



SECTION 6 – LEAVE TIME

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6-101 TYPES OF LEAVE

101.1 Types Of Leave

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

- a) Civil
- b) Holidays
- c) Military (Reserves and Active Duty)
- d) Vacation
- e) Sick
- f) Family and Medical
- g) Leave of Absence
- h) Administrative
- i) Worker's Compensation
- j) 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:

- | | | |
|----|------------------------|--|
| a) | New Year's Day | January 1 |
| b) | Martin Luther King Day | Third Monday in January |
| c) | Memorial Day | Last Monday in May |
| d) | Independence Day | July 4 |
| e) | Labor Day | First Monday in September |
| f) | Veterans' Day | November 11 |
| g) | Thanksgiving Day | Fourth Thursday in November |
| h) | Day after Thanksgiving | Friday after Fourth Thursday in November |

- | | | |
|----|---------------|-------------|
| i) | Christmas Eve | December 24 |
| j) | Christmas Day | December 25 |
| k) | 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.

Non-exempt employees who are required to work on a City-observed holiday will be paid one time their hourly rate for hours worked up to eight (8) hours, in addition to the holiday pay. Work performed over eight (8) hours will be paid at double the hourly rate. Non-exempt employees must actually be on duty to receive the above pay.

EXCEPTION: Public Safety Department personnel working shifts that include holidays and weekends, and are not scheduled to work the holiday, shall receive additional pay at their regular hourly rate for eight (8) hours of holiday pay. DPS personnel must have eighty (80) hours recorded on their timesheet in order to receive eight (8) hours of holiday pay. Vacation, personal leave or overtime can be used to complete the eighty (80) hours. Work performed over eight (8) hours will be paid at double the hourly rate.

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 the United States and the State of Kansas including the Armed Forces, the Army National Guard and the Air National Guard and the Kansas National Guard on active duty, active duty for training, inactive duty for training, National Guard duty, Kansas National Guard or other Kansas state 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 federal law.

105.1 Reserve Duty

- a) Employees who are members of the reserve components of any branch of the United States military service of National Guard will be granted military leave for the purpose of participating in required weekend and annual training.

- b) 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.
- c) Employees may, at their option, use vacation leave to fulfill military duty.
- d) Employees involved in the reserves shall give notice as far in advance of weekend and annual training as possible.

105.2 Active Duty

- a) 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.
- b) 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.
- c) 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.

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.

106.1 FULL-TIME EMPLOYEES

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

- | | | |
|----|-----------------------|----------------------|
| a) | Before 1 year service | 3.077 hrs/pay period |
| b) | After 1 year service | 3.231 hrs/pay period |
| c) | After 2 years service | 3.385 hrs/pay period |
| d) | After 3 years service | 3.539 hrs/pay period |
| e) | After 4 years service | 3.693 hrs/pay period |

f)	After 5 years service	3.847 hrs/pay period
g)	After 6 years service	4.000 hrs/pay period
h)	After 7 years of service	4.154 hrs/pay period
i)	After 8 years service	4.308 hrs/pay period
j)	After 9 years service	4.462 hrs/pay period
k)	After 10 years service	4.616 hrs/pay period
l)	After 11 years service	4.770 hrs/pay period
m)	After 12 years service	4.924 hrs/pay period
n)	After 13 years service	5.077 hrs/pay period
o)	After 14 years service	5.231 hrs/pay period
p)	After 15 years service	5.385 hrs/pay period
q)	After 16 years service	5.539 hrs/pay period
r)	After 17 years service	5.693 hrs/pay period
s)	After 18 years service	5.847 hrs/pay period
t)	After 19 years service	6.000 hrs/pay period
u)	After 20 years service	6.154 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.

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

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).

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.

107.3 REASONS FOR TAKING SICK LEAVE

Sick leave may be used for the following purposes:

- a) Personal illness or injury, including maternity.
- b) 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.
- c) To attend to a member of the employee's immediate family whose illness requires the employee's presence.
- d) To attend to wife or family in the case of a new child.
- e) 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).

Upon termination or resignation, an employee will not be compensated for any accumulated unused sick leave.

6-108 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.

Our Family and Medical Leave policy will be interpreted in accordance with the federal Family and Medical Leave Act, its current regulations and all other applicable laws. To the extent that these policies may conflict with those laws, those laws shall control. Further, we retain 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 15th 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 their FMLA leave, he or she is required to use all vacation and sick leave accruals until it is exhausted.

108.1 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 **“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.

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 "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.

“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.

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.

108.2 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.

108.3 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.

108.4 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.

108.5 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.

108.6 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 employee" (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.

6-109 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 accrue to 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.

6-110 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.

6-111 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.

6-112 ADMINISTRATIVE LEAVE

The Human Resources Manager 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; or
- 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; or
- 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.