfied that the employee is at that moment not permanently incapacitated to resume his normal duties
- 5.8.2.3 Such additional sick leave may be granted in respect of separate periods of absence and in respect of indispositions of different kinds.

5.8.3 On written application by an employee, who has exhausted his full paid sick leave and additional full paid sick leave, annual leave which he has to his credit may be granted to supplement sick leave on half pay or no pay.

## **5.9 PARENTAL LEAVE**

### **5.9.1 Maternity Leave**

- 5.9.1.1 An employee shall receive three months consecutive paid maternity leave for each confinement. There is no limit to the number of confinements.
- 5.9.1.2 To qualify for paid maternity leave, an employee must have one (1) year's service with the employer.
- 5.9.1.3 The employee will be required to work back the period of paid maternity leave actually taken.
- 5.9.1.4 The maternity leave is to commence:
  - (i) At least Four (4) weeks before the expected date of birth or later, in which event the employee must submit a medical certificate from the attending practitioner which indemnifies the municipality in the event of complications or any other undesirable incidence, by stating that the employee is fit enough to work until a date before the expected date of delivery or
  - (ii) On a date certified by a registered practitioner as necessary for the employee's health or that of the unborn child or.
- 5.9.1.5 If an employee has utilized all her maternity leave and wishes to extend the leave as a result of medical complications, she shall:
  - (i) Utilize any sick leave due to her

- (ii) Utilize available annual leave; and/or
- (iii) Receive up to 184 calendar days of unpaid leave.

5.9.1.6 Employees who, during the third trimester of their pregnancy, experience a miscarriage, still birth or termination of the pregnancy on medical grounds, shall be eligible for 6 consecutive weeks maternity leave, where the leave is to commence after the miscarriage, stillbirth or termination of pregnancy, where after 5.9.1.5(iii) shall apply in the event of a medical complication. If an employee takes a period off due to a miscarriage, stillbirth or termination of pregnancy on a medical ground during the first two trimesters of pregnancy, it will be regarded as normal sick leave.

5.9.1.7 Provisions in 5.9.1.6 above shall also apply to an employee who experiences a miscarriage, stillbirth or termination of pregnancy on medical grounds after commencement of maternity leave. The period prior to the miscarriage, stillbirth or termination of pregnancy on medical grounds shall be covered by special leave with full pay for a maximum of six consecutive weeks.

5.9.1.8 In the event of the baby having survived the birth but later passes away during the employee's maternity leave, the employee is entitled to 6 consecutive week's maternity leave, commencing after the date of confinement. If the baby passes away eg. 8weeks after its date of birth/date of commencement of maternity leave, the employee is then to return to work after she has taken family responsibility leave. The period of absence since the commencing date of maternity leave should not exceed 3 consecutive months.

5.9.1.9 In terms of the Basic Conditions of Employment Act, 1997, employees are not allowed to return to work for at least 6weeks after the date of birth of a child.

5.9.1.10 In the event of an appointment of an employee who gave birth to a child prior to her assumption of duty, the remaining part (if any) of the 6weeks after the date of birth as contemplated In 4.9.1.8 may be utilized prior to reporting for duty. A medical certificate must confirm the date of birth. She will however be entitled to all service benefits as from the date on which she normally would have assumed duty.

## 5.9.2 Adoption leave

5.9.2.1 An employee who legally adopts a child who is younger than 2 years qualifies for an adoption leave for a maximum of 45



working days. Thereafter the provision of 5.9.1.5 (i) and (ii) above shall apply.

5.9.2.2 The commencing date of adoption leave is to be decided between the head of Municipality/delegated authority and the employee, provided it commences not later than the date on which the child is brought home.

5.9.2.3 If both spouses or life partners are employed in the municipality, both partners will qualify for an adoption leave provided that the combined leave taken by both does not exceed the 45 days as in 4.9.2.1 above. Employees must therefore upon application, declare how adoption leave will be utilized by both spouses.

### 5.9.3 Paternity Leave

5.9.3.1 An employee whose spouse or life partner gives birth to a child will be granted 5 working days leave.

5.9.3.2 There will be no limit to the number of times paternity leave will be granted.

### 5.9.3 Family Responsibility Leave

5.9.3.1 After being employed for longer than 4 months by the employer, an employee may be granted at his/her requested a total of 5 days paid leave per annual leave cycle for utilization if:

- (a) If the employee's child is born
- (b) If the employee's child/ Spouse or Life partner is sick.
- (c) If the employee's child/ Spouse or Life partner dies, or.
- (d) If the employee's \* immediate family member dies (\*Immediate family includes: the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

5.9.3.2 Proof substantiating the reason for family responsibility leave taken in the form of a birth certificate, death certificate, medical certificate and/ or affidavits stating the reasons for absence must be submitted upon return.

5.9.3.4 Medical Certificate issued by clinics may be accepted in order to substantiate days taken off for the purpose of consultations eg; sick children/spouses, except where an obvious pattern of abuse is identified.

5.9.3.5 Employees who have utilized all their family responsibility leave shall:

- (a) Utilize available annual leave and or
- (b) Utilize up to 184 calendar days of unpaid leave.

5.9.3.6 In granting Family responsibility leave managers should take into account special circumstances, including cultural responsibilities.

5.9.3.7 Unused family responsibility leave credits shall lapse at the end of the annual leave cycle.

## 5.10 SPECIAL LEAVE

5.10.1 A maximum of 10 (ten) working days special leave on full pay per year shall be granted to an employee, subject to the submission of supporting documents, if the employee:

5.10.1.1 Is required to remain in quarantine on the instructions of a registered medical practitioner;

5.10.2.1 Is required to represent South Africa or the Province as a selected member or official in a *bona fide* sports event, or a Provincial or National arts and culture event.

5.10.2 In addition to the 10 (ten) working days special leave provided for in 5.12 above, special leave on full pay shall be granted to an employee who is subpoenaed to appear in Court as a witness, provided that proof is provided.

### 5.10.3 Examination/ Preparation Leave

5.10.3.1 Examination preparation leave is granted to employees to assist them in the preparation and writing of their exams, on condition that the studies or preparatory work is in the interest of the municipality as follows:

5.10.3.2 Two working days special leave with full pay prior to the examination for preparation purposes & one working day for examination.

5.10.3.3 This concession will only be for writing of subjects in the first attempt and for rewriting of supplementary or special examinations.

5.10.3.4 The latest available time tables or relevant documents must accompany leave forms. Subsequent changes should be reflected on an amended leave form.

5.10.3.5 The employee must submit her/his examination results to the leave section as soon as it is available.

#### 5.10.4 Attendance of classes/practical work during official office hours

5.10.4.1 Special leave is granted to employees to assist them in the attending of classes or performing of practical work during office hours, on condition that the studies or practical work is in the interest of the Municipality as follows:

5.10.4.2 On approval by the delegated authority, for every 16hours absence from work, one day special leave will be granted and one day annual leave will be deducted from the employee's current annual leave credits. The Day on which the 16 hours are reached will be the date of application for the one day special leave and one day annual leave.

5.10.4.3 It is the responsibility of the employee's supervisor to monitor and record the hours of absence duty submittance of leave applications by such an employee.

5.10.4.4 Written applications must be accompanied by substantiating documentary proof such as class time table as well as year programmes indicating the date of commencing and closure of classes.

#### 5.10.5 Participation in Sport

5.10.5.1 An employee shall be granted paid special leave for utilization of participation in sport on local, provincial or national level for the duration of the tournament on condition that she or he submits substantiating documentary proof with her /his written application.

#### 5.10.6 Exposure to an environment which is regarded as a health risk

5.10.6.1 In the event of an employee's exposure to an environment which is regarded as a health risk, the employee's absence should be covered by the granting of special leave.

#### 5.10.7 Resettlement

5.10.7.1 Employees who have to resettle, not by their own request qualify for two days special leave for the purpose of a visit to their new unit during which time it should be endeavoured to secure a new

dwelling before the moving of her/his household and personal belongings to the new head quarters.

5.11 Time – off for Trade Union Representatives will be implemented according to the prescripts of the Organisational Rights Agreement as follows:

5.11.1 Shopstewards shall be entitled to 15 (fifteen) days per year with full pay for Trade Union activities and training

5.11.2 Six (6) days of each shop stewards entitlement of time-off shall be pooled and re-allocated at the Trade Union's discretion to the shop steward by the employer, provided that no single shopsteward may take more than 21 days off per year and that the total days in the pool are not exceeded.

5.11.3 Further requests for time-off for Shopstewards may not be unreasonable refused.

## **5.12 UNPAID LEAVE**

An employee shall utilize unpaid leave for the absence from work due to:

- (a) Arrest, imprisonment or appearance in court on a criminal charge that leads to a conviction or
- (b) A criminal sentence

## **5.13 GRIEVANCES**

5.13.1 If the employee is of the view that she or he has been unfairly treated as regard the granting of additional sick leave, she or he has the right to follow the grievance procedure and the relevant dispute resolution procedures in order to settle the matter.

## **5.14 LEAVE PROVISIONS FOR CASUAL EMPLOYEES APPOINTED ON AN HOURLY/ DAILY/ MONTHLY BASIS.**

5.14.1 Annual leave

5.14.1.1 With the effect from 1 June 2000 casual employees are entitled to one hour/day annual leave for every 17hours/days worked, depending whether they are appointed on an hourly/ monthly/ daily basis.

5.14.1.2 If an employee has utilized all her/his annual leave credits the head of the municipality/delegated authority may grant her/him unpaid leave.

5.14.1.3 Employees who have been in employment for longer than 4 months, are entitled to payment in respect of any unused annual leave credits in an annual leave cycle in the event of the termination of their services, calculated using her/his basic salary.

5.14.1.4 Casual employees may nominate one or more beneficiaries to whom their leave payout may be paid in the event of their death.

#### 5.14.2 Sick Leave

5.14.2.1 Casual employees are entitled to one day leave for every complete month of employment.

5.14.2.2 The head of the Municipality/ delegated authority may grant sick leave without pay.

#### 5.14.3 Maternity Leave

5.14.3.1 Casual employees are entitled to a maximum of 3 consecutive months of unpaid maternity leave during their contract period.

5.14.3.2 The municipality shall assist the casual employee in accessing the benefits payable in terms of the unemployment insurance Fund Act.

#### 5.13.4 FAMILY RESPONSIBILITY LEAVE

5.14.4.1 Casual employees shall be granted family responsibility leave for utilization on the same basis as permanently employed employees.

#### 5.14.2 OFFICE OPERATION IN DECEMBER

5.14.5.1 Managers should submit leave schedules to the Corporate Services Department for processing, indicating those officials who will be on leave during the period and those who will be working.

5.14.5.2 Leave during the last two weeks in December will be compulsory to employees who did not utilize the minimum prescribed day's annual leave during the year.

5.14.3 Shut down agreement arrangement may be entered between the employee organisation and the Council

**5.15. LEAVE TAKEN DURING PROBATION PERIOD**

- 5.15.1 The probation period must be extended according to the period of any leave taken.

**5.16 LEAVE TAKEN DURING NOTICE PERIOD**

- 5.16.1 In terms of section 20(5) of the Basic Conditions of employment Act, 1997 an employer may not permit or require employees to take annual leave during any period of notice of termination of service. If an employer however wants to remove an employee at an earlier date from the workplace, the employer may waive part of the notice period. In this instance the employer will have to pay the employee her/his remuneration plus the leave credits available at the date of termination of service in terms of section 38(2) of the Basic Conditions of Employment Act, 1997 in this regard.
- 5.16.2 An employee may be granted sick leave or temporary disability leave if normal sick leave credits are exhausted, provided a medical certificate is submitted in both instances.