

**ORDINANCE NO. 2021-06**

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE  
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF  
NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XI  
ENTITLED “PERSONNEL” TO PROVIDE FOR ESTABLISHMENT OF  
A DONATED LEAVE PROGRAM**

**WHEREAS**, the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey (hereinafter referred to as “Belmar”) has considered adopting a Donated Leave Process in order to assist Borough employees with utilizing unused sick leave donated by other Borough employees; and

**WHEREAS**, the Human Resources Director and/or Department Head shall be the Administrator for processing all applications for donated leave time with consent of the Business Administrator; and

**WHEREAS**, the proposed application process has been submitted to and approved by the New Jersey Department of Personnel – Civil Service; and

**WHEREAS**, a true copy of the proposed application process is on file at the office of the Borough Clerk and can be reviewed during normal business hours; and

**WHEREAS**, Belmar believes that the adoption of the Donated Leave Application process is in the best interests of Belmar, its citizens, taxpayers and especially its employees.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, as follows:

1. Chapter XI of the Borough Code entitled “Personnel” is amended and supplemented to include new Section XI-16 entitled “Donated Leave Program”. The program is set forth as follows:

**§XI-16 Donated Leave Program**

A. An employee shall be eligible to receive donated sick or vacation leave if the employee:

**a. Qualifying Medical Criteria for Recipient Participation**

- i. Employee must be suffering from a catastrophic health condition or injury;
- ii. The employee is needed to provide care to a member of the employee’s immediate family who is suffering from a catastrophic health condition or injury;
- iii. The employee requires absence from work due to the donation of an organ, including, but not limited to, the donation of bone marrow; or
- iv. The employee requires absence from work during a period of disability due to the pregnancy of the employee which requires the care of a physician who provides a medical verification of the need of the employee’s absence from work for 30 or more work days, regardless of

whether the absence from work commences before the expected delivery date or after the actual delivery date.

**b. Additional Qualifications Necessary for Recipient Participation**

- i. The employee must have completed at least one year of continuous service with the Borough;
- ii. The employee must have exhausted all accrued paid leave including compensatory, sick leave, vacation time and administrative leave;
- iii. The employee must produce acceptable medical verification from a physician or other appropriate licensed health care professional. The medical verification must indicate the nature, severity and anticipated duration of the disability resulting from the catastrophic health condition or injury, or appropriate medical verification for reason of disability due to pregnancy of the employee.
- iv. The employee shall not have been disciplined, in the two-year period immediately preceding the employee's need for donated leave, for chronic or excessive absenteeism, chronic or excessive lateness, or abuse of leave.
- v. A leave recipient shall receive at least five sick days or vacations or a combination thereof from one or more leave donors to participate in the donated leave program.
- vi. A leave recipient shall receive no more than 260 sick or vacation days, and shall not receive any days on a retroactive basis.

**B. Definition of Catastrophic Condition or Injury**

- a. For purposes of this section, a "catastrophic condition or injury" shall be defined as follows:
  - i. With respect to an employee:
    1. A life-threatening condition or combination of conditions; or
    2. A period of disability required by his or her mental or physical health or the health of the 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; and
  - ii. With respect to an employee's immediate family member:
    1. a life-threatening condition or combination of conditions; or
    2. 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 family member's care by the employee for more than 60 or more work days.

**C. Eligibility for Leave Donor Participation**

- a. To be eligible as a donor an employee must meet the follow criteria:
  - i. A leave donor shall donate only whole sick days or vacation days.

- ii. A leave donor may not donate more than 30 whole sick days or vacation days to any one recipient.
- iii. Upon completion of donating time pursuant to the Donation Leave Program, a leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave.
- iv. A leave donor shall not revoke any leave donation.

#### **D. Procedures and Operation of Donated Leave Program**

##### **a. Employee Requests to Participate**

- i. An employee may request to participate in the Donated Leave Program. The employee requesting to participate should contact the Borough's Business Administrator or his/her designee, in writing, regarding his or her intent to request participation. A supervisor or department head may also initiate the process on behalf of the employee. Participation in the program is on a strictly voluntary basis.
- ii. Decisions regarding eligibility will be made on a case-by-case basis by the Business Administrator or his/her designee.
- iii. An employee shall be prohibited from 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 leave time. The acts prohibited shall include, but not be limited to, promising to confer a benefit such as an appointment or a promotion, or making a threat to engage in an act of retaliation against an employee.

##### **b. Approval**

- i. Requests are subject to receipt and approval of Recipient Affidavit and Donor Transfer Certification Transfer Forms. In the event a prospective recipient is unable to complete the Recipient Affidavit Form, the employee's family member or other legally appropriate designee may complete the form on behalf of the employee. The donor shall also complete the Donor Transfer Certification.
- ii. The donor forms shall reflect that no one has directly or indirectly intimidated, threatened or coerced, or attempted to intimidate or coerce any other employee for the purpose of interfering with rights involving donating, receiving or using donated leave time.
- iii. Once a recipient has been approved for participation in the Donated Leave Program, the Borough Administrator or his/her designee will post or otherwise advise all employees of the ability to donate leave time to the recipient. Such posting or advisements shall only be undertaken with the consent of the recipient, or if the recipient is unable to consent, the recipient's family or other appropriate legal representative.
- iv. The recipient's leave account will be credited with the donated time upon approval of the Recipient Affidavit Form.

- c. Any unused, donated leave time shall be credited to the leave donor(s) on a prorated basis upon the leave recipient's return to work. However, any portion that would amount to less than one (1) day per donor will not be returned.
- d. Recipients cannot collect Temporary Disability Insurance (TDI) while participating in the Donated Leave Program. Once an employee has exhausted all benefits from the Donated Leave Program, the employee may make application for TDI.
- e. As required in accordance with N.J.S.A. 11A:6-5.1 and N.J.A.C. 4A:6-1.22, while using donated leave time the leave recipient shall accrue sick and vacation leave and be entitled to retain such leave upon his or her return to work.
- f. Upon retirement, the leave recipient shall not be granted supplemental compensation for any unused leave days which the leave recipient received through the Donated Leave Program.
- g. Upon 30 days written notice to the Chairperson of the Civil Service Commission or designee, all affected employees and labor negotiations representatives representing the employees of the Borough, the Borough may suspend or terminate the Donated Leave Program.

2. Belmar authorizes and directs the Mayor, Borough Clerk, Human Resources Director and Borough Administrator to execute any and all necessary documents in order to implement the intent of this Ordinance.

3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

4. All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

5. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.