

ORDINANCE #1918-2015

**AN ORDINANCE OF THE TOWNSHIP OF GALLOWAY
AMENDING CHAPTER 73, PERSONNEL POLICIES,
OF THE GALLOWAY TOWNSHIP CODE TO INCLUDE
A DONATED LEAVE PROGRAM**

WHEREAS, the Township Council desires to permit employees to voluntarily donate sick leave in order to provide assistance to co-workers who are in serious need of leave due to extended illness or injury of the employee or a member of the employee's immediate family; and

WHEREAS, it is in the public interest to provide for a voluntary program allowing Township employees to donate a portion of their earned sick leave to other Township employees upon certain specified conditions; and

WHEREAS, the Donated Leave Program will enable eligible Township employees to voluntarily donate a portion of their earned sick time to other Township employees who have exhausted their own earned leave and who are suffering from a catastrophic health condition or injury which is expected to require a prolonged absence from work or have an immediate family member who is suffering from a catastrophic health condition or injury requiring assistance.

NOW, THEREFORE, BE IT ORDAINED by the Council for the Township of Galloway, County of Atlantic and State of New Jersey as follows:

Chapter 73, Personnel Policies, is hereby amended to include a Section 73-8.1 as follows:

A. Employee Eligibility:

The Galloway Township employee shall be eligible to receive donated sick leave if the employee:

- (1) Is a full time Galloway Township employee and has completed at least one year of continuous service to the Township of Galloway; and
- (2) Has exhausted all accrued sick, vacation and personal leave; all sick leave injury benefits; and compensatory time and flex time where applicable; and
- (3) Has not, in the two-year period immediately preceding the employee's need for donated leave, been disciplined for chronic or excessive absenteeism, chronic or excessive lateness or abuse of leave; and
- (4) Either:
 - a. Suffers from a catastrophic health condition or injury requiring absence from work for 60 days or longer; or
 - b. Is needed to provide care to a member of the employee's immediate family, as defined as "immediate family" under the FMLA [spouse, domestic partner, son, daughter, legal ward or parent], who is suffering from a catastrophic health condition or injury; or

- c. Requires absence from work due to the donation of an organ (which shall include, for example the donation of bone marrow).
- (5) For the purposes of the Galloway Township Donated Leave Program, a “catastrophic health condition or injury” shall be defined as:
- a. With respect to an employee, a “catastrophic health condition or injury” is either:
 - i. A life-threatening condition or combination of conditions; or
 - ii. A period of disability required by his or her mental or physical health or the health of an employee’s fetus which requires the care of a physician who provides a medical verification of the need for the employee’s absence from work for 60 or more work days.
 - b. With respect to an employee’s immediate family member, a “catastrophic health condition or injury” is either:
 - i. A life threatening condition or combination of conditions; or
 - ii. A period of disability required by his or her mental or physical health which requires the care of a physician who provides a medical verification of the need for the immediate family member’s care by the employee for 60 or more work days.

B. Required Approval:

(1) The employee may request his/her Department Head approve his or her participation in the Program, as a leave recipient or as a leave donor. The Department Head shall submit the application to the Township Manager for final approval [Department Heads shall make application directly to the Township Manager].

(2) Leave Recipient:

(a.) The leave recipient, upon application to the Program, shall submit medical verification from a physician indicating the nature, severity and anticipated duration of the catastrophic health condition or injury, or the donation of an organ, as the case may be. A certification shall also be provided that the recipient has neither threatened nor coerced, nor solicited nor offered anything of value, for the purpose of obtaining a donation of leave.

(b.) Upon approval of the Township Manager, the Manager shall, with the leave recipient’s consent, post or circulate the employee’s name along with those of other eligible employees in a conspicuous manner to encourage the donation of leave time, and shall provide notice to all negotiations representatives in the Township. If the employee is unable to consent, based on the underlying condition, to the posting or circulation, the employee’s family may consent on his or her behalf.

- (c.) A leave recipient must receive at least five sick days from one or more leave donors to participate in the leave donation program.
- (d.) A leave recipient shall neither receive nor use more than 180 sick days and shall not receive any such days on a retroactive basis.
- (e.) The leave recipient shall not be compensated or be granted supplemental compensation for any donated leave time, whether upon retirement or “buy back” leave time at the end of the calendar year.
- (f.) An employee receiving donated leave shall not receive temporary disability benefits for the same time period he/she is paid wages from donated sick leave.
- (g.) Sick and vacation time will not continue to accrue for the recipient will participating in the Program.

(3) Leave Donor:

- (a.) A leave donor shall donate only whole sick days and may not donate more than 10 such days to any one recipient. Ten day (10) of donation to any one recipient is a lifetime maximum.
- (b.) A leave donor shall have remaining at least 20 days of accrued sick leave after the donation is calculated.
- (c.) A leave donor shall not revoke the leave donation. If there is, however, any unused donated time for the recipient, the leave time shall be returned to the donors on a prorated basis in whole days. The return of donated time is triggered upon the recipient employee’s full time return to work or separation from the Township. Any portion that would amount to less than one day shall not be returned and shall be forfeit.
- (d.) The donor’s leave time will be reduced permanently by the number of days that are to be donated.
- (e.) May not solicit nor accept any money, gift, credit, gift, and gratuity, a promise of future compensation, thing of value or compensation of any kind in exchange for the donation.

C. Voluntary Donations:

Township employees shall be prohibited from intimidating, threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with the rights involving donating, receiving or using donated sick time. Such prohibited acts shall include, but are not limited to, promising or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee.

D. Administration:

- (1) Donated days are paid to the recipient at the recipient's rate of pay. One day = one day.
- (2) The use of donated time shall not affect the running of any applicable FMLA leave.
- (3) No issue or dispute arising out of the administration of this program will be either grievable or arbitrable.
- (4) The Township Manager's Office/Personnel Office shall retain all records concerning the donated leave program.
- (5) The Township Manager may suspend or terminate the donated leave program at any time upon thirty days written notice to Council, Department Heads, collective bargaining unit representatives and all employees.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Council for the Township of Galloway, County of Atlantic and State of New Jersey as follows:

1. All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.
2. To the extent that any part or parts of this Ordinance are repealed or otherwise modified or voided by State Statute or case law, the remaining portions or sections of this Ordinance shall remain in full force and effect.
3. If any section, sentence or any part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of the Ordinance, but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy in which judgment shall have been rendered.
4. This Ordinance shall take effect twenty (20) days after final passage and publication according to law, except as provided in for N.J.S.A. 40:69A-181.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced in and passed the first reading at a meeting of the Township Council of the Township of Galloway, County of Atlantic and State of New Jersey, held on September 1, 2015, and said Ordinance will be further considered for final passage and adoption at a public hearing to be held at the Municipal Complex located at 300 East Jimmie Leeds Road, Galloway, New Jersey 08205, on September 22, 2015, at 6:30 PM or as soon thereafter as the matter may be reached.

BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF GALLOWAY

Kelli Danieli
Acting Township Clerk

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Coppola					
Gargione					
Gorman					
Maldonado					
Meadows					
Tyrrell					
Purdy					