



**CITY OF GARDNER, KANSAS PERSONNEL POLICIES 2018  
Edition**

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Section 1  
DEFINITIONS

## SECTION 1. DEFINITIONS

### 1-101 GENERAL TERMS

This Section contains terms of a general nature that apply to the entire document unless a subsequent Section provides specific definitions unique to that Section.

- **ACCRUAL:** The collection and accumulation of vacation and sick leave.
- **BONA FIDE:** Genuine; sincere.
- **CHAIN OF COMMAND:** An employee's chain of command shall be the direct supervisor, the supervisor's supervisor, etc., to the Department Director, then to the City Administrator.
- **CHANGE OF STATUS:** A change of status occurs when an individual experiences any change in position or salary due to being hired, promoted, demoted, transferred, awarded a performance increase, or having his or her position being reclassified or moved to a different salary range.
- **CHILD:** A biological, adopted, or foster child; a stepchild, or legal ward, or a child who is or was cared for on a day-to-day basis and whose financial support is or was provided by the employee. This includes a child 18 years of age or older who is incapable of self-care because of mental or physical disabilities.
- **CITY:** When capitalized refers to the municipal corporation of the City of Gardner, Kansas.
- **CITY ADMINISTRATOR:** The chief administrative officer who, under the direction of the City Council, is responsible for all administrative functions of the City and who is the direct supervisor of all Department Directors.
- **CITY STRUCTURE:** The City of Gardner, Kansas is organized under a Mayor/Council form of government.
- **COMPENSATION:** Salary or wages, per diems, retirement benefits, or other benefits provided to an employee in exchange for work conducted on behalf of, or at the direction of, the City.
- **DEMOTION:** A demotion occurs when an employee voluntarily or involuntarily moves to a different position that is in a lower salary range.
- **DEPARTMENT:** A major functional unit of the City government.
- **DEPARTMENT DIRECTOR:** The individual who is directly responsible for the operation and administration of a department.

- **DISCIPLINARY ACTION:** A procedure designated to penalize, modify or correct the actions of an employee for a violation of the City’s Personnel Policies & Rules, department policies and procedures, poor performance, or any other conduct that reflects negatively upon the City or which may, at the City’s sole determination, be construed as inappropriate or unprofessional.
- **DIVISION: A major sub-unit within a department.**
- **EMERGENCY:** A sudden and unforeseen happening that requires the unscheduled services of an employee to protect the health, safety, property, and welfare of the community.
- **EMPLOYEE:** Any person working for the City but not independent contractors, committees, or volunteers.
- **EMPLOYEE, EXEMPT:** An executive, administrative, or professional employee who has been identified by the City to be exempt under the provisions of the Fair Labor Standards Act.
- **EMPLOYEE, NON-EXEMPT:** An employee who is covered by the provisions of the Fair Labor Standards Act for overtime compensation and minimum wages.
- **EMPLOYEE, SEASONAL:** A position which recurs annually, and is seasonal in nature and duration.
- **EMPLOYEE, TEMPORARY:** A position in which an employee works the standard daily hours established for the position, but which is either limited by the duration of the work, on-the-job training, an internship, or a student worker position.
- **GENDER:** When the masculine pronoun is used in these policies, it also means the feminine; when the plural is used it likewise means the singular.
- **GOVERNING BODY:** The City Council, as elected by the residents of Gardner, Kansas.
- **HUMAN RESOURCES DIVISION:** The duly appointed manager responsible for the professional and administrative human resources and risk management functions of the City.
- **IMMEDIATE FAMILY:** An employee’s child, spouse, parents, or siblings as defined herein.
- **INCUMBENT:** A person who currently fills a specific position.

- **INTRODUCTORY PERIOD:** The first six months of employment for all employees other than Police Officers who remain in a Introductory Period until successful completion of the Academy.
- **ISSUES OF CONCERN:** Incident in which an employee disagrees with the interpretation of the provisions of City Personnel Policies and Rules, working conditions, relationship with co-workers or supervisors, or the application of other laws and ordinances. This does not include performance evaluations or issues related to disciplinary action.
- **LAYOFF:** The separation of an employee from City employment due to such things as lack of funds, lack of work, termination of a program or other reasons not related to the fault, delinquency, or misconduct on the part of the employee.
- **LEAVE:** A period of absence from work.
- **MANAGEMENT:** Those employees charged with the direct supervision and responsibility for daily administration of employees within their division and or department.
- **MAY:** Is permissive, however, the words “no person may” means that no person is required, authorized, or permitted to do the act referenced.
- **PARENT:** The biological parent or the stepparent of an employee or an individual who cared for the employee on a day-to-day basis and provided financial support when the employee was a minor.
- **POSITION:** A group of duties and responsibilities assigned or delegated to one employee.
- **POSITION DESCRIPTION:** A written document that identifies the purposes, duties, responsibilities, and accountabilities of a job; the knowledge, skills, and abilities needed to perform the job satisfactorily and other special considerations, if any.
- **RESIGNATION:** A voluntary separation from City employment by an employee.
- **SALARY RANGE:** Salary ranges are established for classes of positions. These ranges are based on position characteristics (background requirements, level of responsibility, and essential duties and responsibilities), market value, organizational fit, and the City’s ability to pay.
- **SEPARATION:** When an employee leaves the service of the City for any reason, voluntarily or involuntarily.

- **SHALL:** Means imperative; must.
- **SIBLINGS:** Brother, sister, stepbrother, and stepsister.
- **SOLICITATION:** To request money for any purpose including, but not limited to, miscellaneous charities, outside insurance, raffles, betting pools, magazine clubs, cosmetic sales, jewelry or craft sales, Girl Scout cookies, labor organizations, societies, lodges, etc.
- **SPOUSE:** Husband or wife, as defined by Kansas state law or applicable Federal law.
- **START DATE:** The date a person begins employment in a position with the City.
- **SUPERVISOR:** A person working in a position that is responsible for the work activities of an employee or a group of employees.
- **TERMINATION, INVOLUNTARY:** The end of an employee's employment with the City, initiated by the City.
- **TERMINATION, VOLUNTARY:** The end of an employee's employment with the City, initiated by the employee.
- **TITLE:** When a specific title is referenced any place in these Personnel Policies or Rules, it shall also mean the person acting with authority in that position.
- **VACANCY:** An unoccupied budgeted position.
- **WEAPON:** Any firearm, stun gun, shotgun, rifle, any type of explosive, any bow and arrow device, any dagger, dangerous knife, sword, straight-edged razor, or stiletto, num-chuck stick, chemical or pepper spray, or any other tool, instrument, or implement capable of inflicting serious bodily injury.
- **WILL:** Means imperative.
- **WORKDAY:** The normally scheduled work period within one 24-hour period for a specific position. Workdays are established by Department Directors and Supervisors, subject to approval by the City Administrator, and will vary based on position responsibilities.



Section 2  
GENERAL PROVISIONS

## SECTION 2. GENERAL PROVISIONS

ARTICLE 2-101	PURPOSE
ARTICLE 2-102	ADMINISTRATION
ARTICLE 2-103	APPLICATION
ARTICLE 2-104	EMPLOYEE RELATED POLICIES

### 2-101 PURPOSE

These personnel policies and rules express the intent of the City of Gardner, Kansas to establish a uniform and efficient personnel management system for the fair treatment of applicants and employees in all aspects of personnel administration. **THIS DOCUMENT IS NOT A CONTRACT AND NEITHER THESE POLICIES AND RULES NOR ANY OTHER COMMUNICATION BY A CITY REPRESENTATIVE, WHETHER ORAL OR WRITTEN, CREATE CONTRACTUAL EMPLOYMENT RIGHTS NOR DO THEY ALTER THE EMPLOYMENT-AT-WILL RELATIONSHIP IN ANY WAY.** The City or an employee may separate or terminate the employment relationship at any time, with or without cause, for any lawful reason.

The City may add to the policies and rules or revoke or modify them at any time without prior notice. The City will attempt to keep the policies current; however, there may be times when policy changes are enacted before the written materials can be revised. This document supersedes all other previous versions of personnel policies and procedures.

### 2-102 ADMINISTRATION

The City of Gardner, Kansas is organized under a Mayor/Council form of government. Under this form of government, the City Administrator is responsible for the administration of the City including the administration of personnel policies and procedures and employee benefits. The City Administrator delegates responsibility through Department Directors and/or other members of Management, who in turn delegate to Supervisors within their respective departments. Each Department Director and Supervisor is responsible for thorough and consistent implementation of the City personnel policies and rules within his or her area.

These City personnel policies and procedures are intended to establish consistent personnel practices for all City employees. All departments and divisions are encouraged to develop more detailed policies and procedures that address those areas specific to their responsibilities. Departmental policies and procedures shall not conflict in any way with the City personnel policies and procedures. Any departmental policy or procedure shall be made available to all department employees and shall have the force and effect of rules of that department. Disciplinary action may be based upon breach of any such policy or procedure.

## **2-103 APPLICATION**

### **2-103.1 EMPLOYEES COVERED**

These City personnel policies and procedures shall apply to all persons holding an appointed, paid position within City service, except as those as may be excluded by the Governing Body. For this purpose, City employees shall be defined as those employees in departments and offices for which the Governing Body serves as the final budget authority.

### **2-103.2 ELECTED AND APPOINTED OFFICIALS**

Elected and appointed positions are not subject to the City Personnel Policies and Procedures. Their appointment, conduct on the job, compensation, separation, and removal are determined by Administrative Policies and Procedures, City Code, and other applicable state and federal laws. This includes all persons holding elective office, the City Attorney, Municipal Court Judge and Prosecutor, and persons employed to conduct a special inquiry, investigation or examination of a technical nature where such work should not be performed by employees in the classified service, members of appointed City boards, commissions, and committees.

### **2-103.3 SAVINGS**

If any City Personnel Policy or Procedure shall be held invalid by judicial or legislative action, the remainder of these rules and policies shall not be affected.

## **2-104 EMPLOYEE RELATED POLICIES**

### **2-104.1 GENERAL POLICY**

These policies have been written with the realization that the strength of the City government depends directly on the individual contribution made by every employee. In return, the City expects that each employee shall attempt to achieve high levels of productivity and efficiency in carrying out the employee's job in the spirit of job satisfaction, service to the City, and assuring accountability in the services provided to the public.

### **2-104.2 EMPLOYEE DUTY TO ASSIST BY REPORTING**

Each employee has a duty to report any information that assists the City in administering these policies. Examples include, but are not limited to, reporting possible violations and imminent safety threats. The employee shall report this information to his or her immediate supervisor, Department Head, or the Human Resources Division.

### **2-104.3 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The City shall provide for equal opportunity in employment and personnel management for all persons; to provide access to, and full utilization and benefit of, training and advancement opportunities without discrimination because of race, color, national origin,

citizenship, religion, age, disability, marital status, military status, gender, genetic information, or based on any other consideration made unlawful by applicable federal, state or local laws; and to encourage that persons applying for or currently employed by, or applying for future vacancies in the employ of the City shall be considered on the basis of individual ability and merit without discrimination or favor.

#### **2-104.4 COMPLAINT PROCEDURE**

Every employee is responsible for creating an atmosphere free of discrimination and harassment, sexual or otherwise. Further, employees are responsible for respecting the rights of their co-workers. If an employee experiences any job-related harassment based on gender, sex, race, religion, national origin, color, age, citizenship, ancestry, veteran status, disability, or any other factor, or if an employee believes he or she has been treated in an unlawful, discriminatory or retaliatory manner, the employee shall promptly report the incident to the Human Resources Division, or to any managerial employee who will then be responsible for promptly reporting the incident to the Human Resources Division. The Human Resources Division will promptly investigate complaints and ensure that appropriate action is taken. Employee complaints will be kept confidential to the maximum extent possible. Employees have a duty to report improper conduct promptly, to allow the City to conduct a timely investigation.

If the City determines that an employee has engaged in improper conduct, appropriate disciplinary action will be taken against the offending employee, up to and including termination of employment. It will generally be considered inappropriate to discuss any resultant discipline with the complaining party.

#### **2-104.5 AMERICANS WITH DISABILITIES ACT (ADA) PROCEDURE**

The Americans with Disabilities Act prohibits discrimination in any terms or conditions of employment for qualified individuals with a disability. The Americans with Disabilities Act requires that employment decisions be based on the ability of a person to perform the essential functions of a job and not the person's disability or limitations. Further, it requires management to reasonably accommodate individuals with disabilities, if possible.

To comply with the employment provisions of the Americans with Disabilities Act, the City will:

- Evaluate whether a person with a disability is qualified to perform the essential functions of his or her position with or without accommodation; and
- Determine whether a reasonable accommodation can be made for a qualified individual.

If an employee believes he or she is protected by the provisions of the Americans with Disabilities Act and needs some type of accommodation, the employee shall notify the Human Resources Division. The City will then work with the employee to determine if a reasonable accommodation is necessary or possible.

## **2-104.6 OPEN DOOR POLICY**

The City of Gardner values employee opinions. If an employee feels he or she has not been treated fairly, the employee shall bring his or her concerns to the attention of his or her supervisor and/or to the Human Resources Division. Employees are encouraged to take the following steps when faced with a concern:

- Think the problem through
- Place his or her thoughts in logical order
- Schedule an appointment with his or her supervisor or the Human Resources Division

Employee supervisors and the Human Resources Division have an Open Door Policy. This means that they are always open to work related discussions. Supervisors will listen, understand, correct, and/or explain. Supervisors will do their best to address the problem. If an employee does not get the problem resolved to his or her satisfaction, he or she may talk to the Human Resources Division.

## **2-104.7 OUTSIDE EMPLOYMENT**

Full-time employees of the City may hold an outside job if there is no conflict of working hours; there is no conflict of interest; and the employee's efficiency is not reduced. All outside jobs must be pre-approved by the appropriate Department Director in order to assure that no conflict exists. If a Department Director approves outside employment, he or she is responsible for promptly notifying the Human Resources Division. In the event an outside job affects performance of the employee's City job, to be determined by the City at its sole discretion, the Department Director will require the employee to take whatever action necessary to eliminate further interference. Employees may not engage in private business while on duty.

## **2-104.8 POLITICAL ACTIVITY**

It is the right of every employee to register and vote on all political issues. Employees are permitted to join political organizations, civic associations or groups and to become involved in political activities subject to the restrictions in this section.

- a) As private citizens, employees may participate in all political activities, including holding public office, except for activities involving the election of candidates for any city office and where holding an appointive or elective public office is incompatible with the employee's city employment.
- b) City employees are not prohibited from supporting candidates for office, nor from contributing labor to candidates and organizations that endorse candidates. Employees are not permitted to be candidates for city elective office or to make public endorsements of a candidate for city elective office.

- c) Any employee desiring to become a candidate for city elective office shall first take a leave of absence without pay or resign. Should an employee on a leave of absence without pay be unsuccessful in seeking such elective office, they shall be returned to employment on the same terms and conditions as any other employee who has taken a leave of absence without pay. An employee is considered to be a candidate for elective office once all statutory requirements have been met to qualify as a candidate.
- d) Political activity must not interfere with job attendance or performance. Employees are not permitted to solicit or handle political contributions in city elections. They are not permitted to wear or display political badges, buttons or signs on their person or on city property during on-duty hours.
- e) No supervisor or other person in authority shall solicit any city employee for contributions of money or labor for any candidate for elective office, or otherwise compel, or attempt to compel, any employee to support a candidate for elective office or to engage in any political activity.
- f) The purpose of this policy is to prevent and avoid the appearance of impropriety on the part of any City employee. City employees are neither appointed to, nor retained in, the City's service on the basis of their political affiliations or activities.
- g) Nothing in this policy is meant to prohibit an employee from wearing or displaying political badges, buttons, apparel, or signs on their person or personal property while off-duty, nor is it meant to prohibit an employee from displaying signs on their personal real property.

#### **2-104.9 SMOKING AND TOBACCO USE POLICY**

Smoking or tobacco use shall not be permitted in any City building or enclosed facility, including but not limited to community buildings, treatment plants, concession areas, and restrooms. This policy applies to all employees, clients, contractors, and visitors. Smoking shall be permitted only at a reasonable distance of 10 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to insure that tobacco smoke does not enter those areas.

Smoking is prohibited in any meeting area when employees are required to be present, whether indoors or outdoors.

Tobacco use and e-cigarettes (vaping) are prohibited in city vehicles.

It is the policy of the City to comply with all applicable federal, state, and local regulations regarding smoking in the workplace and to provide a work environment that promotes productivity and the well being of its employees.

## **2-104.10 GROOMING AND DRESS POLICY**

Employee's grooming and dress should be appropriate to the work situation. It is important to maintain a neat, professional, and clean personal appearance at all times. This includes attention to personal hygiene and clothing. Department Directors will address the dress code and any uniform requirements for specific positions. Refer to the uniform policy for those specific positions. The City of Gardner reserves the right to determine if an employee's attire is not in keeping with this policy and may ask the employee to return home to change to proper attire. This time may be charged to vacation leave, or if the employee has none, leave without pay.

Visible body piercings are limited to the ears, with reasonable number of earrings permitted per ear. (Discrete nose piercings that reflect a cultural tradition will be addressed on an individual basis with the Department Director and Human Resources management. In general, tattoos should be covered. Any visible tattoos cannot be vulgar, profane or intimidating to other employees or citizens.

For security purposes, employees are required to wear their name badge so that it is in full view except when a particular work situation prevents them from doing so.

## **2-104.11 POSSESSION OF FIREARMS**

(as approved by City Council on October 19, 2015 – Resolution No. 1934)

Employees and officials, who are not otherwise prohibited by state or federal law, may carry a concealed handgun, consistent with Personal and Family Protection Act, as amended, into City buildings, where the carrying of a concealed handgun is allowed under the provisions of state law.

- a) Any employee carrying a concealed handgun within a City building pursuant to the provisions of state law must keep said handgun completely concealed, in a proper holster or similar product, with all safety features in place.
- b) Storage of Concealed/Carry Firearms: It is the sole responsibility of the employee to maintain control of his/her concealed firearm and ammunition by ensuring that such firearm is on his or her person and attended to at all times.
- c) Employees are also permitted while on City owned property to store a firearm within their own vehicle provided that such storage is outside of plain view from the exterior of the vehicle and that the vehicle is locked when the employee is not in the vehicle.
- d) An employee who stores a concealed firearm in a vehicle owned by the City of Gardner during the course of employment must store the firearm in a locked case and place the case out of plain view from the exterior of the

vehicle. It is the responsibility of said employee to purchase the locked case at his or her personal expense. The City shall not be responsible for the theft, damage or other loss of a firearm and/or locked case left in a City owned vehicle.

- e) Other than certified law enforcement officers, it is outside of the course and scope of employment for any City employee or contractor to brandish, intentionally display, use, discharge, point or threaten any person with the use of a weapon in the workplace or in the exercise of his or her duties.
- f) An employee's failure to maintain a firearm in a concealed manner or locked as described herein could result in discipline, up to and including termination.
- g) In the event that a City employee or official discharges a firearm while on duty, the Gardner Police Department shall investigate the discharge and file a report of investigation with the City Administrator. Based on such report, the City Administrator, or designee, will determine whether it constitutes grounds for disciplinary action, up to and including termination. The discharge of a firearm while on duty may also result in criminal charges.
- h) Any injury to one's self while working on duty that is caused by the injured employee choosing to carry a concealed handgun will not be considered for worker's compensation.

Subject to other policies and procedures of the City of Gardner and Kansas law, law enforcement officers are the only individuals authorized to use deadly force while acting for and on behalf of the City of Gardner. Under no circumstances will any other employee use deadly force as a function of their job. Employees who are not authorized to use deadly force do not have the immunities and are not entitled to the same indemnity afforded law enforcement and other employees authorized to carry firearms within the scope of their employment. The City will not provide for, reimburse, or pay attorney fees or other costs in defense of any employee who uses deadly force if the use of deadly force is not a function of said employee's job.

#### **2-104.12 SOLICITATION POLICY**

No employees or other persons shall solicit sales or political contributions or petition for signature of City employees during working hours. Occasional collections for employees of sympathy gifts, going away gifts, get well gifts, and signature on greeting cards, and charitable fund raising, are excluded from the limitations of this policy.

#### **2-104.13 PERSONNEL RECORDS**

##### **2-104.13.1 Personnel Records Custodian**

The Human Resources office shall be the central repository for all such personnel files and records as the City Administrator deems necessary.

### **2-104.13.2 Personnel Files**

All employees shall have a personnel file, electronic I-9 file and a medical file located in Human Resources.

The Personnel File shall contain only documents relevant to the individual's employment with the City, generally application information, credentials, regular performance evaluations, certificates of City provided training, disciplinary action, and memos of commendation. All memos of commendation shall be approved by the employee's Department Director prior to placement in the employee's file. All original documents shall be kept in an employee's personnel file.

Human Resources will maintain a medical file for each employee. This file shall contain medical records of an employee including documentation of the employment physical, drug screen results, insurance enrollment forms that contain medical information, certificates from health care providers related to absence from work and any other medical information that the City has reason to have. Medical records as required by various state and federal regulations for emergency response employees are kept under the supervision of a designated officer of the applicable department. This designated officer is responsible for assuring absolute confidentiality and for appropriately disseminating that information when necessary.

Department Directors or supervisors may maintain a work history file for each employee containing documentation of disciplinary action, departmental information, and other personnel information. Copies of all documents maintained in the work history file should be forwarded to Human Resources. Following separation, an employee's work history file shall be forwarded to Human Resources.

An employee's personnel file and the information therein shall be accessible only to the employee, the employee's supervisor or Department Director, the Human Resources Division, the City Administrator, the City Attorney or other counsel representing the city, or to others with the written release of the employee.

An employee's confidential or medical file and the information contained therein is only accessible through authorization by the Human Resources Division or the City Administrator, or the designated officer for emergency services, as permitted by law.

Authorized persons requesting access to an employee's personnel file, confidential file, or medical file shall provide the Human Resources Division with reasonable notice. All inspections and copying of information contained shall be performed

by or under the supervision of the Human Resources Division during regular business hours.

### **2-104.13.3 Release of Information**

The Human Resources office will provide or verify employment dates, job title, and rate of pay upon verbal or written request for both current and former employees.

### **2-104.13.4 Change of Personal Information**

All employees shall notify the Human Resources office through department procedures of any change in address, beneficiaries, marital status, additional dependents, or other applicable information necessary to ensure that payroll and benefits are properly administered.

## **2-104.14 EMPLOYEE RECOGNITION PROGRAM**

### **2-104.14.1 Career Service Awards**

The City of Gardner recognizes those employees who have demonstrated their loyalty and commitment to the City through their years of service.

The City of Gardner honors its employees for length of service beginning with completion of five years of continuous service and for completion of every five years of continuous service thereafter. The employee is individually honored at a City Council meeting and will receive a payroll check. The value of the award shall be in fifty-dollar increments in direct relation to the number of years of completed service. For example, the award of completion of five (5) years of service would be \$50.00, ten years at \$100.00, after appropriate taxes are withheld.

The City of Gardner participates in the League of Kansas Municipalities service award program. The program provides awards for completion of ten (10), fifteen (15), twenty (20), twenty-five (25), thirty (30), thirty-five (35) or forty (40) years of city employee service. City employees and officers eligible for the program need to have completed the qualifying years of service prior to October 1 of each year. Employees completing ten (10), fifteen (15), twenty (20), twenty-five (25), thirty (30), thirty-five (35) or forty (40) years of service will be presented with a commemorative lapel pin and certificate and have their names included in the League's annual booklet.

### **2-104.14.2 Attendance Award**

An important part of each employee's responsibility is the need to be at work on a consistent basis. The City of Gardner recognizes those employees who worked the

entire previous calendar year and have, through their own initiative, maintained their health and well being to such a degree that it has not been necessary for them to use any accrued sick leave during the previous calendar year.

Full-time exempt employees who worked the entire year and did not use any sick leave during the previous calendar year are presented with a certificate of recognition at a Council meeting and shall be granted one (1) additional Personal Day. Full-time non-exempt employees who worked the entire year and did not use more than eight (8) hours of sick leave during the previous calendar year are presented with a certificate of recognition at a Council meeting and shall be granted one (1) additional Personal Day.

### **2-104.14.3 Longevity Bonus**

All full-time and part-time employees of the City shall receive an annual longevity bonus of either two dollars (\$2.00) per month of continuous service, counting the month of hire through the end of the current calendar year, or a minimum of one-hundred dollars, whichever is greater. Longevity bonuses will be distributed by December 31<sup>st</sup> of each year and will be issued only to those employees currently on payroll at the time of issuance. Longevity bonuses are dependent on budgetary resources and this provision does not constitute a guarantee that bonuses will be issued.



Section 3  
VACANCIES, RECRUITMENT,  
AND APPOINTMENT

## **SECTION 3. VACANCIES, RECRUITMENT, AND APPOINTMENT**

ARTICLE 3-101	POLICY
ARTICLE 3-102	AUTHORIZATION BY THE GOVERNING BODY
ARTICLE 3-103	RECRUITMENT
ARTICLE 3-104	SELECTION
ARTICLE 3-105	SELECTION OF FINAL CANDIDATES
ARTICLE 3-106	APPOINTMENT
ARTICLE 3-107	DOCUMENTATION
ARTICLE 3-108	DISQUALIFICATION OF APPLICANTS
ARTICLE 3-109	BACKGROUND REPORT

### **3-101 POLICY**

It shall be the policy of the City to recruit and select qualified persons for positions in the City service. Recruitment and selection shall be conducted in a manner which fosters open competition, provides equal employment opportunity, and prohibits discrimination because of race, creed, religion, gender, national origin, age, disability, marital status, or any other non-job related factors.

### **3-102 AUTHORIZATION BY THE GOVERNING BODY**

All position openings in all departments, except elected offices, shall be subject to review and approval by the Governing Body. The Governing Body shall give approval to all positions through passage of the annual salary ordinance and amendments thereto on an annual basis.

### **3-103 RECRUITMENT**

#### **3-103.1 VACANCIES**

Upon determination by the Department Director that a budgeted vacancy exists and a need to fill such vacancy is warranted, the Department Director shall complete and submit a Request to Hire Form to the Human Resources Division for approval by the City Administrator. The Governing Body may request Human Resources to provide such information as would be needed in determining the proper classification and compensation of such position opening and to determine the economic impact of approving, or denying the request for the position opening.

There may be occasions when it is in the best interest of the City to fill a position just prior to the time that the incumbent leaves (so that the incumbent may assist in training the new employee). All such circumstances shall be approved, in advance, by the appropriate Department Director and the City Administrator.

#### **3-103.2 INITIATING RECRUITMENT**

In order to initiate the recruitment process when a vacancy occurs, the appropriate Department Director shall complete and submit a Request to Hire Form to the Human Resources Division.

### **3-103.3 METHODS OF RECRUITMENT**

A variety of recruitment sources may be used to obtain qualified applicants to fill vacant positions. All job openings will be posted internally on bulletin boards in common areas. A variety of other recruitment sources and methods may include, but not be limited to:

- Publication in area newspapers;
- Posted announcements on the City’s website;
- Posted announcements on department bulletin boards; and
- Other sources and methods deemed necessary for a particular position.

### **3-103.4 POSTPONEMENT OR CANCELLATION OF RECRUITMENT PROCESS**

In the event a sufficient number of qualified applicants have not made application for the vacant position, the Department Director, after consultation with the Human Resources Division, may extend the closing date and/or re-advertise the position, postponing the screening process. The City reserves the right to cancel any screening process at any time.

### **3-103.5 APPLICATION PROCESS**

Individuals applying for a non-exempt full-time position, part-time position, or temporary position must complete the appropriate employment application. Resumes will be accepted for application for full-time, exempt positions. Applications or additional information may be requested for full-time, exempt positions during the selection process.

Current employees applying for a vacant position that has been posted or advertised outside the organization must complete the application form appropriate to the vacant position.

Applications will be accepted only when a vacancy exists and the application must state the specific position being applied for. Applications for “any” or “any open” position will not be accepted. Applications will be kept in an active file for a period of not less than sixty (60) days.

### **3-103.6 ELIGIBILITY LISTS**

For Police Officers, an eligibility list may be created and kept active and may be given further consideration for up to a year of the applicable published closing date if the position re-opens or another similar vacancy occurs. Other recruitment methods may be waived if consideration is given to an applicant who is currently on the Eligibility List. The City is under no obligation to select from an Eligibility List and may choose to begin a new recruitment process.

### **3-103.7 RE-EMPLOYMENT**

Former employees with a satisfactory service record may be considered for re-employment for any position. Former employees will be considered as applicants from outside the organization.

Any accrued rights, privileges, or benefits are canceled when an employee separates from the City and upon re-employment, they are not reinstated.

## **3-104 SELECTION**

### **3-104.1 APPLICANT SELECTION PROCESS**

Application for a vacant position must be submitted to the City of Gardner by the end of the business day on the published closing date.

An initial screening will be done to determine whether the applicant's qualifications meet the basic requirements for the position.

The selection process may consist of one or more of any combination of the following methods: ability tests, achievement tests, performance tests, ratings of training and experience, interviews, evaluation of daily work performance, physical ability tests, work samples, and/or other acceptable selection techniques. Any method chosen shall evaluate only those criteria necessary to perform adequately in the position.

Veterans will be given preference in accordance with K.S.A. 73-201, as amended.

### **3-104.2 EMPLOYMENT OF RELATIVES**

It is the policy of the City not to hire persons for any type of employment within departments who are members of the immediate family of other City full-time employees within the same department, except seasonal positions that are not within the same division as the family member.

If two employees (at least one of whom is a full-time employee) become married to each other or become otherwise related as immediate family members, they may continue to be employed by the City, provided that the parties do not work in the same department. Transferring one of the employees so affected to another department will be given priority if such employee is qualified and a vacancy exists to accommodate such transfer. The transfer shall be made as soon as a change can be effected but in no event shall such situation exceed ninety (90) days. If such a transfer of one of the employees cannot be accomplished for whatever reason within the ninety (90) days the affected employees must choose which one will resign their position with the City. If no decision is voluntarily made, the employee with the least seniority will be terminated within seven (7) calendar days following the 90 day grace period.

Relatives of full time employees are not precluded from working on a volunteer basis.

## **3-105 SELECTION OF FINAL CANDIDATES**

### **3-105.1 GENERAL PROCEDURES**

Individuals will be selected who most closely meet all the position requirements and the needs of the City. All offers of employment are conditional upon the successful completion of a physical examination, drug screen, and a background report including criminal history, verifications of employment and education, driving record, and if applicable, a credit report.

### **3-105.2 HEALTH EXAM**

As part of the City's employment procedures, positions which are required by State or Federal law to take and pass a post-offer health examination will first be offered employment based upon satisfactory completion of the examination and determination by the examining physician selected by the City that the candidate can perform the essential functions of the position offered, with or without reasonable accommodations. In the case of Police Officers, the post-offer health examination may include a psychological examination.

For part-time and seasonal/temporary positions, the selected individual may be required to take a post-offer job-related health exam, based on requirements of the job, to determine whether the individual is physically able to perform the essential functions of the position with or without reasonable accommodation.

A full-time or part-time employee who is being transferred, or demoted into a full-time position with significantly different job requirements (if job related and consistent with business necessity) may be required to take a health and, in the case of Police Officers, a psychological exam.

All costs associated with health and psychological exams are the responsibility of the City. All results of these exams are the exclusive property of the City and are considered confidential.

### **3-105.3 DRUG TESTING**

For all positions of employment with the City that require drug testing, final candidates will be required to undergo a post-offer drug test and may be required to undergo an alcohol test as part of the hiring process.

Before a drug or, if applicable, an alcohol test is administered, final candidates must sign a consent form authorizing the test and permitting release of test results to those City officials with a need to know. All minors must have a release signed by a parent or guardian.

Any job applicant who refuses to submit to, or tampers with a post-offer drug or, if applicable, a post-offer alcohol test will be denied employment with the City.

Employees who are being transferred or demoted into a safety sensitive position from a non-safety sensitive position will be required to submit to a drug and alcohol test.

All information from an applicant's drug or alcohol test is confidential and subject only to the disclosure provisions described in this Handbook.

Final candidates subject to drug or alcohol testing will be denied employment with the City if a positive test result is reported in accordance with the drug and alcohol-testing procedures as set out in this Handbook.

The City will pay the expense of the City-required drug and alcohol tests.

Final candidates for those safety sensitive positions who operate a commercial motor vehicle and hold a commercial driver's license shall be required to execute an authorization for the City to obtain information from their previous employers. The information which may be requested are the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two (2) years, which are to be maintained by the driver's previous employers. The information must be obtained and reviewed by the City. If it is not feasible to obtain the information prior to the driver performing safety sensitive functions, the City may not permit the driver to perform safety sensitive functions after 14 days, without obtaining the information. The City's policy conforms to the federal requirements established for alcohol and drug testing of all safety sensitive employees as set out in the Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V.

#### **3-105.4 DRIVING RECORD**

For positions that require driving, an individual's driving record will be a factor in consideration for employment.

### **3-106 APPOINTMENT**

Applicants for Department Director level positions and above shall be appointed by the City Council upon recommendation of the City Administrator. Applicants for full and part-time positions shall be appointed by the City Administrator upon recommendation by the Department Director. Applicants for temporary positions shall be appointed by the Department Director.

#### **3-106.1 RESIDENCY REQUIREMENTS**

Employees in the position of City Administrator and Police Chief have six (6) months from the date of hire to establish residency within the City, except as exempted by the City Council. If the employee is making a reasonable effort to comply, but due to extenuating circumstances has not been able to relocate, the City Council may grant an extension for a determined length of time.

Employees in non-exempt positions, whose positions require them to be available for call back in a reasonable length of time, have six (6) months from the date of hire to reside within callback distance as defined by each respective departmental policy and procedures.

If the employee is making a reasonable effort to comply, but due to extenuating circumstances has not been able to relocate, the supervisor, with approval of the Department Director, may grant an extension for a determined length of time.

### **3-106.2 TYPES OF APPOINTMENT**

The City organization has established the following types of positions:

**FULL-TIME:** A position regularly scheduled for year-round employment that normally includes eight (8) hours a day or forty (40) hours in a standard workweek of seven (7) days. **EXCEPTION:** Police work schedule shall include not more than eighty (80) hours in a standard two-week work period on a schedule assigned by the Department Director.

**PART-TIME:** A position that the duties and responsibilities require a person to work an average of less than forty (40) hours per week in a standard work week of seven (7) days. The job may be for a specified period of time or indefinitely.

**TEMPORARY/SEASONAL:** A position which is scheduled to fill job requirements which occur intermittently for a program, project, or during certain times of the year. The anticipated date of separation is known prior to commencement of employment. During the period of employment, hours of work may vary according to job requirements, but generally are based on a forty (40) hour workweek schedule.

### **3-107 DOCUMENTATION**

Individuals may not be placed on the payroll, transferred or demoted until they have completed the appropriate orientation program and all personnel forms have been completed and signed.

- Individuals must complete Form K-4 and Form W-4, Employee's Withholding Allowance Certificate.
- Individuals must meet the requirements, furnish appropriate documentation, and complete Form I-9, Employment Eligibility Verification, as required by the U.S. Department of Justice, Immigration and Naturalization Service.
- Individuals must sign a Loyalty Oath to the State of Kansas as required by K.S.A. 75-4308.
- Individuals must complete other forms and documents necessary to employment.
- A Payroll Change Notice stating the position, effective date, salary amount, and other relevant information must be completed and signed by the Department Director, Human Resources Division, and City Administrator.

### **3-108 DISQUALIFICATION OF APPLICANTS**

Applicants may be disqualified from consideration for appointment to a position for several reasons including, but not limited to:

- The individual does not meet the requirements established for the position.
- The individual cannot, with or without reasonable accommodation, perform the essential functions of the job.
- The individual has a job-related criminal conviction record.
- The individual has a poor work record or has had previous, unsatisfactory employment with the City.
- The individual has an unfavorable interview or receives an unfavorable reference check.
- The individual has falsified information on the application form, has failed to submit an application correctly, or has failed to submit it prior to the published closing date.
- The individual has used or attempted to use bribery or other unethical means to obtain an advantage in the selection process.
- The individual has inadequate training, education, work experience, or skill levels as compared to other applicants for the position.
- The individual fails to pass required tests or examinations.
- The individual has a poor driving record and driving a vehicle is a requirement of the position. For the purposes of this section a poor driving record shall be defined as:
  - a) A conviction for driving under the influence or while impaired by alcohol or drugs, vehicular homicide, manslaughter or assault, reckless or careless driving, hit and run, driving under suspension or revocation, fleeing or eluding a police officer, chemical test refusal, leaving the scene of an accident, passing a stopped school bus, or any other major or capital offense;
  - b) More than two (2) at fault or chargeable accidents showing up on a record during the most recent five (5) year period;
  - c) Conviction of more than three (3) ordinary traffic violations showing up on a record during the most recent five (5) year period (speeding, failure to yield right of way, etc.); or
  - d) Conviction of more than two (2) violations within the past twelve (12) months.
- There are other more qualified applicants.

### **3-109 BACKGROUND REPORT**

Job applicants must sign an authorization form before the City can obtain a background report and/or an investigative report. The background report will include, but not be limited to, criminal history, verifications of employment and education, and driving records. A credit report detailing personal financial history will only be obtained for permissible purposes in consideration of jobs meeting specific criteria. In the event that information from the report is utilized in whole or in part in making an adverse decision with regard to potential employment, before making the adverse decision, the City of Gardner will provide the applicant with a copy of the consumer report and a description in writing of his or her rights under the federal Fair Credit Reporting Act.

If their background check discloses a criminal history indicating they have been convicted, have pled guilty or nolo contendere to a felony, he or she will not be allowed to begin employment without further investigation regarding the seriousness of the felony. The final decision will be made by the Human Resources Manager with consultation from the Gardner Police Chief and City Administrator.



## Section 4

# TERMS OF EMPLOYMENT

## **SECTION 4. TERMS OF EMPLOYMENT**

ARTICLE 4-101	POSITION CLASSIFICATION
ARTICLE 4-102	PERFORMANCE EVALUATIONS AND EMPLOYEE DEVELOPMENT
ARTICLE 4-103	DEFINITION OF TERMS
ARTICLE 4-104	PERFORMANCE EVALUATION FORMS AND SYSTEM
ARTICLE 4-105	JOB OBJECTIVES AND STANDARDS OF PERFORMANCE
ARTICLE 4-106	DEVELOPING GOALS AND OBJECTIVES
ARTICLE 4-107	REVIEW OF GOALS AND OBJECTIVES
ARTICLE 4-108	PERFORMANCE STANDARDS
ARTICLE 4-109	WORK SCHEDULES
ARTICLE 4-110	ATTENDANCE AND RECORD KEEPING
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ARTICLE 4-118	PERSONAL USE OF CITY TIME AND PROPERTY
ARTICLE 4-119	CUSTOMER SERVICE
ARTICLE 4-120	WORKPLACE SEARCHES
ARTICLE 4-121	PRESENTATION PROCEDURES FOR ISSUES OF CONCERN

### **4-101 POSITION CLASSIFICATION**

The City has established and maintains a position classification pay plan for the purposes of achieving internal equity between positions in the City. The classifications are made by evaluating the duties and responsibilities of the City positions, as well as the requisite skills and qualifications needed to satisfactorily perform the job.

### **4-102 PERFORMANCE EVALUATIONS AND EMPLOYEE DEVELOPMENT**

The performance evaluation and employee development system works with the pay plan as part of the City's compensation program. This system is designed to make the performance evaluation process job-related, rational, and as objective as possible. It helps the employee and management understand more fully what is involved in the employee's job, as well as clarifying the relationship of the employee's work to performance standards. This approach helps reduce problems of misunderstanding by requiring that the employee and supervisor/manager meet and jointly review the job description, performance criteria, and performance objectives for the employee's job. The employee should receive feedback on how he or she is progressing through the use of periodic reviews.

This performance evaluation and employee development system applies to all full-time and part-time positions of the City.

#### 4-102.1 OBJECTIVES

The performance evaluation and employee development system has the following basic objectives:

To promote productivity and raise the level of performance by establishing standards that reflect acceptable performance and by establishing standards for future performance.

To strengthen employer-employee relations by establishing good communications between supervisors and employees regarding supervisor expectations and how the employee's work contributes to departmental goals.

To provide documentation that will provide the basis for personnel decisions such as transfers, disciplinary action, and career development.

To identify performance objectives and goals for the upcoming year.

In addition, other objectives include:

To provide information on the need for change in organization structures.

To check on the effectiveness of personnel selection procedures.

To serve as a basis for merit pay increases.

To evaluate the potential of employees at all levels.

To identify training needs.

To improve morale.

#### 4-103 DEFINITION OF TERMS

- **EMPLOYEE:** Any employee of the City of Gardner whose employment is full-time or part-time. Temporary, seasonal, and contract employees are not included in the formal evaluation process.
- **EVALUATION DATE INITIAL:** All newly hired, laterally transferred, or demoted employees' performance is evaluated on or about ten (10) days prior to completion of their first six months in the position. Thereafter, performance is evaluated annually.
- **EVALUATION PERIOD ANNUAL:** The one-year period following the last evaluation date.
- **EVALUATION PERIOD INTERIM:** For new employees the interim evaluation period is at or about the time the employee has completed the introductory period applicable to his or her position. For other employees, within six months of the completion of the annual evaluation, the evaluator and employee will meet and review the annual evaluation. The purpose of the interim evaluation is to check on progress toward improving work

performance where deficiencies, if any, were noted in the annual evaluation and to make adjustments to goals and objectives if desirable.

- **EVALUATOR:** The employee's immediate supervisor; the one who either oversees, reviews, or checks the daily work of the employee or who is most closely acquainted with the employee's daily work performance; and the one who is responsible, with the employee, for developing employee goals and objectives. (If an employee has more than one immediate supervisor during the year, each of those supervisors should evaluate the employee individually and then meet together to develop and agree on a joint evaluation.)
- **GOALS AND OBJECTIVES:** Targets or results the employee is expected to accomplish during the evaluation period.
- **PERFORMANCE EVALUATION:** The systematic evaluating of job performance of an individual employee to determine whether the employee has achieved the predetermined objectives and predetermined standards of performance.
- **PERFORMANCE LEVEL:** The level the supervisor believes that an employee has achieved on each performance criterion. For each performance criterion, there are three levels:
  - *Below Performance Standards:* The employee demonstrates a consistently poor level of performance during the evaluation period.
  - *Meets Performance Standards:* The employee performs at a satisfactory level during the evaluation period.
  - *Exceeds Performance Standards:* The employee demonstrates a consistently high level of performance and goes well beyond the performance standards set during the evaluation period.
- **PERFORMANCE STANDARDS:** Measures that indicate whether goals and objectives have been accomplished.
- **POINT VALUES:** Points awarded by evaluator from 1-4 for each performance criterion rated and the overall rating is attained by dividing the total points awarded by the number of criterion rated.
- **REVIEWER:** The Evaluator's immediate supervisor who will review the completed performance evaluation form with the Evaluator prior to the Evaluator meeting with the employee. The Evaluator is also required to obtain the signature of his or her immediate supervisor on the completed performance evaluation prior to the time the Evaluator meets with the employee. A copy of the signed performance evaluation is required to be

submitted to the Human Resources Division prior to the time the Evaluator meets with the employee.

- **WORK PERFORMANCE CRITERIA:** The factors on which an employee will be evaluated. Examples include job knowledge, quantity of work, quality of work, job interest and self-motivation, responsibility and dependability, and attendance and punctuality.

#### **4-104 PERFORMANCE EVALUATION FORMS AND SYSTEM**

Each employee shall be evaluated by their supervisor and Department Director based on the duties and responsibilities of the employee's position and his or her individual goals and objectives.

#### **4-105 JOB OBJECTIVES AND STANDARDS OF PERFORMANCE**

Performance Evaluations will consist of Job Objectives, Standards of Performance, and Core Competencies. Core Competencies are key knowledge, skills, and behaviors that are essential to the City of Gardner.

#### **4-106 DEVELOPING GOALS AND OBJECTIVES**

The evaluator will establish goals and objectives that the employee is expected to accomplish during the upcoming evaluation period. Performance objectives should convey to the employee exactly what the employee should accomplish. Project or program objectives may be new activities that the employee is expected to develop or implement during the evaluation period or existing activities that require major change during the period. Routine task objectives that are recurring and represent at least ten (10) percent of the employee's time can also be used as the basis for writing objectives.

#### **4-107 REVIEW OF GOALS AND OBJECTIVES**

The employee's success in meeting the goals and objectives set during the last evaluation period will be reviewed and indicated by the evaluator.

#### **4-108 PERFORMANCE STANDARDS**

Goals and objectives tell the employee what is expected during the evaluation period. Performance standards tell the employee when it should be done, how much should be done, how well it should be done, and the resources that should be used to do it. Performance standards should be set high enough to provide the employee with an incentive to perform at his or her maximum potential but not so high as to serve as a disincentive to performance.

There are four basic types of standards: time, quantity, quality, and cost of resources.

#### **4-108.1 EMPLOYEE DEVELOPMENT OBJECTIVES**

The evaluator and employee should plan for training or education that the employee could receive in the following year. Training or education can be in-house, on-site, or may be received at colleges, universities, technical schools, professional associations, etc. The goal of training and education should be to improve employees' ability to perform their present work or prepare them for future assignments. All training or education that the evaluator and employee plan for is subject to budgetary authorization. Human Resources will assist the departments in determining what training or education is mandatory.

#### **4-108.2 EMPLOYEE COMMENTS**

The employee may wish to make comments regarding the evaluation and what he or she will do to improve performance. If an employee wishes to discuss the evaluation further he or she may request a meeting with the Human Resources Division.

#### **4-108.3 PERFORMANCE EVALUATION SCHEDULE**

The following evaluation schedule is established:

##### **4-108.3.1 New Employees**

New employees (new hires, laterally transferred, or demoted): The employee's performance is evaluated at or about the time the employee completes the applicable *introductory* period for his or her position or about ten (10) days prior to the completion of the his or her first six months in the position, whichever is sooner. The evaluator and the employee will meet to jointly review the employee's performance. The employee may be eligible for a merit increase at that time depending upon performance and available budgetary resources. If the individual's performance level is below performance standards and the Director and Human Resources Division may extend the evaluation period. During this time, the employee is not eligible for a performance increase until the employee satisfactorily completes the extended evaluation period. In such cases the supervisor will inform the employee of the action and state the reason(s) for the extension of the evaluation period. The employee's performance will be evaluated again at or about the time the employee completes half of the extended evaluation period and again on or about ten (10) days prior to the completion of the extended evaluation period.

##### **4-108.3.2 All Other Employees**

The employee's performance is evaluated annually. The employee may be eligible for a merit increase at that time depending upon performance and available budgetary resources. Supervisors are encouraged to conduct interim performance evaluations midway during the evaluation period. The purpose of the interim evaluation is to review the last evaluation to check on progress toward improving work performance where deficiencies were noted and to make adjustments to goals and objectives if desirable. Employees are not eligible for merit increases at the time of the interim evaluations.

### **4-108.3.3 Employees On Approved Leave**

Employees who are on an approved leave at the time of their annual evaluation will be evaluated upon their return. If a merit increase is awarded, it will be retroactive to compensation received through city payroll to the date the annual increase became effective.

### **4-108.3.4 Employees on Disciplinary Probation**

Any employee on disciplinary probation is not eligible for a merit increase. The individual is evaluated on a schedule established in the terms of the disciplinary probation. When an employee's disciplinary probation ends and the employee returns to non-probationary status, the employee then becomes eligible for an annual performance evaluation and, if warranted, a merit increase.

Nothing in this policy shall restrict a Department Director or supervisor from evaluating an employee prior to either the regular or interim evaluation dates, either formally or informally. These mid-term evaluations are useful to document performance and to alert the employee of performance deficiencies.

## **4-109 WORK SCHEDULES**

Work Weeks and Normal Work Schedule:

All position work weeks begin Saturday at 12:00 AM

Department Directors are responsible for establishing normal work schedules (days and times for scheduled work) for all positions.

### **4-109.1 HOURS OF WORK**

The City has three (3) established types of positions:

#### **FULL TIME:**

A position regularly scheduled for year-round employment that normally includes eight (8) hours a day or forty (40) hours in a standard workweek of seven (7) days. **EXCEPTION:** Police work schedule shall include not more than eighty (80) hours in a standard two-week work period on a schedule assigned by the Department Director.

#### **PART TIME:**

A position that the duties and responsibilities require a person to work an average of less than forty (40) hours per week in a standard work week of seven (7) days. In order for a part-time employee to be eligible for health, dental and vision benefits he or she must work at least 30 hours per week. To be eligible for KPERS, an employee must work over 1000 hours per year.

#### **TEMPORARY/SEASONAL:**

A position which is scheduled to fill job requirements which occur intermittently for a program, project, or during certain times of the year. The anticipated date of separation is known prior to commencement of employment. During the period of employment, hours of work may vary according to job requirements, but generally are based on a forty- (40) hour workweek schedule.

## **4-110 ATTENDANCE AND RECORD KEEPING**

All Department Directors shall be required to maintain current work schedules of all employees under their supervision. Regular and punctual attendance at work shall be required of all employees. Employees are to be present at work during all regularly scheduled hours, unless arrangements in accordance with leave policies have been made. Unexcused absence and tardiness shall be reasons for disciplinary action. Assignment of scheduled working hours shall be made by the employee's Department Director. The employee shall use established procedures for recording and reporting all attendance.

### **4-110.1 BREAK POLICY**

All Non-exempt employees, except Police officers, shall have a one-hour lunch period and 30 minutes of break time to be divided equally between morning and afternoon. Department Directors will establish the break policies for their departments. Lunch periods and break time for Police officers shall be as defined by departmental policies and procedures.

### **4-110.2 OVERTIME AUTHORIZATION AND ELIGIBILITY**

#### **4-110.2.1 Non-Exempt Positions**

Certain positions are classified as non-exempt positions and are subject to the Fair Labor Standards Act. All regular, part-time, and temporary positions except for those classified as exempt positions are considered non-exempt. Employees working in those positions shall track their time worked in one quarter hour (15 minute) increments.

Employees shall not be permitted to work in excess of their normal work schedule except when an emergency exists or overtime work is necessary to carry out normal and essential services of the City and is assigned by their supervisor. All overtime shall be pre-approved by the employee's supervisor. Employees who work in excess of their normal work schedule without the approval of their supervisor may be subject to appropriate disciplinary action, up to and including termination.

Non-exempt employees shall be paid overtime pay for hours worked over forty (40) in a workweek. EXCEPTION: Police officers shall be paid overtime pay for hours worked over eighty (80) in a two-week work period.

Overtime pay is one and one half times the employee's hourly rate. Alternatively, overtime may be compensated with compensatory time off at

one and one half times the hours worked at the request of the employee and the approval of management or the Department Director. Employees may accrue a maximum of 24 hours compensatory time. The use of comp time must be approved in advance by the employee's immediate supervisor. Comp time must also be tracked through payroll on a time sheet so that the City may be able to determine when comp time has been used and/or accrued.

Hours worked are hours that employees are actually at work or on authorized paid leave, including civil, holiday, military, vacation, sick, leave of absence, administrative, workers' compensation or funeral leave.

Overtime pay is paid in fifteen (15) minute increments.

#### **4-110.2.2 Exempt Positions:**

- a) Certain positions are classified as exempt positions and are not subject to the overtime provisions of the Fair Labor Standards Act. Other positions may be considered exempt status as duties and responsibilities change. The appropriate Department Director and the City Administrator will make those determinations based on standards set out in the FLSA.

Employees in exempt positions are expected to accomplish the duties and responsibilities of their position during a normal work schedule that has been set out by their supervisor. However, it is anticipated that exempt employees will experience periods during which it will be necessary to work in excess of forty (40) hours per week.

At no time are exempt employees compensated for time worked in excess of forty (40) hours per week. Exempt employees may take reasonable amounts of time off, not to exceed 4 hours at a time, without using vacation or personal leave as long as it does not interfere with performance of their duties and responsibilities. Exempt employees who wish to take leave without using vacation or personal leave, must obtain approval in advance from the employee's immediate supervisor and the immediate supervisor must keep a written log of any such occasions.

### **4-111 WORK RELATED EXPENSES AND TRAVEL POLICIES**

#### **4-111.1 POLICY**

The purpose of this policy is to provide budgetary guidelines and procedures for reimbursement of expenditures for employees conducting business on behalf of the City of

Gardner. All reasonable costs associated with travel and training will be paid in advance, through city credit card, advance check, advance cash, or reimbursement with receipt.

#### **4-111.2 TRAVEL AUTHORIZATION**

For travel outside the Kansas City Metropolitan area, a “Travel Request/Expense Form” must be approved by the employee’s supervisor prior to the travel occurring. In the case of elected or appointed boards and/or commissions, approval is given as the travel being part of an authorized budget item or authorized by City Council; however, completion of the “Travel Request/Expense Form” is encouraged for trips over a day in length.

#### **4-111.3 TRAVEL REQUEST/EXPENSE FORM**

The Travel Request/Expense form should present all known costs associated with the trip, even if some items are prepaid or will be paid using a City credit card and are not being requested as part of the cash advance. Upon return from a business trip, appropriate receipts shall be attached to the expense form. Claimed expenses without receipts may not be reimbursed. If a travel cash advance is requested, a Travel Request/Expense form must be submitted to the Finance Department as soon as possible, preferably at least fourteen (14) days prior to the departure date.

Purchase cards may be used to pay for traveling and meal expenses while away conducting City Business. However, IRS per diem rates do apply. Prior to travel, employees are required to know the meal allowance for the City nearest the travel destination on the IRS publication #1542. The employee is responsible for the account of meals exceeding the daily allowance set forth by the IRS. The employee shall pay the difference to the restaurant at the time of purchase.

Alcoholic beverages are not an allowable expense and shall never be paid for with a City purchasing card, nor should they be shown on any city receipt.

#### **4-111.4 REIMBURSABLE EXPENSES**

The most reasonable method of travel will be used based on time, money, and location.

##### **4-111.4.1 Ground Transportation:**

The most reasonable method of ground transportation including shuttle, mass transportation, taxi, or rental car should be used after flying into a location.

1. City vehicle - should be used whenever possible, especially within the metropolitan area. The cost of gasoline, maintenance, or repair, if needed, will be reimbursed for City vehicles used to travel outside of the metropolitan area. Receipts are required.
2. Private vehicle - usage will be reimbursed based on the rate determined by the Internal Revenue Service. Employees, elected officials, or appointed members of

boards and/or commissions that receive a car allowance are not eligible for reimbursement for travel within the metropolitan area.

3. Rental Car – is allowed only if adequate shuttle or local transportation is not reasonable. Prior approval must be obtained through the “Travel Request/Expense Form” for reimbursement and should be prepaid through a City credit card. Receipts are required.
4. Other Ground Transportation Cost – incidental travel costs such as parking and toll fees are reimbursable with receipt.

#### **4-111.4.2 Airfare**

Authorization will be given for the most economically available flight to and from the destination location. A trip may be extended if the savings on airfare is greater than the cost of the additional days’ lodging, meal allowances, and salary in order for the extension to be granted. If there is a net savings, the City will pay for those additional days’ lodging, meal allowances, and salary. In some cases an employee, elected or appointed board and/or commissioner electing to extend a trip may be required to schedule vacation and be responsible for their own living expenses. Airline tickets should be prepaid through a City credit card.

#### **4-111.4.3 Lodging**

Lodging will be paid for the nights the person is on City business, including “travel days”. Lodging generally includes the cost of a single room and any taxes and governmental charges, but does not include personal items such as movies, etc. Additional charges due to a guest, such as a spouse staying in the room shall be paid by the individual.

The most reasonable method of lodging will be used based on location and price. Conferences hotels are preferred, if available.

#### **4-111.4.4 Meals**

Meals will be reimbursed based on the Per Diem Rates established by the Internal Revenue Service. For partial days of travel or those receiving meals as part of the registration, the meal allowance is broken down by meal, including tips, as follows:

<u>Example:</u>	<u>Area Per Diem Rate</u>	<u>\$42.00</u>
Breakfast	20%	\$ 8.40
Lunch	30%	\$12.60
Dinner	50%	\$21.00

#### **4-111.4.5 Registration**

The cost of registration is a prepaid expense. Entertainment type activities that are included as additional registration fees are the individual's responsibility.

#### **4-111.5 ALLOWABLE EXPENDITURES WITHIN THE KANSAS CITY METROPOLITAN AREA**

##### **4-111.5.1 Mileage**

Mileage expense to local seminars and training sessions will be reimbursed at the current mileage rate set by the Internal Revenue Service only when a City owned vehicle is not available. Employees, elected officials, or appointed members of board and/or commissioners receiving a car allowance are not eligible for reimbursement for mileage within the metropolitan area.

##### **4-111.5.2 Parking and Toll Fees**

Parking and toll fees for business activities are reimbursable. Receipts are required.

#### **4-111.6 COMPENSATION OF TIME**

While traveling, employees will be compensated for time which solely benefits the City. In most cases, this will be time spent traveling to and from the destination and time devoted to training and/or work at the destination. Elected officials or appointed members of boards and/or commissions are not additionally compensated beyond any rate set by the City Council as part of the annual salary ordinance.

#### **4-111.7 RESPONSIBILITY FOR ENFORCEMENT**

Department Directors will be entrusted with the responsibility of enforcing the policy within their departments and to ensure compliance of the specified procedures before reimbursement. The City Council will be responsible for oversight of elected officials and appointed members of boards and/or commissions travel.

#### **4-111.8 REFERENCES**

Appendix A - Travel Request/Expense Report Form

A copy of the current Internal Revenue Service Per Diem Rates are available on the Internal Revenue web page.

#### **4-112 SEAT BELT POLICY**

All City employees are required to use the appropriate passive restraint and/or seat belt when operating a motor vehicle in connection with City business regardless of whether or not he/she is operating a City-owned vehicle or using his/her own personal vehicle to perform City functions.

## **4-113 IMMUNIZATIONS**

Immunizations that are deemed necessary by the City Administrator for specific positions will be paid for by the City.

## **4-114 CELL PHONE POLICY**

The purpose of this policy is to provide guidelines and procedures to ensure that cellular phones and similar devices and related equipment and services are acquired and used in the best interests of the City while concurrently complying with Internal Revenue Service requirements regarding the taxability of fringe benefits.

For purposes of this policy, cellular phones are portable communication devices such as, but not limited to, cellular phones and hybrid cellular phones such as “Blackberry” style devices, or radio-phone devices such as “Nextel” or other “Push-to-Talk” devices.

### **4-114.1 SCOPE**

This policy applies to all employees who have been provided with a cellular phone and those who receive a stipend for the use of their personal cellular phone or similar device for the convenience of the City.

### **4-114.2 OPTIONS**

The City reserves the right, at its sole discretion, to determine which cell phone option, device, and carrier will be provided to the employee in order to maintain established business practices, required job functions, and compatibility with the City’s information technology structure and support.

### **4-114.3 CITY ISSUED PHONES**

An employee is issued a City-owned cellular phone and the City pays for the monthly service. Personal use is forbidden, and any incidental use must be reimbursed by the employee.

- a) The cellular phone and/or related equipment and services will be obtained by, paid for, and owned by the City. Employees with a City-owned phone may not receive reimbursement for business use of their phone.
- b) All City-owned phones and/or related equipment and services must be approved by the Department Director.
- c) Employees are responsible for the care of the cell phone and related equipment and services. Employees are required to immediately (by the next business day) report the damage, loss, or theft of City-owned cell phones and related equipment to their department and must immediately contact the service provider to prevent unauthorized use. In the event of

theft, a copy of a police report must accompany a request for a replacement phone.

#### **4-114.4 PERSONAL USE**

The Internal Revenue Service states that any personal use of a City-owned cell phone is a taxable fringe benefit, therefore, in order to avoid adding the value of the total amount of the monthly cell phone service to the employee's taxable income, the employee must sign an agreement that NO PERSONAL USE is allowed.

In the event an incidental personal call is made, the employee will be required to provide documentation of the personal call and must reimburse the City for the call plus a pro rata share of all other fees and charges associated with the monthly cost of cell phone service for the employee's phone.

Habitual violators of the agreement may be subject to disciplinary action.

#### **4-114.5 REIMBURSEMENTS**

An employee uses their personal cellular phone for infrequent City business use and is reimbursed for the business minutes used.

An employee uses their personal cellular phone for infrequent City business use and is reimbursed for the business minutes used.

Employees should obtain departmental approval prior to using personal cell phones for City business purposes. Personal cell phone use for City business should be limited to only necessary and immediate needs and should only be done when land-line phones are not available. Departments have the right to review, question, and limit reimbursement requests of employee's cell phone charges.

*Stipend Plan:* An employee, with the approval of their Department Director may choose to use their Personal cellular phone in lieu of a City-owned cell phone. Once approved, the stipend amount will be added to the employee's regular pay and will be taxed in accordance with IRS guidelines. The stipend will be paid as a flat rate per month and to receive the stipend, an employee is required to complete and sign City of Gardner, Kansas Mobile Device Agreement. The stipend are neither permanent nor guaranteed. The City reserves the right to remove a participant from this plan and/or cancel the plan if there is insufficient budget to meet the plan costs. The stipend does not constitute an increase to base pay, and will not be included in the calculation of percentage increases to base.

#### **4-114.6 “POOL” PHONES**

Phones assigned to vehicles or functions (not people) within a department. (For example, a phone that is assigned to the Public Works “after hours” function.) Personal use is forbidden, and any incidental use must be reimbursed by the employee as provided in the paragraph below.

Personal calls are strictly prohibited on pool phones. Departments will monitor all calls on pool phones to determine if personal usage has occurred. Employees who make personal calls on pool phones will be required to reimburse the City for the call and may be subject to disciplinary action.

#### **4-114.7 RESPONSIBILITY FOR ENFORCEMENT**

The City Administrator shall be responsible to the Governing Body for the enforcement of the Cellular Phone Policy.

#### **4-114.8 USE WHILE DRIVING**

Any employee driving on City business, whether using a City owned vehicle or personal vehicle, is prohibited from using any cell phone, PDA, or other electronic device for purposes of conversations, texting, or reviewing information. This prohibition applies even if the individual has a hands-free device with which to make phone calls.

### **4-115 USE OF PERSONAL VEHICLE**

#### **4-115.1 MILEAGE REIMBURSEMENT FOR USE OF PERSONAL AUTOMOBILE**

Individuals shall be compensated for using their personal vehicle for authorized City business. Persons claiming a reimbursement should document the necessary information on the appropriate form to their Department Director. Individuals will be reimbursed at the prevailing per-mile rate of the federal government.

#### **4-115.2 AUTOMOBILE ALLOWANCES**

Automobile and vehicle allowances may be authorized for designated employees on a need basis by the City Administrator.

### **4-116 USE OF VEHICLES ON CITY BUSINESS**

The following regulations must be adhered to by all employees who operate vehicles (personal or City-owned) on City business:

- a) All employees who operate vehicles on City business must have a valid driver’s license that entitles them to drive the class of vehicle they are assigned to operate. Employees are responsible for knowing all state and local motor vehicle laws, including the latest amendments. This includes wearing seat belts at all times.

- b) Employees are responsible for paying fines for traffic violations, whether such fines arise from the operation of a vehicle on City business or otherwise. The City will not reimburse employees for such fines. Employees are also responsible for any damage to their personal vehicle even if that damage occurs while operating the vehicle on City business.
- c) Employees who drive vehicles on City business must immediately report to their supervisors any on-duty traffic citation or motor vehicle accident; or any on- or off-duty driving under the influence citation or conviction, driver's license suspension, or moving violation by the next regular work day of when such charge, conviction, suspension, or moving violation occurred.
- i) Employees who drive as an essential function of their position and whose driving privileges are suspended shall be subject to disciplinary action up to and including termination.
- ii) Employees whose driving privileges are suspended will be required to report to work on their regular schedule and will be assigned work on an as-available basis, subject to any disciplinary action. This work may be in other divisions of the department. If work is not available, employees will be sent home without pay. Employees will be compensated at their regular hourly rate for actual hours worked.
- d) Annual checks of Motor Vehicle Records will be performed for all current employees.
- e) Employees who are required to use a City-owned vehicle for transportation from home to work must have prior authorization from the City Administrator. The use of City-owned vehicles by City employees must conform to the regulations as outlined by the Internal Revenue Service (IRS 1.274-57), that qualify them as "non-personal use vehicles". The City Administrator and the appropriate Department Director will employ criteria, such as the following, when determining if a City-owned vehicle shall be used:
- Vehicle assignment during duty hours;
  - Frequency of "call-back" duty;
  - Placement on emergency call lists;
  - Requirement of inspection of facilities/activities during off-duty hours;
  - Special equipment on the City vehicle;
  - Use of unmarked law enforcement vehicles;
  - Radio monitoring activities;

- Location of employee's residence; and
  - Any other so determined by the City Administrator and the appropriate Department Director.
- f) Employees shall report any damage to City-owned vehicles or equipment to their supervisor immediately. Employees shall inspect and report any vehicle deficiencies or unsafe equipment to their supervisor before driving the vehicle.
- g) Employees are expected to use City vehicles and equipment in a safe and responsible manner. If an employee intentionally or through gross negligence causes unjustifiable damage to a City vehicle or equipment, they may be subject to disciplinary action up to and including termination. Employees are expected to keep their work vehicle and equipment in a neat and tidy manner. All vehicles belonging to the City are subject to inspection at any time without notice and no employee using, or a passenger in, a City vehicle has any expectation of privacy while in that vehicle.
- h) Employee shall not use City-owned vehicle for personal use.

#### **4-117 USE OF CITY EQUIPMENT FOR BUSINESS REASONS**

Employees are expected at all times to use City equipment in a safe and responsible manner. If an employee intentionally or through gross negligence causes damage to City equipment, they will be expected to reimburse the City for the cost to repair or replace the equipment; and may be subject to further disciplinary action.

Employees are expected to keep their work areas and equipment in a neat and tidy manner.

#### **4-118 PERSONAL USE OF CITY TIME AND PROPERTY**

Personal telephone calls, including the use of personal cell phones, should be minimized. Personal toll calls, if absolutely needed, shall be paid for by the employee.

#### **4-119 CUSTOMER SERVICE**

Employees should always have as their goal to make every customer contact (whether inside or outside the organization) as positive as it can be.

Employees shall make every effort to ensure that customers obtain the requested information with a minimum of hassles, phone transfers, and red tape. Employees shall follow up with the fellow employee or with the customer to ensure that they received what was needed.

#### **4-120 WORKPLACE SEARCHES**

The City of Gardner reserves the right to search any employee's office, desk, files, locker, or any other area or property on City premises. All offices, desks, files, lockers, and equipment are the

property of the City and are issued for the use of employees during and for their employment with the City. Inspections may be conducted at any time and employees shall have no expectation of privacy in the possession or use of such property. The City further reserves the right to inspect any packages, parcels, purses, handbags, briefcases, lunchboxes, or any other possessions or articles carried to and from the City of Gardner property as permitted by law, in an attempt to safeguard the property of the City of Gardner and its employees and to help prevent the possession, sale, and use of illegal drugs or any other illegal or improper activity on City premises.

#### **4-121 PRESENTATION PROCEDURES FOR ISSUES OF CONCERN**

Because the City values the opinions of its employees and wishes to provide a working environment conducive to a loyal, satisfied, and productive work force, the following procedure shall be provided for expression of concerns by employees:

- a) Presentation of issues of concern must be initiated within a reasonable period of time of the event or situation occurring that caused the concern. Issues related to performance evaluations and/or disciplinary actions are not included in this policy. Issues related to discrimination or harassment will be handled in accordance with the procedure set forth for such matters.
- b) An employee who has a specific issue of concern regarding any aspect of the work environment should discuss it with his or her immediate supervisor, if possible. If the specific concern is in regard to his or her immediate supervisor, the employee should follow through the department chain of command or bring the concern to the attention of the Human Resources Division.
- c) If, after that discussion, the employee is not satisfied with the information gained, the employee should follow through the department chain of command.
- d) If progressive discussions with the supervisors and the Department Director do not offer information or action which satisfies the employee, the employee may request a meeting to discuss the concern with the Human Resources Division and/or the City Administrator, as appropriate. The decision of the City Administrator is final.



## Section 5

# COMPENSATION AND BENEFITS

## SECTION 5. COMPENSATION AND BENEFITS

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ARTICLE 5-114	OTHER BENEFITS

### 5-101 COMPENSATION SYSTEM

The City of Gardner's compensation system is designed to reflect the primary core values of recruiting and retaining competent employees, identifying, measuring, and rewarding individual performance, setting salaries to remain competitive while keeping with the City's fiscal capabilities, and being a system that is understandable and consistent. The pay plan works in harmony with the performance evaluation and employee development system and other City personnel procedures to establish a framework for salary increases depending on job performance, labor market conditions, organizational needs, and available budgetary resources.

This pay plan applies to all full-time and part-time positions of the City.

### 5-102 DEFINITIONS

- **CHANGE OF STATUS:** A change of status occurs when an individual experiences any change to position or salary due to being hired, transferred, receiving a performance increase, or their position being reclassified or re-graded. A written notice of the change of status must be completed and approved by the Department Director, City Administrator, and Human Resources Division for every change of status.
- **DETERMINING PAY FOR POSITIONS:**
  - Salary ranges for all full-time and part-time positions are established through a job evaluation process and studies of internal and external equity. When a new position is developed or an existing position has significantly changed in duties or responsibilities, the position will be evaluated based on technical and professional skills; management ability; ability to work with, influence, and motivate people; scope of problems faced; complexity of solutions; freedom to take actions; scope of responsibility; and impact on the City. Salary is determined based on the position

evaluation and internal and external equity. Salaries ranges are reviewed and established by the City Council on an annual basis.

- Hourly rates for part-time and temporary positions are based on the market and on comparable wages for similar full and part-time positions.
- **ENTRY LEVEL SALARY:** This refers to the minimum of the salary range for a position.
- **LATERAL TRANSFER:** A lateral transfer occurs when an employee changes from one position to another within the same salary range.
- **MARKET ADJUSTMENT:** This refers to the percentage of adjustment made to the overall pay plan structure based on such factors as changes in the cost-of-living, changes or increases in salaries and benefits in the City's peer groups, changes or increases in the cost of employee benefits, and the City's financial condition and is subject to approval by the Governing Body.
- **MERIT INCREASE:** This refers to the percentage of salary increase that employees receive as a result of their performance evaluations, subject to appropriation in the annual budget as approved by the City Council.
- **PEER GROUP:** For the purposes of this Section, peer group means the groups of cities and utilities in close proximity to the City of Gardner designated by the Governing Body to be used for salary and benefit comparison purposes.
- **PERFORMANCE EVALUATION DATE:** The performance evaluation date refers to the date of an individual's scheduled evaluation, which is either the date of the initial evaluation that occurs at the end of the first six months in the position or thereafter at one-year intervals.
- **POSITION CLASSIFICATION:** All positions within the pay plan are classified into salary ranges according to organizational fit, internal equity, labor market conditions, and the position evaluation process.
- **PROMOTION:** A promotion is the upward movement of an employee into a new or existing position in a higher pay range.
- **RE-CLASSIFICATION:** Re-classification is an action taken to recognize that the duties, responsibilities and qualifications of an existing position have substantially changed over time to the extent that the position no longer resembles others of its class. A reclassification is the upward or downward movement of a position into a new or existing pay range.
- **RE-GRADE:** A re-grade occurs when the value of a position changes due to labor market conditions or internal equity considerations. The distinguishing factor between a re-grade and a re-classification is that the job duties of the position have not significantly changed. Department Directors may request that the City Administrator order a review of the

position and a salary survey to determine if a re-grade of a position is warranted. If a re-grade is warranted, the position will be placed in a different salary range.

- **SALARY ADJUSTMENT:** A salary adjustment is any alteration of an individual's salary.
- **SALARY RANGES:**
  - a) **Salary Ranges**

Salary ranges are established for classes of positions. These classifications are based on position characteristics (background requirements, level of responsibility, mental and physical demands and working conditions), market value, organizational fit, and the City's ability to pay, and Governing Body approval.
  - b) **Salary Growth within a Range**

Employees move through the salary range of their position as a function of their performance. On an annual basis, employees may be eligible to earn merit increases.
- **TRANSFER:** Movement of an employee into a new or different position.

## **5-103 POSITION EVALUATION PROCEDURES**

### **5-103.1 PURPOSE**

The purpose of the Position Evaluation Procedure is to provide a consistent tool to fairly and objectively determine the appropriate salary range for positions within the City organization.

The salary determination provided for by this process is based on the "size" of the position, the external value of the position, the internal value of the position, and the internal equity of the organization. This procedure should be used for:

- a) Determining a salary range for a new position; or
- b) Re-evaluating a current position for which responsibilities have changed or if the market has created a need to review the salary.

The procedure itself is consistent for all positions, however it should be recognized that it is impossible to totally eliminate subjectivity.

It is important to remember that the process of position evaluation is truly to evaluate the position not the current individual occupying the position. The performance evaluation process provides a means of evaluating the employee. The process is also not a method to provide an increase to an employee who has reached the top of his or her salary range. That process is a different type of situation and not amendable for what this procedure is

intended to accomplish It is important to remember also that the Position Evaluation Process is to provide a “value” for the position within the parameters of the process. Information gathered may show that a position is in a high, low, or appropriate salary range.

### **5-103.2 PROCEDURE**

The procedure consists of several phases:

- a) Initiation of the evaluation;
- b) Studying and re-writing, if necessary, the job description;
- c) Gathering market data;
- d) Performing a job factor evaluation;
- e) Evaluating organizational fit of the position; and
- f) Making a salary range determination that equitably incorporates the information into the position classification system.

### **5-103.3 INITIATING A POSITION EVALUATION**

A position evaluation can be initiated for two different reasons:

- a) Salary determination for a new position; or
- b) Re-evaluation of a current position for re-classification determination.

A request for a new position salary determination or a re-classification determination must be made by a supervisor or Department Director. These types of requests may be made at any time. All requests must be approved by the appropriate Department Director and submitted to the City Administrator.

### **5-103.4 JOB DESCRIPTION**

The first phase of the position evaluation is to write a job description (if it is a new position), or to review the current job description. This is the responsibility of the supervisor of the position. The supervisor should receive input from the employee currently occupying the position.

A revised job description should be submitted to Human Resources by the supervisor. The supervisor should specifically cite (or highlight in the job description) any new duties or responsibilities added to an existing job description. Human Resources will review the format and content of the job description and submit it to the appropriate Department Director for approval.

### **5-103.5 GATHERING MARKET DATA**

The supervisor shall work with the Human Resources office to gather the salary information necessary for comparison. In gathering salary information, it is important to look for similar positions with similar responsibilities in similar organizations. At least 3 (three) position comparisons should be made.

### **5-103.6 JOB EVALUATION**

The job evaluation portion of this process allows for assessment of the value of the various responsibilities of the position. This provides a means to compare the position to other positions in the organization. The values chosen are job elements that are shared across department lines, i.e. know how, problem solving, and accountability.

The City Administrator shall determine who shall perform the job evaluation for the position. In most cases, the job evaluation shall be completed by the supervisor or the Department Director, and the Human Resources Division.

### **5-103.7 MAKING THE DETERMINATION**

The Human Resources Division shall be responsible for summarizing the information from the job description changes, the salary survey, and the job evaluation and making a recommended salary range determination to the appropriate Department Director and the City Administrator. The City Administrator will review and endorse the recommendation, endorse the recommendation with changes, or delay endorsement and request further study. If endorsed, the City Administrator shall determine the date the salary range determination shall become effective (based on budget constraints) and what, if any, changes should be made to the current salary of an individual occupying the position, and make a recommendation to the City Council for authorization. In most cases, if an adjustment is approved, it will be made the first day of the pay period most immediately following completion of the process. The amount of the adjustment will be based on the location of the current employee in the range, but will not usually exceed the amount of a normal merit increase. If substantial discrepancies are shown between the existing salary and the salary range determination, any approved salary change may be implemented over 1 to 2 years.

## **5-104 NON-EXEMPT POSITIONS**

Certain positions are classified as non-exempt positions and are subject to the Fair Labor Standards Act. All regular, part-time, and temporary positions except for those classified as exempt positions are considered non-exempt. Employees working in those positions shall track their time worked in quarter hour increments.

### **5-104.1 OVERTIME FOR NON-EXEMPT EMPLOYEES**

Employees shall not be permitted to work in excess of their normal work scheduled except when an emergency exists or overtime work is necessary to carry out normal and essential services of the City and is assigned by their supervisor. All overtime shall be pre-approved by the employee's supervisor. Employees who work in excess of their normal work

schedule without the approval of their supervisor may be subject to appropriate disciplinary action, up to and including termination.

Non-exempt employees shall be paid overtime pay for hours worked over forty (40) in a workweek. EXCEPTION: Police officers shall be paid overtime pay for hours worked over eighty (80) in a two-week work period.

Overtime pay is one and one half times the employee's hourly rate. Alternatively, overtime may be compensated with compensatory time off at one and one half times the hours worked at the request of the employee and the approval of management or the Department Director. Employees may accrue a maximum of 48 hours compensatory time. The use of comp time must be approved in advance by the employee's immediate supervisor. Comp time must also be tracked through payroll on a time sheet so that the City may be able to determine when comp time has been used and/or accrued. Comp time must be used in one hour increments.

Overtime pay is paid in fifteen (15) minute increments.

#### **5-104.2 HOURS WORKED BY NON-EXEMPT EMPLOYEES**

Hours worked are hours that employees are actually at work, or on authorized paid leave, including civil, holiday, military, vacation, sick, leave of absence, administrative, workers' compensation or funeral leave.

Non-exempt employees who are called in to work at a non-scheduled time will be paid for a minimum of two hours. This time will be paid at time and one half their regular hourly pay. Employees actually on call will receive one hour of their regular pay while on call.

#### **5-105 EXEMPT POSITIONS**

Certain positions are classified as exempt positions and are not subject to the overtime provisions of the Fair Labor Standards Act. Other positions may be considered exempt status as duties and responsibilities change. The appropriate Department Director and the City Administrator will make those determinations based on standards set out in the FLSA.

##### **5-105.1 HOURS WORKED FOR EXEMPT EMPLOYEES**

Employees in exempt positions are expected to accomplish the duties and responsibilities of their position during a normal work schedule that has been set out by their supervisor. However, it is anticipated that exempt employees will experience periods during which it will be necessary to work in excess of forty (40) hours per week.

At no time are exempt employees compensated for time worked in excess of forty (40) hours per week. Exempt employees may take reasonable amounts of time off, not to exceed 4 hours at a time, without using vacation or personal leave as long as it does not interfere with performance of their duties and responsibilities. Exempt employees who wish to take leave without using vacation or personal leave must obtain approval in advance from the

employee's immediate supervisor and the immediate supervisor must keep a written log of any such occasions.

## **5-106 SALARY ADJUSTMENTS**

### **5-106.1 HIRING**

Starting salaries will be determined at the time of hire based on the beginning of the range, the individual's knowledge, skills, ability, and experience in the job duties and responsibilities, and the prevailing market conditions. The starting salary must be approved by the appropriate Department Director and the City Administrator prior to making a job offer.

### **5-106.2 PROMOTION**

Employees promoted to a position in a higher pay range shall receive a salary increase. The increase shall be consistent with internal and external equity and shall be sufficient to bring the employee's salary at least to the minimum of the new range and not to exceed the maximum of the new range.

### **5-106.3 DEMOTION**

In the event an employee is demoted to a lower classification, the decrease shall be consistent with internal and external equity not to exceed the maximum of the new range.

### **5-106.4 LATERAL TRANSFER**

The Human Resources Manager and City Administrator, in consultation with the Department Director, will determine if there is any change in an employee's salary in order to be consistent with internal and external equity when an employee transfers into a position in the same salary range.

### **5-106.5 RECLASSIFICATION**

- a) Employees holding positions designated for reclassification who are performing the duties of the new position at the time of the reclassification will be reclassified with the new position.
- b) Employees holding positions reclassified due to labor market conditions shall receive a salary increase only if their current salary falls below the entry of the new range. The amount of increase shall be sufficient to place the employee's salary at the minimum of the new range.
- c) Employees holding positions reclassified due to a change in duties, responsibilities or qualification shall receive an increase only if the reclassification results in the position being placed in a higher pay range. The increase shall be consistent with internal and external equity and shall be sufficient to bring the employee's salary at least to the minimum of the new range and not to exceed the maximum of the new range.

- d) If a reclassification results in an employee's position being placed in a lower pay range, the employee's salary shall not be reduced. However, if the employee's salary is higher than the maximum salary provided for in the new pay range, the employee's salary shall remain the same until a change in the City's pay and classification system provides for a greater salary for the position.
- e) If it is determined through the position evaluation process that the duties and responsibilities of the position have changed to a significantly different position, but that position is in the same pay range, the employee will receive a lateral transfer to the new position.
- f) The reclassification process should not be used to reward an employee who is performing well in a properly classified position but who possesses potential to perform in a higher level position which the City does not need. It is also inappropriate to use reclassification to provide additional salary growth to an employee who has reached the top of his or her salary range. Re-classifications will be implemented in accordance with the City Position Evaluation Procedure.

#### **5-106.6 RE-GRADES**

- a) When it is determined that a position should be re-graded, the individual occupying a position that is re-graded may or may not receive a salary increase depending on the difference in current pay and the pay recommended.
- b) Employee salaries that are less than the newly established range minimum for the position shall be brought to the range minimum in the first pay period in which the salary range is effective.

#### **5-106.7 WORKING OUT OF CLASS**

Any employee who is temporarily designated to work longer than ten (10) consecutive working days in a position in a salary range with a higher maximum salary than their own will be compensated based on internal and external equity for the position assignment. The salary change will occur after the first ten days of the assignment and be back dated to the first day of the assignment. The employee will be at least at the minimum of the new range and in no case shall they be above the maximum of the new range while performing in the higher salary range. No employee shall be assigned to a higher-level position entitling them to "working out of class" pay without approval of the City Administrator

**5-106.8 EFFECTIVE DATE**

All salary adjustments become effective on the date the change of status occurs.

**5-106.9 PLANT OPERATOR AND POLICE OFFICER INCREASES WITHIN PAYGRADE**

Plant Operators working within the Water and Waste Water Plants have the opportunity to obtain four levels of Certification. The employee must attain competency through study, training, on-the-job experience and passing a written test. When an employee receives a higher lever Water or Wastewater Certification they will receive a 5% pay increase while remaining within the same paygrade. Any part of the increase that would be above the top of the assigned paygrade would be received as a lump sum payment.

Police Officers who have at least five (5) years' experience and who received at least a High Quality performance rating on their last annual performance evaluation may have their title changed from a Police Officer to a Police Officer II. Upon the title change they will receive a five percent pay increase while remaining within the same paygrade. Any part of the increase that would be above the top of the assigned paygrade would be received as a lump sum payment.

**5-107 ECONOMIC ADJUSTMENTS**

Employees may receive a salary increase when a market adjustment is made to their job classification or to the overall pay plan structure. Economic market adjustments will be based on several factors including, but not limited to, an employee's compa-ratio, changes in the cost-of-living, changes and increases in salaries and benefits in similar cities for similar municipal job classifications, changes and/or increases in the cost of employee benefits, and the city's financial condition.

Based on an analysis of the market factors and upon the recommendation of the City Administrator, the City Council will determine if there should be a general economic adjustment to the salary range structure and set the percentage of increase. All employees will receive a percentage increase that is equal to the overall adjustment to the pay ranges when salary ranges are adjusted. Generally, adjustments to the salary ranges will take place at the beginning of the new fiscal year, however, the City may determine that a general adjustment to the ranges may begin at some other date as the City Council may determine.

**5-108 MERIT INCREASES**

Any merit pay increases based on performance shall be effective January 1 of the following fiscal year. Merit increases are granted based on the employee's performance evaluation, however, the performance evaluation may or may not result in a merit increase depending upon performance and available budgetary resources.

## **5-109 ADMINISTRATIVE PAY CORRECTIONS**

The City takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday. It is the City's policy to comply with the salary requirements of the Fair Labor Standards Act.

In the unlikely event that there is an error in the amount of pay or if it appears an improper deduction has occurred, the employee should promptly bring the discrepancy to the attention of his Department Director so that corrections can be made as quickly as possible.

## **5-110 HEALTH AND DENTAL BENEFITS**

### **5-110.1 EMPLOYEE HEALTH CARE PLAN**

#### **5-110.1.1 Eligibility**

All full-time and part-time employees and their qualified dependents are eligible to participate. Elected officials may participate at full cost. The waiting period ends the first day of the month coinciding with or following the date of employment. Eligible employees may enroll within thirty (30) days of the date of hire or during the next open enrollment.

#### **5-110.1.2 Benefits**

The City offers health care coverage. Benefit levels depend on the plan selected.

#### **5-110.1.3 Cost**

Monthly employee costs depend on the coverage plan selected. The City pays an amount fixed annually by the Governing Body for full time employees. The City pays a proportionate amount for part-time employees based upon the average number of hours worked per week. All premiums are deducted pre-tax, as allowed by the Internal Revenue Service.

#### **5-110.1.4 Plan Documents**

Plan documents are available from Human Resources.

### **5-110.2 EMPLOYEE DENTAL CARE PLAN**

#### **5-110.2.1 Eligibility**

All full-time and part-time employees and their qualified dependents are eligible to participate. Elected officials may participate at full cost. The waiting period ends the first day of the month coinciding with or following the date of employment. Eligible employees may enroll within thirty (30) days of the date of hire or during the next open enrollment.

### **5-110.2.2 Benefits**

The City offers a dental care plan.

### **5-110.2.3 Cost**

The employee pays 100% of the costs. All premiums are deducted pre-taxes under a “125 Tax Code”.

### **5-110.2.4 Plan Documents**

Plan documents are available from Human Resources.

## **5-110.3 FLEXIBLE SPENDING PLAN**

### **5-110.3.1 Eligibility**

All full-time and part-time employees are eligible to participate. Eligible employees may enroll within thirty (30) days of the date of hire or during the next open enrollment.

### **5-110.3.2 Benefits**

The medical account allows employees to make pre-tax deductions for qualified unreimbursed medical and dental costs. The dependent care account allows employees to make pre-tax deductions for qualified dependent care costs.

### **5-110.3.3 Cost**

The City pays 100% of the administrative costs. The employee chooses their payroll deduction up to a maximum per year as allowable by IRS regulations for unreimbursed medical expenses and dependent care expenses.

### **5-110.3.4 Plan Document**

Plan document is available for inspection in the Human Resources office.

## **5-110.4 EMPLOYEE ASSISTANCE PROGRAM**

### **5-110.4.1 Eligibility**

All full-time and part-time employees and their qualified dependents are eligible to participate. There is no waiting period.

### **5-110.4.2 Benefits**

The City offers an employee assistance program.

### **5-110.4.3 Cost**

The City pays 100% of the costs.

#### **5-110.4.4 Plan Documents**

Information is available from Human Resources.

### **5-111 RETIREMENT BENEFITS**

#### **5-111.1 KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM (KPERS).**

##### **5-111.1.1 Eligibility**

KPERS is a mandatory retirement plan administered by the State of Kansas. All employees working in covered positions EXCEPT those employees working as commissioned Police Officers, including individuals in all other full-time and regular part-time positions of the City who meet the KPERS membership requirements, are required to participate. Participation begins on the first day of employment.

##### **5-111.1.2 Benefits**

KPERS is a defined benefit pension plan. Monthly retirement benefit is based on final average salary and years of service. Vesting time for retirement is 5 years. Normal retirement age is 65.

##### **5-111.1.3 Cost**

Employer and employee contributions are determined by the State of Kansas and information will be provided by Human Resources or KPERS.

##### **5-111.1.4 Plan Documents**

The plan is established by state statute. (K.S.A. 74-4901:4998g; 74-49,102:49,117; 74-49a173:49a174, and amendments thereto). The employee will receive an annual statement from KPERS detailing vesting and contribution information. KPERS Employee informational handbooks are available from Human Resources.

#### **5-111.2 KANSAS POLICE AND FIREMEN'S RETIREMENT SYSTEM (KP&F)**

##### **5-111.2.1 Eligibility**

KP&F is a mandatory retirement plan administered by the State of Kansas. All employees working in positions as commissioned Police Officers, including individuals in full-time and regular part-time positions of the City who meet the membership requirements, are required to participate. Participation begins on the first day of employment.

##### **5-111.2.2 Benefits**

KP&F is a defined benefit pension plan. Monthly retirement benefit is based on final average salary and years of service. Vesting time for retirement is 15 years. Normal retirement age varies with age and years of service in the retirement system.

### **5-111.2.3 Cost**

Employees contribute a percentage of their gross salary as determined by the State of Kansas. The City contributes a percentage that is legislated by the State of Kansas.

### **5-111.2.4 Plan Documents**

The plan is established by state statute. (K.S.A. 74-4901:4998g; 74-49,102:49,117; 74-49a173:49a174, and amendments thereto). The employee will receive an annual statement from KP&F detailing vesting and contribution information. KP&F Employee informational handbooks are available from Human Resources.

## **5-111.3 ICMA-RC SECTION 457 DEFERRED COMPENSATION PLAN**

### **5-111.3.1 Eligibility**

All full-time and part-time employees are eligible to participate. There is no waiting period.

### **5-111.3.2 Benefits**

ICMA-RC is a voluntary program that allows an employee to save money, tax deferred, for retirement purposes. Employees choose from the investment options available through the plan. There are no vesting requirements.

### **5-111.3.3 Cost**

There is an administration fee. The employee chooses the amount to be set aside by payroll deduction not to exceed the maximum allowed by law per year. The City will make contributions for those employees working in KPERS and KP&F covered positions, including individuals in all full-time and regular part-time positions, who meet or will meet the membership requirements based on the following employee contributions:

- **KPERS and KP&F participating employees:**
  - Employees contribute a minimum of 1% of their gross salary to earn the City's 1% match.

### **5-111.3.4 Plan Documents**

ICMA-RC employee informational handbooks are available from Human Resources.

## **5-112 DISABILITY BENEFITS**

### **5-112.1 KPERS AND KP&F DISABILITY INSURANCE**

#### **5-112.1.1 Eligibility**

An employee must be member of the KPERS or KP&F Retirement Program to be eligible.

#### **5-112.1.2 Benefits**

Annual benefits for KPERS and KP&F differ. Benefits available under each program are legislated by the State of Kansas.

#### **5-112.1.3 Cost**

The cost is included in the employer's contribution mentioned under the KPERS and KP&F Retirement Plan benefits.

#### **5-112.1.4 Plan Documents**

KPERS and KP&F employee informational handbooks are available from Human Resources.

## **5-113 LIFE INSURANCE**

### **5-113.1 TERM LIFE INSURANCE**

#### **5-113.1.1 Eligibility**

All full-time and part-time employees are eligible to participate. The waiting period ends on the first day of the month coinciding with or following the date of employment.

#### **5-113.1.2 Benefits**

Fifteen thousand dollars (\$15,000) of group term life and accidental death insurance. Optional spouse/dependent child coverage is available.

#### **5-113.1.3 Cost**

Premiums are paid 100% by the City for the employee. Optional coverage for spouse and/or dependent child(ren) is funded 100% by employee.

#### **5-113.1.4 Plan Documents**

Plan document is available from Human Resources.

## **5-113.2 KPERS AND KP&F LIFE INSURANCE**

### **5-113.2.1 Eligibility**

Must be eligible for the KPERS or KP&F Retirement Program to participate.

### **5-113.2.2 Benefits**

Benefits available through KPERS and KP&F differ. Benefits available under each program are legislated by the State of Kansas.

### **5-113.2.3 Cost**

The cost is included in the employer's contribution mentioned under the KPERS or KP&F Retirement Plan benefit.

### **5-113.2.4 Plan Documents**

KPERS and KP&F employee informational handbooks are available from Human Resources.

## **5-113.3 KPERS OPTIONAL GROUP LIFE INSURANCE**

### **5-113.3.1 Eligibility**

Employee becomes eligible for KPERS Optional Group Life Insurance on their KPERS or KP&F membership date.

### **5-113.3.2 Benefits**

Coverage is available to eligible employees in five thousand dollar (\$5,000.00) increments from a minimum base of \$5,000.00 to the maximum coverage of \$250,000.00. Employees are guaranteed \$50,000.00 coverage if coverage is applied for within 30 (thirty) days of their KPERS/KPF membership date without proof of good health. Insurance coverage over \$50,000.00 requires proof of good health.

### **5-113.3.3 Cost**

The employee pays 100% of the premiums and administrative costs.

### **5-113.3.4 Plan Documents**

KPERS Optional Group Life information is available from Human Resources.

NOTE: In accordance with I.R.S. regulations, the cost of group-term life insurance that is more than the cost of \$50,000 of coverage must be included in the employee's wages subject to social security and Medicare taxes.

## 5-114 OTHER BENEFITS

### 5-114.1 EDUCATIONAL ASSISTANCE

Full time employees are encouraged to take advantage of education and vocational courses which will help improve their performance in their current positions and/or better themselves for a higher level position with the City.

- A. For purposes of payment for attending courses there are two categories of attendance:
  - 1. Required: The City directs an employee to attend a course, seminar or workshop.
  - 2. Voluntary: The Employee freely elects to attend a course at a vocational school or institute of higher learning.
  
- B. Reimbursement for course attendance is as follows:
  - 1. Required: 100% of all course registration costs, books and other required material will be reimbursed.
  - 2. Voluntary: The City reimburses one hundred percent (100%) of tuition to a maximum of one hundred dollars (\$100) per under-graduate credit hour and one hundred fifty dollars (\$150) per graduate credit hour, and related book fees with the following provisions:
    - a) When taken for credit, the employee must complete the course with a 2.75 grade for undergraduate courses, and a 3.0 grade for graduate courses. When taken as a pass-fail, employee must show proof of passing the course. When taken for non-credit, the employee must show proof of completion.
    - b) Single courses (not part of a degree program) must be shown to be job related.
    - c) Courses taken for a degree (major courses and general requirements) must be for a major in a field directly related to the employee's position or his/her work for the City.
    - d) Total reimbursement per employee will be limited to a maximum of \$1500 per calendar year, and a lifetime maximum reimbursement of \$6,000 provided employee satisfactorily completes the course.
    - e) Expenses relating to registration fees, library fees, graduation fees, life learning experiences, calculators, etc., are not eligible for reimbursement.

- f) Expenses which exceed the limits of this policy may not be carried forward for reimbursement at a future time.
  - g) The granting of assistance is based upon the availability of funds, and this provision does not constitute a guarantee that funds will be available.
- C. All employees must complete a Letter of Intent for Educational Assistance. This application must be submitted and approved by the Department Director and the Human Resources Division prior to course registration. In the event the Human Resources Division rejects the application, the employee may appeal the decision to the City Administrator who will make the final determination.
- D. Separation of Employment:
1. If the employee voluntarily leaves the employment of the City of Gardner within 1 year of the completion of the last course for which Educational Expense Reimbursement was paid, the employee shall be liable for all costs of fees and books that have already been reimbursed to the employee by the City for that year. The employee shall only refund to the City the cost for courses completed in the 1 year time period prior to voluntary departure from City employment and for which the employee received reimbursement. The employee must sign an agreement that any refund of Educational Expense Reimbursement will be deducted from the final paycheck. Should the refund total a greater amount than the final paycheck, the employee shall pay the balance before leaving or make arrangements to pay with the City Administrator.
  2. If the employee is involuntarily terminated by the City, there will be no liability for costs of books and fees to the City by the employee.
  3. An employee who is liable for refund to the City may have a review by the City Administrator for final determination of liability.

## **5-114.2 RECREATION DISCOUNT**

### **5-114.2.1 Eligibility**

All full-time and part-time employees and their immediate families. Eligibility begins with the first day of employment.

### **5-114.2.2 Benefits**

Employees are eligible to receive free individual or family season swimming pool passes for up to a total of five (5) family members limited to themselves, their spouse, and/or their children and step-children eighteen (18) years of age and

younger. Additional children and/or stepchildren may be added to the pass for fifteen-dollars \$15.00 each.

#### **5-114.2.3 Cost**

Benefit paid by the City.

#### **5-114.3 UNIFORM POLICY**

The Uniform Policies are available in Appendix.

#### **5-114.4 UNIFORMS AND SAFETY EQUIPMENT**

Whenever the City requires the use of uniforms or safety equipment, the City will pay for its purchase and any maintenance (except laundry and dry cleaning) when such equipment requires it. EXCEPTION: In the case of Police, laundry and dry cleaning expenses are included.

#### **5-114.5 CREDIT UNION MEMBERSHIP**

Employees are eligible for membership in a Credit Union. Please see Human Resources for information.

#### **5-114.6 SUPPLEMENTAL INSURANCE**

Employees are eligible for membership in a group employee's supplemental insurance plan. The City will, upon written request of the employee, make deductions from the salary of that employee for group supplemental insurance.

#### **5-114.7 DIRECT DEPOSIT**

Employees are eligible to participate in the City's direct deposit program. The direct deposit program enables the deposit of all or a portion of an employee's net pay to be made in the employee's choice of financial institutions. Employees may split the amount of their direct deposition into a maximum of five accounts. The deposit is accomplished through an electronic funds transfer and is available in the employee's designated account(s) on the morning of the normal payday. The City has no responsibility for liability for the deposits once they are made to the designated account(s). Direct deposit forms are available from Human Resources.



Section 6  
LEAVE TIME

## **SECTION 2. LEAVE TIME**

ARTICLE 6-101	TYPES OF LEAVE
ARTICLE 6-102	GENERAL PROVISIONS
ARTICLE 6-103	COURT APPEARANCE
ARTICLE 6-104	HOLIDAYS
ARTICLE 6-105	MILITARY LEAVE
ARTICLE 6-106	VACATION LEAVE
ARTICLE 6-107	SICK LEAVE
ARTICLE 6-108	SHARED LEAVE POOL
ARTICLE 6-109	FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY
ARTICLE 6-110	LEAVE OF ABSENCE
ARTICLE 6-111	FUNERAL LEAVE
ARTICLE 6-112	INJURY LEAVE
ARTICLE 6-113	ADMINISTRATIVE LEAVE

### **6-101 TYPES OF LEAVE**

#### **6-101.1 Types Of Leave**

The following types of leave are allowed for full-time and part-time employees:

Civil

Holidays

Military (Reserves and Active Duty)

Vacation

Sick

Family and Medical

Leave of Absence

Administrative

Worker's Compensation

Funeral

Seasonal and temporary employees are not eligible for paid leave.

## **6-102 GENERAL PROVISIONS**

Employees must complete an “Employee Leave Request Form” as far in advance as possible of the requested time off and submit it to their supervisor for approval.

All leave time must be recorded by each department and forwarded to the Finance Department with bi-weekly payrolls.

The Finance Department will maintain records for the period of time prescribed by law.

All leave time shall be recorded to the nearest quarter hour (fifteen minutes).

Benefit continuation varies depending on the type of leave.

No employee shall be permitted to use any leave time for participating in any unlawful work stoppage.

At no time shall any employee in an exempt position be docked pay for any part of one working day.

## **6-103 COURT APPEARANCE**

Full-time employees who are summoned to serve jury duty or subpoenaed to appear as a witnesses in cases where they are neither the plaintiff nor defendant, shall make arrangements with their supervisor to comply with the order. Employees shall provide a copy of any payment for service (excluding expense reimbursement) to their supervisor for inclusion with the affected payroll. The City will subtract that amount from the employee’s regular pay based on their normal work schedule. Employees selected for jury duty or subpoenaed to appear as a witness in a case where they are neither the plaintiff nor defendant, or who are required to make a court appearance in an official capacity in connection with City business will be considered to be on duty. Employees shall give notice as far in advance of the court date(s) as possible.

## **6-104 HOLIDAYS**

All full-time and part-time employees of the City shall be scheduled off or receive compensation for the following holidays:

New Year’s Day	January 1
Martin Luther King Day	Third Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans’ Day	November 11

Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday after Fourth Thursday in November
Christmas Eve	December 24
Christmas Day	December 25
Personal Day	Unspecified

From time to time on special occasions, the Governing Body may designate other days as special holidays.

Holidays that fall on a Saturday will normally be observed on the preceding Friday and those which fall on a Sunday will normally be observed on the following Monday. In the case of Christmas Eve and Christmas Day falling on Friday and Saturday, the holidays will be observed on the preceding Thursday and Friday. In the case of Christmas Eve and Christmas Day falling on Sunday and Monday, the holidays will be observed on Monday and the following Tuesday. All holidays begin at 12:01 a.m. and end at 12:00 midnight.

All FLSA non-exempt benefit-eligible employees who are required to work on a city-observed holiday shall be paid holiday pay plus time and one-half their regular rate of pay for all hours worked on the observed holiday. All FLSA exempt benefit-eligible employees will receive their normal weekly salary during a week that includes an observed holiday(s), whether or not they work on the day the holiday is observed.

If the designated and observed holiday differs from the actual holiday, employees who work on the actual holiday will receive time and one-half their regular rate of pay for the time worked on the actual holiday in addition to the holiday pay (for the observed holiday).

Personal Days must be used within the calendar year. Upon termination or resignation, an employee shall be compensated for any unused Personal Days. Employees are eligible for the Personal Day if they are employed on January 1 (or the first business day) of the current year. Personal days must be used within the calendar year.

## **6-105 MILITARY LEAVE**

Employees serving in the uniformed services of any branch of the United States Armed Forces and the National Guard on active duty, active duty for training, inactive duty for training, National Guard duty, and time taken off for an examination to determine fitness to do any of the above shall be granted military leave in accordance with applicable state and federal law.

### **6-105.1 Reserve Duty**

Employees who are members of the reserve components of any branch of the United States military service or National Guard will be granted military

leave for the purpose of participating in required weekend and annual training.

Employees may elect to receive the difference between the military pay received and their authorized salary from the City of Gardner. This difference may not be paid to exceed 10 (ten) regular working days in any one (1) calendar year and will be determined on a daily salary comparison of base pay. In order to receive compensation, employees must present a statement of earnings from the military to their Department Director.

Employees may, at their option, use vacation leave to fulfill military duty.

Employees involved in the reserves shall give notice as far in advance of weekend and annual training as possible.

### **6-105.2 Active Duty**

Employees who are called to active duty (full-time, long-term active military service that doesn't allow work at other occupations) will be granted military leave in accordance with applicable state and federal law.

Employees may elect to take military leave for active duty without pay. If an employee elects to take military leave for active duty without pay, the City will pay the employee's and the City's portion of health insurance for a period of six months. After six months, employees may elect to continue health insurance coverage at their own expense. Employees will not receive holiday pay while on military leave for active duty without pay.

Employees may elect to use their accrued vacation leave while on active duty. All benefits continue in the same manner as if the employee is actively at work.

### **6-105.3 Reinstatement Following Leave**

Employees returning from active duty will be reinstated in accordance with the provisions of the federal Uniform Services Employment and Reemployment Rights Act of 1994 or the Kansas military leave laws, depending on whether the employee is serving in the federal or Kansas military service. To be eligible for reinstatement, the employee must provide notice of intent to return within certain time limits as specified by law.

## **6-106 VACATION LEAVE**

Vacation leave shall be earned and accrued from the most recent date of employment under the conditions hereinafter stated. Vacation will be considered to be earned and accrued at the end of the last day of the payroll period. Approved vacation may be used as soon as it is accrued. Vacation may not be taken during the same period during which it is being earned.

Vacation leave accrual will begin the first day of the first complete pay period the employee works. Changes in vacation accrual will be effective the first pay period following the individual's employment anniversary date (27th pay period).

Employees shall not accumulate more than one and one-half times the amount of their annual vacation accrual at any time. Vacation accrual will cease until the accumulation is within the established limits. Employees may not waive vacation leave for the purpose of receiving pay in lieu of time off. Employees who are making a reasonable effort to use accrued vacation leave, but due to extenuating circumstances are unable to use the leave within the allotted time-frame may be granted additional time in which to use the accumulated leave by the City Administrator.

Employees must use vacation in one quarter hour (15 minute) increments, or as determined by departmental guidelines.

Vacation requests may be denied based on workload needs of the department. Employees may be recalled from vacation leave or may have their scheduled vacation leave postponed in the event the Department Director declares that an emergency situation exists. When an employee is recalled from vacation leave, the employee's vacation leave will be re-scheduled at the earliest convenient time.

The Finance Department is responsible for maintaining adequate records for each employee that reflects accrual, usage, and accumulation of vacation time for all employees. Supervisors are responsible for monitoring balances and considering those when reviewing vacation leave requests.

Department Directors shall establish guidelines for scheduling vacations, including prior notification requirements. Employees are urged to take vacations during "off-peak" periods of their department's workload.

Paid holidays that occur during a vacation leave are not counted as a day of vacation.

Sick leave may be substituted for scheduled vacation leave if the employee is unexpectedly faced with a situation that is considered sick leave. A written substantiation of the situation may be required upon the employee's return to work.

Upon resignation or termination an employee will be compensated for any accumulated unused vacation leave.

#### **6-106.1 FULL-TIME EMPLOYEES**

Each full-time employee shall accrue vacation leave at the following rate:

Employment through 5 Years	4.0 hrs/pay period
After 5 Years through 10 Years	4.62 hrs/pay period
After 10 Years through 14 Years	5.231 hrs/pay period

After 14 Years through 20 Years	6.75 hrs/pay period
After 20 Years	7.70 hrs/pay period

EXCEPTION: All exempt positions may be granted accumulated vacation leave and may be allowed to accrue vacation leave at an alternative rate as may be approved by the City Administrator.

**6-106.2 PART-TIME AND TEMPORARY EMPLOYEES**

All part-time employees accrue vacation leave at a proportional rate.

Temporary employees do not accrue vacation leave.

**6-107 SICK LEAVE**

**6-107.1 FULL-TIME EMPLOYEES**

All full-time employees accrue sick leave at a rate of 3.692 hours per pay period. All part-time employees accrue sick leave at a proportional rate.

Sick leave will be considered to be earned and accrued at the end of the last day of the payroll period. Approved sick leave may be used as soon as it is accrued. (Sick leave may not be taken during the same period during which it is being earned).

**6-107.2 PART-TIME AND TEMPORARY EMPLOYEES**

All part-time employees accrue sick leave at a proportional rate.

Temporary employees do not accrue sick leave.

**6-107.3 REASONS FOR TAKING SICK LEAVE**

Sick leave may be used for the following purposes:

Personal illness or injury, including maternity.

An appointment with a health care provider. Employees are expected to attempt to schedule medical appointments at the beginning or end of their normal work schedule.

To attend to a member of the employee’s immediate family whose illness requires the employee’s presence.

To attend to wife or family in the case of a new child.

Any other leave provided for by the Family Medical Leave Act.

Employees must use sick leave in one quarter hour (15 minute) increments.

To be eligible for paid sick leave employees shall notify their immediate supervisor of their intention and reason for taking sick leave as far in advance as possible of the time needed. Employees must notify their supervisor of an intended absence no later than within fifteen (15) minutes of their regular shift start. Employees who do not notify their supervisor of sick leave within the required time limits will be considered on unauthorized leave. Employees must keep the supervisor informed of their condition each day of their absence.

An employee who takes sick leave may be required to submit a statement from a health care provider within 24 hours after returning to work.

Employees have the option of using accrued vacation leave when sick leave has been exhausted. Employees may request a leave of absence without pay if all paid leave has been exhausted.

Employee shall be allowed to accumulate a sick leave reserve up to a maximum of 1040 hours (130 days).

Employees who have accumulated the maximum sick leave reserve shall be compensated annually for sick leave that would have otherwise been accumulated, at a rate of twenty dollars (\$20.00) per day (8 hours).

Employees separating employment in good standing with the City of Gardner after 12 months of consecutive service will be compensated for twenty percent (20%) of their accrued and unused sick leave at their current rate of pay. An employee who is terminated because of violating a City of Gardner Personnel Policy will not be eligible for this payment.

## **6-108 SHARED LEAVE POOL**

Full-time regular employees who have exhausted all their personal accrued vacation, Personal Day(s), sick leave, comp time and holiday leave time, and who have a documented expectation that there is a need for additional time off from work, are eligible to request the Shared Leave Benefit.

A committee consisting of the City Administrator, Human Resources Manager, Finance Director and one other Department Director selected by the City Administrator will approve or disapprove the granting of Shared Leave.

Shared leave requests will be submitted to the Human Resources Division for consideration, and may be approved for one of the following reasons:

1. Full-time employee's own catastrophic illness or injury; or,
2. To care for employee's spouse, or child who has suffered a catastrophic illness or injury. A child is defined as a person under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

For purposes of this policy, catastrophic illness or injury is defined as an extreme or life-threatening illness, injury, impairment, or physical or mental condition that requires continuing treatment/supervision by a health care provider.

Shared leave requests should be submitted as soon as possible in advance of exhausting accrued leave time or at the time all accrued leave time is exhausted. Shared leave will not be granted to an employee to care for a child following birth, or in connection with the child's placement with the employee for adoption or foster care.

Shared leave requests will be administered in order to maintain sufficient confidentiality and respect for the privacy of the proposed recipient. Communication of the need for donations for a recipient will be undertaken only at the request of the proposed recipient. A donor may remain anonymous if he/she so chooses.

No employee may be coerced, threatened, intimidated, or promised and/or provided financial inducement to donate leave time.

Employees seeking shared leave must apply for Leave using the City of Gardner's Shared Leave Program Request Form and attach a physician's statement that meets the leave qualifications of catastrophic illness or injury.

Employees may donate unused personal holiday, accrued vacation, or sick leave hours. Personal salary and compensatory time off cannot be donated. Donations may be made in no less increment than that which is earned by the donor for one pay period. Employees who are receiving paid time off through the Workers' Compensation Program are not eligible to request or use shared leave. Employees who have applied for or are receiving a short-term disability benefit are eligible to request shared leave.

The Human Resources Division will track the number of hours that are donated to the Shared Leave Bank and will communicate with Payroll regarding who donated leave time so that it may be deducted from the donator's balance.

#### **6-108.1 Shared Leave Request Procedures:**

- A. An employee will submit a request/application for shared leave through Department Directors to the Human Resources Division in anticipation of exhausting all of their accrued leave time.
- B. An employee requesting shared leave will provide medical and other documentation, as requested, indicating the necessity for time off from work and the probable duration of the requested time off. Additional documentation may be requested at any time during the approved leave. If the request for additional information is not met, shared leave benefits may be terminated immediately.
- C. The recipient may not use donations longer than is medically necessary.
- D. The Human Resources Division will provide information to Department Directors regarding coordination of any and all other relevant paid time off policies and other legal requirements.
- E. Shared leave requests are restricted to a maximum period of six (6) months in a twelve-month rolling period, except in extenuating circumstances. Any request for an extension of the shared leave benefit will be submitted in writing to the Human Resources Division for review and approval prior to the

expiration of the original leave. The use of the Shared Leave will also be subject to the Leave policies outlined in this Section 6 of the Personnel Policies entitled LEAVE TIME

- F. An employee wishing to donate leave time may do so by informing his/her Department Director and by completing a “Shared Leave Donation Request” Form.
- G. An employee may donate the following amounts of leave by type:
  - a. Any and all accrued vacation hours;
  - b. Accrued sick leave in excess of one year’s accrual. (Employees must maintain a balance of 96 hours).
  - c. Personal Day(s)

### **6-109 FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY**

The Family Medical Leave Act (FMLA) is a federal statute that originally took effect on August 5, 1993. The purpose of the Act is to assist employees in balancing work, life and family matters by providing for unpaid leave for special health or family-related needs. Upon returning to work from FMLA leave, employees may be reinstated in their own or equivalent positions without requalifying for benefits.

The City of Gardner’s FMLA policy will be interpreted in accordance with the federal FMLA, its current regulations and all other applicable laws. To the extent that these policies may conflict with those laws, those laws shall control. Further, the City of Gardner retains all rights and defenses under applicable law, whether or not specifically set forth in these policies.

Consistent with Federal Law, after a 12–month wait for initial eligibility (having worked at least 1,250 hours), an employee may take as much as 12 work weeks of unpaid leave within 12 months for any of the following reasons:

- birth of a child (including prenatal care) and to care for the newborn child;
- placement of a child for adoption or foster care;
- to care for a spouse, child or parent with a serious health condition;
- to deal with the employee’s serious health condition that renders the employee unable to perform the essential functions of the employee’s job; and/or,
- A “qualifying exigency” as defined below and related to an employee’s spouse, son, daughter or parent’s active duty in the United States Armed Forces, and deployed to a foreign country.

An employee who is the spouse, son, daughter, parent or next of kin to a covered service-member is also entitled to a total of twenty-six (26) weeks of unpaid leave during a single 12-month period for the following reasons:

- Leave to care for a covered service member on the temporary disability retired list, who has a serious injury or illness or is in outpatient status (“military caregiver leave”).

During this period, the City will continue its contribution to the employee’s health insurance premium at the rate that existed prior to the absence. Employees are required to use accrued sick leave until Short Term Disability begins on the 15<sup>th</sup> day, as part of the FMLA leave. During Short Term Disability, the use of accrued vacation and sick leave is optional. If the employee is not eligible for Short Term Disability during his or her FMLA leave, he or she is required to use all vacation and sick leave accruals until it is exhausted.

### **6-109.1 DEFINITIONS**

**“Spouse”** means a husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage in states where it is recognized.

**“Parent”** means a biological, adoptive, step or foster father or mother, or any individual who stood in as a parent when the employee was a son or daughter. The term “parent” does not include parents “in law” (e.g. mother-in-law or father-in-law).

**“Son” or “daughter”** means a biological, adopted, or foster child; a step-child; a legal ward; or a child of a person or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence.

**“Next of kin of a covered service member”** means the nearest blood relative of that individual other than the covered service member’s spouse, parent, son, or daughter in the following order of priority: blood relatives who have been granted legal custody of the covered service member, brothers and sisters, grandparents, aunts and uncles, and first cousins unless the covered service member has designated in writing a specific blood relative as his next of kin for purposes of military caregiver leave under the FMLA.

**“Covered service member”** means a member of the Armed Forces including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary disability retired list, for a serious injury or illness.

A **“covered military member”** is defined as an employee’s spouse, son, daughter or parent who is on active federal military duty or has been called to active federal military duty status for the United States Armed Forces.

A **“serious health condition”** is defined as a condition involving “inpatient care” or “continuing treatment” by a health care provider. Where inpatient care is not involved, the Act requires three (3) or more days absence from work (or incapacity to perform daily activities, in situations of caring for a family member) before a health condition will qualify for leave. Continuing treatment generally means two (2) or more visits to a health care provider, the first of which must occur within seven (7) days of the first day of incapacity and the second within thirty (30) days of incapacity.

A “qualifying exigency” includes:

- a) Short notice deployment: to address issues arising when a covered military member is called to active duty within 7 or less days of such deployment. Leave for a short notice deployment may be taken for seven (7) calendar days or less beginning on the date of the covered military member’s notice of such leave;
- b) Military events and related activities: to attend official ceremonies, programs or events sponsored by the military that are related to the active duty status of a covered military member or to attend programs and informational briefings sponsored or promoted by the military, military service organizations or the American Red Cross that are related to active duty status of a covered military member;
- c) Childcare and school activities: to arrange for or provide urgent childcare when the call to active duty of a covered military member necessitates a change in an existing childcare arrangement for a covered military member’s child; to enroll in or transfer to a new school a covered military member’s child; and to attend meetings with school or daycare staff of a covered military member’s child;
- d) Financial and legal arrangements: to make or update financial or legal arrangements to address the covered military member’s absence while on active duty or to act as the covered military member’s representative for the purpose of obtaining benefits;
- e) Counseling: to attend counseling for the covered military member or a covered military member’s child;
- f) Rest and recuperation: to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during a period of deployment. Eligible employees may take up to five (5) days of leave for rest and recuperation;
- g) Post-deployment activities: to attend official ceremonies or programs sponsored by the military in the 90 days following the termination of the covered military member’s active duty status or to address issues that arise from the death of a covered military member; and
- h) Additional activities: to address other events that arise out of the covered military member’s active duty or call to active duty provided that the employer and employee agree that the leave shall qualify as an exigency and agree to the timing and duration of such leave.
- i) “Serious injury or illness” means an injury or illness incurred by a covered service member in the line of duty on active duty in the United States Armed

Forces that may render the individual medically unfit to perform the duties of the individual's office, grade, rank or rating.

- j) "Outpatient status" means the status of a covered service member assigned to either a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control to members of the United States Armed Forces receiving care as outpatients.
- k) A "contingency operation" means a military operation that is (a) designated by the Secretary of Defense as an action where the United States Armed Forces are or may become involved in military actions or b) results in members of the United States Armed Forces being called to active military duty, as defined by law.

### **6-109.2 AMOUNT OF FMLA AVAILABLE**

An eligible employee may take up to 12 work weeks of unpaid leave during the "12-month period" for any one, or combination, of leave for birth or adoption of a child, for the serious health condition of the employee or the employee's spouse, child or parent or for a qualifying exigency. The 12-month period is a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

An eligible employee may also take up to twenty-six (26) weeks in a single 12-month period for military caregiver leave. The 12-month period is a "rolling" 12-month period measured forward from the date an employee uses any military caregiver leave. Any employee who is eligible for and takes a portion of his or her twenty-six (26) weeks of military caregiver leave, but not the entire twenty-six (26) weeks forfeits the remaining portion of the leave that was not used within one (1) year.

FMLA leave for the birth or placement of a child must conclude 12 months after the birth or placement. Leave for the birth or placement of a child may only be taken on an intermittent basis with the City's approval.

If spouses are both employed by the City, they may take a combined total of 12 weeks of FMLA leave within the "12-month period" for any birth or placement of a child or to care for a seriously ill parent or dependent or a combined total of twenty-six (26) weeks within the "12-month period" to care for a covered service member, both of which can be split between spouses in any proportion. Any such leave taken by each employee shall be charged against that employee's available 12 weeks of FMLA leave for his/her own serious health condition or to care for a child or spouse with a serious health condition or 26 weeks of FMLA leave to care for a covered service member.

### **6-109.3 CERTIFICATION**

The City requires an employee seeking leave of more than 3 days for any medical purpose to submit medical or other documentation on a special form at the time of:

- initial request;
- before returning to work (following a serious health condition to certify fitness for duty);
- if the employee is not returning to work, following a leave during which the employer has paid health–care premiums; or,
- re–certification routinely during FMLA leave.

The City can seek clarification through its own provider and/or require the employee to undergo a second independent examination at the City’s cost.

Certification forms can be obtained from Human Resources. All certification (and re–certification) forms must be submitted to Human Resources within 15 calendar days of the City’s request for a certification.

#### **6-109.4 FMLA LEAVE REQUESTS**

Employees should request FMLA leave by completing the Request for Family Medical Leave form and submitting it to Human Resources. Employees should provide notice at least 30 days in advance of the requested leave, whenever possible. When an unexpected situation develops, the employee should notify the City as soon as possible. The employee will be notified whether the leave has been designated as FMLA. When possible, employees should schedule foreseeable medical treatments so as to minimally disrupt the City’s operations.

All requests for FMLA leave must fully explain the reasons for leave to allow the City to determine whether the leave actually qualifies under Federal Law. If an employee refuses or fails to give reasons for requesting FMLA leave or refuses or fails to provide a proper certification, the City may deny leave until such information is provided

In cases of leave for the employee’s own serious health condition or that of a spouse, child, or parent, or to care for a covered service member or a qualifying exigency, the eligible employee may take FMLA leave intermittently or on a reduced schedule, when such leave is certified as medically necessary where appropriate. If an employee requests intermittent or reduced–schedule leave for a planned medical treatment, the City may temporarily transfer the employee to an alternative position, for which the employee is qualified, and which has equivalent compensation and benefits, which better accommodates such irregular leave. Please keep in mind that during FMLA leave, the employee is deemed unable to work unless written approval has been obtained from a doctor.

#### **6-109.5 INTERIM BENEFITS**

Under FMLA, the City will maintain the same level of coverage under the group health plan for the duration of an employee’s FMLA leave.

The employee is responsible for payment of his/her portion of health insurance premiums during such leave just as if he/she were still on the City’s payroll. Employees will receive advance notice of the costs, and a schedule for remitting these payments will be provided.

If the payment is more than 30 days overdue, the City's obligation to continue health-care coverage ceases. If health coverage is discontinued because the employee has not made the required interim payments while on FMLA leave, upon the employee's return from FMLA leave, health benefits will be restored to the employee as if the leave had not been taken and the premium payment(s) had not been missed. The City will then recoup the missed payments through payroll deductions.

If the employee does not return from scheduled FMLA leave, except for circumstances beyond the employee's control, the City Affiliates may consider the employee to have voluntarily resigned and recover all health premiums it paid on the employee's behalf during the FMLA leave. The City may require medical certification of any alleged, continued serious health condition.

#### **6-109.6 REINSTATEMENT**

An employee is entitled to return from a qualifying FMLA leave to the same or equivalent position with equivalent benefits, pay and other terms and conditions of employment, and without loss of job seniority or any other status or benefits accrued prior to FMLA leave, if all FMLA leave requirements are met, and provided the employee would still be employed if FMLA had not been taken.

Certain "key employees" (for example, a salaried employee who is among the highest paid 10% of all employees at the work site) may be denied reinstatement, if necessary, to prevent substantial and grievous economic injury to the City's operations.

An employee who gives notice of intent not to return to work or fails to return to work will be considered to have voluntarily resigned. Such voluntary resignation may be a qualifying event entitling the employee to the option of continuing his or her health-care coverage under COBRA.

#### **6-110 LEAVE OF ABSENCE**

Employees, upon written request, and with the approval of their Department Director, may be granted a leave of absence without pay for a period of up to 30 (thirty) days. No leave of absence without pay will be authorized until all paid leave has been exhausted. Leaves of absence for periods up to 60 (sixty) days may be granted by the City Administrator. Leaves of absence for periods greater than 60 (sixty) days may be granted by the City Council upon recommendation by the City Administrator.

At the expiration of the leave of absence without pay, employees have the right to be reinstated to the position vacated. During the employee's absence, the position may be filled by temporary appointment.

Benefits Available: No sick or vacation leave will be accrued by an employee during a leave of absence without pay. Employees will not be paid for holidays that occur during a leave without pay. All other benefits will continue.

## **6-111 FUNERAL LEAVE**

If an employee wishes to take time off due to the death of a family member, the employee should notify his or her supervisor immediately. Up to three days of bereavement leave will be provided to eligible employees for the death of their spouse, parent or child, or other family members (as defined below). Any employee may, with management or the Department Director's approval, use any available paid leave for additional time off as necessary.

The City defines "other family members" as the employee's spouse's parent, the employee's and employee's spouse's siblings, grandparents, grandchildren, stepparents, stepchildren, and the employee's child's spouse.

## **6-112 INJURY LEAVE**

Any employee injured on the job shall be eligible to receive injury leave with pay during the seven (7) day waiting period for worker's compensation claims.

## **6-113 ADMINISTRATIVE LEAVE**

The Human Resources Division and a Department Director may institute an administrative leave with or without pay when:

- a) An employee has been arrested for a serious crime and is imprisoned pending trial or released on bail pending trial.
- b) An employee has been charged with misconduct while on the job and the misconduct is being investigated or a disciplinary action is pending.
- c) An employee has filed a complaint of misconduct and the misconduct is being investigated.
- d) Reasonable suspicion that an employee is under the influence of drugs or alcohol.
- e) An employee endangering themselves, other employees, or members of the public.
- f) An employee being grossly insubordinate and causing disruption of normal operations.

Employees may be granted administrative leave for up to a maximum of 30 (thirty) days. All normal benefits will continue during the administrative leave.



Section 7  
DISCIPLINE

## **SECTION 7. DISCIPLINE**

ARTICLE 7-101	SCOPE AND PURPOSE
ARTICLE 7-102	VIOLENCE IN THE WORKPLACE
ARTICLE 7-103	REASONS FOR DISCIPLINARY ACTION
ARTICLE 7-104	ANTI-HARASSMENT POLICY
ARTICLE 7-105	ABSENT WITHOUT LEAVE AUTHORIZATION
ARTICLE 7-106	TYPES OF DISCIPLINARY ACTION
ARTICLE 7-107	IMPLEMENTATION OF DISCIPLINARY ACTION
ARTICLE 7-108	APPEAL PROCESS

### **7-101 SCOPE AND PURPOSE**

The purpose of this policy is to provide the process for how the City Administrator, Department Directors, and supervisors shall implement disciplinary action. Further, it outlines the process by which employees may request review by the City Administrator regarding disciplinary action imposed upon them.

All city employees are expected and required to meet acceptable performance standards and otherwise conduct themselves in an appropriate manner during the course of their employment.

### **7-102 VIOLENCE IN THE WORKPLACE**

The City of Gardner seeks to provide a work environment that is free from violence or threats of violence. Threats of violence and acts of violence by or against any employee of the City of Gardner will not be tolerated. Violence or the threat of violence is a violation of city policy and employees who violate this policy will be subject to disciplinary action up to and including termination of employment and possible criminal charges. Threats of violence and acts of violence compromise the safety of employees and can affect morale, productivity, absenteeism, turnover, litigation costs, and worker's compensation costs. Ignoring threats of violence can result in physical harm to employees, customers, and the general public. In the case of a true emergency employees are encouraged to call 911 for emergency assistance.

A threat is the expression of an intent to cause physical or mental harm and can include any expression which constitutes a threat regardless of whether the party communicating the threat has the present ability to carry it out or whether the expression is contingent on something else happening, or whether it may occur in the future. The following may be considered to be violence or threats of violence but it should be understood that this is not a complete list and other conduct may also constitute violence or the threat of violence:

- a) Physical harm or beatings including striking, pushing, and other aggressive physical acts.
- b) Verbalized threats, abusive or offensive language, intimidation, etc.
- c) Property damage due to violence.
- d) Property theft due to employer-directed violence.

- e) Rape, sexual assault or sexual abuse.
- f) Verbal abuse.
- g) Harassment, intimidation, and other disruptive behavior.

Individuals who commit such acts may be removed from the premises and may be subject to disciplinary action, criminal penalties, or both.

Employees are required to report all violent incidents or threats of violent incidents to their supervisor regardless of whether physical injury occurs. If, because of special circumstance, an employee feels it is necessary, the employee may bypass their supervisor and take the complaint up through the department chain of command or directly to the Human Resources Division or City Administrator. Threats must be reported and documented when the behavior has been observed on the job or the threat has the potential to be carried out on City property or in the course of conducting City business. In case of true emergency employees are encouraged to call 911 for emergency assistance.

Employees should verbally report any behavior they have witnessed which they regard as threatening or violent to their supervisor. These threats may be made outside of work but have potential to be carried out in the workplace and include threats made by family members, spouses, ex-spouses, boyfriends, girlfriends, employees, and members of the public.

All reports of threats will be taken seriously. In the case of true emergency employees are encouraged to call 911 for emergency assistance. The City of Gardner will not retaliate against employees who report real, perceived, or implied violent behavior or threats in good faith. Employees who intentionally make false reports or accusations will be subject to disciplinary action.

EXCEPTION: Due to the nature of their jobs, this policy is not meant to address violence for Police officer positions.

### **7-103 REASONS FOR DISCIPLINARY ACTION**

Each situation involving a violation of rules will be carefully examined with regard to relevant circumstances before appropriate disciplinary action is taken. Nothing contained herein should be construed as limiting the City of Gardner's right to discipline up to and including termination without prior notice for any reason it deems appropriate in its sole discretion.

- a) Any violation of the Personnel or Administrative Policies and Rules of the City of Gardner, or any department or division policies, procedures, rules or regulations.
- b) Commission of a criminal act and the subsequent finding of guilt by a court of law when the criminal act directly affects the employee's ability to perform the duties of his or her position; or directly relates to the duties and responsibilities of the position.

- c) Being in the possession of or drinking alcoholic or cereal malt beverages, being intoxicated or being in the possession of or using or being under the influence of illegal drugs while on duty or while on public property during the work day, including meal breaks.
- d) Refusing to work when called back for an emergency by the Department Director or supervisor or failing to appear when scheduled for emergency work.
- e) Exhibiting offensive conduct or using offensive or inappropriate language toward the public, City officials, or other employees.
- f) Insubordination or violation of any lawful and reasonable official regulation made by the employee's supervisor.
- g) Inducing, or attempting to induce, any City official or employee to commit an illegal act or to act in violation of any lawful and reasonable departmental or official regulation, or to participate therein.
- h) Willfully or corruptly deceiving or obstructing any person in respect to that person's right to take part in any examination for admission or promotion in the City service.
- i) Furnishing special or confidential information for the purpose of either improving or injuring the prospects or chances of a person tested or to be appointed.
- j) Failure to follow prescribed safety procedures including failure to notify the supervisor or Department Director of unsafe working conditions, or engaging in unsafe acts.
- k) Damaging City property either intentionally or as a result of negligence.
- l) Taking leave without authority, failure to notify supervisor of intended absence, walking off the job without permission, tardiness, excessive absenteeism, or any absence in excess of two consecutive days not specifically covered by authorization or excused by the employee's supervisor.
- m) Violation of the Ethics and Conduct Policy set forth herein which includes, but is not limited to, solicitation or receipt from any person of, or participation in, any fee, gift or other valuable thing that is given in the hope or expectation of receiving a favor or better treatment than that given to other persons.
- n) Knowingly falsifying information on a job application or other required personnel forms, or other City document.
- o) Violation of the City of Gardner's Possession of Firearms Policy.
- p) Fighting, causing a fight, or striking anyone on City property.

- q) Harassing, molesting, or bothering other employees or any action or omission of action to the extent the employees are unable to complete their assigned tasks, or the effective operation of City services is impaired.
- r) Engaging in activities which disrupt or interfere with the regular work activities of a section, division, or department including failing to report for duty or not to work at usual capabilities in performance of normal duties.
- s) Using official position with the City government or using City equipment without authorization for personal purposes or activities.
- t) Using information obtained as an employee of the City to advance personal, financial, or other private interests.
- u) Writing a personal check for payment to the City for which there are insufficient funds in the employee's bank account.
- v) Stealing City funds or property or removing City funds or property without authority.
- w) Theft or any criminal act.
- x) A traffic violation while in a City owned vehicle.
- y) Theft of City funds or property.
- z) Commission or omission of acts by an employee which makes the taking of a disciplinary action necessary or desirable for the efficient conduct of the business of the City or for the best interest of the City government.
- aa) Revocation or suspension of a certification or license, including a driver's license, when such is required as a condition of city employment, or failure to obtain or renew any necessary or required license or certification.
- bb) Any act which reflects negatively upon the City.
- cc) Any act of inappropriate discrimination by an employee of the City of Gardner.
- dd) Failure to cooperate with other employees, citizens or other members of the public in a professional, courteous, and polite manner.
- ee) Allowing a personal relationship with a co-worker, contractor, or customer to interfere with the satisfactory performance of job duties.
- ff) Unsatisfactory performance of job duties and responsibilities.
- gg) Abuse of leave time or claiming leave time under false pretenses.
- hh) Falsifying any City record or other City document.

- ii) Sleeping or other inappropriate behavior while on duty.
- jj) Having sex or performing sexual acts while on duty or on City property.
- kk) Any type of fraud, including that which benefits the City.
- ll) Witnessing another employee violating the law while on duty and/or on City property and not reporting the violation to a supervisor, Department Director, or City Administrator.
- mm) Violating any lawful or reasonable order, rule or regulation.

## **7-104 ANTI-HARASSMENT POLICY**

### **7-104.1 COMMITMENT TO HARASSMENT FREE WORKPLACE**

The City of Gardner is committed to providing a work environment free of unlawful harassment. The City of Gardner prohibits sexual harassment, same sex harassment, and harassment based on pregnancy, childbirth or related medical conditions, race, religious creed, color, national origin or ancestry, citizenship, physical or mental disability, medical condition, marital status, age, military status, or any other basis protected by federal, state or local law or ordinance or regulation. The City of Gardner's anti-harassment policy applies to all persons involved in the operations of the City including employees, applicants, other non-employees, customers, vendors and suppliers. The City of Gardner prohibits unlawful harassment by any employee of the City. Any such harassment will subject the offending employee to disciplinary action, up to and including immediate termination. The City of Gardner also prohibits harassment of any employee in connection with their work by an applicant, other non-employee customer, vendor or supplier. Appropriate action will be taken against the offending party for violations of this policy.

### **7-104.2 PROHIBITED CONDUCT**

Prohibited harassment includes, but is not limited to, the following behaviors:

- a) Verbal conduct such as words, epithets, offensive or derogatory jokes or comments, slurs, suggestive or insulting sounds, or other vocal activity, including derogatory statements not directed to the targeted individual but taking place within their hearing;
- b) Visual conduct or written materials such as denigrating, derogatory and/or sexually-oriented posters or signs, pictures, cartoons, drawings, or offensive gestures including e-mail jokes or statements, downloading inappropriate pictures or materials from computer systems, or articles of a harassing or offensive nature.
- c) Physical conduct such as pranks, threats, intimidation, physical assault, violence, unwanted touching, blocking normal movement or interfering with work, or any behavior that denigrates or shows

hostility or aversion toward an individual because of their pregnancy, childbirth or related medical conditions, race, religious creed, color, national origin or ancestry, citizenship, physical or mental disability, medical condition, marital status, age, military status, or any other basis protected by federal, state or local law or ordinance or regulation.

- d) Sexual harassment such as unwelcome or unwanted sexual advances, requests for sexual favors, offering employment benefits in exchange for sexual favors, visual conduct, leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, or posters, verbal sexual advances, propositions or requests, verbal abuse or a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations, physical conduct, touching, assaulting, impeding or blocking movement, or other verbal or physical contact of a sexual nature when such conduct creates an offensive, hostile and intimidating working environment and prevents an individual from effectively performing the duties of his or her position. It also encompasses such conduct when it is made a term or condition of employment or compensation, whether implicitly or explicitly, and when an employment decision is based on an individual's acceptance or rejections of such conduct. Sexual harassment crosses age and gender boundaries and may include conduct between individuals of the same sex.
- e) Harassment of employees in connection with their work by a non-employee, customer, vendor or supplier.
- f) Harassment of non-employees, customers, vendors, or suppliers by employees.
- g) Retaliation for having reported or threatened to report harassment.

### **7-104.3 REPORTING**

Employees who believe that they have been unlawfully harassed should provide a written complaint to the Human Resources Division as soon as possible after the incident. The complaint should include details of the incident or incidents, names of the individuals involved and names of any witnesses. The City will immediately undertake an investigation of the harassment allegations. The Human Resources Division will advise all parties concerned of the results of the investigation to the extent necessary, while maintaining confidentiality to the extent possible.

#### **7-104.4 ANTI-RETALIATION POLICY**

The law prohibits retaliation against any employee who makes a complaint of discrimination or harassment based on gender, race, religion, national origin, color, age, citizenship, ancestry, veteran status, disability, or any other protected category. In addition, the City will not retaliate against any individual who participates in an investigation of harassment or discrimination for any of the reasons noted above. If you believe that you have been retaliated against in violation of this policy please report the conduct, using the complaint procedure described below, to the Human Resources Division or any other member of management with whom you feel comfortable. The City will not tolerate illegal retaliation.

#### **7-104.5 DETERMINATION**

If the City determines that unlawful harassment has occurred, remedial action will be taken in accordance with the circumstances involved. Any employee determined by the City to be responsible for unlawful harassment will be subject to appropriate disciplinary action, up to and including termination. The Human Resources Division will advise all parties concerned of the results of the investigation to the extent necessary, while maintaining confidentiality to the extent possible.

### **7-105 ABSENT WITHOUT LEAVE AUTHORIZATION**

Absence without leave shall be construed to be any absence in which the employee has failed to secure prior approval or, in the case of illness or emergency, has failed to notify their immediate supervisor of such absence no later than within fifteen (15) minutes after their regular shift start, except in extenuating circumstances. Any unauthorized absence of an employee from duty shall be determined as absence without pay and may be grounds for disciplinary action, up to and including termination, by the Department Director. In the absence of such disciplinary action, employees who absent themselves for 3 (three) or more days without authorized leave, shall be deemed to have resigned, except in extenuating circumstances. To be reinstated, with or without pay, employees must provide evidence of extenuating circumstances acceptable to the Department Director.

A written statement from the Department Director regarding the unauthorized absence by the employee will be placed in the employee's personnel file.

Employees who have resigned due to an absence without leave and/or any of their eligible dependents are eligible to continue their health coverage through COBRA for a designated period of time and must complete the necessary paperwork to indicate if they decline or accept coverage.

### **7-106 TYPES OF DISCIPLINARY ACTION**

#### **7-106.1 VERBAL WARNING**

A verbal warning is an oral reprimand given by the employee's supervisor. All verbal warnings shall be documented in writing.

### **7-106.2 WRITTEN REPRIMAND**

A written reprimand is a written notification of the employee's unsatisfactory performance or other violation of the Personnel Policies, Administrative Policies and Procedures, and/or other City or departmental policies.

### **7-106.3 SPECIAL PROBATION**

A special probation is a period of a specified length of time during which the employee is required to fulfill a set of conditions to improve work performance or on-the-job behavior. Failure to meet the special probationary requirement will result in additional disciplinary action up to and including termination. An employee may be placed on special probation in conjunction with another form of disciplinary action as defined in this section. An employee is not eligible for any performance salary increase during a special probation. The notice of special probation will state the length of time for the probation and when the employee will be eligible for the next performance increase.

### **7-106.4 SUSPENSION**

A suspension is the removal of an employee from the workplace for a specified period of time with or without pay. The length of suspension will reflect the severity of the employee's misconduct.

### **7-106.5 DEMOTION**

A demotion is a placement of an employee into a lower job classification as a result of disciplinary action.

### **7-106.7 TERMINATION**

A termination is the permanent removal of an employee from the City's employment.

## **7-107 IMPLEMENTATION OF DISCIPLINARY ACTION**

Disciplinary action should occur in a timely fashion.

The disciplinary action taken should correspond to the degree of the violation, the situation and context in which the violation occurred, the impact on the organization, the employee's past work performance and disciplinary history, and the expected effect of such actions on the future job performance of the employee.

The City Administrator and the Department Directors shall have responsibility for all disciplinary action but may delegate this authority to supervisors. Supervisors' authority with regard to implementing disciplinary action should be guided by department policy. Department Directors and supervisors are required to consult with Human Resources prior to the implementation of disciplinary action.

In all cases of disciplinary action, the supervisor shall meet with the employee to discuss the reasons for the action and explain, in full, the disciplinary action taken.

In all cases of disciplinary action, a written notice of the action, signed by the Department Director or supervisor stating the reasons for such action will be given to the employee. The employee shall sign an acknowledgment of receipt. The employee's signature does not necessarily indicate agreement. A copy of the written notice and original acknowledgment shall be provided to the Human Resources Division for inclusion in the employee's personnel file.

In cases of written reprimand, special probation, suspension, demotion, or termination, the notice of disciplinary action shall contain information explaining the employee's right to appeal the action and a form that allows the employee to waive their right to that appeal.

## **7-108 APPEAL PROCESS**

The appeal process is available to all full and part-time employees, except sworn officers of the Police Department. Sworn officers of the Police Department shall abide by specific policies and procedures related to discipline and review as set out departmentally.

An eligible employee may request a review of the disciplinary action before the City Administrator in cases of written reprimand, special probation, suspension, demotion, and termination.

The employee must submit a written request for a review to the City Administrator within seven (7) calendar days of the date they are notified of the disciplinary action. The request shall include the issues in question and what relief is sought. The City Administrator shall arrange a hearing within two (2) weeks of receipt of the written request. This time can be extended for reasonable cause.

A hearing will be held offering the opportunity for the employee and the supervisor to present the facts and considerations surrounding the disciplinary action.

- a) The Human Resources Division will serve as an impartial facilitator of the review process. Responsibilities shall include establishing a fair and reasonable schedule, approving in advance and coordinating any witnesses, and providing documentation for the hearing. The judgment of the Human Resources Division is final with regard to review protocol.
- b) No legal counsel will be allowed to represent either party at the hearing.
- c) The City Administrator may interview the employee, supervisor, Department Director, or any other parties involved prior to making a decision

At the conclusion of the review process, the City Administrator shall render a decision to uphold, overturn, or modify the disciplinary action imposed. The decision shall be put in writing and a copy provided to the employee, the Department Director, and filed in the employee's personnel file. The decision of the City Administrator is final.

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Section 8  
ETHICS

## **SECTION 8 ETHICS**

ARTICLE 8-101	ETHICS AND CODE OF CONDUCT
ARTICLE 8-102	CUSTOMER SERVICE
ARTICLE 8-103	E-MAIL, INTERNET, INTRANET AND VOICEMAIL USE
ARTICLE 8-104	DRUG AND ALCOHOL REQUIREMENTS

### **8-101 ETHICS AND CODE OF CONDUCT**

#### **8-101.1 EMPLOYEES' CODE OF CONDUCT**

In the discharge of their duties, employees of the City of Gardner will adhere to the following code of conduct:

- a) Employees of the City shall give fair and equal treatment to every citizen.
- b) Employees shall not grant special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- c) Employees shall not engage in any business or transaction, or have financial or other personal interest, direct or indirect, that is incompatible with the proper discharge of official duties in the public interest or would tend to impair independent judgment or action in the performance of official duties.
- d) Employees who have a financial or other private interest in any proposed City legislation shall disclose the nature and the extent of such interest.
- e) It is recognized that the exchange of minor tokens of appreciation is a courtesy common to the business world. City employees are therefore authorized to accept such unsolicited minor tokens of appreciation as long as the acceptance thereof does not tend to influence or appear to influence their judgment. Employees should consult with their supervisor if they are uncertain about the acceptance of a gift.
- f) Employees shall not disclose confidential or legally restricted information, nor shall they use such information to advance the financial or other private interest of themselves or others.
- g) Employees shall not derive a financial gain from any purchase or contract issued by the City. Employee shall not purchase goods or services for personal benefit through City contracts or purchase orders.
- h) Employees shall not continue in such position after becoming a candidate for nomination or election to any City office.
- i) Employees shall not request or permit the use of City owned real property for any purpose except the conduct of City business. Employees shall not,

directly or indirectly, attempt to obtain any service or benefit from City personnel for the personal affairs of such employees.

## **8-102 CUSTOMER SERVICE**

Employees should always have as their goal to make every customer contact (whether inside or outside the organization) as positive as it can be.

Employees shall make every effort to ensure that customers obtain the requested information with a minimum of hassles, phone transfers, and red tape. Employees shall follow up with the fellow employee or with the customer to ensure that they received what was needed.

## **8-103 E-MAIL, INTERNET, INTRANET AND VOICEMAIL USE**

### **8-103.1 ELECTRONIC COMMUNICATIONS**

The City utilizes computers and computer systems in the work place to facilitate communications, improve employee productivity, and fulfill its government functions. It is the intent of this policy to provide an overall framework for computer usage within the City. The use of the computer systems in violation of this policy could result in discipline up to and including termination of employment. This policy applies to all employees, contractors, part-time employees, volunteers or other individuals who are provided access to the City's computer system. Third parties should only be permitted access to the City's computer system as necessary for their business purpose within the City and only if they abide by applicable rules.

### **8-103.2 MANAGEMENT RIGHTS**

The City is the owner of the computer systems it provides to its employees to conduct City business. The City, as the owner of this equipment and the employer of the City employees, is responsible for the lawful and appropriate use of the City's computer systems. Accordingly, the City must maintain the right to oversee use of the City computer system by City employees to protect ownership rights to the computer system and to prevent illegal or inappropriate use of the computer system.

Management may access computer systems of all individuals as covered by this policy for any purpose not specifically prohibited by law. All passwords/codes used on City equipment shall be provided to the Department Director.

### **8-103.3 PUBLIC RIGHTS**

Information contained on the City's computer system may be accessible to the subject of the information, authorized third parties, or the general public. Access to this information is governed by state laws, federal laws, and ruling by the courts. The City, its officers, and employees shall implement their best judgment and discretion in protecting the rights of the public and privacy of individuals when administering information contained on the City's computer system. All e-mail is subject to the Kansas Open Records Act (KORA).

#### **8-103.4 RESPONSIBILITIES**

It is the responsibility of the Governing Body to establish policies concerning computer usage within the City. It is the responsibility of Department Directors, individually and through the Governing Body, to assist in formulating the City's Computer Policy. Department Directors shall be responsible for setting specific departmental policies on computer usage within the framework of the overall City policy. Under no circumstance is anyone to access any City owned or operated electronic file/system without the written consent of their respective department head and executing the respective agreement established by the Finance Department.

City employees shall be responsible for utilizing City computers and systems to further the goals of the City in providing services to its citizens. The Finance Department shall be responsible to maintain and operate the City's hardware and software systems. This includes the appropriate backup of systems and information for purposes of disaster recovery. Backup of such a nature is not intended to create data.

#### **8-103.5 HARDWARE AND SOFTWARE**

The City is the owner of all equipment provided to employees and constituting the City's computer system. The City also provides software for use on individual computers and within the system. Employees should be responsible for understanding and respecting the terms of such software licenses. Use of hardware and software beyond that provided to employees by the City shall require IT and Department Director approval; this includes but is not limited to the access to e-mail servers. City support staff will not service privately owned hardware and software not licensed to the City. Personal use of the City's hardware and software is permitted. However, such shall be limited in time and frequency in accordance with City/Departmental policies and common sense. It shall be conducted in a manner to limit the interruption of City business.

#### **8-103.6 E-MAIL**

The e-mail system is City property and primarily to be used for City business. The system is not to be used for employee personal gain or to support or advocate for non-City related business or purposes. All use of the e-mail system is subject to management access pursuant to this policy.

Incidental and occasional personal use of e-mail is permitted, but such messages will be treated no differently from other messages. The employee assumes personal responsibility for the cost of any such personal use of e-mail and will pay any cost incurred for such use upon demand by the City.

The City will assign E-mail addresses to all individuals requested by the Department Director. Only E-mail addresses assigned by the City will be authorized on City owned computers. All E-mail is subject to the Kansas Open Records Act (KORA).

### **8-103.7 APPROPRIATE USE**

City employees need to use good judgment in Internet access and e-mail use. They are expected to ensure that e-mail messages are appropriate in both the types of email messages created and the tone and content of those messages. Employee's use of e-mail and the Internet must be able to withstand public scrutiny without embarrassment to the City.

#### **EXAMPLES OF INAPPROPRIATE USE INCLUDE, BUT ARE NOT LIMITED TO:**

- Illegal activities
- Wagering, betting, or selling
- Harassment and illegal discrimination
- Fund-raising for any purpose unless agency sanctioned
- Commercial activities, e.g., personal for-profit business activities
- Promotion of political or religious positions or activities
- Receipt, storage or transmission of offensive, racist, sexist, obscene or pornographic information
- Downloading software (including games, wallpaper, and screen savers) from the Internet unless agency-sanctioned
- Non-City employee use

The traditional communication rules of reasonableness, respect, courtesy, common sense, and legal requirements also apply to electronic communication. For example, actions that are considered illegal such as gambling and harassment are not up to the discretion of individual agencies or individual managers or supervisors; these actions break the law whether the behavior is conducted on e-mail or by another means of communication, and they may subject the employee to disciplinary action up to and including termination.

Employees should be aware that they may receive inappropriate and unsolicited email messages. Any such messages should be reported immediately to the employee's supervisor and any other designated official within the employee's agency.

While employees may make personal use of City technology such as e-mail and Internet access, the amount of use during working hours is expected to be limited to incidental use or emergency situations. Excessive time spent on such personal activities during working hours will subject the employee to disciplinary action.

## **8-103.8 MONITORING**

The City of Gardner retains its right to review any electronic communications or voice communications sent or received over any system owned or managed by the City. Employees should not expect any right to privacy in any voicemail or electronic communications sent to or received from City systems.

Electronic communication devices such as telephone, voicemail, wireless telephones, facsimile machines, pagers, city e-mail systems and Internet access are city property. Like other city resources, they are intended to be use for city business. The City reserves the right to monitor all use of email and Internet resources at the time of use, during routine post-use audits, and during investigations. Employees should understand that electronic data are not completely secure. For example, e-mail messages can be altered by a recipient and retransmitted as if from the original sender, or data can be illegally accessed. They should also understand that e-mail messages and Internet transactions, including those they delete or erase from their own files, may be backed up or recorded and stored centrally for system security and investigative purposes. They may be retrieved and viewed by someone else with proper authority at a later date. It is the user's responsibility to use care in communicating information not meant for public viewing.

Because the e-mail and Internet systems are not secure, employees should not send any data classified as not public (private or confidential data on individuals or nonpublic or protected nonpublic data not on individuals) over the e-mail or Internet systems unless the data are encrypted or encoded.

## **8-103.9 VOICEMAIL**

All telephone communication and fax systems and all communications and information sent through, received or stored in these systems are the property of the City of Gardner and are provided to be used for job-related purposes. The use of voicemail or fax to communicate obscene, harassing, or otherwise offensive language or communications is prohibited. The City retains the right to monitor all of its communications systems at its discretion, including listening to voicemail messages stored in the systems. By using these systems, employees consent to such monitoring of these systems by the City.

## **8-104 DRUG AND ALCOHOL REQUIREMENTS**

### **8-104.1 OBJECTIVES**

The City of Gardner has the public trust to provide a variety of services to the community in the most efficient and effective manner possible. The City of Gardner has an obligation to ensure public safety and to provide a safe working environment for all employees. In order to achieve those goals, it is imperative that the City ensure that all employees are able to perform their job duties safely.

There is sufficient evidence to conclude that the use of illegal drugs/alcohol and drug/alcohol abuse seriously impairs an employee's performance and general physical and mental health. Therefore, the City of Gardner has adopted this written policy to ensure an

employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; to inform employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol is prohibited in the work place; whereby employees know that testing may be a requirement of continued employment; and whereby applicants know that testing is a requirement of employment. The City's policy also conforms to the federal requirements established for alcohol and drug testing of all safety sensitive employees as set out in the Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V.

## **8-104.2 DEFINITIONS**

**Alcohol Concentration (Or Content)** - The alcohol in a volume of breath as indicated by an evidential breath test.

**Breath Alcohol Technician (BAT)** - A person trained to proficiency in the operation of the EBT they are using and in alcohol testing procedures. Proficiency shall be demonstrated by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation, and calibration checks, the fundamentals of breath analysis for alcohol content; and the procedures required in this part for obtaining a breath sample, and interpreting and recording EBT results. Only courses of instruction for operation of EBTs that are equivalent to the DOT model course as determined by the National Highway Traffic Safety Administration (NHTSA) may be used to train BATs to proficiency. On request, NHTSA will review a BAT instruction course for equivalency.

**Controlled Substance** – A controlled substance in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) and as further defined in regulation 21 CFR 1308.11-1308.15.

**Employee Assistance Program (EAP)** - A counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems and monitors the progress of employees while in treatment.

**Evidential Breath Testing Device (EBT)** - A device approved by the National Highway Transportation and used to measure breath alcohol concentration.

**Medical Review Officer (MRO)** - The individual who is responsible for receiving laboratory results generated from the City's drug testing program under this Policy and who is a licensed physician in either medicine or osteopathy with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

**Possession** – Having controlled substances which are not obtained whether directly from a doctor or pharmacist using a valid prescription or having controlled substances, the possession or use of which is unlawful.

**Refuse To Submit** - (To an alcohol or drug test) Means that an employee (1) failed to provide adequate breath for testing without a valid medical explanation; (2) failed to provide adequate urine for drug testing without a valid medical explanation; or (3) engages in conduct that clearly obstructs the testing process.

**Safety Sensitive Employee** - Any employee who operates a commercial motor vehicle and holds a commercial driver's license. Such an employee includes but is not limited to full time, regularly employed drivers; casual intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the City or who operate a commercial motor vehicle at the direction of or with the consent of the City.

**Safety Sensitive Function** - Any of the following on-duty functions which involve operation of a commercial motor vehicle:

All time waiting to be dispatched, unless the employee has been relieved from duty by the City;

All time inspecting, servicing, or conditioning any commercial motor vehicle;

All time which is spent at the driving controls of a commercial motor vehicle in operation;

All time, other than driving time spent, in or upon any commercial motor vehicle;

All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

All time spent performing the employee requirements associated with an accident which includes the following:

Stopping immediately;

Taking all necessary precaution to prevent further accident at the scene;

Rendering all reasonable assistance to injured persons;

Giving any person demanding the same, their name, address, the name and address of the City, the state tag and registration number of the vehicle involved; and if requested, exhibiting their chauffeur's or operator's license;

Locating and notifying the custodian of an unattended vehicle which is stricken in the accident; and

Reporting all details of the accident as soon as practicable after its occurrence to the employee's supervisor.

All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

NOTE: An employee is considered to be performing a safety-sensitive function during any period in which they are actually performing, ready to perform, or immediately available to perform any safety sensitive functions.

**Substance Abuse Professional (SAP)** - A licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug disorders.

### **8-104.3 GENERAL RULES**

City employees will be subject to discipline, up to and including termination, if they report for work under the influence of alcohol or controlled substances, or if they use alcohol, or possess, buy or sell controlled substances during working hours (including lunch or break periods) or on City property or while on City business. City employees who are subject to callback must adhere to department policies addressing drug and alcohol use during times when they may be called in to work.

Employees who are required by a licensed health care provider to take prescription medicine (either temporarily or on an ongoing basis) that may cause behaviors that affect their work performance or which would cause a direct threat to the health or safety of themselves or a co-worker, shall notify their immediate supervisor of the medication prescribed. Any documentation of this information will be maintained confidentially in the employee's medical file.

All property belonging to the City is subject to inspection at any time without notice as there is not an expectation of privacy. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

City employees who have reason to believe another employee is illegally using alcohol, drugs, or narcotics shall report the facts and circumstances immediately to a supervisor and/or the Human Resources Division.

Employees must abide by the terms of this drug and alcohol policy. Employees must notify the City immediately if charged or convicted of any misdemeanor or felony drug or alcohol statute violation.

Employees must cooperate in any investigation relating to conduct prohibited by this Policy. Failure to cooperate may result in discipline up to and including termination.

An employee who refuses to submit to a drug or alcohol test or as a result of testing is found to have engaged in the use of controlled substances or having an alcohol concentration in the blood or breath of 0.04% or greater shall be removed from service and shall be disciplined, up to and including termination. Tampered tests shall be considered a refusal to test. An employee who is found to have switched or tampered with a test shall be disciplined.

An employee who, as a result of testing just before, during, or just after performing safety sensitive functions, is found to have alcohol concentration of 0.02% and greater but less than 0.04% shall be removed from performing such duties for at least twenty-four (24) hours and placed on unpaid Administrative Leave.

An employee must not consume alcohol four (4) hours prior to performing safety sensitive functions and up to eight (8) hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.

All employees are subject to testing for the use of drugs and alcohol post accident or whenever there is reasonable suspicion of drug or alcohol use. Department of Transportation regulations require that at a minimum, safety sensitive employees must be tested for the use of drugs and alcohol in three (3) situations, post accident, whenever there is reasonable suspicion, and random:

**Post Accident:** As soon as practical, after accidents where there is a traffic fatality or the employee receives a citation under state or local law for a moving violation arising from the accident. If an alcohol test is not administered within two (2) hours following the accident, the City shall prepare and maintain a log stating the reasons for the delay. If the test is not administered within eight (8) hours following the accident, the City shall cease attempts to administer an alcohol test and prepare and maintain the same log.

**Reasonable Suspicion:** When a supervisor or Department Director observes behavior or appearance that is characteristic of alcohol or drug misuse.

**Random:** On a random, unannounced basis just before, during or just after performance of safety sensitive functions. The safety sensitive employee shall be randomly selected from a pool of safety sensitive employees subject to testing. Testing dates and times shall be unannounced and be with unpredictable frequency but shall be

reasonably spread throughout the year. The number of random alcohol tests conducted shall equal at least 25% of all the safety sensitive employees within the City or if a consortium is developed, then 25% of the consortium sample. The number of random drug tests conducted shall equal at least 50% of all the safety sensitive employees within the City or if a consortium is developed, then 50% of the consortium sample.

#### **8-104.4 VOLUNTARY ADMISSION BY AN EMPLOYEE**

Employees are encouraged to voluntarily identify themselves as drug users or alcohol abusers and to obtain counseling and rehabilitation through the Employee Assistance Program available through the City or other program sanctioned by the City.

Employees who voluntarily identify themselves as having a drug or alcohol problem and obtain appropriate counseling and rehabilitation may be reinstated to their current position upon full release by the selected program according to federal and state laws. Public health and safety responsibilities of the position will be taken into consideration when making this determination.

Employees shall be subject to unannounced follow-up tests for up to sixty (60) months after the employee has returned to work. A minimum of six (6) tests will be conducted in the first twelve (12) months after a return to duty. If any subsequent test results are positive on any employee, the employee may be subject to termination.

#### **8-104.5 DRUG AND ALCOHOL TESTING PROCEDURES**

A copy of the current procedures for drug and alcohol testing are included in the Appendix.

#### **8-104.6 CURRENT EMPLOYEES**

The City may require a current City employee to undergo a drug or alcohol test if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means a belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

A pattern of abnormal or erratic behavior;

A work-related accident;

Direct observation of drug or alcohol use;

Presence of the physical symptoms of drug or alcohol uses (e.g. glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).

Whether a drug or alcohol test is warranted shall be determined by the employee's immediate supervisor, with approval by the appropriate Department Director and shall be coordinated through the Human Resources Division or the City Administrator.

An employee, who refuses to consent to a drug or alcohol test and sign a consent form when reasonable suspicion of drug or alcohol use has been identified, may be terminated.

If a positive test result is reported in accordance with the drug and alcohol testing procedures set out in this Policy, the employee shall be referred to a Substance Abuse Professional (SAP) for an assessment and is required to obtain appropriate counseling and rehabilitation through the Employee Assistance Program available through the City or a program sanctioned by the City. Refusal to obtain an evaluation by a SAP and to obtain counseling and rehabilitation as recommended may be grounds for termination.

Employees released from an approved rehabilitation program may be reinstated to their current position. The City may hold the employee's position open for a period of time determined by the supervisor and the Department Director based on the needs of the City and other applicable policies. Reinstatement will be based on the employee's work history, length of employment, current job performance and existence of past disciplinary actions. Public health and safety responsibilities of the position will also be taken into consideration when making this determination.

If it is determined that an employee in a safety sensitive position will be returned to work, the employee must: (1) be evaluated by a SAP; (2) comply with any recommended treatment; (3) take a return to duty drug test and/or alcohol test with a result of less than 0.02; and (4) be subject to unannounced follow-up drug and/or alcohol tests.

Any time off from work that an employee must take to comply with the referral and testing requirements will be charged to vacation leave unless, based on the assessment by the SAP, the condition meets the requirements for sick leave. If the employee's appropriate leave balances are not sufficient, the time will be leave without pay. The time off will be counted as leave under the Family and Medical Leave Act (FMLA) if the employee qualifies for leave under the Act.

Employees shall be subject to unannounced follow-up tests for up to sixty (60) months after the employee has returned to work. A minimum of six (6) tests will be conducted in the first twelve (12) months after return to duty. If any subsequent test results are positive on any employee, the employee may be terminated.

Disciplinary action based on a violation of the City's Drug and Alcohol Policy is not precluded by the employee's participation in an Employee Assistance Program or other sanctioned program. The employee may be subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance and existence of past disciplinary actions.

#### **8-104.7 COST COVERAGE FOR TREATMENT OF DRUG AND ALCOHOL TREATMENT**

The City shall pay the laboratory cost of obtaining all drug and alcohol tests required or provided for in the Policy. In addition, the City shall compensate all employees for the time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by this Policy. In all situations where treatment is required, employees are eligible to receive normal benefits provided to employees of their type of position (full-time, regular part-time, part-time, or temporary). Employees are obligated to cover all portions of the treatment cost which are normally charged to the employee.

#### **8-104.8 APPEAL PROCEDURE**

If an employee's positive test results have been confirmed and disciplinary action is taken the employee is entitled to follow the appeals process regarding the disciplinary action taken.

#### **8-104.9 CONFIDENTIALITY OF TEST RESULTS**

All information from an employee's drug or alcohol test is confidential. All information related to the drug or alcohol test of an employee will be maintained in the employee's confidential medical file. Anyone disclosing drug test results, as prohibited by this Policy, will be subject to disciplinary action.

An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or drugs, including any test records. Records shall also be made available when requested by the Secretary of Transportation, DOT agency, National Transportation Safety Board (NTSB), or and State or local officials with regulatory authority over safety sensitive employees. Test results may only be released to the City, the SAP or to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substance test administered under this Policy; from the employer's determination that the employee engaged in conduct prohibited by this Policy; or a request which is otherwise required by law to be released. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee.

Records shall be made available to a subsequent employer upon receipt of a written request from a previous or existing employee but such disclosure is expressly limited to the terms

of the employee's request and the disclosure permitted by law. The City shall maintain the information regarding alcohol and drug tests on safety sensitive employees for a minimum period of two (2) years.

#### **8-104.10 TRAINING FOR SUPERVISORS**

The City will provide initial and ongoing training to all supervisors of the City regarding enforcement of this Policy. At least one hour of training will be provided to supervisors on drug and/or alcohol misuse symptoms and indicators used in making determinations for reasonable suspicion testing. Every safety sensitive employee shall participate in a drug and alcohol training and education program for a minimum of one hour. The program shall include the distribution of information material and a classroom type instruction.

Attendance logs from the training sessions shall be maintained for at least two (2) years.

All questions regarding the Drug and Alcohol Policy and testing procedures may be directed to the Human Resources Division.



Section 9  
SEPARATION

## **SECTION 9. SEPARATION**

ARTICLE 9-101	RESIGNATION PROCESS
ARTICLE 9-102	REDUCTION IN FORCE
ARTICLE 9-103	SEPARATION DUE TO DISCIPLINE
ARTICLE 9-104	RETIREMENT PROCESS
ARTICLE 9-105	EXIT INTERVIEWS

### **9-101 RESIGNATION PROCESS**

#### **9-101.1 NOTICE OF RESIGNATION**

It is requested by the City that employees who resign notify their Department Director two (2) weeks prior to the effective date. Individuals in Department Director and Manager positions are requested to give thirty (30) days notice. The resignation should be made in writing, signed, and dated. The original resignation will be forwarded to Human Resources for inclusion in the employee's employment records.

The Department Director may approve the withdrawal of a resignation prior to the effective date of such resignation provided that a conditional offer of employment has not been made to fill the pending vacancy.

#### **9-101.2 USING LEAVE AFTER RESIGNATION**

Use of vacation leave, Personal Holiday, or compensatory time during the minimum notice period shall not be permitted. Special circumstances may be evaluated on a case-by-case basis. An employee may use sick leave during the minimum notice period only with a statement from a healthcare provider stating that the employee's condition prevented the employee from working.

#### **9-101.3 POST-RESIGNATION NOTICE PROCEDURES**

Employees who resign must return all City identification, keys, equipment, City documents, and City owned property.

Employees who resign will receive a final paycheck on the next regular payroll date upon which they would have been paid if still employed.

#### **9-101.4 CONTINUING HEALTH-CARE COVERAGE AFTER DEPARTURE (COBRA)**

Full or part-time employees who resign and/or their eligible dependents are eligible to continue their health care coverage through COBRA for a designated period of time and must complete the necessary paperwork to indicate if they decline or accept continued coverage. The employee bears the entire cost of COBRA coverage.

## **9-102 REDUCTION IN FORCE**

### **9-102.1 OBJECTIVE**

This procedure establishes a consistent and equitable method for reduction in force when it is required due to financial necessity, a lack of work, reorganization, or changes in needs or technology.

### **9-102.2 SCOPE**

Reduction in force could impact any employee. It can take the form of elimination of a position or a reduction in hours. Transfers to an open position may be offered to an employee in order to prevent or postpone a termination.

### **9-102.3 GUIDELINES**

The City Administrator, with the consent of the City Council, may institute a reduction of force. Staff members may be terminated as the result of a decision to effect a reduction in force, subject to the provisions in this policy.

The identification of position to be terminated due to a reduction in force in any operating unit will be based first on position elimination. After the positions to be eliminated are identified and when there is more than one incumbent in such position the basis upon which staff members to be terminated are:

1. Individual performance
2. Seniority
3. Current Active Duty

In the event that a reduction in force is required the City Administrator may offer the employee an appointment to a vacant position or a part-time position for which the employee is qualified in lieu of termination. If the employee does not accept the transfer, the severance pay and benefits below would be offered. Should the employee be offered a position of a higher pay grade, the employee's pay would be based on internal and external equity and would not exceed the maximum of the salary range. If the position is of a lower pay grade, the employee's current pay would be grandfathered for two years, not to exceed 15% above the maximum of the range. During this period the employee is not eligible for any wage increases until the wages fall within the current range. Upon the duration of this time, if the employee is still in said position, their wage would be adjusted to the maximum of the range.

### **9-102.4 SEVERANCE PAY**

Regular full time employees who are terminated due to a reduction in force will receive severance pay equivalent to one (1) week for every year of service, not to exceed 16 weeks but no less than 8 weeks. The severance will be paid in installments every two weeks for the number of weeks of severance that was offered.

Additionally, regular full-time employees will be compensated for their accrued vacation, comp time (non exempt), and personal days. All vacation, comp time, and personal days will be included in a lump sum on the first pay check of the severance pay following the notification of the termination.

No further accrual of vacation, comp time, and personal days will occur following notification of termination.

#### **9-102.5 SEVERANCE BENEFITS**

For regular full-time employees who are terminated due to a reduction in force and any eligible dependents currently enrolled in the health care plan, the City will continue to pay the City's portion of the health care premium for ninety (90) days. The terminated employee remains responsible for the employee portion of the health care premium. At the end of 90 days, the terminated employee may elect to continue coverage through COBRA, and the employee must complete the necessary paperwork to indicate if they decline or accept COBRA coverage.

The Employee Assistance program through New Direction can be utilized by the terminated employee, employee's spouse, and eligible dependants for 90 days.

The City will continue to pay all federal and state mandated benefits through the term of the severance pay.

The City will not continue to pay the City's matching contribution of the employee's deferred compensation program during the term of the severance pay.

Information regarding Severance Benefits will be provided by Human Resources at the time of the reduction in force notification.

#### **9-102.6 REINSTATEMENT OF EMPLOYMENT**

Should a terminated employee be hired back within eight (8) weeks of notification of the reduction in force all accrued sick leave will be reinstated. The employment date will be reinstated to the original hire date and the vacation accrual rate will be assigned accordingly.

### **9-103 SEPARATION DUE TO DISCIPLINE**

Employees who are terminated as a disciplinary measure:

Must return all City identification, keys, equipment, or documents and City owned property;

Will receive their final paycheck on the next regular payroll date upon which they would have been paid if still employed; and

Are eligible to continue their health care coverage for themselves and/or any eligible dependents through COBRA for a designated period of time (unless terminated for gross misconduct) and must complete the necessary paperwork to indicate if they decline or accept continued coverage.

#### **9-104 RETIREMENT PROCESS**

Employees who plan to retire should notify the Human Resources at least 90 (ninety) days prior to their planned retirement date.

Per K.S.A. 12-5040, employees who receive a retirement or disability benefit for service with the City of Gardner, who have been employed by the City of Gardner for not less than ten (10) years are eligible to continue health care coverage until they are eligible for Medicare or another health plan. In order to continue this coverage, the former employee must complete the necessary paperwork to indicate if they decline or accept continued coverage.

#### **9-105 EXIT INTERVIEWS**

Exit interviews shall be scheduled for all employees who separate from full-time and part-time positions with the City of Gardner.

Departing employees shall be asked to complete an exit interview questionnaire. Information provided shall be confidential. Completed forms shall remain on file but shall not become part of the employee's personnel record.

Group insurance conversion options and other pertinent benefit matters will also be discussed during the exit interview.

The exit interview will be conducted by the Human Resources Division or their designated representative.