

# **CITY OF MARION**

## ***PERSONNEL POLICIES & GUIDELINES***

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## TABLE OF CONTENTS

	<b>PAGE</b>
<b>ARTICLE A. GENERAL</b>	4
A-1. Policies Established	4
A-2. Application of Policies	4
A-3. Departmental Guidelines	4
A-4. Personnel Records	4
A-5. Amendment of Policies	4
<b>ARTICLE B. POSITION CLASSIFICATIONS</b>	4
B-1. Objectives and Purpose	4
B-2. Job Description	5
B-3. Pay Range Plan	5
B-4. Maintenance of Classification Plan	5
<b>ARTICLE C. RECRUITMENT AND PROMOTION</b>	5
C-1. Definitions	5
C-2. Recruitment	5
C-3. Qualifications of Employment	5
C-4. Training Period	6
C-5. Promotion	6
C-6. Nepotism	6
C-7. Citizenship Verification	7
<b>ARTICLE D. COMPENSATION</b>	7
D-1. Pay Plan	7
D-2. Pay Increases	7
D-3. Performance Evaluations	7
D-4. Pay on Termination	8
D-5. Overtime Work	8
D-6. Pay Periods; Paydays	9
D-7. Reimbursement of Travel Expenses	9
<b>ARTICLE E. ATTENDANCE AND LEAVE</b>	9
E-1. Hours of Work	9
E-2. Rest Breaks	10
E-3. Holidays	10
E-4. Vacation Leave	10
E-5. Sick Leave	11
E-6. Shared Sick Leave	12
E-7. Maternity Leave	12

E-8. Funeral Leave	12
E-9. Injury Leave	12
E-10. Military Leave	13
E-11. Civil Leave	13
E-12. Family and Medical Leave	13
E-13. Other Leave	14
E-14. Request for Leave	15
E-15. Credits for Paid Leave	15
<b>ARTICLE F. OTHER EMPLOYEE BENEFITS</b>	
F-1. Retirement – OASDI Benefits	15
F-2. Retirement – KPERS Benefits	15
F-3. Retirement Date	15
F-4. Workers' Compensation Benefits	16
F-5. KPERS Death and Disability Benefits	16
F-6. Unemployment Compensation	17
F-7. Life Insurance	17
F-8. Cafeteria Plan Benefits	17
F-9. Health Care Program	17
<b>ARTICLE G. DISCIPLINE</b>	
G-1. Authority to Discipline	18
G-2. General Policy	18
G-3. Disciplinary Actions	18
G-4. Procedure for Disciplinary Action	19
G-5. Misconduct Subject to Disciplinary Action	19
<b>ARTICLE H. VOLUNTARY SEPARATION</b>	
H-1. Resignation	20
H-2. Reinstatement	20
<b>ARTICLE I. SEXUAL HARASSMENT</b>	
I-1. Purpose	20
I-2. Definition	21
I-3. Policy	21
I-4. Complaint Procedure	21
I-5. Review of a Sexual Harassment Complaint	22
I-6. Appeal of Decision	23
I-7. Records of a Sexual Harassment Complaint	23
I-8. Annual Sexual Harassment Assessment Form	23
<b>ARTICLE J. POLITICAL ACTIVITY</b>	
J-1. Political Activity	24

<b>ARTICLE K. OUTSIDE EMPLOYMENT</b>	24
K-1. Outside Employment	24
<b>ARTICLE L. WORKER SAFETY</b>	25
L-1. General Safety	25
L-2. Reproductive Health	25
<b>ARTICLE M. RESIDENCY</b>	25
M-1. Residency	25
<b>ARTICLE N. SUBSTANCE ABUSE POLICY</b>	25
N-1. Introduction	25
N-2. Definitions	26
N-3. General Policy and Work Rules	26
N-4. Employee Impairment Procedures	27
N-5. Drug and Alcohol Screenings	27
N-6. Random Testing	28
N-7. Discipline or Termination	28
<b>ARTICLE O. EMPLOYEE ASSISTANCE PROGRAM</b>	29
<b>FORMS</b>	30
Form-1 Employee Verification Form	31
Form-2 Sexual Harassment Assessment Form	32
Form-3 Substance Abuse Policy Certificate	33
Form-4 Applicant Drug Screen Release Form	34



**PERSONNEL POLICIES AND GUIDELINES  
CITY OF MARION, KANSAS**

**ARTICLE A. GENERAL**

**A-1. Policies Established.** The following policies, guidelines and other provisions for personnel administration in the City of Marion are established to:

- (a) Promote and increase the efficiency and effectiveness of city service.
- (b) Develop a program of recruitment, advancement and tenure that will make city service attractive as a career.
- (c) Establish and maintain a uniform plan of performance evaluation and compensation based upon the relative duties and responsibilities of each position to assure a fair and equitable wage or salary to all employees.
- (d) Establish and promote high morale among city employees by providing good working relationships, uniform personnel policies, and an opportunity for advancement without regard to race, color, sex, disability, religion, age, national origin or ancestry.
- (e) Establish city employment and personnel policies. These policies and guidelines do not create contractual employment rights. **All employees are considered to be at-will employees for the purposes of city employment.**

**A-2. Application of Policies.** These policies and guidelines shall apply to all employees in the service of the city except elected officials.

**A-3. Departmental Guidelines.** The head of any city department may formulate in writing reasonable guidelines for the conduct of the operations of his or her department, such as those relating to safety or operational procedures, which shall be available to all departmental employees. Such department guidelines shall not be less stringent than, in violation of, or in conflict with any personnel guidelines adopted by the City *Council* and shall be approved by the City Administrator.

**A-4. Personnel Records.** The City Clerk shall keep adequate records of all persons employed, their pay scale, time worked, accrued vacation and sick leave, all absences for vacation, sick or other leave, accrued overtime, and all other records directed to be made and maintained under these policies and guidelines or under applicable state or federal law. An employee's personnel file shall be available during office hours for inspection by that employee.

**A-5. Amendment of Policies.** These policies may be amended from time-to-time in the same manner as they were adopted.

**ARTICLE B. POSITION CLASSIFICATIONS**

**B-1. Objectives and Purpose.** Position classification is a system of identifying and describing different kinds of work in the organization in order to permit equal treatment in employment practices and compensation. Each city position shall, on the basis of the duties, responsibilities, skills, experience, education and training required of the position, be allocated to an appropriate class, which may include either a single position or two or more positions.

**B-2. Job Descriptions.** Each position shall have a concise descriptive title, a description of the essential and marginal functions (tasks) of the position and a statement of the qualifications for filling such positions. Such descriptions shall be approved by the City Administrator and shall be kept on file in the office of the City Clerk and shall be open to inspection by any interested party during regular office hours.

**B-3. Pay Range Plan.** A pay plan, with minimum and maximum amounts of pay for each class of positions shall be adopted by the city. The pay ranges assigned to each class of positions shall be periodically reviewed and revised by the City Administrator as needed.

**B-4. Maintenance of the Classification Plan.** It shall be the duty of each department head to report to the City Administrator any and all organization changes that will significantly alter or affect changes in existing positions or proposed positions. The City Administrator shall approve all new and revised job descriptions and pay ranges for such position.

## **ARTICLE C. RECRUITMENT AND PROMOTION**

### **C-1. Definitions.**

- (a) *Full-time employee* is one employed to work 1,000 hours or more in a calendar year. The workweek is any consecutive seven-day period, except as otherwise provided in Section E-1.
- (b) *Part-time employee* is one employed to work 999 hours or less in a calendar year on a regular and continuing basis.
- (c) *Seasonal Employee* is one employed to work on a regular and/or recurring basis during a specific season or portion of a year.
- (d) *Volunteer* is a non-paid individual in the position he or she holds. When acting as a volunteer, an individual is not an employee regardless of other city employment.

**C-2. Recruitment.** It shall be the policy of the city to provide fair and equal opportunity to all qualified persons to enter city employment on the basis of demonstrated merit and fitness determined by fair and practical methods of selection, without regard to race, color, sex, disability, religion, age, national origin or ancestry.

**C-3. Qualifications of Employment.** All new applicants for any position with the city shall meet the minimum qualifications established for that position. Each applicant shall complete a job application form. A medical examination or other testing, including drug testing, may be required only after an offer of employment has been made, provided that, such exams or testing are required of all such applicants who are offered employment in similar positions or position classifications. The offer of employment is contingent upon applicant passing required tests.

**C-4. Training Period.**

- (a) Each employee, following initial employment, shall undergo a training period in order to achieve a minimum level of competency.
- (b) Each employee promoted to a classification with higher pay shall also undergo a training period in order to achieve minimal competency in the new position. An employee may be returned to the pay and position he or she held immediately prior to the promotion or to a position with equal pay and responsibility if a minimal level of competency cannot be demonstrated.

**C-5. Promotion.** It is the policy of the city to fill vacancies for supervisory, skilled and upper-level positions from within the ranks of present employees whenever possible. All employees seeking promotion shall be expected to meet the minimum qualification for the class to which they seek promotion. A medical examination or other testing, including drug testing, may be required only after an offer of promotion has been made, provided that, such exams or testing are required of all such employees who are offered promotions in similar positions or position classifications. The offer of promotion is contingent upon applicant passing required tests.

**C-6. Nepotism.**

- (a) In order to avoid favoritism or the appearance of favoritism based on family relationships, no one shall be employed in a department where the supervisor or department head is a member of their immediate family. "Immediate family" is defined to include only an employee's parents, stepparents, spouse, children, sister or brother, grandparents, grandchildren, mother or father-in-law and brothers or sisters-in-law.
- (b) In addition to the above, no person shall be employed in a position in any department if that person is a member of the immediate family of another employee within that department. Members of immediate families may be employed within the same department as a part-time or temporary employee for no longer than 999 hours in any 12 consecutive month period or if the part time employee is a retiree from KPERS, they may earn no more than \$20,000.00 in any consecutive 12 month period.
- (c) If two employees within the same department marry or otherwise obtain a relationship whereby they become members of each other's immediate

family, one of the employees shall be transferred to another department, if possible, without loss of pay or other benefits.

**C-7. Citizenship Verification.** All employees initially hired after November 7, 1986, for any position with the city, shall complete an employment eligibility verification statement in compliance with the Federal Immigration Reform and Control Act of 1986.

## **ARTICLE D. COMPENSATION.**

### **D-1. Pay Plan.**

- (a) The salary of each employee of the city, except those appointed officers whose salary is specifically set by ordinance, shall, at least annually, be set at an amount within the pay range of the position class the employee is assigned. An employee not performing at the level described in his/her position description may be employed at a salary below the salary range provided he/she is expected to perform at the required level within a reasonable period of time. The City Administrator shall make such determination with the advice of the appropriate department head. An employee's continued employment at the salary rate within the class assigned to him or her shall be contingent upon the provisions outlined in Section D-3.
- (b) Employees working on a part-time basis shall receive that portion of the salary assigned to their position to be determined by the actual time they work.

### **D-2. Pay Increases.**

- (a) Pay increases shall not be routine or automatic and are subject to approval by the City Administrator.
- (b) Annual cost-of-living pay increases may be given as approved by the City *Council*.
- (c) Subject to the approval of the City Administrator, a department head may award a pay increase to an employee based on an annual performance evaluation submitted by the employee's immediate supervisor.
- (d) Annual longevity pay may be given at the discretion of the City *Council*.

### **D-3. Performance Evaluations.**

- (a) Employee performance evaluations will be considered in determining salary increases and decreases within the limits established in the pay plan, as a factor in promotion, as a factor in determining the order of layoffs, and as a means of identifying employee who should be promoted or transferred or who, because of the low performance, should be demoted or dismissed.
- (b) An evaluation of the performance of each full-time and part-time employee based on his or her duties and the employee's immediate supervisor shall be

prepared at least annually. The evaluation shall be in writing on forms approved by the City Administrator. The supervisor shall evaluate at least quarterly any employee who has received a poor performance rating. An employee-in-training shall be evaluated on the completion of his or her training period. The supervisor shall present the evaluation to the employee and allow the employee the opportunity to respond.

#### **D-4. Pay on Termination.**

- (a) An employee who is terminated shall receive his or her final paycheck on the first regularly scheduled payday following his or her termination, if practicable. If certain funds need to be delayed, the terminated employee will be advised in writing of the reason for and length of the delay, and in all cases the length of the delay shall be reasonable.
- (b) Employees, who voluntarily terminate without giving a minimum of two weeks notice, shall not be eligible to receive pay for any accrued benefits other than unused vacation. See Section E-4(a) as to employees-in-training.

#### **D-5. Overtime Work.**

- (a) Compensation for authorized overtime work shall be at the rate of one and one-half times the employee's regular rate of pay. Overtime compensation shall be paid no later than the first payday following the pay period in which it was earned. At the discretion of the department head and with the agreement of the employee, an employee may be given compensatory time off in lieu of cash payments for the overtime worked. Any compensatory time off shall be at the rate of one and one-half times the hours of overtime worked. (See Section E-12(d)). For compensation of police department authorized overtime work, refer to the Police Department Personnel Manual.
- (b) To cover emergencies, back-up situations and other call-outs during non working hours a rotating "on call" list will be used by each participating department. The persons first on the list will be called out when there is a need. When that person is not available the next person will be called and so on. The person ultimately called out will be paid at the rate of one and one-half times the employee's regular rate of pay with a minimum of two hours being paid. Pre approved personnel exempt from FLSA who are called out will be provided comp time at the same rate in lieu of pay. If an employee is called out within two hours of the beginning of his/her shift, they will be required to only record the actual time worked during the call out. At the discretion of his/her respective supervisor, they may be paid overtime for the recorded work during this period or he/she may elect to take the actual recorded time off at the end of his/her shift on the same day only.
- (c) Employees shall be eligible to receive overtime compensation for all hours worked in excess of their normal workweek, except for full-time police officers. A work period for police must be established under the Fair Labor Standards Act (FLSA). For more information see the Marion Police Department Personnel Manual.

- (d) Personnel exempt from FLSA shall not be eligible to receive overtime compensation, but may, subject to the approval of the City Administrator receive compensatory time. (See E-13 (d) Compensatory Time)
- (e) Full-time police officers shall be eligible to receive overtime compensation only for work hours in a work period that exceeds 86 hours per 14-day work period or for any proportionate number of hours worked in a fewer number of days. (For additional information see Marion Police Department Personnel Manual)
- (f) Full time employee's who take leave time off in the form of vacation, sick or compensatory time, and the employee works overtime in the same pay period, the leave time taken will not reduce the amount of overtime earned in the pay period.
- (g) All overtime must be approved by the employee's department head. At the time of authorization, the department head shall reach agreement with the employee whether the overtime compensation shall be in the form of additional wages or compensatory time off (see D-5 (a)). The department head shall maintain records of any overtime worked.
- (h) Upon termination of employment of an exempt or nonexempt employee, any accrued compensatory time will be paid to the employee at the final regular rate of pay received as defined in section D-5(a).

**D-6. Pay Periods; Paydays.** The city shall pay all employees every two weeks with checks issued on the Thursday following the two-week pay period.

**D-7. Reimbursement of Travel Expenses.** *Refer to the Adopted, City of Marion IRS Policy Manual, Travel Policy Section. (Adopted 04/10/2007) See attached IRS Policy for Reimbursement of Travel Expenses*

- (a) When using a city vehicle the employee is to have the tank filled with gasoline upon returning the vehicle. The employee while using a city vehicle should also monitor all fluid levels.

## **ARTICLE E. ATTENDANCE AND LEAVE**

### **E-1. Hours of Work.**

- (a) *General Employees.* The normal workweek for general employees, which includes all employees other than police officers, shall be 40 hours, consisting of five, eight hour days. Full-time personnel employed in departments operating on a 24-hour basis, other than police officers, shall work not less than eight hours per day, five days per week, on a schedule to be assigned by the department head.
- (b) *Normal Work Hours.* No employee shall be permitted to work in excess of his or her normal workweek except as authorized by the employee's department head.

**E-2. Rest Breaks.** Employees are entitled to a rest break of 15 minutes for each four hours of work. The employee's immediate supervisor shall determine the time of the rest break, usually mid-morning and mid-afternoon. Such breaks are for the refreshment of the employee and are not to be considered leave that can be adjusted to accommodate personal needs.

**E-3. Holidays.**

(a) The following days shall be paid holidays for city employees:

- New Year's Day, January 1 (If falls on Saturday or Sunday, the Monday after).
- Memorial Day, last Monday in May.
- Independence Day, July 4 (If falls on Saturday, the Friday before; if falls on Sunday, the Monday after).
- Labor Day, first Monday in September.
- Veteran's Day, November 11. (If falls on Saturday, the Friday before; if falls on Sunday, the Monday after).
- Thanksgiving Day, fourth Thursday in November.
- Day after Thanksgiving Day.
- Christmas Day, December 25 (If falls on Saturday, the Friday before; if falls on Sunday, the Monday after).
- Day after Christmas Day Holiday.

From time-to-time and for certain special occasions, the *City Council* may by motion designate other days as special holidays on a one-time basis.

(b) Employees required to work on a city observed holiday shall be granted an alternative day off or compensation at the rate of two times their normal hourly pay. If a holiday falls on an employee's regularly scheduled day off, the employee may receive a compensating day off to replace the holiday. *In cases such as the holiday falls on a weekend and the city recognized holiday is on a weekday and an employee works the actual holiday, which falls on the weekend, we will then recognize that day as a holiday for the employee and they will be afforded the same compensation as stated above.*

(c) To be eligible to receive pay for a city holiday, an employee must not have been absent without leave either on the workday before or the workday after the holiday.

**E-4. Vacation Leave.**

(a) *Full-time Employees.* Each regularly employed city employee shall be entitled to vacation with pay after one year of employment with the city. On the first year's anniversary date, the employee shall be entitled to one week of vacation. Each full-time employee employed for 2 to 9 years shall be entitled to two weeks of vacation; 10 to 19 years shall be entitled to three weeks and

20 years and more shall be entitled to four weeks of vacation. A week for vacation purposes shall be defined as the five-day workweek.

1. Computation for vacation time shall be computed by using the employee's anniversary date of employment.
2. Employees may take 5 days of their accumulated vacation time at their discretion at a minimum of 8 hours at a time upon approval of their department head.
3. Any other vacation time the employee has accumulated must be taken at a minimum of 40 hours at a time, if the remaining balance is less than 40 hours it must be taken in a lump sum.
4. In the event an employee has a special need to utilize vacation time accumulated in paragraph 3, the employee may ask for a minimum of 8 hours at a time but must be approved by their respective department head. Special need would be considered on a case by case basis with final approval by the City Administrator.

All vacation time must be approved by the department head and failure on the part of the employee to use their vacation prior to their anniversary date will result in their loss of said time. All vacation time requested must be submitted within a reasonable time period to the department head or it will be denied.

- (b) *Holiday during Vacation.* City holidays, which occur during the taking of an employee's authorized vacation leave, will not be counted as a day of vacation.
- (c) *Termination.* Upon termination, an employee shall be compensated for all earned but unused vacation leave at their final rate of pay, subject to the maximum hours of accumulation authorized in the schedule in Section E-4 (a).

**E-5. Sick Leave.** Full-time employees shall be entitled to sick leave with pay for absences resulting from illness, injuries, accidents or other physical incapacity, occurring either on or off the job. No employee shall be permitted to use sick leave for any period spent on unauthorized leave. Full-time employees are entitled to sick leave with pay for physical examinations and dental work if they have provided at least one day's notice to their immediate supervisor. Leave is to only be granted for the amount of time necessary for the appointment plus travel time.

Employees may, subject to the approval of his/her supervisor, take sick leave to take care of an immediate family member while the family member is ill. Employees may also take sick leave, subject to approval of his/her supervisor, to take an immediate family member for a doctor or dentist appointment for the amount of time for the appointment and appropriate travel time; provided the employee is the only means of transportation for the family member.

- (a) *Amount of Sick Leave.* Full-time employees shall earn eight hours of sick leave for each full month of service.

- (b) *Accumulation of Sick Leave.* No employee may accrue more than 960 hours of sick leave.
- (c) *Computing Sick Leave.* Any absence for a fraction or part of a day that is chargeable to sick leave shall be charged in increments of not less than one quarter hour.
- (d) *Doctor's Certificate.* For sick leave in excess of three workdays, a department head may require a signed statement from a health care provider verifying the employee's inability to perform his or her assigned duties because of illness.
- (e) *Notification.* To be eligible for paid sick leave an employee, or his or her representative, shall notify his or her immediate supervisor and give the reason for the absence no later than one hour after the beginning of the first workday for which sick leave is taken unless the nature of the employee's job dictates earlier notice. In this case the departmental personnel manual may require earlier notice.
- (f) *Termination of Employment.* An employee shall not be paid for any unused sick leave upon termination of his or her employment with the city.
- (g) *Retirement.* A lump sum payment at the employee's current rate of pay will be made at the time of retirement for *accumulated sick leave up to a maximum of 240 hours.*

**E-6. Shared Sick Leave.** An employee may request shared sick leave if the affected employee has exhausted all of their vacation, sick leave and compensatory leave time and experiences a catastrophic illness. The requesting employee shall fill out the necessary request forms provided by the city and submit them to the City Administrator for consideration. Each request will be considered on a case by case basis. If shared sick leave is approved by the City Administrator city employees who have a minimum of 360 hours of accumulated sick leave may, at their discretion, contribute a minimum of 8 hours or a maximum of 80 hours of their sick leave to the requesting employee. The contributing sick leave shall be on a voluntary basis only. The contributing employee shall fill out the necessary forms provided by the city in order to contribute their accumulated sick leave to the affected employee.

**E-7. Maternity Leave.** An employee who becomes pregnant may claim and receive maternity leave in the same manner as provided for sick leave; provided, however, that the employee may elect to utilize any accrued vacation or compensatory leave if, and to the extent, such leave is available. An employee may also take leave without pay in the same manner as any other employee on leave without pay status. Maternity leave with or without pay, following termination of the pregnancy, shall not exceed a total of 42 calendar days. If medical complications related to the pregnancy exist, the employee may, with the approval of the department head, remain on maternity leave until released by the employee's physician. See also L-2 on reproductive health.

**E-8. Funeral Leave.** In the case of death of a member of an employee's immediate family (to include only the spouse, children, mother, father, stepfather, stepmother, brother, sister, grandparents, grandchildren or close relatives by marriage of the employee or employee's spouse), full-time employees shall be granted funeral leave not to exceed three consecutive working days.

**E-9. Injury Leave.**

- (a) All injuries occurring on the job shall be reported as soon as possible and within not more than 10 days to the employee's immediate supervisor (See Section F-4 Workers Compensation).
- (b) Any employee injured on the job shall be eligible to receive injury leave with pay during the seven-day waiting period for workers' compensation claims.

**E-10. Military Leave.** Military duty means training and service performed by an inductee or enlistee in the armed forces of the United States, including time spent in reporting for and returning from such training and service. It also includes active duty training as a reservist in the armed forces of the United States or as a member of the National Guard.

- (a) *Eligibility.* Any employee who terminates city service for military duty shall be placed on military leave without pay. Such leave shall extend through 30 days after his or her release from city service. If not accepted for military duty, the employee shall be reinstated to his or her present position without loss of status or reduction in pay. (See K.S.A. 73-213 *et seq.*)
- (b) *Restoration.* An employee returning from military leave shall be entitled to restoration of his or her former position or a position of like pay and responsibility, provided he or she makes application for reinstatement within 30 days after his or her release from military duty. In addition, the former employee must be physically and mentally capable of performing the duties of the position involved.
- (c) *Vacation and Sick Leave.* Upon restoration to city service, all unused vacation and sick leave credits accumulated prior to the military leave shall be restored unless the employee had been paid for unused vacation leave at the time of his or her induction or enlistment.
- (d) *Military Training.* Any employee who is a member of any reserve component of the United States armed forces or the National Guard shall be granted military leave, without pay, for a short tour of active duty or field training encampment. Vacation leave with pay may be taken jointly with such military training leave. (See K.S.A. 48-222)

**E-11. Civil Leave.**

- (a) *Civil Leave With Pay.* An employee shall be given necessary time off with pay: (1) when performing jury duty, (2) when appearing in court as a witness in answer to a subpoena or as an expert witness when acting in an official capacity in connection with the city, (3) when performing emergency civilian

duty in connection with national defense, or (4) for the purpose of voting when the polls are not open at least one hour before or after the employee's scheduled hours of work.

- (b) *Civil Leave Without Pay.* If an employee is involved in a personal lawsuit either as plaintiff or as defendant in an action not related to his or her duties with the city, the employee may take leave without pay unless he or she elects to utilize any accumulated vacation leave.

#### **E-12. Family and Medical Leave.**

- (a) Upon request, any employee will be granted up to 12 weeks of unpaid family and medical leave during any 12-month period. Such leave will be available as the result of the birth, adoption or placement of a child for foster care, to care for a spouse, child or parent with a serious health condition or due to the disabling illness of the employee. Where possible, employees are required to provide at least 30 days notice before beginning to take leave. An employee may choose or the employer require that any accrued paid vacation, sick or personal leave of the employee be substituted for the 12 weeks of leave provided under the law.
- (b) *Eligibility.* An employee must have worked for the city at least 12 months and for a minimum of 1,250 hours during the previous year. When a husband and wife work for the city, the total number of weeks of leave to which both **are** entitled will be limited to 12 weeks during any 12-month period. When leave is requested as a result of a serious health condition, the employee will provide the city a certification statement issued by a health care provider. Should there be a question of validity of the certification provided by the employee the city may, at its own expense, require an opinion from a second health care provider. Where there is a conflict between the two opinions, the city may pay for the opinion from a second health care provider. Where there is a conflict between the two opinions, the city may pay for the opinion of a third provider. The opinion of the third provider is binding on both the employee and the employer.
- (c) *Restoration.* An employee returning from family leave will be entitled to return to their position or to a position with equivalent benefits, pay and other terms and conditions of employment.
- (d) *Vacation and Sick Leave.* Employees on family leave will not accrue any seniority, vacation or sick leave benefits.
- (e) *Health Insurance Coverage.* The city will continue to provide health care coverage under the same provisions as prior to the leave. When the employee fails to return from leave, the city *may* recover the premium(s) that have been paid on behalf of the employee to maintain health care coverage. If failure to return to work is due to the continuation, recurrence, or onset of a serious health condition beyond the employee's control, the employee will not be liable for health care premiums paid while on family leave. In such cases, a certification issued by a health provider will be required.

**E-13. Other Leave.**

- (a) *Meetings, Seminars.* Any employee may be granted leave with pay to attend meetings, seminars and conventions related to the employee's work for the city when such attendance is authorized by the employee's department head.
- (b) *Educational Leave.* An employee, upon written request, may be granted leave without pay for a period up to one year to further his or her education or seek specialized training, upon recommendation of the employee's department head and approval by the City Administrator.
- (c) *Leave of Absence.* An employee, upon written request, and with the recommendation of his or her department head, may be granted a leave of absence without pay for a period of up to six months, subject to the approval of the *City Council*.
- (d) *Compensatory Time.* Personnel who are non exempt from FLSA who accrue compensatory time for overtime worked may utilize this leave and bank a maximum of 40 hours. Personnel who are exempt employees who accrue compensatory time for overtime worked may utilize this leave and bank a maximum of 80 hours. (See Section D-5 (a) for nonexempt personnel)

**E-14. Request for Leave.** Except as provided in Section E-5(e) as to sick leave, all leave must be authorized in writing by the employee's department head prior to leave time being taken. A copy of each leave record, including records of sick leave taken, signed by the employee and department head, shall be maintained in the employee's personnel file.

**E-15. Credits for Paid Leave.** An employee, while on paid sick leave, vacation leave or other leave with pay shall continue to earn credit for sick leave and vacation leave, but no leave credit shall be earned by any employee while on leave without pay.

**ARTICLE F. OTHER EMPLOYEE BENEFITS**

**F-1. Retirement - OASDI Benefits.** All eligible employees of the city are under the federal OASDI social security system, and receive the benefits thereof in accordance with federal laws and guidelines. The cost of this benefit is paid equally by the city and the employee, with the employee contribution subject to payroll deduction.

**F-2. Retirement – KPERS/KP&F Benefits.** All eligible employees of the city are members of the Kansas Public Employees Retirement System (KPERS) and receive the benefits thereof in accordance with state laws and guidelines. Under current law, KPERS members contribute four percent of salary, by payroll deduction. The employer's share is determined by KPERS, and varies annually. Members of the Police Department employed as commissioned police officers are eligible for membership in the Kansas Police and Fire (KP&F) retirement

system and contribute 7% of their salary by payroll deduction. The *employer's* share is determined by KP&F and varies annually.

**F-3. Retirement Date.** The Federal Age Discrimination in Employment Act shall be the policy for city retirement. Normal retirement benefits under KPERS and OASDI accrue at age 65. Normal retirement benefits under KP&F retirement occur at age 50 and a combination of 25 years of service.

**F-4. Workers' Compensation Benefits.** All employees of the city receive the benefits of the Kansas Workers' Compensation Act in accordance with such law and guidelines. The cost of this benefit is paid entirely by the employer.

To control claim costs the city has passed Resolution No. 01-06 which calls for employees to be returned to work as quickly as possible after an injury, within any restrictions provided by the physician.

The city will be mindful that it is the responsibility of the physician to determine what, if any, restrictions apply to employees who are injured. It is not the physician's responsibility to determine if an injured employee can work or not work.

Department heads and/or supervisors will be responsible for finding productive work for each injured employee. Temporary restricted duty work reassignment need not be confined to the current department in which the employee is employed. Pay grade for injured employees will be rated based upon work assignment.

Following are procedures for filing Workers' Compensation Claims:

1. The employee has 10 days to submit a claim for a workers' comp injury sustained during work hours. If this claim is not submitted within the 10 days there will be sufficient reason for denial of such claim.
2. The employee will immediately report any injury they incur during work hours to their immediate supervisor. They will then be required, when feasible, to make a report to the city's claims representative or in their absence, the City Clerk, regarding their injury.
3. Employees injured during work hours, any witness to such injury and the employee's immediate supervisor shall fill out any paperwork requested of them, to include but not limited to an incident report statement.
4. Supervisors receiving an injury report from a subordinate shall immediately contact the Chief of Police or in his absence the Lt. of Investigations of the Police Department so an immediate fact finding

investigation may be conducted. The city's Safety Officer shall also be contacted so that he may conduct an investigation regarding safety procedures or the lack thereof and shall institute any safety procedures to prevent a like accident in the future.

5. Personnel who are injured during work hours shall cooperate with any investigating officer regarding the injury and shall submit to any interview requested by such officer.
6. Refusal to cooperate with any of the above procedures may result in disciplinary actions.

**F-5. KPERS/KP&F Death and Disability Benefits.** All employees who are contributing members of KPERS/KP&F are eligible for the insured death and disability benefits provided by KPERS/KP&F, which is supplemental to the regular KPERS/KP&F benefits. The cost of this benefit is paid entirely by the employer. This insured death and disability benefit begins on the first day of employment, whether or not the employee is a contributing member of KPERS/KP&F.

**F-6. Unemployment Compensation.** All employees receive the benefits of the Kansas Employment Security (unemployment compensation) Act in accordance with such law and guidelines. The cost of this benefit is paid entirely by the employer.

**F-7. Life Insurance.** All full time employees receive a \$15,000 life insurance policy that pays double in the case of accidental death. In addition to the death benefits provided under OASDI and KPERS/KP&F, the city makes available to each employee the option of purchasing group life insurance, administered by KPERS/KP&F, on a payroll deduction basis. The cost of this additional life insurance is paid by the employee and varies with the options selected by the employee.

**F-8. Cafeteria Plan Benefits.** The city shall also make available certain employee benefits for purchase with pre tax dollars as a payroll deduction.

**F-9. Health Care Program.**

- (a) All full-time employees shall be eligible for the city's group health care insurance program, which begins on the first day of the month after the month of employment.
- (b) Employees and officers, other than those described in (a) above, may not participate in the city's group health care insurance program unless the employee's department head has recommended such participation and the City Administrator has approved his or her participation.

- (c) The city's paid participation in the group health care insurance plan shall be the amount necessary to pay the cost of the employee's benefits..
- (d) When an individual employee is required to contribute because of participation in the city's group health care program, the amount of such contribution shall be a payroll deduction.
- (e) All costs for health care insurance shall be paid by the employee during any period the employee: is on a leave without pay; is on suspension without pay; is on unauthorized leave; or is participating in any unlawful work stoppage.
- (f) Health care insurance coverage shall be extended to an individual who is temporarily disabled and drawing workers' compensation while serving as a city employee. The employee's share of the cost shall be deducted from any compensation due the employee in addition to workers' compensation payments. In the event no additional compensation is due, insurance may be extended at the option of the employer.
- (g) No employee shall be entitled to a cash payment in lieu of health care insurance coverage.
- (h) The city complies with those provisions of the Federal Consolidated Omnibus Reconciliation Act of 1986 (COBRA) relating to the extension of group health care plan coverage upon termination of city employment.

## **ARTICLE G. DISCIPLINE**

**G-1. Authority to Discipline.** Department heads are responsible for the conduct and effective performance of all employees under their jurisdiction and shall have the authority and the responsibility to discipline employees for violations of the city's personnel policies and any departmental guidelines.

**G-2. General Policy.** The purpose of discipline is to ensure high standards of performance and efficiency, to maintain good working relationships among employees, and to provide the citizens of the city with the highest possible level of courteous and professional public service.

Discipline in the city organization is for the most part "self" discipline. It is the duty of employees to make a conscientious effort to work and behave in accordance with the values, service standards, policies and guidelines of the city and the department in which they work. Each employee is expected to be self-disciplined and to work hard at being the best at what he or she does in helping the city provide a high level of public service. When an employee does not exercise adequate self-discipline or is not successful in meeting the requirements of their job, it may be necessary for his or her department head or supervisor to consider disciplinary actions to correct the problem.

An employee is subject to disciplinary action if:

- (a) The employee violates these personnel policies and guidelines, or any other written guidelines or procedures applicable to the department in which the employee works;
- (b) The employee's conduct reflects discredit to the city or hinders the effectiveness or efficiency of city operations; or
- (c) The employee has performed an act of misconduct, or has failed to perform an act that results in misconduct.

**All employees are considered to be at will employees for the purpose of city employment.**

**G-3. Disciplinary Actions.** The City *Council* officially recognizes the following types of disciplinary actions:

- (a) *Verbal Warning.* A verbal warning is an oral reprimand given to an employee by his or her supervisor or department head. A record of the warning shall be recorded in the employee's file.
- (b) *Reprimand.* A reprimand is a written notice to an employee by his or her supervisor or department head, a copy of which shall be recorded in the employee's file.
- (c) *Probation.* Probation is a trial period of a specific length of time during which an employee is required to fulfill a set of conditions, or to improve work performance, or to improve on the job behavior. Failure to meet the probationary requirements may result in additional disciplinary actions.
- (d) *Salary Reduction.* A salary reduction is the lowering of an employee's rate of pay within the pay range to which the employee's position is assigned.
- (e) *Demotion.* A demotion is the placement of an employee into a position of a lower pay range.
- (f) *Suspension.* A suspension is the removal of an employee from service, with or without pay, for a specific period of time.
- (g) *Termination.* Termination is the removal of an employee from city employment.

**G-4. Procedure for Disciplinary Action.** Whenever the misconduct of an employee occurs that in the judgment of the employee's supervisor or department head justifies the application of disciplinary actions, other than a verbal warning, the supervisor or department head shall:

- (a) Document the misconduct in writing using the Employee Warning Record form.
- (b) Determine the appropriate disciplinary action to correct the problem.
- (c) Meet with the employee to review the problem and the proposed disciplinary action. The meeting should be private and include only the employee, supervisor, department head or other persons requested to be present by the department head.

- (d) Give the employee an opportunity to refute the facts or argue against the proposed disciplinary action. The employee may submit comments in writing to be attached to the record of the disciplinary action.
- (e) Make a final decision as to the disciplinary action.
- (f) Notify the employee of the action in writing, except for verbal warnings. A copy of the documentation of misconduct and a note as to the form of disciplinary action taken shall be provided to the city clerk for insertion in the employee's personnel file.

**G-5. Misconduct Subject to Disciplinary Action.** The following is a list of misconduct that may subject an employee to disciplinary action. *This list is not exclusive; it is only representative of the types of misconduct, which subject an employee to disciplinary action.*

- (a) *Arrest and/or conviction* of a violation of any state, federal or municipal criminal law.
- (b) Failure to follow prescribed safety procedures including failure to notify his or her supervisor of unsafe working conditions.
- (c) Violation of personnel policies and guidelines or departmental policies and guidelines.
- (d) Inattention to duty, carelessness, breakage or loss of public property or funds.
- (e) Incompetence or inefficiency in the performance of the duties of his or her position.
- (f) Insubordination or other breach of discipline.
- (g) Discourteous or disruptive conduct or other offensive behavior in public, to the public or to employees and officers of the city.
- (h) Abuse of leave, excessive absenteeism, tardiness or unauthorized absence.
- (i) Temporarily leaving the workplace without the approval of his or her supervisor.
- (j) Failure to give proper notice of absence.
- (k) Sleeping on the job.
- (l) Use of alcohol or drugs, off the job, to the extent that the employee's job performance or effectiveness, as a city employee is impaired.
- (m) Inducing or attempting to induce any officer or employee of the city to commit an unlawful act or to act in violation of any lawful or official order or regulation.
- (n) Unauthorized possession of firearms or other weapons on the job.

**In the case of acts of violence or other flagrant misconduct, serious safety violations, criminal offense, or arrest for a crime, an employee may be suspended immediately, with or without pay.**

## **ARTICLE H. VOLUNTARY SEPARATION**

**H-1. Resignation.** An employee who terminates his or her employment voluntarily shall be terminated in good standing, providing the employee gives a minimum of two weeks written notice to his or her immediate supervisor or department head. Under appropriate circumstance, the employee's department head may approve a shorter period of notice.

**H-2. Reinstatement.** An employee who was terminated in good standing and who is re-employed within a period of 120 calendar days following separation may be reinstated at not more than the salary he or she was receiving at the time of his or her termination. Upon reinstatement within 120 calendar days following separation, an employee shall receive credit for all unused sick leave he or she had accrued as of the time of separation.

## **ARTICLE I. SEXUAL HARASSMENT**

**I-1. Purpose.** It is the policy of the city to maintain a work environment free of intimidation, insult, and harassment based upon race, religion, sex, age, national origin or ancestry, or disability. To insure that this policy is strictly adhered to, the city will not tolerate sexual harassment of any of its employees, and will take immediate disciplinary action when such behavior occurs.

**I-2. Definition.** Sexual harassment is defined as:

- (a) The threat or insinuation by one employee or group of employees, either explicitly or implicitly, that the refusal to submit to sexual advances will adversely affect employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development; and
- (b) The subjecting of an employee, by another employee, to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical, so as to create an intimidating, hostile, or offensive working environment.

**I-3. Policy.**

- (a) No employee, whether supervisory or nonsupervisory, may sexually harass another employee. Sexual harassment includes but is not limited to:
  - 1. Unwelcome touching, propositions, advances;
  - 2. Abusive and/or vulgar language of a sexual nature;
  - 3. Suggestive jokes or comments about an employee's body or clothing; or
  - 4. Displaying of sexually graphic or suggestive pictures, photographs, cartoons, etc.
- (b) Any employee who believes that he/she is the victim of unwelcome behavior that would constitute sexual harassment shall immediately report all incidents to any supervisor.

- (c) Any employee who witnesses what he/she believes is unwelcome behavior that would constitute sexual harassment shall immediately report all incidents to any supervisor.
- (d) All complaints involving claims of sexual harassment shall be promptly and confidentially investigated.
- (e) Any employee, supervisory or nonsupervisory, found to have engaged in the sexual harassment of another employee will be disciplined, up to and including discharge.

**I. 4. Complaint Procedure.** Any employee who feels he or she is being subjected to sexual harassment shall immediately contact one of the persons listed below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (a) Employee's immediate supervisor
- (b) Employee's department head
- (c) Personnel Officer
- (d) Other supervisory personnel
- (e) City Administrator

The employee shall be prepared to provide the following information:

- (a) Employee's name, department and position title.
- (b) Name of the person or persons committing the harassment.
- (c) Date(s) and approximate time(s) of the harassment.
- (d) The specific nature of the sexual harassment, how it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment or any other threats made against him/her as a result of the harassment.
- (e) Witnesses to the harassment, if any.
- (f) Whether the employee has previously reported such harassment and, if so, when and with whom.

After receiving a sexual harassment complaint, the person receiving the complaint shall assist the employee in filing the complaint by documenting the incident in writing. The employee shall sign the written complaint, attesting to the accuracy and truthfulness of the incident. All information disclosed in the complaint procedure will be held in strictest confidence and will be disclosed only on a need-to-know basis in order to investigate and resolve the matter.

**I-5. Review of a sexual harassment complaint.** It is the responsibility of the city's personnel officer to coordinate the investigation of sexual harassment complaints. If the personnel officer is the subject of the complaint, the City Administrator shall coordinate the investigation. The following procedures shall apply to the handling of such complaints:

- (a) The person to whom the complaint is made shall immediately present it to the city's personnel officer;

- (b) An investigation of the alleged incident shall be promptly started;
- (c) The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation.
- (d) The investigator shall notify the employee accused of the sexual harassment as promptly as possible of the complaint and the severity of the allegations (immediate notification is not necessary if such notification would jeopardize the investigation).
- (e) The employee accused of the sexual harassment shall be given appropriate opportunity to refute the allegation and present information and/or witnesses on their behalf.
- (f) Based upon the investigative report, the personnel officer shall determine whether the conduct of the person against whom a complaint has been made constitutes sexual harassment. In making that determination, the city's personnel officer shall look at the record as a whole and the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred. Determination of whether sexual harassment occurred will be made on a case-by-case basis.
- (g) If the personnel officer determines the complaint of sexual harassment is founded, he/she shall recommend to the employee's supervisor that immediate and appropriate disciplinary action be taken against the employee guilty of sexual harassment.
- (h) The disciplinary action shall be consistent with the nature and severity of the offense this shall include whether a supervisory relationship exists, and any other facts the personnel officer believes relate to fair and efficient administration of the city, including the effect of the offense, and the light in which it casts the city. The disciplinary action may include demotion and/or suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.
- (i) If the personnel officer determines the complaint of sexual harassment is unfounded, he/she shall notify the employee accused of sexual harassment of the determination and advise that no disciplinary action is warranted.
- (j) The employee making the complaint shall be notified of the results of the investigation and the discipline, if any, to be administered.
- (k) If the personnel officer determines after reviewing the investigation report that the complaint was intentionally falsified by the employee filing the complaint, the personnel officer shall report such action to the employee's supervisor for immediate and appropriate disciplinary action.

**I-6. Appeal of the decision.** Within ten (10) working days of written notification to the employee of the personnel officer's decision, the complainant or

respondent may make a written request for a final review of the record by the city.

The City Administrator, in response to a timely appeal, will either:

- (a) Review the record and provide a final decision within five (5) working days of the receipt of the appeal, or
- (b) Schedule a hearing with the appealing party to hear his/her appeal within ten (10) days following the receipt of the appeal.
  - 1. The meeting date can be scheduled at a time, convenient to all parties, with mutual consent (including beyond the ten (10) day period).
  - 2. The City Administrator will make a final decision.
  - 3. Copies of the decision shall be sent to the complainant and respondent by registered mail, return receipt requested, and a copy will be given to the personnel officer.

**I-7. Records of a sexual harassment complaint.** All records concerning a sexual harassment complaint shall be confidential and kept in a separate locked file except those affected by Kansas Open Records Act. Access to these records shall be given only with the City Administrator's approval to parties who have a direct and relevant need to know.

**I-8. Annual sexual harassment assessment form.** Annually all full time employees will be required to complete a form that assesses whether the employee has been subject to unwelcome behavior that could constitute sexual harassment in the workplace or observed or witnessed such behavior in the work place.

## **ARTICLE J. POLITICAL ACTIVITY**

**J-1. Political Activity.** It is the right of every employee to register and vote on all political issues. Employees are permitted to join political organizations, civic associations or groups and to become involved in political activities subject to the restrictions of this article.

- (a) As private citizens, employees may participate in all political activities, including holding public office, except for activities involving the election of candidates for any city office and where holding an appointive or elective public office is incompatible with the employee's city employment. City employees are not prohibited from supporting candidates for office or from contributing labor to candidates and organizations that endorse candidates. Employees are not permitted to be candidates for city elective office or to make public endorsements of a candidate for city elective office.
- (b) Any employee desiring to become a candidate for city elective office shall first take a leave of absence without pay or resign. Should an employee on a leave of absence without pay be unsuccessful in seeking such elective office, he or she shall be returned to employment on the same terms and conditions

as any other employee who has taken a leave of absence without pay. The request to return to employment must occur within 30 days of unsuccessfully seeking office. An employee is considered to be a candidate for elective office once all statutory requirements have been met to qualify as a candidate.

- (c) Political activity must not interfere with job attendance or performance. Employees are not permitted to solicit or handle political contributions in city elections. They are not permitted to wear or display political badges, buttons or signs on their person or on city property during on-duty hours.
- (d) No supervisor or other person in authority shall solicit any city employee for contributions of money or labor for any candidate for elective office, or otherwise compel, or attempt to compel, any employee to support a candidate for elective office or to engage in any political activity.
- (e) The purpose of this policy is to prevent and avoid the appearance of impropriety on the part of any city employee. City employees are neither appointed to, nor retained in, the city's service on the basis of their political affiliations or activities.

## **ARTICLE K. OUTSIDE EMPLOYMENT**

**K-1. Outside Employment.** Outside employment constitutes a city employee holding a second job with another employer or self-employment. Outside employment by a full-time employee is permitted only when such outside employment: (1) is considered secondary to service with the city; (2) does not interfere with the performance of duties for the city; and (3) no legal, financial or ethical conflict of interest results from such dual employment. An employee must obtain approval in writing from his or her department head prior to accepting outside employment or any change in the nature of such outside employment. A request to perform continuous outside employment must be renewed annually by the employee and re-authorized by the department head.

## **ARTICLE L. WORKER SAFETY**

**L-1. General Safety.** All employees are required to wear appropriate safety equipment and follow appropriate safety precautions according to city and/or departmental policy at all times. Failure to comply with safety policies may result in disciplinary action.

**L-2. Reproductive Health.** Whenever there is substantial and unreasonable risk to the reproductive health of an employee or to the health of an employee or to the health of a pregnant employee due to working conditions or environment, and that risk is determined by medical evidence presented to the city, the

department head shall attempt to reduce or eliminate the risk to the employee through an employment action that is least disruptive to the employee and employer, such as a change in job responsibilities, transfer, or authorized leave of absence.

## **ARTICLE M. RESIDENCY**

**M-1. Residency.** Residency requirements will be determined on a case-by-case basis by the appropriate department head with the approval of the City Administrator.

## **ARTICLE N. SUBSTANCE ABUSE POLICY**

**N-1. Introduction.** The City of Marion, Kansas has a vital interest in maintaining safe, healthful and efficient working conditions for its employees. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks not only to the user, but also to those who work with the user, and to the general public. The possession, use or sale of an illegal drug or alcohol in the work place may also pose unacceptable risks for safe, healthful and efficient operations.

The City recognizes that its ability to provide a safe and high level of service to the general public is dependent upon the physical and psychological health of its employees. Accordingly, it is the obligation and intent of the City to maintain a safe working environment, to protect property, equipment and operations, and to provide for the welfare of the general public.

With these basic objectives in mind, the City has established the following Substance Abuse Policy, including a Drug-Free Workplace Program, a Drug and Alcohol Testing Policy and Procedure, and an Employee Assistance Program.

**N-2. Definitions.** As used herein, the following terms shall have the following meanings:

- (a) "Drug" - means any substance other than alcohol which is capable of altering the mood, perception, pain level or judgment of the individual consuming, ingesting or injecting it.
- (b) "Legal Drug" - means both prescribed and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured.
- (c) "Illegal Drug" - means any drug: (a) which is not legally obtainable; or (b) which may be legally obtainable but has not been legally obtained; or (c) which may be legally obtained but is being used in a manner or for a purpose other than as prescribed.
- (d) "Alcohol" or "Alcoholic Beverage" - means any beverage that has an alcoholic content in excess of 3.2% by volume.

**N-3. General Policy and Work Rules.** The policy of the City is to employ a work force that is free from the use of illegal drugs and from the abuse of legal drugs and alcohol, either on or off the job. Any employee determined to be in violation of this policy is subject to disciplinary action, which may include termination, even for a first offense. It is a standard of conduct of employees of the City that employees shall not use illegal drugs or abuse legal drugs or alcohol. In order to maintain this standard, the City shall establish and maintain the programs and rules set forth below.

Employees will be given a copy of this Substance Abuse Policy. Employees will be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy. Notification of this policy is required as part of new employee orientation. As a condition of employment, each employee is required to sign a Certificate of Agreement for the City of Marion.

All employees or new hires of the City of Marion shall adhere to the following:

- (a) Reporting to work or performing work for the City while impaired by or under the influence of drugs or alcohol is **prohibited**.
- (b) The illegal use, possession, dispensation, manufacture or sale of a controlled substance by an employee at the work site, during work hours, or while the employee is on duty, or is on official business of the City or is on stand-by duty, is **prohibited**.
- (c) Employees are required to notify the City within five (5) days of any criminal drug statute conviction where such conviction was due to an occurrence at the work site, during work hours, while on duty, while on official business of the City or while on stand-by duty. A conviction means a finding of guilty (including a plea of “nolo contendere” or “no contest”) or the imposition of a sentence by a judge or jury, in any federal or state court.

**N-4. Employee Impairment Procedures.** An employee reporting for work impaired by legal or illegal drugs or alcohol is unable to properly perform required duties and will not be allowed to work. In the event an employee visibly appears to be impaired when reporting for work or while at work, the employee’s supervisor shall if possible first seek another supervisor’s opinion to confirm the employee’s status. Then the supervisor shall consult privately with the employee to determine the cause of the perceived impairment, including whether substance abuse has occurred.

If, in the opinion of the supervisor, the employee is considered impaired, the employee shall, after any required drug and alcohol screening procedures are completed, be sent home or to a medical facility by means of safe transportation. Depending upon the determination of the observed impairment the employee may be accompanied by the supervisor or another employee, if necessary.

Prescription drugs prescribed by the employee's physician may be taken during work hours. However, the employee shall notify his/her supervisor if the use of properly prescribed prescription drugs may affect the employee's work performance. Abuse of prescription drugs will not be tolerated.

**N-5. Drug and Alcohol Screening.** Drug and alcohol screening may be conducted by the testing of an employee's blood, urine, breath, saliva or otherwise. Such screening will be conducted by the laboratory, or person certified to test breath for the presence of alcohol, as designated and retained by the City of Marion for such purposes.

Any employee submitting to a drug and alcohol screening procedure has the right to request independent testing of the same sample specimen by another laboratory or medical provider of the employee's choosing that is approved or licensed for the performance of such tests by the State of Kansas; provided, however, that such independent testing shall be at the employee's own expense.

*Pre-employment.* It shall be a prerequisite to employment with the City of Marion that pre-employment drug and alcohol screening shall be required.

Prior to screening each applicant shall be provided the opportunity to execute an Applicant Drug Screen Release to ensure that the applicant understands the procedure and the consequences of a failed test.

*Continued Employment.* It shall be a condition of continued employment with the City that all employees shall submit to drug and alcohol screening procedures upon request of the City when the following numbered paragraphs shall apply to an observable circumstance during the course of employment.

(a) When there is reasonable suspicion to believe that an employee is using or has used illegal drugs or is abusing or has abused legal drugs or alcohol. Circumstances that could be indicators of a substance abuse problem and considered reasonable suspicion are:

- (1) Observed alcohol use or drug abuse during work hours.
- (2) Apparent physical state of impairment.
- (3) Incoherent mental state.
- (4) Marked changes in personal behavior that are otherwise unexplainable.
- (5) Deteriorating work performance that is not attributable to other factors.
- (6) Chronic lateness or absenteeism, or extended absences from employment other than on normal sick leave or vacation leave.

(b) *Post-accident.* Within 32 hours for the purpose of drug screening or immediately for alcohol screening following any motor vehicle accident resulting in bodily injury or the loss of life of any person, or resulting in significant property damage.

- (c) *Return to duty.* Before returning to work following a positive test result and rehabilitation.
- (d) *Follow-up.* Up to six times during the 12-month period following any positive test result (the costs of which may be required to be paid by the employee).

**N-6. Random Testing.** Two classes of employees of the City shall be subject to random drug and alcohol screening: (1) employees required to obtain and maintain a commercial driver's license in order to operate certain equipment for the City, and (2) employees in "safety sensitive" positions. Each of these classes shall be denoted on the job descriptions for each individual position.

**N-7. Discipline or Termination.** The following shall constitute grounds for discipline or termination of any employee of the City.

- (a) Possession or use of illegal drugs or alcohol during work hours, including the following:
  - (1) Having possession of illegal drugs or alcohol;
  - (2) Being under the influence of illegal drugs or alcohol; (an employee shall be determined to be under the influence of alcohol if the employee's normal faculties are impaired due to consumption of alcohol, or if the employee has a blood level of .05 or higher);
  - (3) Possessing illegal drugs in the employee's body, blood or urine in any detectable amount; or
  - (4) Using, consuming, dispensing, distributing, manufacturing, transferring, selling or attempting to sell or transfer any form of illegal drug or alcohol.
- (c) Use of illegal drugs or alcohol during off-duty hours, which results in excessive lateness or absenteeism, work accidents, or poor work performance.
- (d) Use of illegal drugs during off-duty hours by employee whose regular off-duty responsibilities include being subject to recall to duty to perform emergency services.
- (e) Failure to submit to required drug and alcohol screening procedures.

Disciplinary procedures that may be employed will be determined on a case-by-case basis, and may consist of verbal or written reprimands, suspensions without pay, demotion in position and/or salary, placement on probationary status, or termination. This list of potential disciplinary procedures is not intended to be all-inclusive, but is offered for the purposes of illustration only. Termination is always an available option as to any such violation, including a first offense.

## **ARTICLE O. EMPLOYEE ASSISTANCE PROGRAM**

The City shall offer an Employee Assistance Program (EAP) which will provide assistance to employees who are experiencing alcohol or drug problems.

Through the EAP, the City will provide an appropriate assessment and referral to treatment for drug and alcohol abuse. Once treatment options are determined, employees may be granted leave or a conditional return to work depending on the circumstances of the proposed treatment. Costs of any treatment shall be the responsibility of the employee.

It is the responsibility of each employee to seek assistance from the Employee Assistance Program before alcohol and drug problems lead to disciplinary actions. The employee's decision to seek assistance from the Employee Assistance Program will not be used as a basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. On the other hand, using the EAP will not be a defense to imposition of disciplinary action where the facts providing a violation of this policy are obtained outside the EAP. Once a violation of this policy occurs, subsequently using the EAP on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action. Accordingly, the purposes and practices of this policy and the EAP are not in conflict but are distinctly separate in their applications.

## **FORMS**

**EMPLOYEE VERIFICATION FORM FOR REVIEW OF  
PERSONNEL POLICIES AND GUIDELINES MANUAL**

I, \_\_\_\_\_, acknowledge that I have received,  
Read and understand the City of Marion Personnel Policies & Guidelines.

I also understand that these “Marion Policies & Procedures Guidelines” is not to  
be construed as a contract of employment, that it can be changed at any time,  
I also understand and acknowledge that my employment with the City of Marion,  
Kansas, is at will and not for any term of definite duration, and that the  
employment relationship can be terminated by either the employee or employer  
at any time.

I also acknowledge that I have received, read and understand ARTICLE J.  
SEXUAL HARASSMENT section on pages 20 through 23 in the Personnel  
Policies & Guidelines Manual and will abide by the City’s Sexual Harassment  
Policy.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**ANNUAL SEXUAL HARASSMENT ASSESSMENT FORM**

The following questions are designed to adhere to the Sexual Harassment in the Workplace provisions of the City of Marion Personnel Policies and Guidelines Manual. Each City employee, by virtue of this policy, is required to answer the following questions:

- 1. Have you been subjected to any unwelcome behavior that would constitute sexual harassment in the workplace while working for the City of Marion in the past twelve- (12) months?

Yes \_\_\_\_\_ No \_\_\_\_\_

- 2. Have you observed or witnessed any unwelcome behavior that would constitute sexual harassment in the workplace while working for the City of Marion in the past twelve- (12) months?

Yes \_\_\_\_\_ No \_\_\_\_\_

- 3. Have you been told by anyone that they have been subjected to any unwelcome behavior that would constitute sexual harassment in the workplace while working for the City of Marion in the past twelve- (12) months?

Yes \_\_\_\_\_ No \_\_\_\_\_

I understand and attest that the above responses to the aforementioned questions are true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Witness Signature

**Substance Abuse Policy  
Of  
The City of Marion Kansas  
Certificate of Agreement**

I do hereby certify that I have received and read the Substance Abuse Policy of the ***City of Marion, Kansas***.

I understand that I will be required to submit to a drug and alcohol screen if any of the circumstances occur as outlined in the Policy under paragraph V.; Drug and Alcohol Screening. And, I hereby consent in writing to, and I hereby consent to the testing and analysis of such specimen (breath or urine) for drugs and/or alcohol, to the submission of such specimen (breath or urine) to the laboratory, or person certified to test breath for presence of alcohol only, designated by the City of Marion Kansas, to both conduct such screening and provide results thereof to the City, and I hereby release any such Laboratory, person certified to test breath and the City, from any and all liability that might arise by virtue of the performance of such screening procedures, the reporting of the results thereof, and the reliance upon the results so reported.

I also understand that my employment will be subject to termination, even upon a first occurrence, if upon request by the City I should refuse to submit to a drug and/or alcohol screen, or if after submitting to such a drug and/or alcohol screening procedure there is a positive result produced by such screen.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Employee Signature)

\_\_\_\_\_  
(Employee's Name-typed or Printed)

\_\_\_\_\_

(Employee's Social Security Number)

Form-4

**Applicant Drug Screen Release**

1. I understand that the City of Marion, Kansas has a policy requiring each applicant for employment to be tested for the presence of drugs.
2. I authorize the collection agency specified in the Drug Program to take from me the required specimen which will be tested by a certified NIDA/CAP certified laboratory for marijuana, cocaine, opiates, amphetamines and PCP.
3. I understand that the specimen will be tested to determine the presence of these drugs using a chain-of-custody procedure to insure the integrity of the specimen and its identification.
4. I understand that the results of this testing will be reviewed and that the City of Marion, Kansas will terminate the application process if the results indicate the presence of illegal or improperly used prescription drugs in my system.
5. I understand that should I be hired by the City of Marion, Kansas, I may be subject to future substance testing as outlined in the City of Marion Substance Abuse Policy.
6. I herewith release the City of Marion, Kansas and its affiliated, agents and employees from all liability or responsibility related to the test administration or processing or any act of omission arising there from.

\_\_\_\_\_  
Applicant Name (Print)

\_\_\_\_\_  
Applicant Signature

Social Security Number \_\_\_\_\_

Date \_\_\_\_\_