# City of Bethany Oklahoma

# Employee Handbook

**Revised and Adopted By Council October 6, 2026**

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## CITY OF BETHANY MISSION STATEMENT

The mission of the City of Bethany is to partner with our community to deliver services, preserve, protect, and enhance the quality of life and plan for the future.

## CORE VALUES

Accountability – We accept responsibility for our personal and organizational decisions and actions while delivering cost effective and efficient services with the objective of doing our work right the first time.

Continuous Improvement – We provide the highest quality service with the resources available by promoting innovation and flexibility to meet the changing needs in the community.

Environment – We are concerned about our natural, historic, economic, and aesthetic resources and endeavor to enhance their sustainability for future generations.

Ethics – We set high standards for our personal, professional, and organizational conduct and act with integrity as we strive to attain our mission.

Respect – We are honest and treat our coworkers and the public with courtesy and dignity.

Safety – We use education, prevention, and enforcement methods to protect life and property in our business and residential neighborhoods and maintain our infrastructure and facilities to provide a safe environment in which to live, work, shop, and play.

Teamwork – We work together to plan, develop recommendations, deliver services, and openly communicate with the public and each other by soliciting feedback and sharing information to achieve our goals.

Trust – We realize the perception of our organization is dependent upon the public's confidence in our commitment to our core values and to meeting the goals set collectively by City Council and the City Manager.

# CHAPTER 1

# INTRODUCTION

## 1-1 AUTHORITY AND EXTENT OF COVERAGE

The rules and regulations contained in this Employee Handbook have been established by the City Manager and approved by the Bethany City Council. ***This Employee Handbook shall be the employment policy of the City and shall not be construed as a contract with any employee or as creating any debt or obligation on the part of the City.*** These personnel rules and regulations apply to all City employees unless modified by a formal written contract entered into between the City and any Bargaining Unit. In the event of a conflict between the rules and/or benefits contained in this Employee Manual and any Collective Bargaining Agreement ("CBA"), the terms and conditions of the CBA shall prevail.

The provisions of this Handbook will not apply to members of the City Council, to volunteers, persons appointed to Boards and Commissions, the City Manager, the City Attorney, Municipal Judge, and independent contractors.

## 1-2 EMPLOYEE RESPONSIBILITY

The Employee Handbook should provide a better understanding for all City employees of the rules and regulations of the City. It is the responsibility of Department Directors and Supervisors to communicate, and administer the rules and regulations contained in this Employee Handbook and to do so in a fair and consistent manner. It is the responsibility of the employee to become familiar with the rules and regulations contained in this Employee Handbook and to comply with them.

## 1-3 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

It is the policy of the City of Bethany to afford equal opportunity for employment to all individuals regardless of race, color, creed, age, religion, ancestry, national origin, sex, marital status, sexual orientation, or qualified disability. The City will recruit, hire, promote and ensure that all personnel actions will be administered without regard to race, color, creed, age, religion, ancestry, national origin, sex, marital status, sexual orientation, or qualified disability except where management is unable to reasonably accommodate a qualified disability in the position being considered.

## 1-4 DEPARTMENT POLICIES AND PROCEDURES

Departments of the City may establish regulations, procedure, and guidelines that are necessary for daily operations. Department Policies and Procedures shall not be in conflict with this Employee Handbook and shall be approved by the City Manager. A current copy of Department Policies and Procedures shall be kept on file with the Human Resources Department.

## 1-5 AMENDMENT AND IMPLEMENTATION

The City Manager may amend the Policies and Procedures when deemed desirable and necessary in the best interest of the City and with the approval of the City Council. The City Manager will provide notice to all City employees prior to the Council action.

## 1-6 AT-WILL EMPLOYMENT

Employment with the City of Bethany is "at will". This generally means that either the employee or the City may choose to end the employment relationship at any time without incurring any liability for doing so. Employment may be terminated by the employer for any reason that is not in violation of Oklahoma public policy.

# CHAPTER 2

# APPOINTMENT

## 2-1 PROBATIONARY PERIOD

The probationary period is a trial period considered a part of the selection process during which a new employee is required to successfully demonstrate his or her ability to perform the duties required of the position.

A. New Employee Probationary Period. The probation period for all new employees is six (6) months, with the exception of those employees covered by a Collective Bargaining Agreement. The Department Director, with the approval of the City Manager, may extend the probationary period for an additional ninety (90) days if deemed desirable to adequately assess employee performance.

B. Transfers and Promotions - Probationary Period. Any change in job assignment or promotion shall be accompanied by a three (3) month probationary period.

## 2-2 TYPES OF APPOINTMENTS

A. Probationary Employee. A newly appointed employee who has not completed the designated probationary period.

B. Permanent Part-Time Employee. An employee who has completed the initial probationary period and who works less than 29 hours per week on a regular schedule throughout the year. Permanent part-time employees are not entitled to receive fringe benefits.

C. Regular Full-Time Employee. An employee who has completed the initial probationary period and who works 40 or more hours per week on a regular schedule throughout the year. Generally, full-time employees are eligible to receive fringe benefits.

D. Seasonal Employee. An employee who works either on a regular or part-time basis for a limited period of time. Seasonal employees are not entitled to receive fringe benefits.

E. Acting Appointment. This designates an employee who is appointed to fill a position which cannot remain vacant for an extended time. The City Manager may appoint any employee to hold a position in an acting capacity.

## 2-3 PERSONNEL FILES

A. New Employees. Department Directors shall ensure that each new employee reports to Human Resources to complete appropriate employment forms prior to initiating a work schedule.

B. Personnel File Contents. Employee personnel files are maintained by the Human Resources Department. Department Directors are responsible for forwarding appropriate documents to the Human Resources Department for inclusion in the personnel files of Department employees.

C. Personal Data Changes. It is the responsibility of each employee to notify the Human Resources Department of any changes in personal data. Personal mailing addresses, telephone numbers, names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments, and other such status reports shall be kept accurate and current at all times. Any change in personal data shall be provided to the Human Resources Department as soon as possible.

D. Access to Personnel Files. Personnel files are the property of the City. With reasonable advance notice, employees may view their personnel file at the Human Resources Department in the presence of a staff member at any time during normal working hours. Information contained in personnel files shall be kept confidential and shall not be disclosed except as authorized by the Oklahoma Open Records Act, in writing by the employee, or pursuant to a Court Order or subpoena.

## 2-4 IMMIGRATION LAW COMPLIANCE

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the City within the past three (3) years, or if their previous I-9 is no longer retained or valid.

# CHAPTER 3

# WAGE ADMINISTRATION

## 3-1 PAY POLICY AND CLASSIFICATION PLAN

The Pay Classification Plan shall consist of class titles and class specifications which are approved by the City Manager and amended from time to time. Establishment of a new position or a significant change in the duties and responsibilities of a position shall be approved by the City Manager.

## 3-2 WORK PERIOD

The following section does not apply to employees who are covered by a Collective Bargaining Agreement. The normal work period is a standard eight (8) hours per day for a five (5) day work week. Working hours may be changed by a Department Director, with the written prior approval of the City Manager, as deemed appropriate for the efficient operations of the Department or due to weather conditions.

Employees will receive an unpaid lunch break of sixty (60) minutes depending on the work schedule of the Department. Full-time employees may receive two fifteen (15) minute paid breaks and scheduled by the supervisor if available.

## 3-3 PAY DATES

All employees shall be paid biweekly (every other Friday). The pay cycle for all employees except those covered under CBA's runs from Saturday mornings at 12:00 am until 11:59 pm Friday night 14 days later.

The City has 26 pay periods per year. If a regularly scheduled payday falls on a holiday, employees will be paid on the last business day before the regularly scheduled payday. If a regular payday falls during an employee's absence, the employee's paycheck will be available upon his or her return. Direct Deposit is the preferred method to receive pay with the City. Upon beginning employment with the City, a new employee will be given time to establish an account to receive the deposits. An alternative is available for those not wishing an account at a financial institution. Consult the Finance Department for additional information.

### 3-4 OVERTIME

A. Bona fide executive, administrative, and professional employees are exempt from the overtime requirements of the Fair Labor Standards Act.

B. Employees who are eligible for overtime shall be paid at 1 ½ times the computed regular rate of pay for each overtime hour actually worked over 40 hours in an established seven (7) day work period. The Department Director or his or her designee shall approve all overtime prior to the time it is worked.

### 3-5 COMPENSATORY TIME

Employees not covered by a Collective Bargaining Agreement electing to receive compensatory time off instead of monetary overtime compensation shall receive such time at the rate of one and one-half hours for each hour earned. Employees who work a 40-hour work week may accumulate up to a maximum number of hours established by the City Manager. The Department Director will routinely monitor the accumulated hours in their department. At no time will non-CBA employees exceed 240 hours accumulated compensatory hours. The Department Director or his or her designee shall approve all compensatory time prior to the time it is worked, and all compensatory time taken will be authorized by the supervisor prior to use. The City reserves the right to pay out compensatory time at the City's discretion. Compensatory time may be sold or cashed out by the employee one time per year with City Manager approval.

### 3-6 STAND BY/CALL BACK

Those employees not covered by a Collective Bargaining Agreement and required to work "stand by" or are subject to "call back" shall be compensated according to current established practices. Job descriptions will inform the employee when they will be required to be on call back. See job description for standby/call requirements.

## CHAPTER 4

## EMPLOYEE EVALUATIONS, PROMOTIONS AND DEMOTIONS

### 4-1 EMPLOYEE EVALUATIONS

A. Supervisors and employees are encouraged to discuss job performance and expectations on an informal basis throughout the year. Supervisors will formally establish their expectations for each employee and share those expectations with each employee on a semi-annual basis. This can be done with non-formal meeting, so the employee understands the expectations.

B. Each employee of the City of Bethany, except those directly employed by the City Council, shall be evaluated for performance of job duties annually on her/his date of hire or promotion. Performance evaluations objectively assess an employee's work production and execution, as well

as, set goals for work improvement. Positive evaluations or affirmations made by a supervisor about an employee's performance does not create an expectation of continued employment or alter the at-will employment relationship.

C. The evaluation must be completed by the employee's immediate supervisor. *The evaluation should be forwarded to the HR Department for review prior to discussion with the employee.* The evaluation will be returned to the supervisor so it can be discussed and signed by the employee. The signed evaluation will be forwarded to the Human Resources Department. The employee will receive a copy of the evaluation. The final evaluation will be placed in the employee's personnel file.

D. If the employee has not reached job rate in their pay grade and funds are available, increases may be awarded to employees whose performance is evaluated as consistently competent and subject to the availability of adequate funds. All performance evaluation step increases will be based on a review of the employee's performance for the entire year. In the event an employee receives an evaluation which makes the employee ineligible for a step increase, the employee shall receive a subsequent evaluation three (3) months later to determine whether or not satisfactory improvement has been shown in the interim. A pay raise will be reconsidered at that time on the basis of all performance since the last step pay raise was granted. There is no guarantee of a raise. These increases are not retroactive.

## 4-2 PROMOTIONS

A promotion is a move to a position or classification having a higher basic salary, greater job responsibility. All vacancies that occur within the City that are considered promotional opportunities will be posted in accordance with this Employee Handbook. All City employees that meet the qualifications of the specific job opening are eligible to apply. The City may choose to fill the vacancy with a qualified applicant who is not an employee of the city. Positive work performance or length of continued service does not create an expectation of promotion. Promotion of an employee may be halted for any reason or no reason that does not violate Oklahoma public policy.

## 4-3 DEMOTIONS

A demotion occurs when an employee moves to a position or classification having a lower basic salary range and lessor job responsibility. An employee may be demoted for any reason or no reason pursuant to the at-will employment relationship. When an employee is demoted to a lower position, the employee shall be paid at a rate which is within the approved range for the lower position.

# CHAPTER 5

# EMPLOYEE BENEFITS

## 5-1 GENERAL STATEMENT

Fringe benefits are provided to Full-Time employees as an inducement to attract, recruit, and retain highly qualified employees and staff. They are also provided as a measure of personal and family security to allow employees to give their full attention to their jobs and professional development. In some cases, fringe benefits are provided as a requirement of law. Benefits may be added, eliminated, or changed as needed to meet the needs of the City, the employees, and the meet legal requirements. Employees are responsible to know and understand the benefits summary plan. For assistance, contact the Human Resources Department.

Benefits of employees in a Collective Bargaining Agreement are established expressly by the terms of the agreement. Sections 5-2 to 5-10 do not apply to employees in a collective bargaining agreement.

## 5-2 LONGEVITY PAY

Longevity shall be paid to employees with at least three (3) years of continuous service with the City of Bethany. Longevity pay is additional to regular base wages and is paid on the following basis:

| Beginning Year of Service | Longevity Pay Per Month |
|---|---|
| 4th Year | $25.00 |
| 6th Year | $45.00 |
| 8th Year | $65.00 |
| 10th Year | $85.00 |
| 12th Year | $105.00 |
| 14th Year | $125.00 |
| 16th Year | $145.00 |
| 18th Year | $165.00 |
| 20th Year and beyond | $185.00 |

No employee shall be paid more than $185.00 per month in longevity pay.

## 5-3 PAID HOLIDAYS

A. Holidays. All full-time City employees receive a full day's compensation and time off of work for the following days:

- New Year's Day
- Martin Luther King, Jr. Day
- President's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving
- Day after Thanksgiving
- Christmas Eve
- Christmas
- Floating Holiday

B. Observation of Holidays. A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday. When a holiday falls on an employee's regularly scheduled day off, the holiday shall be treated as though it had fallen on the employee's next workday. An employee who is required to actually work on one of the above days designated as a holiday will be granted one day off with pay or will be paid an additional normal day's pay in lieu of time off as well as pay for the hours worked for the holiday. If an employee is scheduled to work a holiday but fails to report for work, the employee will not be eligible for any holiday pay and may be subject to discipline.

C. Floating Holiday. Full-time City employees receive one (1) floating holiday per year. This holiday

may be taken on the employee's birthday, or at a time approved in advance by the Department Director. A Full-time employee is eligible to receive the floating holiday after completing six months of full-time employment.

D. Employees covered under a CBA should look at the agreement for further explanation of benefits.

## 5-4 VACATION

Vacation leave is intended to benefit the employee and serve as a time of mental and physical refreshment. Therefore, employees are encouraged to use their vacation time.

A. Eligibility. A full-time employee is eligible to take accumulated vacation leave after completion of six months of full-time employment. Employees may take accrued vacation time before that with special permission of the Department Director and City Manager or HR Director. Upon the hire date, vacation leave shall be accrued per pay period with annual maximum accruals as follows:

| Length of Service | Accrual Per Pay Period | Yearly Total |
|---|---|---|
| 0-4 Years<br>*(beginning of service through end of Year 4)* | 3.693 Hours | 96 Hours |
| 5-9 Years<br>*(beginning of Year 5 through end of Year 9)* | 4.616 Hours | 120 Hours |
| 10-14 Years<br>*(beginning of Year 10 through end of Year 14)* | 5.539 Hours | 144 Hours |
| 15+ Years<br>*(beginning of Year 15 through end of service)* | 6.462 Hours | 168 Hours |

B. Expenditure. Vacation leave shall not be expended in less than a one (1) hour unit and shall not be expended for more than the actual number of hours accrued. Vacation leave will be approved by the Department Director to meet the operating requirements of the City and, whenever possible, the preference of the employee. Requests for vacation leave shall be submitted with as much notice as possible to allow proper scheduling.

C. Accumulation. For employees hired before 09-01-2021, vacation leave may be accumulated to a maximum of 240 hours per year. All vacation leave in excess of 240 hours as of December 31st of each year will be lost. Exceptions may be made with approval of the City Manager if an employee is unable to take vacation leave through no fault of his/her own.

New employees hired after 09-12-2021 do not accrue vacation leave when the employee maintains a balance of 240 hours. The maximum balance of vacation leave that may be kept by an employee is 240 hours. No more than 240 hours of vacation leave may be carried over to the next year.

D. Separation. Upon separation, employees will be paid for unused vacation that has been earned through the last day of employment, or the employee may elect to use the vacation to extend the period of employment. No more than 240 hours shall be paid.

## 5-5 SICK LEAVE

A. Eligibility and Accrual. A full-time employee is eligible to take one (1) day of sick leave after completion of the first month of employment. After that time, sick leave shall be accrued at the rate of 3.693 hours per pay period. An employee is eligible to take sick leave for one (1) of the following reasons:

1. Personal illness or physical incapacity other than incurred on the job, including medical, dental, or optical diagnosis or treatment, and pregnancy.
2. Serious illness or physical incapacity of a member of the employee's immediate family requiring the employee's personal care or attention. Immediate family shall include husband or wife, father or mother of the employee, sister or brother of the employee, children or legally adopted children of the employee's husband or wife, or any other person whose relationship could justify the employee's absence, providing special approval by the Department Director is first obtained.
3. Exposure to a contagious disease that, in the opinion of the attending physician, could jeopardize the health of others.
4. Any condition covered under the City's Family Medical Leave Act policy.

B. Expenditure. Sick leave may be expended in units of no less than one (1) hour. Any sick leave extending for three (3) consecutive workdays must be accompanied by a physician's written statement certifying the employee's condition or his/her immediate family member's condition that prevented the employee reporting to work. Any abuse of sick leave is justification for disciplinary action.

C. Procedure. An employee who is unable to report for work due to one of the above reasons shall report his absence verbally to his supervisor at least 30 minutes before the scheduled start of their workday. The supervisor must also be contacted verbally on each additional day of absence. Texting in sick may be allowed in the department as approved by the Department Head.

D. Accumulation. Sick leave may be accumulated to a maximum of 960 hours.

E. Retirement. Upon retirement, an employee shall be entitled to convert sick leave which has accumulated over 680 hours to pay at the ratio of two sick leave to one hour of pay. The maximum number of hours paid shall not exceed 140 hours.

## 5-6 INSURANCE

A. Life Insurance. All full-time employees are covered by a term life insurance policy in the amount of $10,000.00. Department Directors are covered by a term life insurance policy in the amount of $20,000.00. The City pays the entire cost of the policy. Each employee may select a beneficiary, and the beneficiary may be changed at any time as addressed in the insurance plan document. Additional voluntary term life insurance policies are available, and policy premiums are paid by the employee through a payroll deduction.

B. Health Insurance. The City offers full-time employees individual and family medical coverage under a group health insurance plan. The City pays a portion of the cost of an employee for single coverage and a portion of the cost of family coverage as budgeted. The employee's portion of the cost is paid through a payroll deduction. Employees retiring from the City are entitled to remain in the health insurance plan by paying the full cost of the health insurance, plus an administrative fee charged by the insurance provider. Those leaving employment will be entitled to health insurance benefits for a period of eighteen (18) to thirty-six (36) months in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA) upon payment of applicable premium. The Human Resources Department can assist employees with this process.

C. Dental Insurance. The City offers full-time employees individual and family dental coverage under

the group dental insurance plan. The City pays a portion of the cost of an employee for single coverage and a portion of the cost of family coverage as budgeted. The employee's portion of the cost is paid through a payroll deduction. Employees are responsible for filing their own claims, but Human Resource Department employees may provide assistance if needed.

## 5-7 RETIREMENT

A. Defined Benefit Plan. The City is a member of the Oklahoma Municipal Retirement Fund (OMRF). Full-time employees are automatically placed in the OMRF system and funds are paid by the City into the fund on the employee's behalf. The City has established a Defined Benefit Plan. Employee contributions to OMRF are automatically deducted from the employee's pay before federal and state tax withholdings are calculated. For additional information contact the Human Resources Department.

B. Defined Contribution Plan. All employees may be members of the OMRF defined Contribution plan. Employees will receive employer contributed funds in a 401(a) account. There are many options available. For more information, contact your HR Department.

C. Deferred Compensation. Employees may participate in the City's Deferred Compensation Plan. This Plan is governed by Section 457 of the Internal Revenue Service Code. This Section allows public employees to defer state and federal taxes on a portion of their income. Employees may withdraw contributions and income only under limited circumstances. For more information, contact your HR Department.

## 5-8 EMPLOYEE ASSISTANCE PROGRAM

An Employee Assistance Program (EAP) is available to all employees. The EAP is a referral service established to assist employees in identifying and resolving individual problems which may, at times, interfere with job performance. The EAP can assist employees and families with a multitude of issues. Employees may voluntarily refer themselves into the program with the assurance of total confidentiality. Department Directors may also refer employees to the EAP when individual problems affect an employee's level of work performance.

There is no cost for the first six (6) visits for employees to consult with an EAP counselor. If further counseling is necessary, the EAP counselor will outline community and private services available. Costs not covered by the health insurance plan are the responsibility of the employee. Employees should contact the Human Resources Department for additional information on the EAP.

## 5-9 TUITION REIMBURSEMENT

A. Eligibility. The City provides educational assistance to full-time employees upon completion of the initial probationary period. To maintain eligibility, employees must remain on the active payroll and be performing their job satisfactorily through completion of each course. Courses must be related to the employee's current job duties or a foreseeable future position in the City in order to be eligible for educational assistance. The City Manager has the sole discretion to determine whether a course relates to an employee's current job duties or a foreseeable future position. Courses must be approved by the Department Director prior to taking the course.

B. Reimbursement. The amount of educational assistance available to an employee is limited to six (6) credit hours per semester, not to exceed eighteen (18) credit hours per fiscal year. Reimbursement shall be limited to the actual hourly rate per course hour or the highest (non-

graduate rate for non-graduate courses and graduate rate for graduate courses) level hourly rate for a state institution of higher education of either Oklahoma University (OU) or Oklahoma State University (OSU). Nothing contained in this Employee Handbook shall be construed to require the City to compensate the employee for time spent in fulfilling course requirements, or to pay for travel, books, fees, or any expense other than tuition.

C. Grade requirement. The employee shall receive a letter grade of "C" or higher for his or her performance in the course and not be evaluated on the basis of pass/fail or satisfactory/unsatisfactory, except in any course in which a letter grade cannot be awarded. The employee will be required to produce a certified transcript to the HR Department to receive reimbursement. If the employee drops a course, the employee will not be eligible for reimbursement.

### 5-10 OPTIONAL BENEFIT PROGRAMS

The City provides payroll deductions for a variety of optional benefit programs. More detailed information may be obtained from the Human Resources Department.

## CHAPTER 6

## LEAVES OF ABSENCE

### 6-1 EMERGENCY LEAVE

This leave is normally reserved for unusual circumstances and is used for emergencies. The City Manager or his/her designees is the only person who can authorize emergency leave. Emergency leave is limited to five (5) days paid leave each year.

### 6-2 TRAINING LEAVE

Employees may be granted time off with pay and travel expenses to attend conferences, schools, or other events if the Department Director believes that attendance would benefit the City and improve the employee's job performance.

### 6-3 JURY LEAVE

If called for jury duty, employees will be given leave with pay for time required for service. Employees are expected to report to supervisors as soon as released from jury duty.

### 6-4 MERITORIOUS LEAVE

The City Manager may grant additional compensatory time off for extraordinary meritorious service to the City.

### 6-5 MILITARY LEAVE

Military Leave shall be authorized for active-duty training with Reserve components of the United States Armed Forces as provided by Oklahoma State Statutes. While on long-term temporary active duty, employees will continue to accumulate vacation and sick leave. Employees shall submit official military orders, if available, prior to being granted Military Leave. If orders are not available, employees shall submit

an official letter from their unit commander and, upon return, must present a copy of the official orders to the Human Resources Department. Additionally, the City will comply with all provisions of the Uniformed Services Employment and Reemployment Act (USERRA).

## 6-6 LEAVE WITHOUT PAY

Leave without pay may be granted by the City Manager for a specific period of time. When it is in the best interest of the City to do so and shall not exceed three (3) months. Employees on leave without pay (excluding Military Leave) do not accrue sick or vacation leave. The employer's contribution toward insurance premiums will cease for employees on leave of absence without pay for periods exceeding thirty (30) days, unless the employee is on approved Family and Medical Leave (FMLA). Employees may continue health insurance premiums at their expense. Under very special circumstances, when an employee has used his or her accrued vacation and sick leave and because of illness or non-service injury is not able to return to work, the City Manager may extend a leave of absence without pay for a period not to exceed one year.

## 6-7 WORKERS' COMPENSATION

Employees with work-related injuries/illnesses are provided benefits under the Oklahoma Administrative Workers' Compensation Act. It is the duty of all employees to advise their supervisor of any injury or suspected injury received on duty. Notification should be done as soon as safely possible.

## 6-8 LEAVE SHARING

A. Summary. The City, under certain circumstances, may allow an employee to donate annual vacation leave to a fellow employee who is suffering from an illness, injury, impairment, or physical or mental condition which will the employee to take leave without pay.

B. Procedure. Leave sharing shall be approved by the receiving employee's Department Director and by the Human Resources Department subject to the following provisions:

1. The receiving employee will have exhausted, all leave due to the illness or injury, impairment, or condition.
2. The donating employee may donate up to twenty-four (24) hours of accrued annual vacation leave per pay period.
3. Any shared leave not used by the recipient will be returned to the donor(s). Unused shared leave will be divided proportionally among the donors.
4. The receiving employee will not accrue vacation or sick leave while on donated leave time.
5. All donated leave must be given voluntarily.

# CHAPTER 7

# CODE OF CONDUCT AND CORRECTIVE ACTION

## 7-1 UNPROFESSIONAL CONDUCT

It is the policy of the City of Bethany to provide a high quality of service by the safe, efficient, and orderly operation of all City Departments. The examples listed below are not intended to be all-inclusive and demonstrate conduct that is unacceptable for employment with the City of Bethany:

1. Habitual tardiness or unexcused absence.
2. Not immediately returning to work after being released from a doctor's care.
3. Abuse of any city benefits.
4. Abuse of any policies regarding employee leaves.
5. Falsification of records.
6. Loss of required license or certification.
7. Discourteous conduct to citizens or co-workers.
8. Immoral, indecent, or obscene conduct.
9. Failure to meet standards for personal appearance.
10. Acceptance of a fee or gift given with the intent of influencing the employee in the performance of his or her official duties.
11. Violation of safety rules.
12. Violation of any city policy or procedure or interdepartmental regulation.
13. Use, or possession of alcohol or illegal drugs on the job or reporting to work under the influence of alcohol or drugs.
14. Taking more than specified time for meals or breaks.
15. Insubordination.
16. Destruction, theft, or misappropriation of city property.
17. Repeated failure, refusal, or neglect in performance of duties.
18. Fighting, intimidating, or coercing other employees on the job or engaging in horseplay or scuffling or other disruptive actions.
19. Concealment or failure to report a significant error, mistake or unsafe working condition or injury.
20. Improper use of authority by using official position for personal profit or advantage.
21. Wasting time, loafing, or sleeping on the job, except as required by job duties.
22. Commitment of acts, on or off the job, which would bring embarrassment, distrust, or discredit to the City of Bethany.
23. Removal of any city property or materials from the work premises without proper authorization.
24. Violations of any state laws regarding political activity.
25. Negligence, inefficiency, or incompetence in the performance of job duties.
26. The destruction, theft, or misappropriation of the personal property of another through the unauthorized use of city authority. Provided that this provision shall not apply to the destruction of contraband or to activities authorized by Court Order.
27. Any other reason which the City Manager believes, in good faith, to be for the good of the service.
28. Bringing unauthorized firearms or weapons of any sort, concealed or not, onto city property, except that firearms that are otherwise legal may be kept inside a locked vehicle on city designated parking areas.
29. Making a threat of violence or actually displaying violent behavior within the workplace.
30. Violation of City policy regarding professional conduct, harassment, and discrimination.

## 7-2 CORRECTIVE ACTION

The City Manager or a supervisor may find it necessary to take corrective action with respect to an employee's conduct. The corrective action taken is based upon the seriousness of the employee's conduct past record of corrective action, the length of employment the employee. If corrective action is taken with an employee, the City Manager or supervisor will:

1. Describe the unsatisfactory behavior in a corrective action notice.
2. Outline the corrective measures taken by the employer
3. Specify that any recurrence of the behavior or other unprofessional conduct could lead to further corrective action or termination.

4. Deliver the corrective action to the employee and request a signature of acknowledgement. If the employee refuses to sign, the employer will mark the document "refused to sign." The City Manager or supervisor will then sign and date the notice and deliver to Human Resources.

### 7-3 PROCESS FOR DISCIPLINE, SUSPENSION, DEMOTION OR TERMINATION

Employees are hired at-will and can be suspended, demoted, or terminated for any lawful reason or no reason and are not entitled to a hearing before or after any disciplinary action.

## CHAPTER 8

## MISCELLANEOUS

### 8-1 OUTSIDE EMPLOYMENT

Employees may hold outside jobs provided that:

1. There is no conflict of interest; and
2. There is no conflict with working hours; and
3. The employee's efficiency is maintained; and
4. Approval is given by the employee's Department Director.

Employees may not engage in outside business activities during working hours and may not use city equipment in any outside business

### 8-2 PERSONAL APPEARANCE

Personal appearance is important. Employees shall dress in a manner that creates a good impression upon the people served. When uniforms are issued to employees, they will be worn during working hours.

Pierced jewelry will be visible in the ears only. Other piercings will be covered or removed while the employee is at work. Body art can be considered an expression of free speech. Bethany will allow body art as long as it is in good taste by community standards. Out of respect for our customers, the citizens of Bethany, the City will not allow face or neck tattoos and, the City requests that visible tattoos be tasteful and appropriate. The City will not allow tattoos that are vulgar, abusive, offensive, obscene, violent, or contrary to the moral standards of the community of Bethany to be seen while the employee is at work. City employees who have tattoos prior to the implementation of this handbook will be exempt from this section with preexisting tattoos only. All new tattoos will fall under this handbook.

### 8-3 USE OF CITY EQUIPMENT

When using City equipment and vehicles, employees are expected to exercise care, follow required maintenance, and follow all operating instructions, safety standards, and guidelines. City property and equipment is for City business only.

It is the employee's responsibility to notify her/his supervisor when any equipment, machine, tool, or vehicle appears to be missing, damaged, defective, or in need of repair. The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles is conduct that is unacceptable to employment.

## 8-4 TOBACCO USE

Smoking, vaping, and the use of smokeless tobacco is prohibited throughout the workplace and extends to 25 feet beyond any portion of City buildings or facilities. Any tobacco use in City-owned vehicles is also prohibited.

## 8-5 CITIZEN RELATIONS

Every employee represents the City to the public. How employees present themselves and the way they perform their jobs presents an image of the entire organization. All employees are expected to be courteous, helpful, and prompt in the attention given to citizens.

## 8-6 EMPLOYEE RELATIONS

It is the responsibility of all employees to be respectful, to be fair in treatment of others and to conduct themselves in a non-discriminatory manner in their association with other employees and vendors.

## 8-7 CITY VEHICLES

City vehicles are for official use only unless an employee has been authorized to commute to and from work. Family members and civilians are not authorized to ride in City vehicles except in the performance of an employee's job duties or with permission of the City Manager. In case of an accident involving City-owned vehicles, employees must notify their supervisor and the Police Department. All employees who drive City vehicles must have a valid Oklahoma driver's license and a commercial driver's license as required. All City employees are to use seat belts when driving or riding in a City vehicle. Failure to do so can result in disciplinary action. Use of cellular phones in any manner while operating any city vehicle is prohibited.

All employees who drive City vehicles, will have their driver's license checked for validity on a semiannual basis. Those employees who are found to have lost their driving privileges is conduct that is unacceptable to employment.

Before an employee is allowed to have a vehicle to drive back and forth to work, the employee's supervisor must justify the need for this to the City Manager. The City Manager will take into account emergency callbacks or other possible needs that the City may have of the employee. The City Manager will determine those individuals who will have access to take home vehicles.

## 8-8 CELL PHONE USAGE

Excessive personal calls during the workday, regardless of the phone used, can interfere with employee productivity, and can be distracting to others. A reasonable standard is to limit personal calls during work time.

## 8-9 NEPOTISM

An employee shall not supervise, either directly or indirectly, the work of a relative which involves hiring, dismissal, disciplinary action, promotional evaluation, performance appraisal or job and work assignment. If this situation arises through a change in family composition or a job transfer/promotion, the affected employees shall immediately report the situation to the Human Resources Department. The employees may be separated by reassignment or terminated from employment as deemed necessary by the City Manager.

Relatives of present employees will not be hired into the same division within a Department. Under no circumstances shall any relative of any City Council Member, Department Director, or employee in the offices of the City Manager, the Finance Department, or the Human Resources Department be employed in a full-time or regular part-time position within the City. This restriction does not apply to seasonal positions for those persons related to a Department Director or employees in the Human Resources Department.

For purposes of this policy, relative is defined as a spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, or corresponding in-law, step, adopted or half relation, relative will include those individuals related up to the third degree.

## 8-10 POLITICAL ACTIVITY

A. City employees may attend and express their views at any regular public meeting for the City of Bethany, its commissions, committees, authorities, and trusts.

B. City employees may actively participate in all political activities. Provided, the employee does not participate in any political activity during on-duty hours or while wearing any city uniform or apparel indicating the person is employed by the City of Bethany.

C. City employees may not utilize city equipment of any kind for political activity.

D. It may prove difficult to be employed by the City of Bethany and run for political office. Recognizing that the time commitment to run for political office as a candidate can be extensive, the following should be considered:

1. Time needed away from the employee/candidate's regular job duties for political activity;
2. Amount of accrued leave time (vacation or compensatory time) available to the employee/candidate for time away from work for political activity;
3. Whether leave without pay will be needed for the employee/candidate for time away from work for political activity;
4. Ability of the affected department or division to continue with the city functions in the employee/candidate's absence;
5. Leave away from work by an employee/candidate for political activity shall be considered for approval by the City Manager upon recommendation from the employee's department director.
6. If an employee is successfully elected to a City of Bethany office, the employee must immediately resign.

## 8-11 EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION POLICY

The City of Bethany is committed to providing equal employment opportunities to all employees and applicants for employment. There shall be no discrimination against any employee or applicant on the basis of race, ancestry, religion, gender, age, marital or civil union status, national origin, sexual orientation, place of birth, citizenship, veteran status, or disability, as defined and required by state and federal laws. This commitment extends to every aspect of employment, including recruitment, selection, placement, training, compensation, promotion, transfer, layoff, recall, and disciplinary action. The responsibility for administering this policy is delegated to Department Heads and Supervisors.

## 8-12 AMERICANS WITH DISABILITIES ACT (ADA) AND ADA AMMENDMENT ACT

**(ADAA)**

It is the policy of The City of Bethany to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the City's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, termination, compensation, training or other terms conditions and privileges of employment.
The City will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodations and/or if the accommodation creates an undue hardship to the City of Bethany. Contact the Human Resources department with any questions or request for accommodations.
Contact the Human Resources office for additional information about these policies or to file a claim.

## 8-13 PROFESSIONAL CONDUCT AND ANTI-HARASSMENT POLICY

The City is committed to establishing a professional and congenial work environment and will take reasonable steps to ensure that the work environment is pleasant for all who work here. All employees are expected to treat others with courtesy, consideration, and professionalism. The City will not tolerate the harassment of any employee or any member of the public by any other employee, supervisor, or customer. Employees may not use epithets, slurs or other terms or language designed to threaten, insult, intimidate or show hostility to another. Employees are prohibited from posting or circulating in the workplace any written or graphic materials or other objects that attack, defame, belittle, degrade, or show hostility or aversion to any person or group of people. In addition, harassment for any discriminatory reason, such as race, gender, national origin, disability, age, religion, or veteran status is prohibited not only by State and Federal laws but also by the policies of the City. The City prohibits not only unlawful harassment but other types of unprofessional and discourteous conduct. Accordingly, derogatory, racial, ethnic, religious, age, gender, sexual orientation, sexual or other inappropriate remarks, slurs, "jokes," written material or actions will not be tolerated in the workplace.

Included in this prohibition is a prohibition against sexual harassment, which includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal, or physical conduct of a sexual nature when:

A. Submission to the conduct is made either implicitly or explicitly a condition of the individual's employment;
B. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee; or
C. The harassment has the purpose or effect of unreasonably interfering with the employee's work performance or of creating an environment which is intimidating, hostile or offensive to the employee.

Each employee must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to, the following:

E. Verbal: Repeated sexual innuendos, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;

F. Visual/Non-Verbal: Derogatory posters, cartoons, telefaxes, drawings, suggestive objects or pictures, graphic commentaries, leering, or obscene gestures;
G. Physical: Unwanted physical contact including touching, interference with the individual's normal work movements or threatening gestures; and
H. Other: Making or threatening reprisals as a result of a negative response to a harassing action.

Any employee or applicant who feels that he or she has been subjected to harassment or otherwise has been discriminated against due to his or her race, color, religion, national origin, gender, sexual orientation, age, disability, or veteran status or who witnesses such harassment of or discrimination against another employee, should promptly report the incident. A complaint form is available in the Human Resources Department. Although employees are encouraged to discuss issues of alleged harassment or discrimination with their immediate supervisor, they may bypass their immediate supervisor and report the incident directly to the Human Resources Director. In the event the employee believes the Human Resources Director is involved in the harassment or discrimination, the employee may bring the complaint to the attention of the City Manager. Further, any supervisor who gains information concerning allegations of harassment or discrimination is to immediately report the same to the Human Resources Department.

All complaints of harassment or discrimination will be investigated. In determining whether alleged conduct constitutes harassment or discrimination, the totality of the circumstances, the nature of the harassment and the context in which the alleged incidents occurred will be considered. Except as deemed necessary to investigate and remedy violations, management will keep any complaint and the information revealed in the investigation as confidential as possible.

All employees are strongly encouraged to use the complaint procedures set forth herein if they believe they have been subjected to discrimination or harassment. Before it becomes a serious problem and the conduct interferes with an individual's work performance or creates a hostile environment, employees are encouraged to notify management of conduct that may violate this policy. That will allow management time to address the situation.

The initiation of a complaint, in good faith, will not be grounds for discipline. It is a violation of the City's policy for an individual to be disciplined or otherwise disadvantaged as a result of a good faith resort to this complaint procedure. However, deliberately reporting false allegations may be considered as a form of harassment and may subject an employee to appropriate discipline.

If a person is determined to have violated this policy, the City will take appropriate action designed to prevent any further incidents of inappropriate behavior. If necessary, this could include disciplinary action up to and including termination. In addition, management and supervisory employees may face disciplinary action if they fail to take corrective action after becoming aware of the existence of harassment or discrimination, regardless of whether the victim has filed a formal complaint.

## 8-14 EMPLOYEE SOCIAL MEDIA/NETWORKING POLICY

Social media, including networking sites and blogs, are increasing in popularity and activity. The City of Bethany believes that social media can assist in raising visibility and support for its business. The City of Bethany is also aware that social media is not used exclusively for the City of Bethany's business and that employees are utilizing blogs and social networking sites for personal use. However, it is important to keep in mind that what is posted is traceable and permanent.

When employees create their own blogs, comment on a blog, create a LinkedIn profile, Twitter, use Facebook and/or contribute to or through any of the other online media (i.e., Wikis, blogs, chat rooms, internet forums, electronic mailing lists, etc.), they are impacting their personal image and potentially impacting the City of Bethany. If your online profile indicates that you work for the City of Bethany, then that activity is associated with the City of Bethany. Therefore, the City of Bethany asks all employees to follow the guidelines below regarding online behavior.

The sites covered in this policy include any electronic form of communication, including social networking sites such as Facebook and Instagram; professional networking sites such as LinkedIn; and live blogging tools like Twitter, as well as employee's personal blogs and those hosted by other organizations that you either author or where you post comments.

Follow these guidelines when creating and/or publishing work-related or non-work-related content online:

- **Maintain confidentiality.** Never divulge proprietary or confidential information about the City of Bethany, our employees, or our clients.

- **Represent yourself accurately**. If you are participating in an online community and commenting on topics related to our business, you must make it clear that you are speaking for yourself and not on behalf of the City of Bethany.

- **Be accurate.** When posting content, your overall goal should be to provide value through accurate information. You may not post anything that is knowingly false.

- **Be respectful.** Respect the opinions of others. You may have disagreements, but please make your opinions respectfully. The City of Bethany does not tolerate intimidating or threatening comments.

Please keep the following guidelines in mind regarding your online identity:

- Follow the rules regarding the use of the City of Bethany email outlined in the City of Bethany's Personnel Polices.

- Even when using social media sites on a personal basis, please remember to follow the City of Bethany's policies prohibiting threats and intimidation.

- The City of Bethany is not interested in limiting your ability to participate in personal social networks with a personal email address outside of the workplace. However, what you publish on these sites should never be attributed to the City of Bethany. Please make it clear that you are speaking for yourself. Furthermore, even if you do not mention the City of Bethany, that information is readily ascertainable and could reflect poorly upon you and the City of Bethany. Please use common sense when making online comments, even if you intend for them only to be personal in nature. If you choose to use your work affiliation on a social network, then you should regard all communication on that network as you would in a professional network.

- Be aware of your association with the City of Bethany in online social networks. If you identify yourself as a City of Bethany employee, ensure your profile, photographs and related content is consistent with how you wish to present yourself with colleagues and clients. In particular, if your name on Twitter is related to the City of Bethany's business, be sure that the majority of your "tweets" are on this topic.

- As they are in the public domain, the City of Bethany reserves the right to monitor social media sites and blogs.

- Any violators of these guidelines will be subject to disciplinary action, up to and including termination.

## CHAPTER 9

## FAMILY MEDICAL LEAVE ACT POLICY

### 9-1 PURPOSE OF THE ACT

The FMLA allows eligible employees to take up to 12 weeks of unpaid leave in a 12-month period for medical reasons; the birth or adoption of a child; and the care of a child, spouse, or parent of the employee who has a serious health condition. (§ 825.200(a)).

### 9-2 DEFINITIONS

A. *Son or Daughter:* A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either less than 18 years of age or 18 years of age or older and "incapable of self-care" because of a physical or mental disability at the time that FMLA leave is to commence. **"**Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more activities or instruments of daily living (i.e., hygiene, eating, paying bills, cleaning, etc.). (§ 825.122(c)).

B. *Parent:* The biological parent, adoptive, step or foster father or mother, of an employee or an individual who stood *in loco parentis* to an employee when the employee was a son or daughter. Persons who are *in loco parentis* include those with day-to-day responsibilities to care for and financially support a child. A biological relationship is not necessary. (§ 825.122(b)).

C. *Spouse:* A husband or wife as defined or recognized under State law for purposes of marriage in the State of Oklahoma, including common law marriage under the laws of the State of Oklahoma. (§ 825.122(a)).

D. *Health Care Provider:* A Doctor of Medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services (i.e., podiatrist, dentists, clinical psychologists, optometrists, chiropractor, nurse practitioner and nurse-midwife, physician assistants, clinical social workers, and certain Christian Science practitioners). (§ 825.125(b)).

E. *Serious Health Condition:* An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, continuing treatment by a health care provider or a chronic condition. (§ 825.113).

F. *Intermittent Leave:* Leave taken in separate blocks of time due to a single qualifying reason. (§ 825.202(a)).

G. *Reduced Leave*: A leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday. A change in the employee's schedule for a period of time, normally from full-time to part-time. (§ 825.202(a)).

H. *FMLA 12-Month Period:* The 12-month period is measured forward from the date an employee's first FMLA leave begins. Example: If an employee's FMLA 12-month period begins on June 9 it will run until the following June 8. (§ 825.200(b)(4)).

## 9-3 ELIGIBILITY REQUIREMENTS

A. To be eligible for leave under the FMLA, an employee must have been employed by The City for at least 12 months within the past seven years ***and*** worked at least 1,250 hours during the previous 12-month period preceding the request for leave. (§ 825.110).

1. The 12 months do not need to be consecutive months. (§ 825.110(b)). For example, if an employee worked for The City five (5) years before the current period of employment, the previous service could be counted toward the employee's 12-month eligibility requirement.

2. If the break in service is to fulfill National Guard or Reserve military service obligations, there is no limit in the gap between periods of employment. (§ 825.110(b)).

B. If The City grants non-FMLA leave to an employee before the employee is eligible for FMLA leave and the employee becomes eligible for FMLA leave while on non-FMLA leave, the leave period after the date the employee becomes eligible is FMLA leave and the leave period before such leave is non-FMLA leave. (§ 825.110).

C. An eligible employee shall be entitled to a total of 12 workweeks of leave during the FMLA 12-month period for one or more of the following *FMLA qualifying events*:

***Birth or Adoption:***

1. The birth of a son or daughter of the employee or placement of a son or daughter with the employee for adoption or foster care. (§ 825.112).

   a. Both the mother and father are entitled to FMLA leave to be with the healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. (§ 825.120).

   b. The mother is entitled to FMLA leave for incapacity due to pregnancy (i.e., morning sickness), for prenatal care, or for her own serious health condition following the birth of the child. (§ 825.120).

   c. The husband is entitled to FMLA leave if needed to care for his pregnant spouse who is incapacitated, if needed to care for her during her prenatal care, or if needed to care for the spouse following the birth of a child if the spouse has a serious health condition. (§ 825.120).

   d. Employees may take FMLA leave *before* the actual placement or adoption of a child if an absence from work is required for placement for adoption or foster care to proceed (i.e., appear in court, counseling, or travel to another country, etc.). (§ 825.121).

e. If both parents work for the City, the combined leave to which they are entitled is 12 weeks. However, time may be split in any manner chosen by the parents. For example, if each parent took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of leave. (§ 825.120(a)).

***Employee's Serious Health Condition:***

2. A serious health condition that renders the employee "unable to perform the functions of the position" because of an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. (§ 825.112).

   a. An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position. An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. (§ 825.123).

   b. An on-the-job injury that qualifies as a serious health condition under FMLA will be charged to the employee's FMLA entitlement. The workers' compensation absence and FMLA leave shall run concurrently subject to proper notice and designation by the department.

***Family Member's Serious Health Condition:***

3. An employee may be eligible for FMLA when "needed to care for" the employee's spouse, son, daughter, or parent of the employee with a "*serious health condition.*" Care for parents-in-law is not covered by the FMLA. (§ 825.112; § 825.201).

   a. "Needed to care for" means an employee may take leave to care for a family member if needed to provide physical and/or psychological care (i.e., basic medical needs, hygiene, transportation to the doctor, or emotional support). (§ 825.124).

   b. The employee does not need to be the only individual or family member available to provide the care nor is the employee required to provide actual care. (§ 825.124).

   c. If both spouses work for the City, each is entitled to 12 weeks to care for a sick son or daughter. If one spouse is ill and must be cared for by the other, each spouse is entitled to 12 weeks.

## 9-4 NOTICE AND DESIGNATION OF FMLA

A. Eligibility notice. When an employee requests FMLA leave, or when the department/division acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the FMLA Coordinator must notify the employee of the employee's eligibility within five business days, absent extenuating circumstances. If it is determined that the employee is not eligible, the notice must state at least one reason why the employee is not eligible. *See* DOL Notice of Eligibility of

Rights and Responsibilities form. (§ 825.300).

B. Employee notice requirements. An employee must provide at least verbal notice to the department/division at least 30 days before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or a planned medical treatment for a serious health condition of the employee or a family member. If 30 days' notice is not practicable, notice must be given as soon as practicable. The notice should make the department/division aware that the employee needs FMLA leave and the anticipated timing and duration of the leave. (§ 825.302).

C. Designation notice. It is The City's responsibility through the FMLA Coordinator to designate leave as FMLA qualifying, and to give notice of the designation of FMLA leave to the employee. When the FMLA Coordinator has enough information to determine whether the leave is being taken for an FMLA qualifying reason (e.g., after receiving the certification), the Coordinator must notify the employee within five (5) business days. *See* DOL Designation Notice form. (§ 825.300(d)).

1. If the department/division will require the employee to present a fitness-for-duty certification to be restored to employment, it must provide notice of such requirement with the designation notice. If the fitness-for-duty is to address the employee's ability to perform the essential functions of the employee's position, it must so indicate in the designation notice and must include a list of essential functions of the employee's position. (§ 825.300(d)).

2. If the information provided by the employer to the employee in the designation notice changes (e.g., the employee exhausts the FMLA entitlement), the employer shall provide, within five (5) business days of receipt of the employee's first notice of need for leave subsequent to any change, written notice of the change. (§ 825.300(d)(5)).

D. Sufficient information to designate leave. The decision to designate leave as FMLA-qualifying must be based only on information received from the employee or the employee's spokesperson (i.e., if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the department/division of the need for leave). (§ 825.301(b)).

1. In any circumstance where there is insufficient information about the reason for an employee's use of leave, the department/division can inquire further of the employee or the employee's spokesperson to ascertain whether the leave is potentially FMLA qualifying. (§ 825.301(b)).

2. If the employee or their spokesperson fails to explain the reasons for the use of leave, the FMLA leave may be denied. (§ 825.301(b)).

E. Requesting use of approved FMLA leave. When an employee seeks leave due to an approved FMLA event, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. (§ 825.303).

1. Calling in "sick" without providing more information will not be considered sufficient notice to trigger obligations under the FMLA. (§ 825.303).

2. An employee has an obligation to respond to questions designed to determine whether an absence is potentially FMLA qualifying. Failure to respond to reasonable inquiries regarding the leave request may result in denial of FMLA protection if unable to determine whether the leave is FMLA qualifying. (§ 825.303).

F. Retroactive designation. FMLA leave may be retroactively designated with appropriate notice to the employee provided that the failure to timely designate leave does not cause harm or injury to the employee. (§ 825.301).

G. Denial of FMLA Leave. Denial of FMLA leave requires consultation with the Personnel Department.

## 9-5 CERTIFICATION

A. Certification requirement. The department/division may require an eligible employee to provide certification from a health care provider supporting the need for family and/or medical leave no later than 15 days from the date leave is requested. (§ 825.305(b)).

B. Costs. Any and all costs associated with obtaining medical certification for purposes of FMLA are the sole responsibility of the employee.

C. Complete and sufficient certification. In all instances in which certification is requested, it is the employee's responsibility to provide a complete and sufficient certification and failure to do so may result in denial of FMLA leave. (§ 825.305; § 825.306).

1. The FMLA Coordinator shall advise an employee whenever the certification is incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The employee has seven (7) calendar days to resubmit the certification. If the deficiencies are not cured in the resubmitted certification FMLA leave may be denied. (§ 825.305; § 825.306).

2. A medical certification is considered incomplete if one or more of the applicable entries have not been completed. A medical certification is considered insufficient if the information is vague, ambiguous, or non-responsive. (§ 825.305; § 825.306).

3. A certification that is not returned is not considered incomplete or insufficient but constitutes a failure to provide certification. (§ 825.305).

D. Certification for each event. A separate request for leave must be submitted for each FMLA purpose. Approved leave shall only apply to that single purpose.

E. Statement of essential functions. The department/division has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. The essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier. (§ 825.123).

F. Certification forms. When leave is taken because of an employee's own serious health condition or the serious health condition of a family member, the employee may be required to obtain a medical certification from the health care provider. For use in obtaining medical certification, employees can either submit the current Department of Labor form WH-380E or WH-380F or some other form of documentation that sets forth the following information: (§ 825.306)

1. The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;

2. The approximate date on which the serious health condition commenced, and its probable duration;

3. A statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave. Such medical facts may include information on symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment (physical therapy, for example), or any other regimen of continuing treatment;

4. If the employee is the patient, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability (see § 825.123(b) and (c));

5. If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is *in need of care*, and an estimate of the frequency and duration of the leave required to care for the family member;

6. If employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;

7. If employee requests leave on an intermittent or reduced schedule basis for the employee's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and

8. If employee requests leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such leave is medically necessary to care for the family member, which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required leave.

G. HIPAA privacy rules. The City has a statutory right to require sufficient medical information to support an employee's request for FMLA leave for a serious health condition. Generally, HIPAA privacy rules only apply in a physician/patient relationship and not to the employee/employer relationship. The HIPAA privacy rule does not apply in situations where an employee is providing medical certification to the employer for purposes of qualifying for FMLA leave. If an employee fails to provide the requested medical information, the employee will not qualify for FMLA.

H. Contact with health care providers. The FMLA specifically allows Human Resource professionals to contact an employee's health care provider for the sole purpose of authenticating or clarifying a medical certification but only after the employee has been given the opportunity to cure any

deficiencies. The FMLA specifically prohibits direct supervisors from contacting the employee's health care provider. (§ 825.307).

1. Recertification. If a minimum duration for the *period of incapacity* is specified, recertification may not be requested until that time period has expired. For example, if the certification states the employee will be unable to perform essential functions of job for two weeks, then the department/division cannot request recertification until those two weeks has expired. (§ 825.308).

    a. Recertification may be requested in less than 30 days if the employee requests an extension of leave, circumstances have changed significantly from the original certification, or there are doubts about the stated reason for the employee's absence. (§ 825.308).

    b. In all circumstances, recertification is permitted every six (6) months. (§ 825.308).

    c. The employee is responsible for the costs of recertification. (§ 825.308).

    d. If the recertification is not provided in 15 days, the department/division may deny continuation of FMLA leave until recertification is provided. (§ 825.308).

## 9-6 INTERMITTENT AND REDUCED LEAVE SCHEDULE

A. Birth or placement of a child. When leave is taken after the birth of a *healthy* child or placement of a *healthy* child for adoption or foster care, intermittent or reduced leave may be taken only with the agreement of the supervisor. An agreement is not required for leave during which the mother has a serious health condition with the birth of her child or if the newborn child has a serious health condition. (§ 825.202(c)).

B. Medical need for intermittent leave. Intermittent or a reduced leave schedule taken because of one's own serious health condition or to care for a parent, son or daughter with a serious health condition requires a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. (§825.202(b)).

C. Scheduling treatment. When planning medical treatment, the employee must consult his/her supervisor and make a reasonable effort to schedule the treatment so as not to unduly disrupt operations, subject to the approval of the health care provider. (§ 825.302).

D. Temporary transfer. An employee on intermittent leave or on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or family member may be temporarily transferred from their regular position to an alternative position for which the employee is qualified and which better accommodates recurring periods of leave. (§ 825.204).

    1. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced schedule leave. (§ 825.204(b)).

    2. When the employee no longer needs to continue the intermittent leave or reduced leave schedule the employee must be placed in the same or equivalent job as he/she left when the leave commenced. (§ 825.204(e)).

3. Transfers may require compliance with applicable collective bargaining agreements. (§ 825.204(b)).

E. Time keeping. Intermittent and reduced leave schedule will reduce the 12-week FMLA entitlement minute for minute. (§ 825.205).

## 9-7 EFFECT ON PAY, ACCRUED LEAVE, BENEFITS AND POLICIES

A. Substitution of paid leave. Generally, FMLA leave is unpaid leave. However, the City allows an employee requesting FMLA leave to substitute accrued sick leave, vacation leave, compensatory time (CTO) and donated sick leave prior to being placed in an unpaid leave status. The department/division is not required to provide sick leave benefits in any situation in which a health care professional has not certified the leave as medically necessary or has released the employee/family member from medical care. (§ 825.207).

B. Exempt employees. If an employee is otherwise exempt from minimum wage and overtime requirements under the Fair Labor Standards Act (FLSA) as a salaried employee, providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. (§ 825.206).

C. Vacation and sick leave accruals. Vacation and sick leave shall not continue to accrue during any family and/or medical leave, which exceeds two (2) consecutive payroll periods. (§ 825.209(h)).

D. Retirement and longevity. Unpaid family and/or medical leave will result in an adjustment to the employee's retirement and longevity eligibility (see applicable state statute with respect to eligibility for members of the Police and Fire pension systems). Salary review and eligibility dates will be adjusted one day for each day of absence in excess of 30 continuous calendar days. (§ 825.209(h)).

E. Health and welfare benefits. An employee on FMLA leave will have health and welfare benefits maintained while on leave as if the employee had continued to work instead of taking the leave.

1. Premiums. The employee will continue to pay his/her share of the premiums during the leave period. Failure to pay the required premium may result in cancellation of the employee's coverage. (§ 825.209; § 825.210; § 825.212).

2. COBRA. Once all leave, including FMLA, has been exhausted and the employee has been in an unpaid status exceeding two (2) consecutive payroll periods, the employee will be offered allowable continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Should the employee elect COBRA continuation coverage, he/she will be responsible for all premiums associated to continue health insurance coverage. Failure to pay the required premiums may result in cancellation of insurance benefits. (§ 825.209(f)).

F. Overtime. If an employee would normally be required to work overtime but is unable to do so because of a FMLA-qualifying reason that limits the employee's ability to work overtime, the hours which the employee would have been required to work may be counted against the employee's

FMLA entitlement. Voluntary overtime hours that an employee does not work due to a serious health condition may not be counted against the employee's FMLA leave entitlement. (§ 825.205).

G. Holiday. Holidays are counted as FMLA leave if the employee is on FMLA leave the entire week in which the holiday falls. If the employee takes FMLA for less than a full workweek in which the holiday falls, the holiday does not count as FMLA leave unless the employee was otherwise scheduled and expected to work during the holiday. (§ 825.200).

H. Periodic reporting. The department/division may require an employee on FMLA leave to report *periodically* on the employee's status and intent to return to work. The relevant facts and circumstances related to the individual employee's leave situation must be taken into account before determining how often the employee should be required to report the status and intent of their return to work. (§ 825.311).

I. Division reporting requirements. The department/division may require an employee to comply with the usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. (§ 825.302).

J. Bonuses. If a bonus, award, or other payment is based on the achievement of a specified goal (e.g., hours worked, production output, perfect attendance, safety, etc.) and the employee has not met the goal due to FMLA leave, then the bonus or payment can be denied (and does not need to be pro-rated) as long as other employees on an equivalent leave status (e.g., vacation, sick days, paid time off, etc.) for a reason that does not qualify as FMLA leave are treated the same. (§ 825.215).

K. Secondary employment. An employee is prohibited from engaging in any secondary employment that occurs when the employee is off work from City employment on FMLA leave.

L. Recordkeeping. Each department/division will be responsible for establishing procedures for entering and tracking FMLA leave in the payroll system for benefit purposes, as well as maintaining records and documents related to health care certifications in a separate confidential medical file. (§ 825.500).

## 9-8 RETURN FROM FAMILY/MEDICAL LEAVE

A. Restoration to position. An employee returning from FMLA leave within the 12-week FMLA period shall be restored to the position held prior to the leave commencing; or if the previously held position is unavailable, shall be restored to an equivalent position with equivalent pay and benefits, within his/her current department or division. (§ 825.214).

1. Necessary leave. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. (§ 825.311(c)).

2. Light duty. If an employee accepts a light duty assignment while still eligible for FMLA leave, he/she has reinstatement rights to his/her original or an equivalent job, but only until the end of the FMLA 12-month period. (§ 825.220(d)).

3. Qualifications expired. If an employee is no longer qualified for the position because of the employee’s inability to attend a necessary course, renew a license, etc. as a result of the leave,

the employee shall be given a reasonable opportunity to fulfill those conditions upon return. (§ 825.215(b)).

B. Medical release to return to work. Prior to an employee's return to work, the employee may be required to provide The City with a medical release, indicating that he/she is able to resume work. (§ 825.312(a))

C. Fitness for duty. The department/division is entitled to a fitness-for-duty certification up to once every 30 days if reasonable safety concerns exist regarding the employee's ability to perform his/her duties, based on the serious health condition for which the employee took such leave. In order to require a fitness-for-duty, the department/division must provide an employee with a list of the essential job functions no later than with the designation notice and it must be indicated in the designation notice that the fitness-for-duty must address the employee's ability to perform those essential functions. (§ 825.312(a)).

1. The cost of the fitness-for-duty shall be borne by the employee. (§ 825.312(c)).

2. A department/division may delay restoration to employment until an employee submits a required fitness-for-duty. (§ 825.312(e)).

3. An employee who does not provide a fitness-for-duty certification or requests additional FMLA leave is no longer entitled to reinstatement under the FMLA. (§ 825.312(e)).

D. Second opinion. The City reserves the right to obtain a second opinion, and if necessary, a third opinion, at the City's expense. If the second or third opinion supports the original release, the employee shall be compensated, from the date of the original release. However, if *both* the second and third opinion do not support the original release, the employee shall not be compensated for time lost. (§ 825.307(b)).

## 9-9 FAILURE TO RETURN FROM FAMILY/MEDICAL LEAVE

A. Failure to Return. An employee who fails to return from FMLA leave after the 12 weeks of FMLA leave has expired and has not been approved for leave of absence or after being medically certified to do so, may be subject to disciplinary action, up to and including termination.

B. Personal leave of absence. An employee who is medically unable to return to work after the 12-week FMLA period has expired and is unable to perform the essential functions of his/her position with or without restrictions, may apply for a leave of absence through his/her department director. (See Personal Leave of Absence Section of the Personnel Policies).

1. If the leave of absence is approved, the employee will be permitted to use accrued vacation/sick leave/comp time. If the employee does not have any accrued vacation, sick leave, or comp time, he/she will be placed in an unpaid status.

2. If after the leave of absence expires the employee remains unable to perform the essential functions of the position, he/she held at the time FMLA was granted (with or without restrictions), the employee may be subject to termination.

3. Medical documentation from the employee's health care provider indicating that the employee is unable to work because of the continuation, recurrence, or onset of the serious health condition, must be provided at the time the leave of absence is requested. The City reserves the right to investigate an employee's continued absence. ***Note:*** Continued absences due to job injuries are covered under applicable job injury policies.

C. Restoration after expiration of FMLA. The employee does not have the right to restoration to his/her position after the 12-week FMLA entitlement has expired, except where the employee's job injury leave exceeds the FMLA period. In that instance, the employee will be restored according to applicable injury leave policies. An employee whose medical leave exceeds 12 weeks will be returned to the same or similar position, only if available. If the same or similar position is not available, the employee may be terminated.

## 9-10. ADMINISTRATION

A. Each City department shall have an assigned FMLA Coordinator who is responsible for administration of the FMLA policy as it pertains to that department's employees. If an employee has questions or concerns about the interpretation or administration of the FMLA policy, they are to consult their FMLA Coordinator.

B. The Personnel Department shall be responsible for general oversight and interpretation of the FMLA; provide advice and guidance to all FMLA Coordinators regarding applications of the Act; and, the coordination of all FMLA dispute resolution activities between The City and the United States Department of Labor, Wage and Hour Division.

# CHAPTER 10

# FAMILY AND MEDICAL LEAVE ACT OF 1993 –QUALIFYING EXIGENCY AND MILITARY CAREGIVER LEAVE

## 10-1 PURPOSE

As of January 28, 2008, the FMLA allows two new forms of leave benefits for families of military servicemembers – qualifying exigency leave and leave to care for an injured or ill military family member. The same rules that apply to traditional FMLA provisions apply to servicemember family and medical leave. The servicemember family and medical leave amendments allow eligible employees to take up to twelve (12) weeks of FMLA leave in a twelve (12) month period for a qualifying exigency. The Act further allows up to 26 weeks of leave in a twelve (12) month period to an eligible employee who is the primary caregiver of a servicemember in the Armed Forces with a serious injury or illness incurred in the line of active duty. This policy shall not supersede specific language in the collective bargaining agreements, unless required by Federal or State law. This policy is not intended to change any existing terms and conditions of employment in effect in any of the bargaining agreements.

## 10-2 DEFINITIONS

A. *Son or daughter:* The employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in *loco parentis*, who is on active duty or call to active-duty status and who is of any age. (§ 825.122(g); § 825.127(b)(1)).

B. *Parent (of a covered servicemember):* The biological parent of an employee or an individual who stood in *loco parentis* to an employee. Persons who are *in loco parentis* include those with day-to-day responsibilities to care for and financially support a child. A biological relationship is not necessary. (§ 825.122(b); § 825.127(b)(2)).

C. *Spouse:* A husband or wife as defined or recognized under State law for purposes of marriage in the State of Oklahoma, including common law marriage under the laws of the State of Oklahoma. (§ 825.122(a)).

D. *Next of Kin (of a covered servicemember)*: A servicemember's nearest blood relative in the following order: (1) blood relatives with legal custody of the servicemember (2) siblings (3) grandparents (4) aunts and uncles (5) first cousins. The highest priority is given to a blood relative whom the servicemember has designated as the next of kin. Once this designation is made, that relative is deemed the only next of kin eligible to take military caregiver leave. If the servicemember does not designate a next of kin, multiple family members with the same level of relationship may take leave, either consecutively or simultaneously. (§ 825.122(d); § 825.127(b)(3)).

E. *Health Care Provider:* For purposes of leave taken to care for a covered servicemember, any one of the following health care providers may complete such certification: (1) United States Department of Defense ("DOD") health care provider (2) a United States Department of Veterans Affairs ("VA") health care provider; (3) a DOD Tricare network authorized private health care provider; or (4) a DOD non-network Tricare authorized private health care provider. (§ 825.310(a).

F. *Intermittent Leave:* Leave taken in separate blocks of time due to a single qualifying reason. (§ 825.202(a)).

G. *Reduced Leave*: Leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday. A change in the employee's schedule for a period of time, normally from full-time to part-time. (§ 825.202(a)).

H. *FMLA 12- Month Period:* The 12-month period measured forward from the date an employee's first FMLA leave begins. Example: If an employee's FMLA 12-month period begins on June 9 it will run until the following June 8. (§ 825.200 (b) (4)).

I. *Active Duty*: Military duty that results in the call or order to, or retention on, active duty of members of the uniformed services under Title 10 §§ 688, 12301(a), 12302, 12304, 12305 or 12406, chapter 15 of Title 10 or any other provision of law during a war or during a national emergency declared by the President or Congress. (10 U.S.C. § 101(a)(13)(B)).

J. *Contingency Operation*: A military operation:

1. Designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

2. Resulting in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10 of the United States Code, chapter 15 of Title 10 of the United States Code, or any other provision

of law during a war or during a national emergency declared by the President or Congress. See also (§ 825.126(b)(3); § 825.800).

K. *Covered Servicemember*: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. (§ 825.800; § 825.127(a)).

L. *Outpatient Status*: The status of a member of the Armed Forces assigned to (1) a military medical treatment facility as an outpatient or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (§ 825.127(a)(2).

M. *Serious Injury or Illness*: An injury or illness incurred by the servicemember in line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. (§ 825.127(a)(1).

N. Q*ualifying Exigency*: A qualifying exigency includes: (1) short notice deployment of seven or fewer calendar days; (2) military events and related activities; (3) childcare and school activities for a child under 18 (or older if incapable of self-support); (4) financial and legal arrangements; (5) counseling for employee, military member or child under 18 (or older if incapable of self-support); (6) rest and recuperation of up to 5 days per break *while on deployment*; (7) post-deployment activities and issues related to death of military member on active duty for 90 days; or (8) additional activities per agreement of employer and employee. (§ 825.126(a).

## 10-3 QUALIFYING EXIGENCY

An eligible employee can receive up to 12 weeks of leave in a twelve-month period for a qualifying exigency arising from Federal active duty/call-up of the employee's spouse, child (of any age) or parent. Exigency leave applies only to a federal call to duty or a state call under order of the President. Qualifying exigencies leave only applies to families of National Guard and Reserve and certain retired members of the Armed Forces and not to families of regular armed service members on active duty. (§ 825.126).

A. ELIGIBILITY: To be eligible for leave under the FMLA for a qualifying exigency, an employee must:

1. Have been employed by the City for at least twelve (12) months; and

2. Worked at least 1,250 hours during the previous twelve (12) month period preceding the request for leave; and

3. Be the spouse, son/daughter, or parent to a servicemember in the National Guard, Reserve, and certain retired members of the Armed Forces; and provide certification of a qualifying exigency as defined above.

B. CERTIFICATION: The FMLA permits an employer to require that employees submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. See the attached Department of Labor Form WH-384 – Certification of Qualifying Exigency for Military Family Leave. The employee must either complete this form or provide:

1. a statement signed by the employee with appropriate facts regarding the qualifying exigency; and

2. approximate date on which the qualifying exigency will commence; and

3. the beginning and ending dates of leave; and

4. an estimate of frequency and duration if on intermittent leave or reduced leave schedule; and
5. if the qualifying exigency involves meeting with a third party, appropriate contact information for the individual with whom the employee is meeting and a brief description of the purpose of the meeting. (§ 825.309(b)).

## 10-4 MILITARY CAREGIVER LEAVE

An employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 workweeks of leave in a 12-month period to care for a servicemember with a serious injury or illness incurred in the line of active duty. This leave benefit is covered on a per-covered-servicemember, per-injury basis. An eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered servicemembers or to care for the same servicemember with a subsequent serious injury or illness. (§ 825.127(c)).

A. ELIGIBILITY: To be eligible for leave under the FMLA, an employee must:

1. Have been employed by The City for at least twelve (12) months; and

2. Worked at least 1,250 hours during the previous twelve (12) month period preceding the request for leave. (29 U.S.C. § 2611 (2) (A) (i) (ii); and

3. Be the spouse, son/daughter or next of kin to a member of the Armed Forces, National Guard, Reserves and servicemembers on the temporary disability retired list; and

4. Provide certification that the covered servicemember incurred a serious illness or injury in the line of duty on active duty for which he/she is undergoing: (1) medical treatment; (2) therapy; (3) recuperation; (4) outpatient treatment; or (5) on the temporary disability list.

B. CERTIFICATION: The FMLA provides that an employer may require an employee seeking leave due to a serious injury or illness of a covered servicemember to submit a certification, from a health care provider as defined above, providing sufficient facts to support the request for leave. To determine whether an employee is eligible to receive FMLA leave, the employee must complete the attached Department of Labor Form WH-385 – Certification for Serious Injury or Illness of Covered Servicemember – for Military Family Leave or provide:

1. The name, address, and appropriate contact information of the health care provider, the type of practice, the medical specialty and whether the health care provider is a DOD health care provider, a VA health care provider, a DOD Tricare network authorized private health care provider, a DOD non-network Tricare authorized private health care provider; and

2. whether the serious injury or illness was incurred in the line of duty; and

3. the approximate date on which the serious injury or illness commenced and probable duration;

and

4. a statement of appropriate medical facts regarding the covered servicemember's health condition; and

5. information sufficient to establish that the covered servicemember is *in need of care* and the estimated beginning and ending dates for treatment and recovery; and

6. whether there is a medical necessity for the covered servicemember to have intermittent leave or a reduced leave schedule and an estimate of the treatment schedule. (§ 825.310(a) & (b)).

In lieu of the Department of Labor Form WH-385 or an employee's own certification form, it is sufficient to accept either "invitational travel orders" (ITOs) or "invitational travel authorizations" (ITAs) issued to any family member to join an injured or ill servicemember at his or her bedside. (§ 825.310(e)).

## 10-5 NOTICE AND DESIGNATION OF FMLA

A. *Eligibility notice.* When an employee requests FMLA leave, or when the department/division acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the FMLA Coordinator must notify the employee of the employee's eligibility within five business days, absent extenuating circumstances. If it is determined that the employee is not eligible, the notice must state at least one reason why the employee is not eligible. *See* DOL Notice of Eligibility of Rights and Responsibilities form. (§ 825.300).

B. *Employee notice requirements.* An employee must provide at least verbal notice to the department/division at least 30 days before FMLA leave is to begin if the need for the leave is foreseeable. If 30 days' notice is not practicable, notice must be given as soon as practicable. The notice should make the department/division aware that the employee needs FMLA leave and the anticipated timing and duration of the leave. (§ 825.302).

C. *Designation notice.* It is the City's responsibility through the FMLA Coordinator to designate leave as FMLA qualifying, and to give notice of the designation of FMLA leave to the employee. When the FMLA Coordinator has enough information to determine whether the leave is being taken for an FMLA qualifying reason (e.g., after receiving the certification), the Coordinator must notify the employee within five (5) business days. *See* DOL Designation Notice form. (§ 825.300(d) § 825.127(c)(4)).

   1. If the information provided by the employer to the employee in the designation notice changes (e.g., the employee exhausts the FMLA entitlement), the employer shall provide, within five (5) business days of receipt of the employee's first notice of need for leave subsequent to any change, written notice of the change. (§ 825.300(d)(5)).

D. *Sufficient information to designate leave.* The decision to designate leave as FMLA-qualifying must be based only on information received from the employee.

   1. In any circumstance where there is insufficient information about the reason for an employee's use of leave, the department/division can inquire further of the employee or the employee's spokesperson to ascertain whether the leave is potentially FMLA qualifying. (§ 825.301(b).

   2. If the employee or their spokesperson fails to explain the reasons for the use of leave, the FMLA

leave may be denied. (§ 825.301(b).

E. *Requesting use of approved FMLA leave.* When an employee seeks leave due to an approved FMLA event, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. (§ 825.303).

1. Calling in without providing information about the reason for the FMLA leave will not be considered sufficient notice to trigger obligations under the FMLA. (§ 825.303).

2. An employee has an obligation to respond to questions designed to determine whether an absence is potentially FMLA qualifying. Failure to respond to reasonable inquiries regarding the leave request may result in denial of FMLA protection if unable to determine whether the leave is FMLA qualifying. (§ 825.303).

F. *Retroactive designation.* FMLA leave may be retroactively designated with appropriate notice to the employee provided that the failure to timely designate leave does not cause harm or injury to the employee. (§ 825.301).

G. *Denial of FMLA Leave.* Denial of FMLA leave requires consultation with the Personnel Department.

## 10-6 CERTIFICATION

A. *Certification requirement.* The department/division may require an eligible employee to provide certification supporting a qualifying exigency or certification from a health care provider supporting the need for FMLA leave no later than 15 days from the date leave is requested. (§ 825.305(b).

B. *Costs.* Any and all costs associated with obtaining medical certification for purposes of FMLA are the sole responsibility of the employee.

C. *Complete and sufficient certification.* In all instances in which certification is requested, it is the employee's responsibility to provide a complete and sufficient certification and failure to do so may result in denial of FMLA leave. (§ 825.305; § 825.306; § 825.310(f)).

1. The FMLA Coordinator shall advise an employee whenever the certification is incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The employee has seven (7) calendar days to resubmit the certification. If the deficiencies are not cured in the resubmitted certification FMLA leave may be denied. (§ 825.305; § 825.306).

2. A medical certification is considered incomplete if one or more of the applicable entries have not been completed. A medical certification is considered insufficient if the information is vague, ambiguous, or non-responsive. (§ 825.305; § 825.306).

3. A certification that is not returned is not considered incomplete or insufficient but constitutes a failure to provide certification. (§ 825.305).

D. *Certification for each event.* A separate request for leave must be submitted for each FMLA purpose. Approved leave shall only apply to that single purpose.

E. *HIPAA privacy rules.* The City has a statutory right to require sufficient medical information to support an employee's request for FMLA leave. Generally, HIPAA privacy rules only apply in a physician/patient relationship and not to the employee/employer relationship. The HIPAA privacy rule does not apply in situations where an employee is providing medical certification to the employer for purposes of qualifying for FMLA leave. If an employee fails to provide the requested medical information, the employee will not qualify for FMLA.

F. *Contact with health care providers.* The FMLA specifically allows Human Resource professionals to contact an employee's health care provider for the sole purpose of authenticating or clarifying a medical certification but only after the employee has been given the opportunity to cure any deficiencies. The FMLA specifically prohibits direct supervisors from contacting the employee's health care provider. (§ 825.307).

G. *Recertification and second opinions.* The City may not utilize the second and third opinion process or the recertification process during the period of time in which leave is supported by an ITO or ITA. (§ 825.310(e)(2).

H. *Confirmation of relationship.* The City may require an employee to provide confirmation of a covered family member relationship to the seriously ill or injured servicemember when an employee supports his or her request for FMLA leave with an ITO or an ITA. (§ 825.310(e)(3).

I. *Qualifying exigency verification*. If an employee submits a complete and sufficient certification to support his or her request for leave because of a qualifying exigency, The City may not request additional information from the employee. (§ 825.309(d).

J. *Qualifying exigency meeting with third party*. If the qualifying exigency involves meeting with a third party, a representative from the Personnel Department may contact the individual or entity with whom the employee is meeting for purposes of verifying a meeting or appointment schedule and the nature of the meeting. The employee's permission is not required but no additional information can be requested by the City. (§ 825.309(d).

K. *Verification of active duty.* A representative from the Personnel Department may contact an appropriate unit of the Department of Defense to request verification that a covered military member is on active duty or call to active-duty status. No additional information may be requested. (§ 825.309(d).

## 10-7 INTERMITTENT AND REDUCED LEAVE SCHEDULE

A. *Qualifying exigency or to care for a covered servicemember.* Intermittent or reduced leave schedule may be taken for qualifying exigencies or where the employee is caring for a covered servicemember. (§ 825.202(b)(2)).

B. *Medical need for intermittent leave.* Intermittent or a reduced leave schedule taken to care for a covered servicemember requires a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. (§825.202(b)).

C. *Scheduling treatment.* When planning medical treatment or leave for a qualifying exigency, the employee must consult his/her supervisor and make a reasonable effort to schedule the treatment and/or appointment so as not to unduly disrupt operations. (§ 825.302).

D. *Temporary transfer.* An employee on intermittent leave or on a reduced leave schedule that is foreseeable based on planned medical treatment for a covered servicemember or appointments arising out of a qualifying exigency may be temporarily transferred from their regular position to an alternative position for which the employee is qualified and which better accommodates recurring periods of leave. (§ 825.204).

1. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced schedule leave. (§ 825.204(b)).

2. When the employee no longer needs to continue the intermittent leave or reduced leave schedule the employee must be placed in the same or equivalent job as he/she left when the leave commenced. (§ 825.204(e)).

3. Transfers may require compliance with applicable collective bargaining agreements. (§ 825.204(b)).

E. *Time keeping.* Intermittent and reduced leave schedule will reduce the 12-week (or 26-week) FMLA entitlement minute for minute. (§ 825.205).

## 10-8 EFFECT ON PAY, ACCRUED LEAVE, BENEFITS AND POLICIES

A. *Substitution of paid leave.* Generally, FMLA leave is unpaid leave. However, the City allows an employee requesting FMLA leave to substitute accrued sick leave, vacation leave, compensatory time (CTO) and donated sick leave prior to being placed in an unpaid leave status. The department/division is not required to provide sick leave benefits in any situation in which the covered servicemember's health care provider has not certified the leave as medically necessary or has released the covered servicemember from medical care. (§ 825.207).

B. *Exempt employees.* If an employee is otherwise exempt from minimum wage and overtime requirements under the Fair Labor Standards Act (FLSA) as a salaried employee, providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. (§ 825.206).

C. *Vacation and sick leave accruals.* Vacation and sick leave shall not continue to accrue during any FMLA leave, which exceeds two (2) consecutive payroll periods. (§ 825.209(h)).

D. *Retirement and longevity.* Unpaid FMLA leave will result in an adjustment to the employee's retirement and longevity eligibility (see applicable state statute with respect to eligibility for members of the Police and Fire pension systems). Salary review and eligibility dates will be adjusted one day for each day of absence in excess of 30 continuous calendar days. (§ 825.209(h)).

E. *Health and welfare benefits.* An employee on FMLA leave will have health and welfare benefits maintained while on leave as if the employee had continued to work instead of taking the leave.

1. *Premiums.* The employee will continue to pay his/her share of the premiums during the leave period. Failure to pay the required premium may result in cancellation of the employee's coverage. (§ 825.209; § 825.210; § 825.212).

2. *COBRA.* Once all leave, including FMLA, has been exhausted and the employee has been in an unpaid status exceeding two (2) consecutive payroll periods, the employee will be offered allowable continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Should the employee elect COBRA continuation coverage, he/she will be responsible for all premiums associated to continue health insurance coverage. Failure to pay the required premiums may result in cancellation of insurance benefits. (§ 825.209(f)).

F. *Overtime.* If an employee would normally be required to work overtime but is unable to do so because of a FMLA-qualifying reason that limits the employee's ability to work overtime, the hours which the employee would have been required to work may be counted against the employee's FMLA entitlement. Voluntary overtime hours that an employee does not work due to a serious health condition may not be counted against the employee's FMLA leave entitlement. (§ 825.205(c)).

G. *Holiday.* Holidays are counted as FMLA leave if the employee is on FMLA leave the entire week in which the holiday falls. If the employee takes FMLA for less than a full workweek in which the holiday falls, the holiday does not count as FMLA leave unless the employee was otherwise scheduled and expected to work during the holiday. (§ 825.200).

H. *Periodic reporting.* The department/division may require an employee on FMLA leave to report *periodically* on the employee's status and intent to return to work. The relevant facts and circumstances related to the individual employee's leave situation must be taken into account before determining how often the employee should be required to report the status and intent of their return to work. (§ 825.311).

I. *Division reporting requirements.* The department/division may require an employee to comply with the usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. (§ 825.302(d)).

J. *Bonuses.* If a bonus, award, or other payment is based on the achievement of a specified goal (e.g., hours worked, production output, perfect attendance, safety, etc.) and the employee has not met the goal due to FMLA leave, then the bonus or payment can be denied (and does not need to be pro-rated) as long as other employees on an equivalent leave status (e.g., vacation, sick days, paid time off, etc.) for a reason that does not qualify as FMLA leave are treated the same. (§ 825.215(c)(2)).

K. *Secondary employment.* An employee is prohibited from engaging in any secondary employment that occurs when the employee is off work from City employment on FMLA leave.

L. *Recordkeeping.* Each department/division will be responsible for establishing procedures for entering and tracking FMLA leave in the payroll system for benefit purposes, as well as maintaining records and documents related to health care certifications in a separate confidential medical file. (§ 825.500).

## 10-9 RETURN FROM FAMILY/MEDICAL LEAVE

A. *Restoration to position.* An employee returning from FMLA leave within the 12-week (or 26-week) FMLA period shall be restored to the position held prior to the leave commencing; or if the previously held position is unavailable, shall be restored to an equivalent position with equivalent pay and benefits, within his/her current department or division. (§ 825.214).

B. *Necessary leave.* An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. (§ 825.311(c)).

*C. Qualifications expired.* If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, etc. as a result of the FMLA leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return. (§ 825.215(b)).

## 10-10 FAILURE TO RETURN FROM FAMILY/MEDICAL LEAVE

A. *Failure to Return.* An employee who fails to return from FMLA leave after the 12 weeks (or 26 weeks) of FMLA leave has expired and has not been approved for leave of absence or after being medically certified to do so, may be subject to disciplinary action, up to and including termination.

B. *Personal leave of absence.* An employee who is unable to return to work after the 12-week (or 26-week) FMLA period has expired may apply for a leave of absence through his/her department director. (See Personal Leave of Absence Section of the Personnel Policies).

1. If the leave of absence is approved, the employee will be permitted to use accrued vacation/sick leave/comp time. If the employee does not have any accrued vacation, sick leave, or comp time, he/she will be placed in an unpaid status.

2. If after the leave of absence expires the employee may be subject to termination.

C. *Restoration after expiration of FMLA.* The employee does not have the right to restoration to his/her position after the 12-week (or 26-week) FMLA entitlement has expired. An employee whose leave exceeds 12 weeks (or 26 weeks) will be returned to the same or similar position, only if available. If the same or similar position is not available, the employee may be terminated.

## 10-11 ADMINISTRATION

A. Each City department shall have an assigned FMLA Coordinator who is responsible for administration of the Servicemember FMLA policy as it pertains to that department's employees. If an employee has questions or concerns about the interpretation or administration of the Servicemember FMLA policy, they are to consult their FMLA Coordinator.

B. The Personnel Department shall be responsible for general oversight and interpretation of the Servicemember FMLA; provide advice and guidance to all FMLA Coordinators regarding applications of the Act; and, the coordination of all FMLA dispute resolution activities between The City and the United States Department of Labor, Wage and Hour Division.

## CHAPTER 11

## ALCOHOL & CONTROLLED SUBSTANCE TESTING POLICY AND PROCEDURE

### 11-1 POLICY STATEMENT

The City recognizes the importance of a drug and alcohol-free workplace. The abuse of drugs, alcohol or other chemical substances by an employee endangers the safety of the public, the employee, and other City employees. The City recognizes that it is in its best interest, as well as the best interest of its employees and the public, to prevent and eliminate drug, alcohol, and/or substance abuse in the workplace. Any employee found using, possessing, selling, distributing or being under the influence of alcohol, marijuana, an unlawfully used drug, or another prohibited or impairing substance while on City property or while using City equipment, or as otherwise prohibited by this Policy may be subject to discipline up to and including termination of employment.

### 11-2 EFFECTIVE DATE

This policy will be effective ten (10) days after posting in a prominent place at all City facilities where employees routinely report for duty and following distribution of the policy to all employees. In addition, a copy will be given to each applicant for employment upon receipt of a conditional offer of employment.

### 11-3 APPLICATION

This policy applies to all employees as well as all applicants for employment once they have received a conditional offer of employment. Employee is defined as any person who supplies labor for remuneration to his or her employer in this state and shall not include an independent contractor, subcontractor, or employees of an independent contractor, unless otherwise provided for by contract. This policy will comply with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. §551, *et seq.* (Act) as amended.

### 11-4 APPLICANT PRE-EMPLOYMENT TESTING

All applicants will undergo drug and/or alcohol testing following a conditional offer of employment, but prior to final hiring and assignment. Refusal to undergo a test, or a positive test, will result in the City withdrawing its conditional offer of employment. A confirmed positive marijuana test may be used as a basis for withdrawing a conditional offer in accordance with Sections 16 and 19 of this Policy. The City will not withdraw an offer solely because an applicant holds a valid Oklahoma medical marijuana license. In addition, adulteration of a specimen for a drug or alcohol test will be considered as a refusal to undergo a test.

### 11-5 FOR CAUSE TESTING

Drug and/or alcohol testing may be conducted on any employee at any time the City has reasonable suspicion there is cause to believe an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

5.1 Observation of drugs or alcohol on or about the employee's person or in the employee's vicinity;

5.2 Observation of conduct on the part of the employee that suggests that the employee is impaired or is under the influence of drugs or alcohol;

5.3 Receipt of a report of drug or alcohol use by an employee while at work;

5.4 Information that an employee has tampered with drug or alcohol testing at any time;

5.5 Negative job performance patterns by the employee; or

5.6 Excessive or unexplained absenteeism or tardiness.

The supervisor will verbally inform the employee of the reason for the test. Additionally, the attached Reasonable Suspicion Determination Report will be completed and signed by the supervisor(s)/witnesses within 24 hours of the event. A copy of the Report will be forwarded to the Human Resources Department.

The employee involved must stop work immediately and will be transported as soon as possible to the designated testing facility by a management/supervisory employee. The employee will not be allowed back to work until the results of the test are known.

## 11-6 POST-ACCIDENT TESTING

Post-Accident drug and/or alcohol testing may be conducted on an employee where there has been damage to City property or equipment while the employee was at work or the employee or another person has sustained an injury while at work. The post-accident test will be administered while the employee is still on duty or as close to as possible. No employee required to take a post-accident alcohol or drug test may use any alcohol or drugs, of any kind, following the accident until the employee undergoes the post-accident testing.

## 11-7 RANDOM TESTING

The City may, at various times, randomly select members of the following employment groups, at its discretion, for unannounced random testing for drugs or alcohol:

7.1 police officers;

7.2 firefighters;

7.3 persons engaged in activities which directly affect the safety of the public;

7.4 employees whose work involves direct contact with inmates in the custody of the Department of Correction; or

7.5 employees whose work requires possession of a CDL.

## 11-8 PERIODIC SCHEDULED TESTING

The City may require an employee in any of the employment groups identified in Section 7 above to undergo drug or alcohol testing as part of a routinely scheduled employee fitness for duty examination or in connection with the employee's return to duty from a leave of absence.

## 11-9 POST REHABILITATION TESTING

The City may require an employee to undergo drug and/or alcohol testing, without prior notice, for a period of up to two (2) years after the employee's return to work following a confirmed positive test result or following participation in a drug or alcohol dependency program. Post-rehabilitation testing will be conducted in addition to any other testing the employee is subject to under this policy.

## 11-10 SUBSTANCE FOR WHICH TESTS MAY BE GIVEN

The City reserves the right to test for drugs, including marijuana components or metabolites, and for the presence of alcohol. For marijuana, a positive test means a result at or above the cutoff concentration level established by the United States Department of Transportation or Oklahoma law regarding being under the influence, whichever is lower. Other threshold reporting levels will be those established and maintained by applicable state or federal law for the position held by the employee. Any positive levels below those established reporting levels will not be reported to the City's Review Officer by the testing laboratory.

## 11-11 METHODS AND DOCUMENTATION

Collection, storage, transportation, testing facilities, and testing procedures will be conducted in accordance with rules established by the State Board of Health. Samples may be collected on the premises of the City at its election. Body component samples will be collected with due regard to the privacy of the individual being tested. In no case may any City employee directly observe collection of a urine sample. A written record of the chain of custody of the sample will be maintained until the sample is no longer required.

All sample testing will conform to scientifically accepted analytical methods and procedures. Testing will include confirmation testing of any positive test results by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by the State Board of Health at the cut off levels as determined by the State Board of Health. In the case of the use of Breathalyzer testing method, no discipline may be imposed unless there is a confirmation test performed on a second sample that confirms the prior results.

An applicant or employee will be given the opportunity to provide notification of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an applicant or employee wishes to challenge the results of the City's test, he/she may do so as provided in this policy. The applicant or employee must have had the sample collected within one hour of the City's sample and such retest must be in accordance with the standards set forth by the State Board of Health and in this policy.

## 11-12 COSTS

The City is responsible for all costs associated with drug or alcohol testing. However, if an applicant or employee requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test result in order to challenge the results of the positive test, the applicant or employee is

responsible for the cost of the confirmation test unless the confirmation test reverses the findings of the challenged positive test. In such case, the City will reimburse the person for the cost of the confirmation test.

## 11-13 REFUSAL TO UNDERGO TESTING OR TAMPERING WITH SAMPLE

Employees who refuse to undergo testing according to the terms of this policy will be subject to disciplinary action up to and including termination. Adulteration of a specimen or of a drug or alcohol test will be considered as a refusal to undergo a test and will result in disciplinary action up through and including termination of employment.

## 11-14 REVIEW OFFICER

The City will contract with a Review Officer who will receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. The Review Officer will be qualified by the Board of Health to receive, interpret, and evaluate the test results. Upon receiving a confirmed positive test result, the Review Officer will contact the applicant or employee prior to notification of City officials. The applicant or employee will be given the opportunity to explain the test results.

## 11-15 CONFIDENTIALITY

The City will treat all tests and all information related to such tests, as confidential materials. All records relating to drug testing will be kept separated from personnel records. The records are the property of the City but will be made available to the affected applicant or employee for inspection and copying upon request and will also be available for review by the City's Review Officer. Except as set forth below, the records will not be released to any person other than the applicant or the employee without that person's express written permission. However, the City may release the records:

15.1 To comply with a valid judicial or administrative order;

15.2 As admissible evidence in a case or proceeding before a court of record or administrative agency if the employee or the City is named as a party in the case or proceeding; or

15.3 To employees or agents of the City who need access to the records in connection with the administration of this Policy and the Act.

## 11-16 DISCIPLINARY ACTION

The City may elect to take disciplinary action, up to and including termination of employment, against an employee who: 1) tests positive for drugs and/or alcohol; 2) refused to test under this policy; or 3) adulterates a specimen for a drug or alcohol test. For marijuana, disciplinary action based on a confirmed positive test is taken pursuant to this written Policy as adopted and enforced in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act. The City will not take adverse action solely because an applicant or employee holds a valid Oklahoma medical marijuana license.

16.1 The City will evaluate the employment history of any employee who tests positive for drugs and/or alcohol. The appropriate course of action will be determined based on the employee's total work record. Where deemed appropriate by management, an employee may be offered the opportunity to enter into a rehabilitation program. Continued employment will be contingent upon the successful completion of a rehabilitation program and an agreement to undergo periodic drug and/or alcohol post-rehabilitation testing for up to two (2) years. However, the City reserves the right to initiate disciplinary action, up to and including termination of employment, for the first positive test result. A decision regarding disciplinary action under this policy by management will be final and binding.

16.2 Employees who have tested positive, and who have been offered the opportunity to participate in a rehabilitation program in lieu of termination of employment, will not be allowed to return to work until they can provide a verified negative "return to work" test from a City approved facility. An employee may be allowed a maximum of 12 weeks to provide a verified negative "return to work" drug or alcohol test. If a negative test is not provided within 12 weeks, the employee will be terminated from employment. Until a negative “return to work” test is supplied, the employee will be on leave without pay. However, an employee may request permission to use accrued sick leave and vacation leave. An employee may request a "return to work" test no sooner than two weeks from a positive test result, and subsequently every other week thereafter, until a negative "return to work" test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy will be subject to disciplinary action.

16.3 In the event the City does not terminate the employment of an employee who has a positive test result, the employee who enters a rehabilitation program after the positive test results will be permitted to do so only once. Any future recurrence for abuse with the same or any other substance will result in termination of employment.

16.4 An employee who is discharged from employment on the basis of refusal to undergo drug or alcohol testing or based on a positive drug or alcohol test will be considered as having been discharged for misconduct for the purpose of unemployment compensation and the City will protest any application for unemployment benefits.

## 11-17 PROHIBITIONS

No employee will be on duty or operate a City vehicle/equipment or perform job duties while in possession of alcohol nor use alcohol during duty time. No employee may report for duty, drive a City-owned vehicle, operate City equipment, or remain on duty after using a controlled or impairing substance, except when the use is pursuant to a licensed health-care provider’s instructions and the provider has advised that the substance will not adversely affect the employee’s ability to safely perform the employee’s duties. This exception does not alter the marijuana rules in Section 19 or any applicable federal requirement. No supervisor having knowledge that an employee has used a controlled substance may permit an employee to be on duty or drive/operate any City vehicle or equipment.

## 11-18 RESPONSIBILITIES OF INDIVIDUALS

In order to comply with the provisions of this policy, each employee assumes the following responsibilities:

18.1 *Working under the Influence of Performance Impairing Medication:* Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to performing any hazardous or dangerous tasks.

18.2 *Reporting to Work or Working While Impaired:* Employees may not report to work and may not continue to work while impaired by any restricted substance identified in this policy.

18.3 *Reporting Violations:* The services provided by certain employees are performed, at times, under hazardous and dangerous conditions. Thus, employees are encouraged to come forward and report any violation of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries on the job.

## 11-19 MEDICAL MARIJUANA

Effective November 1, 2026, this Section governs applicants and employees who hold or may hold an Oklahoma medical marijuana license. Nothing in this Section limits any requirement imposed by federal law or any condition necessary for the City to obtain or retain federal funding.

19.1 License Status: The City will not refuse to hire, discipline, discharge, or otherwise penalize an applicant or employee solely because the person holds a valid Oklahoma medical marijuana license.

19.2 Positive Marijuana Test: The City may take adverse employment action based on a confirmed positive test for marijuana components or metabolites when: (a) the applicant or employee does not possess a valid medical marijuana license; (b) the licensee possesses, consumes, or is under the influence of medical marijuana or a medical marijuana product at the place of employment or while performing job duties; (c) the action is based on this written drug-and-alcohol testing Policy, adopted and enforced in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act; or (d) federal law, a federal license or regulation applicable to the position, or a condition of federal funding requires the action.

19.3 Safety-Sensitive Positions — Zero Tolerance: Every applicant or employee in a safety-sensitive position is subject to a zero-tolerance drug-and-alcohol standard, regardless of whether the City permits impairment-based testing or another standard for positions that are not safety-sensitive. A confirmed positive marijuana test for an applicant or employee in a safety-sensitive position may result in refusal to hire or disciplinary action up to and including termination, subject to applicable personnel rules, due-process requirements, collective bargaining agreements, and federal law.

19.4 Safety-Sensitive Position Defined: A safety-sensitive position is a position that includes one or more of the following duties, or other comparable safety-sensitive duties: (a) handling, packaging, processing, storing, disposing of, or transporting hazardous materials; (b) operating a motor vehicle, other vehicle, equipment, machinery, or power tools; (c) repairing, maintaining, or monitoring equipment, machinery, or a manufacturing process

whose malfunction or disruption could result in injury or property damage; (d) firefighting; (e) operating, maintaining, or overseeing critical services or infrastructure, including electric, gas, and water utilities and power generation or distribution; (f) extracting, compressing, processing, manufacturing, handling, packaging, storing, disposing of, treating, or transporting potentially volatile, flammable, combustible, or highly regulated materials, elements, chemicals, or components; (g) dispensing pharmaceuticals; (h) carrying a firearm; or (i) providing direct patient care or direct child care. The City will classify positions based on the duties actually performed and will document the duty or duties supporting the classification.

19.5 Workplace and Job-Duty Prohibitions: Nothing in Oklahoma medical marijuana law requires the City to permit or accommodate the use, possession, sale, transfer, or being under the influence of medical marijuana at the workplace or while an employee is performing job duties. The City prohibits such conduct.

19.6 Federal Requirements: Nothing in this Policy changes testing or employment requirements imposed by the Federal Motor Carrier Safety Administration, Federal Aviation Administration, Federal Railroad Administration, Federal Transit Administration, National Highway Traffic Safety Administration, Pipeline and Hazardous Materials Safety Administration, another federal agency, or a federal-funding condition. A state medical marijuana license is not a basis for disregarding an applicable federal requirement.

19.7 Benefit Reimbursement: The City is not required to reimburse costs associated with the use of medical marijuana through a government medical-assistance program, private health plan, workers' compensation program, or self-insured benefit plan, except when otherwise required by federal law.

## 11-20 REASONABLE SUSPICION (FOR CAUSE) CHECKLIST INSTRUCTIONS

**Observation of Behavior**

When a Supervisor is notified or suspects an employee may be in violation of the Drug Free Workplace Policy (the Policy):

- The Supervisor must notify [HR/City Manager/Mayor] as soon as possible of the possibility of a violation of the Policy.
- Two designated staff members (witnesses) [who have received reasonable suspicion training] will observe the behavior of the employee and immediately complete the Reasonable Suspicion Testing Checklist.
- After completing the Reasonable Suspicion Testing Checklist, if the witnesses believe, there is reasonable suspicion that the employee may be in violation of the Policy (e.g. using or being under the influence of drugs or alcohol while at work); the witnesses must contact the [HR/City Manager/Mayor].
- Each witness must observe the behavior of the employee and complete a separate Reasonable Suspicion Testing Checklist.

- After completing the Reasonable Suspicion Testing Checklist, if the witnesses believe the employee may be in violation of the policy, the witnesses will escort the employee to an area where a conversation with the employee can be held in private.

**Two Witnesses**

Both designated staff members should be involved in all steps of the process and are required to fully document the events immediately.

**Notification of Possible Violation to Employee**

The witnesses will inform the employee that the employee may be in violation of the Policy and will inform the employee of the observations. The employee must be given an opportunity to provide an explanation of the observed behaviors ("What explanation do you have for these behaviors?"). Both witnesses will document the conversation, including noting if the employee declined to comment.

If both witnesses believe the employee is in violation of the Policy, they will inform the employee that they believe the employee is in violation of the Policy, ask the employee to submit to a reasonable suspicion drug/alcohol test, and sign and complete the Reasonable Suspicion Testing Consent Form indicating the employee's consent or refusal to the screening.

For example, the designated staff member might say, "At this time, we believe you are in violation of the Drug Free Workplace policy and are requesting that you submit to a reasonable suspicion drug/alcohol test. This test will involve screenings to detect the presence of alcohol or drugs in your system. A positive test could result in corrective action, up to and including termination of your employment. Please read this consent form and sign in the appropriate area to indicate either your consent to or your refusal to the test. Failure to submit to and/or complete this testing may lead to corrective action, up to and including termination of employment."

**The City's Drug-Free Workplace Reasonable Suspicion Testing Procedure**

***Collective Bargaining***

*[For collective bargaining cities only: If the employee is covered under a collective bargaining agreement and the employee requests union representation, the employee will have the right to consult with a union representative. If requested, up to one half hour will be made available to obtain this consultation. This is the maximum time allowed for this consultation.]*

**Minors**

If the employee is 17 years of age or younger, the parent or guardian must be contacted to provide consent.

**Employee Refuses Testing**

If the employee refuses to submit to the testing, one of the designated staff must tell the employee that refusal to submit to and complete the testing could subject them to corrective action up to and including termination of employment. The designated staff member should again ask the employee to submit to the testing.

If the employee refuses again, the designated staff member will inform the employee that the refusal could subject them to disciplinary action. The designated staff member will inform the employee to report to duty

at their next assigned shift and should instruct and assist, if necessary, the employee to make arrangements to be taken home safely. If the employee insists upon driving home, the designated staff member will inform the employee that local law enforcement will be notified and again instruct the employee to make arrangements to get home safely. If the employee refuses, the designated staff member should obtain vehicle information such as make, model, color, license plate number and must notify local law enforcement that an employee is suspected of being in violation of the Drug-Free Workplace policy and that the suspected employee may be attempting to operate a vehicle. The witnesses must report this refusal to [HR/City Manager/Mayor] as soon as possible.

**Employee Consents to Testing**

If the employee consents to testing designated staff member will arrange for testing. The designated staff member should contact the [HR/City Manager/Mayor] that they have an employee suspected of being in violation of the Drug-Free Workplace policy and that the suspected employee will be transported to the specimen collection location (see below) for a drug/alcohol screening. The employee will be transported to the collection location if possible by two designated staff members. At no time will the employee be allowed to transport him/herself. A copy of the completed Reasonable Suspicion Testing Checklist and any other relevant documentation will be maintained. If there is a safety concern, the designated staff members can request City police officer to follow the transporting vehicle containing the witnesses and employee.

**Specimen Collection Contacts**

[Name, Address, Phone and Fax of testing facility]

The designated staff members will remain with the individual while at the collection location.

If the individual refuses to cooperate in the testing process, the designated staff member must tell the individual that refusal to submit to and complete the testing could subject them to corrective action up to and including termination of employment.

If after reasonable efforts have been made to enable the individual to provide a breath or urine specimen and the individual is unable to do so, an evaluation by the testing facility's medical personnel is to be conducted to establish medical impediment to providing a specimen. If no medical impediment exists, it is considered a refusal to test.

Once the screening has been completed, if positive, the designated staff member will inform the individual to report to [HR/City Manager/Mayor] the next business day and should instruct the individual to make arrangements to be taken home safely. If the individual insists upon driving home, the designated staff member will inform the individual that local police may be notified and again instruct the individual to make arrangements to get home safely. If the individual refuses, designated staff member should obtain vehicle information such as make, model, color, and license plate number and must notify local law enforcement that they have an individual suspected of being in violation of the Drug-Free Workplace policy and that the suspected individual may be attempting to operate a vehicle.

**Test Results**

Test results and any other pertinent reports will be reviewed by [HR/City Manager/Mayor] who will determine if a policy violation occurred. [HR/City Manager/Mayor] will work with the department manager or senior-level administrator to determine next steps.

## Reasonable Suspicion Testing Consent Form

I, _____ (individual name) as an employee of the City of Bethany, have been informed that:

- Supervisor(s) have concurred with management that reasonable suspicion exists that I am in violation of the Drug and Alcohol-Free Workplace Policy after reviewing the attached Reasonable Suspicion Checklist.
- I will be transported by my [supervisor/manager] and [a witness, if available] to and from the designated testing location.
- The test results will be provided to an independent Medical Review Officer.
- A positive test could result in disciplinary action up to and including termination of employment.
- I may refuse my consent to submit to the drug/alcohol test.
- I will be subject to disciplinary action up to and including termination of employment if I refuse the screening or test, adulterate or dilute the specimen, substitute the specimen, send an imposter, or refuse to cooperate in the testing process in such a way that prevents completion of the test.

Individual's statement regarding the allegation of being in violation of the Drug and Alcohol-Free Workplace Policy (attach or write on back if necessary):

_____

_____

At the conclusion of this process, I will be instructed to make arrangements for my safe transportation home and that my supervisor may notify law enforcement if I attempt to operate a vehicle.

I have read the form and **AGREE** to undergo testing for drugs and/or alcohol

_____ _____

Employee Signature Date

I have read the form and **REFUSE** to undergo testing for drugs and/or alcohol

_____ _____

Employee Signature Date

Witnessed by (signature): _____Date: _____

Printed Name: _____ Title: _____

# Reasonable Suspicion Testing Checklist – Witness #1

Employee Name: _____ Employee ID/SSN: _____

Date of Observation:_____ Time of Observation: _____am/pm

**Observed Indicators of Prohibited Drug Use/Alcohol Misuse:**

This checklist and consent form is used to determine and document reasonable suspicion of a potential violation of the Drug- Free Workplace policy. In such instances, both designated staff members observing the behavior must complete a checklist. It must be completed prior to testing and must be used to notify the individual that they are being asked to submit to drug and alcohol testing if indicators in at least two categories are checked. *Check all indicators observed:*

**WALKING**
- ❑ Holding on
- ❑ Stumbling
- ❑ Unable to walk
- ❑ Unsteady
- ❑ Staggering
- ❑ Swaying
- ❑ Falling
- ❑ Other

**FACE**
- ❑ Red/flushed
- ❑ Pale
- ❑ Sweaty
- ❑ Appears normal
- ❑ Slobbering
- ❑ Grinding teeth
- ❑ Dry mouth
- ❑ Runny nose
- ❑ Other

**SPEECH**
- ❑ Whispering
- ❑ Slurred
- ❑ Shouting
- ❑ Incoherent
- ❑ Silent
- ❑ Rambling
- ❑ Slow
- ❑ Other

**BREATH/ODOR**
- ❑ No alcohol odor
- ❑ Faint alcohol odor
- ❑ Strong alcohol odor
- ❑ Pungent tobacco odor
- ❑ Chemical odor
- ❑ Marijuana odor
- ❑ Breath spray/mouthwash
- ❑ None Gum
- ❑ Mints Candy
- ❑ Other

**STANDING**
- ❑ Swaying
- ❑ Feet wide apart
- ❑ Rigid
- ❑ Staggering
- ❑ Sagging at knees
- ❑ Other

**EYES**
- ❑ Watery
- ❑ Bloodshot
- ❑ Glassy
- ❑ Dilated
- ❑ Closed
- ❑ Droopy eye lids
- ❑ Appear normal

**MOVEMENTS**
- ❑ Fumbling
- ❑ Jerky
- ❑ Nervous
- ❑ Slow
- ❑ Hyperactive
- ❑ Other

**APPEARANCE**
- ❑ Messy
- ❑ Dirty/stained clothing
- ❑ Burns on person/clothing
- ❑ Ripped/torn clothing
- ❑ Partially dressed
- ❑ Puncture marks/needle tracks
- ❑ Appears normal

**DEMEANOR**
- ❑ Cooperative
- ❑ Talkative
- ❑ Sarcastic
- ❑ Anxious
- ❑ Disoriented
- ❑ Sleepy
- ❑ Silent
- ❑ Belligerent
- ❑ Excited
- ❑ Inattentive
- ❑ Drowsy
- ❑ Polite
- ❑ Tearful/crying
- ❑ Mood changes
- ❑ Paranoid
- ❑ Calm
- ❑ Resisting communication
- ❑ Other

**Written Summary -** *Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.*

_____

_____

_____

_____

_____

**Additional facts:**

_____Presence of alcohol and/or drugs in individual's possession or vicinity
_____On the job misconduct by individual, (specify)
_____Individual admission concerning alcohol use and/or drug use or possession
_____Individual declined to comment, or
_____Other witnesses, list names and contact information below

_____

**Minors:**

Is individual at least 18 years of age? YES NO (circle) If "no", name of parent/guardian contacted:

_____

**Testing Information:**

Collection Site Location:_____Time Arrived: _____am/pm

1. Was the **alcohol** test performed within **2** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

2. Was the **alcohol** test performed within **8** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

**If the alcohol test is not conducted within <u>8 hours</u> cease all efforts to administer the test.**

*The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:*

Supervisor Name:_____ Phone No: _____

Signature: _____ Date: _____

# Reasonable Suspicion Testing Checklist – Witness #2

Employee Name: _____ Employee ID/SSN: _____

Date of Observation:_____ Time of Observation: _____am/pm

**Observed Indicators of Prohibited Drug Use/Alcohol Misuse:**

This checklist and consent form is used to determine and document reasonable suspicion of a potential violation of the Drug- Free Workplace policy. In such instances, both designated staff members observing the behavior must complete a checklist. It must be completed prior to testing and must be used to notify the individual that they are being asked to submit to drug and alcohol testing if indicators in at least two categories are checked. *Check all indicators observed:*

**WALKING**
- ❑ Holding on
- ❑ Stumbling
- ❑ Unable to walk
- ❑ Unsteady
- ❑ Staggering
- ❑ Swaying
- ❑ Falling
- ❑ Other

**FACE**
- ❑ Red/flushed
- ❑ Pale
- ❑ Sweaty
- ❑ Appears normal
- ❑ Slobbering
- ❑ Grinding teeth
- ❑ Dry mouth
- ❑ Runny nose
- ❑ Other

**SPEECH**
- ❑ Whispering
- ❑ Slurred
- ❑ Shouting
- ❑ Incoherent
- ❑ Silent
- ❑ Rambling
- ❑ Slow
- ❑ Other

**BREATH/ODOR**
- ❑ No alcohol odor
- ❑ Faint alcohol odor
- ❑ Strong alcohol odor
- ❑ Pungent tobacco odor
- ❑ Chemical odor
- ❑ Marijuana odor
- ❑ Breath spray/mouthwash
- ❑ None Gum
- ❑ Mints Candy
- ❑ Other

**STANDING**
- ❑ Swaying
- ❑ Feet wide apart
- ❑ Rigid
- ❑ Staggering
- ❑ Sagging at knees
- ❑ Other

**EYES**
- ❑ Watery
- ❑ Bloodshot
- ❑ Glassy
- ❑ Dilated
- ❑ Closed
- ❑ Droopy eye lids
- ❑ Appear normal

**MOVEMENTS**
- ❑ Fumbling
- ❑ Jerky
- ❑ Nervous
- ❑ Slow
- ❑ Hyperactive
- ❑ Other

**APPEARANCE**
- ❑ Messy
- ❑ Dirty/stained clothing
- ❑ Burns on person/clothing
- ❑ Ripped/torn clothing
- ❑ Partially dressed
- ❑ Puncture marks/needle tracks
- ❑ Appears normal

**DEMEANOR**
- ❑ Cooperative
- ❑ Talkative
- ❑ Sarcastic
- ❑ Anxious
- ❑ Disoriented
- ❑ Sleepy
- ❑ Silent
- ❑ Belligerent
- ❑ Excited
- ❑ Inattentive
- ❑ Drowsy
- ❑ Polite
- ❑ Tearful/crying
- ❑ Mood changes
- ❑ Paranoid
- ❑ Calm
- ❑ Resisting communication
- ❑ Other

**Written Summary -** *Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.*

_____

_____

_____

_____

_____

**Additional facts:**

_____Presence of alcohol and/or drugs in individual's possession or vicinity
_____On the job misconduct by individual, (specify)
_____Individual admission concerning alcohol use and/or drug use or possession
_____Individual declined to comment, or
_____Other witnesses, list names and contact information below

_____

**Minors:**

Is individual at least 18 years of age? YES NO (circle) If "no", name of parent/guardian contacted:

_____

**Testing Information:**

Collection Site Location:_____Time Arrived: _____am/pm

1. Was the **alcohol** test performed within **2** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

2. Was the **alcohol** test performed within **8** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

**If the alcohol test is not conducted within <u>8 hours</u> cease all efforts to administer the test.**

*The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:*

Supervisor Name:_____ Phone No: _____

Signature: _____ Date: _____

## CHAPTER 12

## PREGNANT WORKERS FAIRNESS ACT POLICY

### 12-1 PURPOSE

This policy is based on the Pregnant Workers Fairness Act that requires covered employers to provide reasonable accommodations to a worker's **known limitations** related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship.

### 12-2 DEFINTIONS

A. **Known Limitation** is one that has been communicated to the employee's supervisor.

B. **Limitation** is a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that may be modest, minor, and/or episodic. The condition may also be that an employee has a need or problem related to maintain their health or the health of the pregnancy.

### 12-3 REQUESTING AN ACCOMMODATION

If an employee is unable to perform one or more of the essential functions of their position due to a **limitation**, the employee must inform their supervisor they want a change or adjustment at work related to the **limitation**.

The supervisor and employee will meet promptly to discuss the employee's proposals for a change or adjustment at work that will allow them to perform the essential functions of their position due to the **known limitation**. During the meeting, the employee should specifically define the **known limitation** resulting from or related to the pregnancy and propose reasonable and proportional accommodations that would overcome the specifically identified **limitation**. The supervisor may also propose reasonable and proportional accommodations. If more than one reasonable and proportional accommodation is proposed, the supervisor retains the discretion to choose among them. At the conclusion of the meeting, the supervisor will document in writing the identified **known limitation** and the reasonable and proportional accommodation provided. The employee must sign and date the documentation of accommodation. The supervisor should follow up with the employee to determine the efficacy of the accommodation.

### 12-4 POSSIBLE REASONABLE AND PROPORTIONAL ACCOMMODATIONS

A. The ability to sit or drink water
B. Closer parking
C. Flexible hours
D. Appropriately sized uniforms and safety apparel
E. Additional break time to use the bathroom, eat, and rest
F. Take leave or time off to recover from childbirth
G. Excusal from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy

### 12-5 SUPERVISOR RULES

A. The supervisor must provide a reasonable and proportional accommodation to a **known limitation**.

B. The supervisor must participate in a meeting with the employee to arrive at a reasonable and proportional accommodation to a **known limitation**.
C. The supervisor may not deny a position or employment opportunity due to a need for a reasonable and proportional accommodation.
D. The supervisor may not require an employee to take leave if another reasonable and proportional accommodation can be provided.
E. The supervisor may not take adverse action against an employee for requesting an accommodation.

## CHAPTER 13

## PUMP FOR NURSING MOTHER ACT

### 13-1 PURPOSE

This policy is based on the Pump for Nursing Mothers Act that requires covered employers to provides breastfeeding employees certain lactation accommodations.

### 13-2 REASONABLE TIME TO EXPRESS MILK AT WORK

Employees shall be provided reasonable time to express milk while at work for up to one (??? More) year following the child's birth each time the employee has need to express milk. Employees should use usual break and meal periods for expressing milk, when possible. If additional time is needed beyond the provided breaks, employees may use personal leave or may make up the time as negotiated with their supervisors.

### 13-3 PRIVATE SPACE FOR MILK EXPRESSION

Employees will be provided with a private place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, to express breast milk. The room can be a designated space for lactation. If this is not practical or possible, a vacant office, conference room, or other small area can be used so long as it is not accessible or visible to the public or other employees while the nursing employee is using the room to express milk. The room will:

A. Be in close to the employee's workstation when possible.
B. Have a door equipped with a functional lock or, if this is not possible, the room will have a sign advising that the room or location is in use and not accessible to other employees or the public.
C. Be well lit
D. Ensure privacy by covering any windows with a curtain, blind, or other covering.
E. Contain at a minimum a chair and a small table, counter, or other flat surface.
F. Ideally include an electrical outlet and nearby access to clean water.

### 13-4 ANTIDISCRIMINATION

No employee shall be discriminated against for breastfeeding or expressing milk during the work period, and reasonable efforts will be made to assist employees in meeting their infant feeding goals while at work.

## CHAPTER 14

## LIGHT DUTY ASSIGNMENTS

The City of Bethany may make light duty assignments available to ill or injured employees who are unable to perform their regular job duties. The decision to offer an employee a light duty assignment is made in the City's sole discretion. A light duty assignment may be in the employee's own or another department in the City. Firefighters and Police Officers are exceptions and shall not be assigned light duty work outside of their own department. Police Officers shall not be assigned light duty as a Dispatcher unless the are OLETS certified. Factors considered by the City in making its decision include, but are not limited to: the nature of the employee's illness or injury; the medical release provided in support of light duty; the risk that a light duty assignment may result in aggravation of the employee's injury or illness; the type of light duty work available; the length of the employee's employment with the City the employee's performance and disciplinary history; and whether the illness or injury occurred on or off duty. In making light duty assignments, the City will normally give priority to employees whose injury or illness is work-related.

Employees who are released for and given a light duty assignment may not perform work duties in violation of their medical release. An employee who violates the terms of his/her medical release while on a light duty assignment may lose the light duty assignment and, in addition, may be disciplined up to and including termination of employment. Light will not extend beyond sixty (60) calendar days from the date of injury without an evaluation by the employee's treating physician and a recommendation from the Department Director and Director of Human Resources to the City Manager. Only the City Manager may approve an extension of light duty assignment. Employees still unable to return to regular duty within sixty (60) calendar days from the date of injury must re-qualify for light duty through evaluation by their treating physician or revert to workers' compensation indemnity payments, or accumulated sick leave, Family Medical Leave Act (FMLA) leave or vacation benefits, if available.

An employee who is released for and offered light duty by the City, but who elects not to accept such an assignment, will normally be ineligible for paid sick leave benefits under the City's Sick Leave policy and the City's FMLA policy. This does not apply to Police and Firefighters.

During light duty assignments, employees will typically work an 8-hour workday, Monday through Friday. This means that the 24-hour shift employees as well as other employees who work a non-traditional schedule, will usually be temporarily reassigned to an 8-hour workday. Monday through Friday, for the duration of their light duty assignment.

An employee's salary during any light duty assignment shall be at the same rate as the salary received prior to the injury.

All light duty requests and assignments will be reviewed by and coordinated through the Director of Human Resources. The Director of Human Resources will work with the employee's department in making its decision whether light duty work will be offered. Before returning to regular job duties following a light duty assignment, the employee must coordinate his/her return through the Director of Human Resources.

**CITY OF BETHANY**
**PERSONNEL POLICIES AND PROCEDURES ACKNOWLEDGMENT**

DATE: _____

I, _____, certify and acknowledge the following:

- I have received a copy of the City of Bethany Personnel Policies and Procedures.
- I understand and agree that I must be familiar with and comply with the City of Bethany Personnel Policies and Procedures (the "Policies"), and any revisions.
- I have been informed that I have access to the City of Bethany Personnel Policies and Procedures Manual at any time in my department and that I may direct any questions regarding City policies, procedures, or directives to my immediate supervisor and/or the Human Resources Department.
- I understand that the City of Bethany may change, modify, suspend, interpret, or cancel, in whole or part, any of the City of Bethany Personnel Policies and Procedures, with or without notice, at its sole discretion, without giving cause or justification to any employee. Such revised information may supersede, modify, or eliminate existing policies and/or procedures.
- It is expressly understood that the City of Bethany Personnel Policies and Procedures Manual does not constitute the terms of a contract of employment, but rather my employment with the City of Bethany is at will, which may be terminated at the will of either the City of Bethany or me. Furthermore, I acknowledge and agree that nothing in the Handbook creates or is intended to create a promise or representation of continued employment.
- These personnel rules and regulations apply to all City employees unless modified by a formal written contract entered into between the City and any Bargaining Unit. In the event of a conflict between the rules and/or benefits contained in this Employee Manual and any Collective Bargaining Agreement ("CBA"), the terms and conditions of the CBA shall prevail.

_____ _____
Employee Signature Date Signed