Our vision is to be a community where dreams take root and thrive. Our mission is to create vibrant neighborhoods, nurture a strong business community, and preserve beautiful green spaces.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Introduction</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Purpose (Revised 06/08, 07/09, 09/16)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Scope (Revised 06/08, 01/14)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Administrative Responsibility (Revised 06/08)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Departmental Regulations</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Definitions (Revised 06/08, 03/13, 01/14, 09/14, 09/16)</td>
<td>9</td>
</tr>
<tr>
<td>3</td>
<td>Equal Employment Opportunity Practices and Procedures</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Nature of Employment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Equal Employment Opportunity (Revised 06/08)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Immigration Law Compliance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Americans with Disabilities (Revised 06/08, 03/13, 10/18)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Non-Harassment Policy</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>Purpose</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Harassment Defined</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Harassment Prohibited</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Harassing Conduct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gender Harassment (Revised 06/08)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Complaint Procedure (Revised 06/08)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Records of Harassment Complaints</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Retaliation Protection</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Workplace Violence Policy</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Workplace Violence Prohibited (Revised 06/08)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Weapons (Revised 01/14, 10/15, 08/16)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Emergency Procedures (Revised 06/08, 10/15)</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>General Employment Policies</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tobacco and Electronic Cigarette Use (Revised 04/10, 09/14)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public Relations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Punctuality and Absenteeism (Revised 06/08, 04/10, 09/16)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Knowledge of the City Organization</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Qualifications of Employment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Residency Requirements (Revised 06/08, 09/16, 02/19, 09/22)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nepotism (Revised 11/10)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fraternization (Revised 06/08)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Outside Employment (Revised 06/08, 09/19)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dual Employment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Political Activity (Revised 06/08, 09/16, 09/17)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gratuities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Personal Property</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Use of City Vehicles (Revised 11/10, 09/16)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ethics (New 07/09)</td>
<td></td>
</tr>
</tbody>
</table>
City of Derby
Personnel Policy Manual 11/22

Return to Work After On-the-Job Injury (Revised 04/10, 09/17, 09/20, 09/21)
Light Duty for Off-the-Job Injury (New 09/20)
Reporting of Violations of Policies and Procedures (New 09/14)
Special Requests (New 10/18)

7 General Rules of Safety 29
Workplace Safety
Use and Maintenance of City Equipment
Reporting Safety Issues (Revised 09/16, 10/18)

8 Employment Status and Records 31
Employment Classifications (Revised 06/08, 07/09, 10/11, 03/13, 09/16)
Performance Reviews (Revised 06/08, 09/16)
Reinstatement (Revised 04/10)
Personnel Records and Rules (Revised 04/10)
HIPAA (New 04/10)

9 Promotion, Transfer, Demotion and Reclassification 36
Purpose
Promotion (Revised 07/09, 01/20)
Transfer (Revised 07/09, 09/17, 01/20)
Demotion (Revised 03/13)
Reclassification (Revised 01/20)

10 Timekeeping, Payroll, Hours and Compensation 40
Purpose
Official Pay Plan
Entry Level Wage/Salary (Revised 09/22)
Work Week and Work Periods (New 09/22, 11/22)
Pay Periods and Paychecks (Revised 09/22)
Overtime
Compensatory Time Off (Revised 07/09, 09/22)
Longevity Pay (Revised 07/09, 04/10)
Merit Increases and One Time Performance Pay (Revised 01/20, 09/20)
Pay Study Process and Implementation (09/20)
General Pay Adjustment (Revised 01/14)
Interim and Acting Assignment Pay (Revised 06/08)
Acting Officer Pay (New 09/19)
Payroll Discrepancies and Payroll Deductions (Revised 10/15)
Meal Periods and Rest Breaks
Standby and Callback Pay (Revised 07/09, 01/14, 10/15, 11/22)
Shift Differential (Revised 01/14, 10/18, 01/20, 11/22)
Special Duty Pay (Revised 01/14, 05/22)
Training Compensation (New 01/14, 11/22)
Security Pay (New 01/14)
Court Appearance Pay (New 01/14, 09/19)
Bilingual Pay (New 01/14)
Pay for Interviews and Hearing (New 01/14)
Education Pay (New 10/18)
Certification Pay (New 01/20, 09/22)
Bonus and Recognition Program (Revised 06/08, 9/14, 09/19)
Referral Incentive (New 10/15, 02/19, 05/22)
Hiring Bonus for Police Officers (New 09/19, 11/22)
Relocation Reimbursement (New 11/22)
W-2s
Alternative Work Schedule (AWS)
Telework Policy (New 09/20)

11 Employee Benefits

Purpose
Health and Dental Insurance
Children’s Health Insurance Program Reauthorization Act (CHIPRA) (New 04/10)
COBRA – Insurance Continuation
Retirement Benefits (Revised 07/09, 04/10, 01/14, 10/15, 09/17)
Workers’ Compensation Insurance (Revised 09/19)
Unemployment Compensation
Life Insurance
Death and Disability
Flexible Spending Plan
Tuition Reimbursement (Revised 06/08, 04/10, 09/17)

12 Employee Privileges, Time Off and Leaves of Absence

Purpose
Holidays (Revised 06/08, 07/09, 04/10, 11/10, 03/13, 01/14, 09/17, 09/20, 09/22)
Vacation (Revised 06/08, 07/09, 11/10, 10/11, 01/14, 09/16, 09/17, 02/19, 05/22, 09/22)
Sick Leave (Revised 06/08, 07/09, 10/11, 01/14, 10/15, 09/16, 02/19, 09/21, 09/22)
Emergency Shared Leave Pool (New 10/15)
Bereavement Leave (Revised 07/09, 09/14)
Jury Duty and Other Civil Leave (Revised 06/08)
Family and Medical Leave (Revised 06/08, 07/09, 04/10, 09/19)
Military Leave (Revised 09/21)
Domestic Violence Leave
Injury Leave (Revised 06/08, 11/10, 01/14, 10/15)
Leave Without Pay (Revised 04/10, 10/15, 09/17)

13 Drug and Alcohol-Free Workplace

Purpose (Revised 07/09, 10/15, 01/20)
Prescription or Over-the-Counter Medications (Revised 09/14)
Duty to Report
Drug-Related Convictions
Drug and Alcohol Testing (Revised 06/08)
Violation of Policy

14 Employee Advisory Committees

Purpose
Election, CEAC Composition, and Term (Revised 09/16, 09/19)
Role of CEAC Members (Revised 09/19, 09/21)
15 Employee Assistance Program

Purpose
Training
Self Referral
Mandatory Referral

16 Technology and Computer Use

Purpose
General (Revised 10/18)
E-Mail and Internet Usage (Revised 10/15, 10/18)
Social Media (New 09/16, Revised 10/18)
Personal Use of Computer Technology
Monitoring Employees’ Use of Computer Technology (Revised 10/18)
Non-Exempt Employee Use of Technology Outside of Work Hours (New 10/18)
Software (Revised 10/18)
Confidentiality
Law Enforcement, Legal and Investigation Exception (Revised 10/18)
Violation of Policy
Terminology (Revised 10/18)

17 Employee Conduct and Discipline

Purpose (Revised 06/08, 07/09, 02/19)
Standards of Conduct (Revised 06/08, 07/09, 01/14, 09/16, 09/17, 01/20)
Disciplinary Procedures and Termination (Revised 07/09, 10/11, 02/19)
Investigation, Prosecution and Termination

18 Grievance Procedure

Purpose (Revised 07/09)
Limitations (Revised 07/09, 01/14)
Grievance Processing (Revised 07/09)
Limitations on Review
Retaliation Prohibited
Abeyance

Appendices

Appendix A: Employee Acknowledgement of Personnel Policy Manual (Revised 06/08, 01/14, 09/17)
Appendix B: Acceptable Use Agreement for Information Technology
Appendix C: Employee Acknowledgement of Non-Harassment Policy
Appendix D: Applicant Affirmation of Substance Abuse Policy (Revised 08/20)
Appendix E: Substance Abuse Policy and Testing Procedures for Regulated and Non-Regulated (FMCSA/DOT) employees (Revised 06/08, 01/14, 01/20)
  E-1 Drug and Alcohol Testing Program Personnel and Services
  E-2 Employee Affirmation of Non-Regulated Substance Abuse Policy and Testing Procedures
  E-3 Employee Affirmation of Regulated Substance Abuse Policy and Testing Procedures (DOT)
Appendix F: Anti-Drug and Alcohol Misuse Prevention Policy for Transportation Program Safety Sensitive Employees (FTA/DOT) (12/11, 01/14, 10/18, 01/20)
  F-1 Alcohol Supplement
F-2 Drug and Alcohol Testing Program Personnel and Services
F-3 Transit Employee Positions Subject to Drug and Alcohol Testing
F-4 Employee Affirmation of Drug and Alcohol Policy and Testing Procedures (Transportation Program Safety Sensitive)
F-5 Dilute Negative Drug Test Result
F-6 FMCSA Clearinghouse Policy
F-7 FMCSA Clearinghouse Consent Form

Index 140
Chapter 1: Introduction

I. Purpose (Revised 06/08, 07/09, 09/16)

a) The purpose of this Personnel Policy Manual (the “Manual”) is to promote cooperation, efficiency and unity in public service by clearly communicating the personnel policies, rules, regulations, and procedures applicable to City of Derby employees.

b) The objectives of these policies, rules, regulations and procedures are to:
   - Maximize efficiency and economy in the services provided by the City of Derby;
   - Develop and maintain programs for recruitment and advancement predicated on merit and ability; making the City of Derby an attractive employer and encouraging each employee to render the best possible services to the citizens of Derby;
   - Provide a fair and equal opportunity to all qualified persons to enter City employment on the basis of merit and ability as determined through impartial and job related requirements, tests and interviews;
   - Establish and promote high morale among City employees by providing a foundation for good working relationships, equal opportunities for advancement and benefits, and consideration of employees’ needs.

c) This Manual is presented for informational and guidance purposes only. All employees who are not employed pursuant to a written contract that prescribes the term of employment or circumstances under which employment may be terminated are “at-will” employees. The employment of at-will employees may be terminated at any time, with or without advance notice. Neither this Manual nor any City employment policy is intended to constitute a contract of employment, either express or implied, between any employee and the City, and it should not be interpreted or construed as an employment contract between any employee and the City.

d) This Manual applies to all City employees and supersedes and replaces any prior City personnel policy manuals and memoranda which were issued on subjects covered in this Manual. This Manual does not apply to the Governing Body, appointed board members or individuals with whom the city contracts for services (e.g., Municipal Judge and Prosecutor). The City reserves the right, in its sole discretion, to alter, amend, delete, supplement or change, at any time and without advance notice, any of its policies, including those covered in this Manual. New or revised policies shall be effective on dates determined by the City and shall remain in effect until the City gives notice to the contrary. The City shall notify employees of any revisions to this Manual or its policies. Amended, superseded or deleted policies shall not be relied upon.

e) Some of the subjects described herein, such as Group Insurance Plans, are covered in detail in official policy documents. Employees should refer to these documents for specific information, since this Manual only briefly summarizes those benefits. Please note that the terms of the written insurance policy are controlling.
II. Scope (Revised 06/08, 01/14)

Except as otherwise provided herein, all employees shall be subject to the policies, rules, regulations and other provisions of this Manual, as they may from time to time be amended. Violation of the policies and procedures herein is cause for disciplinary action up to and including termination of employment. The scope of this Manual is not intended to expand any legal requirement, statute or regulation that applies to the City or its employees.

III. Administrative Responsibility (Revised 06/08)

a) The policies, rules, regulations and procedures contained in this Manual shall be administered and enforced by the Director of Human Resources, department directors and supervisors, and the City Manager.

b) With approval of the City Manager, the Director of Human Resources shall periodically amend or supplement provisions in the Manual as required by law. Changes that are purely informational in character may be approved by the City Manager. The City Manager may make interpretations of provisions in the manual to adequately address emergency situations or unforeseen issues. All such interpretations shall be followed by a report to the City Council with recommendations for Council approval of any resulting changes to the manual.

c) All substantive changes to this Manual must be approved by the City Council before becoming effective.

d) All employees will be informed of such amendments and supplements, and a copy will be made available to them.

IV. Departmental Regulations

a) The director of each department may promulgate such written administrative regulations as are necessary, reasonable or convenient for the conduct of the department. Current departmental regulations shall at all times be on file with the Director of Human Resources and in the department for review and use by department personnel.

b) Nothing in this section shall be construed as granting any department authority to adopt regulations in violation of, or in conflict with, regulations approved and adopted by the City Council or established by the City Manager.
Chapter 2: Definitions
(Revised 06/08, 03/13, 01/14, 09/14, 09/16)

The following definitions are utilized for the purpose of clarifying the personnel policies and procedures within this Manual and are not intended for any other purpose.

“Add-will employee” means an employee who is not employed pursuant to a written contract that prescribes the term of employment or circumstances under which employment may be terminated.

“Business Day” means Monday thru Thursday from 7:30 a.m. to 5:30 p.m. and Friday from 7:30 a.m. to 1:00 p.m., excluding vacations and holidays observed by the City.

“Child” means an employee’s biological, adopted or foster child, step-child, legal ward, and any person for whom the employee is legally and financially responsible pursuant to the United States Internal Revenue Code.

“City” means the City of Derby, Kansas.

“Compensation” means pay and other benefits due an employee for performance of assigned duties.

“Department Director” means a director, administrator or other officer, regardless of title, who is in charge of one or more departments and is appointed by, and serves at the pleasure of, the City Manager.

“Emergency” means a sudden and unforeseen happening that requires the unscheduled services of an employee to protect the health, welfare and safety of the community or to carry out the responsibilities of the department.

“Hire date” means the day an employee begins employment with the City of Derby.

“Immediate Family” means an employee’s parent, spouse, child or stepchild, sister, brother, grandparent, grandchild, stepparent, mother-in-law or father-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, grandfather-in-law or grandmother-in-law, aunt or uncle, and niece or nephew.

“Job Family” means jobs within the same department that have a natural progression or linkage for promotional purposes. A list of current established job families is maintained by Human Resources.

“Merit Pay” means an increase in compensation granted on the basis of job performance, as determined during the annual performance review process.

“Parent” means an employee’s biological or adoptive mother or father, step-mother or step-father.
“Pay Plan” means the pay matrix, including minimum and maximum rates of pay for all authorized positions, as approved from time to time by the City Council.

“Pay Plan Adjustment” means an increase or decrease in minimum or maximum pay for a position, as established by the pay plan.

“Personnel File” means the official file of each employee maintained by the Director of Human Resources. All records, reports and other material contained in the personnel file are, and shall remain, the exclusive property of the City.

“Performance Review Date” means the date an employee’s performance review is due. Normally, the performance review date will coincide with either the employee’s hire date or the date the employee was appointed to his or her current position.

“Public Safety Employee” means a certified law enforcement officer or a firefighter, regardless of rank.

“Spouse” means a person construed as such under Kansas law, provided the term shall not include a common law spouse unless there is a notarized affidavit of the employee attesting to such status on file with the Director of Human Resources.

“Transportation Safety Sensitive Position” means a position that requires the employee to possess a valid commercial driver’s license.
Chapter 3: Equal Employment Opportunity Practices and Procedures

I. Nature of Employment

a) It is our sincere desire that each employee is successful in his or her position with the City. However, the employment of at will employees may be terminated at any time, with or without cause or reason and with or without advance notice, either by the employee or the City.

b) The policies set forth in this Manual are not intended to create a contract of employment, either express or implied, between City employees and the City. No supervisor, director, manager, official, agent or employee of the City has authority to represent that this Manual, or the City’s policies, establish an employment contract between the City and its employees.

II. Equal Employment Opportunity (Revised 06/08)

a) Equal employment opportunity has been, and will continue to be, a fundamental principle of the City, where employment is based upon personal capabilities and qualifications without discrimination based on race, color, religion, gender, age, national origin, marital status, citizenship, status as a qualified individual with a disability, military status or any other protected characteristic as established by law.

b) This policy of equal employment opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

c) The City has established reporting and monitoring procedures to guard against employment related discrimination. Any questions or concerns should be directed to the City Manager, Director of Human Resources or department directors. Appropriate disciplinary action will be taken against any employee who engages in any form of discrimination based on the foregoing characteristics.

III. Immigration Law Compliance

a) The City is committed to employing only individuals who are authorized to work in the United States. In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of continued employment, must complete the Employment Eligibility Verification Form I-9 and, within three days of the date on which the employee commences work, present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed a Form I-9 with the City within the past three years or if their previous Form I-9 has not been retained or is, for any other reason, no longer valid.

b) Continued employment with the City is contingent upon presentation of documentation which establishes that the employee is currently eligible for employment in the United States.
IV. Americans with Disabilities (Revised 06/08, 03/13, 10/18)

a) The City is committed to the recruitment, employment and promotion of the most qualified individuals. It is our policy to provide equal employment opportunity for persons with disabilities in full compliance with state, local and federal laws such as the Americans with Disabilities Act (“ADA”) and the Americans with Disabilities Act Amendments Act (“ADAAA”). The City does not discriminate against qualified job applicants and employees with known physical or mental disabilities in any employment practice, including but not limited to, recruitment, hiring, education, training, promotion, compensation, participation in social or recreational functions, use of City facilities, transfer, discipline, layoff, recall and termination.

b) Pursuant to the ADA, ADAAA, and the Kansas Act Against Discrimination, the City will provide qualified individuals with known disabilities, including temporary impairments related to pregnancy, reasonable accommodations to assist them in performing the essential functions of their job. However, where an accommodation would produce an undue hardship on the City or present a health or safety risk, the requested accommodation shall be deemed unreasonable and denied.

c) Any questions regarding this policy and requests for an accommodation should be made to the Director of Human Resources.
Chapter 4: Non-Harassment Policy

I. Purpose

All City employees have the right to work in an environment free from all forms of harassment, including harassment based on race, color, religion, gender, national origin, ethnicity, age, disability, veteran status or any other characteristic protected by state, local or federal law. The purpose of this policy is to prevent and redress harassment in the workplace.

II. Harassment Defined

Harassment is verbal, written or physical conduct which degrades or displays hostility or hatred toward others based on their race, color, religion, gender, national origin, age, disability, ancestry or other protected characteristic and which creates an intimidating, hostile or offensive working environment, unreasonably interferes with an individual’s work performance or otherwise adversely affects an individual’s employment opportunities.

III. Harassment Prohibited

Harassment of any kind is expressly prohibited and shall not be tolerated. Any employee who engages in harassing conduct shall be subject to discipline, up to and including termination. Any employee who has reason to know of an incident of harassment shall immediately report the incident of harassment as outlined in the Harassment Complaint Procedure below. The City does not retaliate against, and does not tolerate retaliation against, those who report harassment in good faith or those who cooperate with harassment investigations.

IV. Harassing Conduct

Generally speaking, harassing conduct includes, but is not limited to, the following acts or conduct when those acts or conduct relate to race, color, religion, gender, national origin, age, disability, ancestry or other protected characteristics:

- Epithets;
- Slurs;
- Negative stereotyping;
- Threats; and
- Written or graphic material that degrades or displays hostility or hatred toward an individual or group based on race, color, religion, gender, national origin, age, disability or other protected characteristic, when such material is distributed or circulated in the workplace or placed on walls, on bulletin boards or elsewhere on the premises of the City.
V. Gender Harassment (Revised 06/08)

a) Gender harassment, like all other forms of harassment, is expressly prohibited. The City defines gender harassment as unwelcome sexual advances, requests for sexual favors and all other verbal, visual, physical or written conduct of a sexual nature. Gender harassment also includes, but is not limited to, the following acts, whether committed by City supervisors, employees, agents, vendors, citizens or visitors:

- Unwelcome flirtations;
- Unwelcome sexual advances or propositions;
- Verbal harassment or abuse of a sexual nature;
- Subtle pressure or requests for sexual activities;
- Unnecessary or undesired touching of an individual;
- Graphic or vulgar commentary about a person’s physical appearance, body or clothing;
- Sexually degrading language used to describe a person;
- Displays in the workplace or on the premises of the City of sexually suggestive materials, including objects or pictures;
- Sexually explicit or offensive jokes, whether written or spoken;
- Leering, whistling and obscene gestures;
- Demands for sexual favors, including demands accompanied by express or implied promises or threats concerning an individual’s employment status;
- Conditioning any term or benefit of employment upon sexual favors; or
- Any other conduct based on gender that unreasonably interferes with an employee’s performance of his or her job, that creates an intimidating, hostile or offensive working environment or otherwise adversely affects an individual’s employment opportunities.

b) Gender harassment occurs when the conduct described above may:

- Be construed as being a term or condition of an individual’s employment;
- Be used as a basis for making employment decisions affecting an employee or applicant, depending upon the employee’s or applicant’s submission to, or rejection of, improper conduct of a sexual nature; or
- In purpose or effect, substantially interfere with an employee’s work performance or create an intimidating, hostile or offensive working environment.

c) Employees should report all instances of gender harassment by non-employees. These reports are to be made in the same way as other reports of harassment.
VI. Complaint Procedure (Revised 06/08)

a) If an employee experiences or witnesses any incident of harassment or discrimination, he or she shall immediately report the incident to his or her immediate supervisor, department director, the City Manager, or Director of Human Resources. The employee should immediately discuss the incident with whomever on the list he or she feels most comfortable. The most important aspect of the Harassment Complaint Procedure is that the incident is immediately reported, investigated and addressed.

b) When a harassment or discrimination complaint is reported by an employee pursuant to section a, the person receiving the complaint shall record the following information in writing:

- Name, department and position title of employee alleging harassment;
- The name of the person/persons who the employee believes committed the harassment;
- Date(s) and approximate time(s) of the harassment;
- The specific nature of the harassment; its duration; and any employment action (for example: demotion, failure to promote, promotion, dismissal, refusal to hire, transfer, etc.) taken against the employee, or which benefited the employee, as a result of the harassment or any other threats made against the employee as a part of, or as a result of, the harassment; and
- The names of any and all witnesses to the harassment.

c) All harassment complaints will be investigated by the Director of Human Resources unless the alleged harasser is a department director or the City Manager, in which case an outside investigator may be brought in to investigate the complaint. The Director of Human Resources may be contacted at 788-1519.

VII. Records of Harassment Complaints

All records concerning harassment complaints shall be kept confidential to the extent possible and maintained in a separate file. Approval for individuals to view the record of a harassment complaint and investigation file shall be given only when required by law or when the City Manager deems in his or her own judgment that the disclosure of the requested record is necessary.

VIII. Retaliation Protection

Adverse treatment of employees who have reported harassment or provided information related to such complaints is prohibited. The City will take all necessary measures to ensure that retaliation does not occur. Employment decisions affecting an employee who has filed a harassment complaint shall not be made for the purpose of retaliation.
**Chapter 5: Workplace Violence Policy**

**I. Workplace Violence Prohibited (Revised 06/08)**

a) Acts or threats of physical violence, including intimidation, harassment, coercion or other conduct involving threatening or violent behavior, which involve or affect the City or which occur on any City property will not be tolerated.

b) Acts, threats or conduct involving violence include conduct which is sufficiently severe, offensive or intimidating to alter the employment conditions at the City or to create a hostile, abusive or intimidating work environment for one or more employees.

c) The City prohibits threats and acts of violence against all persons involved in the City’s operation, including, but not limited to, employees, contractors, temporary workers, customers, citizens and anyone else on City property. Violations of this policy by any individual on City property will lead to disciplinary action, up to and including termination and legal action as appropriate.

d) Every employee is required to report incidents, threats or acts of physical violence to his or her supervisor, department director, the City Manager, or Human Resources immediately.

**II. Weapons (Revised 01/14, 10/15, 08/16)**

a) The City prohibits employees from possessing, using, or displaying a weapon within the workplace or while engaged in official duties on behalf of the City except as specifically provided in this policy. This prohibition applies regardless of the location of said duties, applies to all employees who drive or ride in City vehicles or equipment, and applies whether the weapon is concealed or unconcealed, loaded or unloaded.

The above prohibition does not apply to law enforcement officers or other employees who have been authorized, in writing, by the City Manager to carry a weapon in the scope of their employment with the City.

b) Notwithstanding the foregoing and pursuant to the Kansas Personal and Family Protection Act and the restrictions found herein, **employees may carry a concealed handgun** into city facilities, in city vehicles and while engaged in or conducting the business of the City provided the employee is legally qualified to carry a concealed handgun under federal and state law, and the carrying of a concealed handgun is lawfully allowed and not otherwise prohibited under the provisions of federal or state law. This exception does not permit the open carry of a handgun or other weapon.

Employees choosing to carry a concealed handgun pursuant to this subsection (b) must keep their handgun concealed at all times, in a proper holster with all safety features in place, and the handgun must always be within the immediate control of the employee.
Employees may not leave their handgun unattended at any time. In rare circumstances when an employee cannot keep the handgun within his or her immediate control, the employee is permitted to temporarily place the handgun in a locked portable gun safe or lockbox designed for the temporary storage of firearms (for example: a 24-hour shift or a job duty requiring an employee to enter a facility where concealed carry is not permitted). Any such locked portable gun safe or lockbox shall be accessible only to the employee and must be controlled with a key, code, or biometric lock. Temporary placement of a handgun within a locked portable gun safe or lockbox within a City vehicle is permitted so long as the portable gun safe or lockbox is outside of plain view from the exterior of the vehicle and the vehicle remains locked at all times when the employee is not in the vehicle. Temporary placement of a handgun in a locked portable gun safe or lockbox on City property is permitted only during hours when the employee is on duty and does not permit the routine storage or placement of a handgun within a locked portable gun safe or lockbox during times when the employee is not on duty (for example: overnight, during periods of vacation or sick leave).

Other than within a locked portable gun safe or lockbox as provided above, handguns may not be left in or on an employee’s desk, workstation, area of gathering, purse/bag or any storage container or area, or left in an employee’s office area, City vehicle, or area of work unless specifically provided herein. Storage of a handgun outside of a portable gun safe or lockbox, but within a locked desk drawer is not compliant with this policy.

It is the sole responsibility of the employee to provide a portable gun safe or lockbox which meets the requirements of this policy.

Employees are permitted to store a handgun in their private vehicle while on City owned property provided that such storage is outside of plain view from the exterior of the vehicle and the vehicle remains locked at all times when the employee is not in the vehicle.

c) It is outside the scope of employment for any non-authorized City employee to possess, use, handle, brandish, or display a weapon or to threaten any person with the use of a weapon in the workplace or in the exercise of his or her duties under any circumstances.

d) The City in no way encourages the carrying of a concealed handgun by employees unless it is required pursuant to the employee’s job duties, and, as such, it is up to the employee to act responsibly in accordance with this policy and the provisions of federal and state law. It is an employee’s sole responsibility for proper concealment and carrying of the handgun, and the carrying of the handgun may not interfere with proper safety equipment, execution of approved safety protocols, or an employee’s
performance of assigned duties. The City is not liable for incidents involving the discharge or misuse of a firearm, whether accidental or intentional. Any liability or costs associated with the employee’s decision to conceal carry, including any resulting injuries or damages, will be considered the responsibility of the employee and will not be defended by the City. The City is not liable for any loss including damage to or theft of a personal firearm or any other personal property.

e) Nothing in this policy relieves the employee from performing his or her job duties in an efficient and timely manner, including the wearing of proper safety equipment and/or the following of proper safety protocols. Such failure may result in discipline up to and including termination.

f) Any employee violating this policy, including the inadvertent display of a handgun, will be subject to discipline up to and including termination.

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

h) Nothing in this policy shall be construed to create any duty or obligation on the part of the City to take any actions beyond those required of an employer by existing law. Nothing in this policy shall be construed to waive any immunity to which the City is entitled including but in no way limited to immunities under the Kansas Tort Claims Act.

i) For purposes of this policy, “weapons” does not include small pocket knives or utility knives with a blade less than 4 inches in length.

III. Emergency Procedures (Revised 06/08, 10/15)

a) All incidents of workplace violence in which (1) a weapon is displayed or used or (2) any person is injured must be immediately reported to a law enforcement agency by calling 9-1-1 and to a supervisor and department director.

b) The Director of Human Resources will evaluate the incident and determine whether to conduct a workplace safety investigation. If an investigation is directed, the Director of Human Resources will coordinate the investigation process and will involve the
safety committee in discussing ideas for improving safety in the work-place. The City Manager will be notified of the findings, as well as any recommendations to improve safety.
Chapter 6: General Employment Policies

I. Appearance

The appearance of employees at work influences the public’s perception of the City’s competence and professionalism. Employees shall maintain a neat, well-groomed personal appearance consistent with their positions and responsibilities. Clothing, body art/tattoos, piercings, and hair color or other grooming techniques that impair performance or disrupt transaction of public business is prohibited. Employees should consult their supervisors if they have questions as to what constitutes appropriate appearance for their positions.

II. Tobacco and Electronic Cigarette Use (Revised 04/10, 09/14)

In the interest of providing a safe and healthy environment for employees and the general public, use of any tobacco or electronic cigarette (e-cigarette) product in any City building, shop, vehicle, equipment or any indoor or enclosed area is prohibited. For the purposes of this section e-cigarette means any device that simulates smoking and includes electronic vaping devices, personal vaporizers (PV), and electronic nicotine delivery systems (ENDS). This ban includes, but is not limited to, smoking, chewing or “dipping” of any tobacco or similar product. Employees will be allowed to take breaks to use tobacco or e-cigarette products at the discretion of their supervisors or department directors. Use of these products is allowed in designated outdoor areas only; however, use of these products is not allowed within 20 (twenty) feet of any entrances, exits, open windows, or ventilation system air-intake mechanisms. While using tobacco and e-cigarette products outdoors, employees are not to foul the areas immediately adjacent to entrances to buildings with either smoke, debris or bodily fluids (i.e., “spit”). Employees are also responsible for keeping their break areas clean. Employees who fail to follow the tobacco and e-cigarette-free workplace policy of the City will be subject to disciplinary action.

III. Public Relations

Every City employee shall strive to promote good public relations for the department and the entire municipal organization. Virtually everything City employees do has an effect, direct or indirect, on the City’s image.

a) General Public. Visitors at any municipal building or area of work shall be welcomed and treated in a friendly and courteous manner. All inquiries, complaints or requests for assistance shall be given prompt attention.

b) Release of Information. Public statements or the release of information on all matters related to municipal policy, administration and the operation of any department shall, unless otherwise directed, be made only by the City Manager, the public information officer, and other personnel specifically authorized or approved by the City Manager.
IV. Punctuality and Absenteeism (Revised 06/08, 04/10, 09/16)

Except for breaks and other authorized absences, employees shall be at their assigned work stations during their regularly scheduled hours. Work schedules are established by the department director with the approval of the City Manager.

The City will try to accommodate employees when illness or personal emergencies necessitate being away from work. However, the City’s success depends on each employee being at work each time he or she is scheduled to work. Absenteeism or tardiness places an extra burden on other employees and causes a general interruption in City services. It is every employee’s responsibility to be at work on time unless prior arrangements have been made to cover the employee’s scheduled shift. If an employee is unable to work a scheduled shift, he or she is required to notify his or her supervisor at least twenty-four hours in advance except when leave is necessitated by an emergency or sudden illness. Failure to notify the supervisor of leave in advance will be considered an unexcused absence and the employee may be subject to disciplinary action up to and including termination of employment.

a) Unexcused Tardiness. Unexcused tardiness is defined as late arrival to work of less than one hour, which has not been approved or excused by the supervisor. Unexcused tardiness will result in the following disciplinary action:

1st instance – written reprimand
2nd instance – one day suspension without pay
3rd instance – termination of employment at the City Manager’s discretion

For the purpose of applying this policy, the reckoning period shall be one year in length, beginning on the date of the first instance of unexcused tardiness. When a year has passed from the first instance of unexcused tardiness, the first subsequent instance will be treated as the first instance.

b) Unexcused Absences. Unexcused absence is defined as an absence from work of one hour or greater, that has not been approved or excused by the supervisor or a leave for which there is no paid leave available and unpaid leave has not been approved. Each day constitutes a separate instance. Unexcused absences will result in the following disciplinary action:

1st instance – written reprimand
2nd instance – one day suspension without pay
3rd instance – termination of employment at the City Manager’s discretion

There is no reckoning period for unexcused absences.

c) Job Abandonment. Any unexcused absence of three consecutive days or more shall be deemed to constitute abandonment of employment. Any employee deemed to have abandoned his or her employment shall not be eligible for re-employment by the City.
V. **Knowledge of the City Organization.**

a) Every City employee works for the same public. All City employees should constantly strive to develop a better municipal operation. To that end, all employees shall develop a thorough knowledge of their own jobs and of the organization.

b) Supervisors and department directors shall encourage all personnel to become more knowledgeable, develop their talents and capitalize on their abilities to advance in their present positions and take advantage of future opportunities. Supervisors shall also continuously evaluate the abilities and performance of their employees so as to promote efficiency and the welfare of every employee and to assess eligibility for merit increases and promotions.

VI. **Qualifications of Employment**

All new applicants for any position with the City shall meet the minimum qualifications established for that position. The applicant shall also take a medical examination and other tests, including drug testing, when deemed necessary by the City.

VII. **Residency Requirements (Revised 06/08, 09/16, 02/19, 09/22)**

The following transportation safety sensitive employees shall live within thirty (30) minutes lawful drive time of the City limits:

- Public Works employees who are subject to call.

VIII. **Nepotism (Revised 11/10)**

a) Except as otherwise provided herein:

- No person shall be or remain employed in a department if any employee in such person’s supervisory chain is a member of such person’s immediate family; and
- No person shall be considered for employment in any division if a member of such person’s immediate family is employed within such division.

b) Immediate family members may be employed within the same division on a part-time or a temporary basis not to exceed five (5) months in any twelve (12) month consecutive period.

c) If two employees within the same department supervisory chain marry or otherwise become members of each other’s immediate families while employed by the City, an attempt will be made to transfer one such employee to another department. If no opening exists or neither employee is qualified for available openings, the employment of one of the employees will be terminated upon 60 days’ notice. Determination of which employee will be terminated is at the discretion of the City Manager based on the business needs of the City.
IX. Fraternization (Revised 06/08)

While the City encourages amicable relationships between supervisors and their subordinates, it recognizes that involvement in a romantic relationship may compromise a supervisory employee’s ability to perform his or her job. Any involvement of a romantic nature between a supervisor and anyone he or she directly or indirectly supervises is prohibited. Violations of this policy should be reported to the department director or Director of Human Resources. Any violation of this policy will be cause for disciplinary action, up to and including termination of the supervisor’s employment.

X. Outside Employment (Revised 06/08, 09/19)

a) Employees may be employed by another employer if: (1) there is no conflict with assigned City work hours; (2) the employee’s efficiency is not adversely affected; (3) there is no conflict with the interests of the City; and (4) the employment is approved by the department director.

b) A request to perform outside employment must be renewed and re-authorized by the department director if a substantial change in either the employee’s duties or the outside employment occurs or a conflict develops. The employee shall advise the department director of the nature of the outside employment, the hours involved and any other appropriate information. Whenever extra duty or stand-by for City employment is necessary, such status shall take precedence over outside employment.

c) In the event outside employment interferes with the employee's City job, the department director will request that the employee take whatever action necessary to eliminate further interference. Recurrence of the problem is cause for disciplinary action. No City employee shall use the power, prestige, or influence of his or her position with the City to obtain outside employment or personal advantage.

d) If an employee has been approved by his or her department director for outside employment prior to taking leave for medical purposes (including FMLA leave), the employee must notify the Director of Human Resources if they intend to continue to work their other job while on medical leave. The Human Resources Director (with input from the employee’s health care provider, as necessary) will determine if the pre-approved outside employment conflicts with the employee’s need for leave. If there is a conflict, the employee is prohibited from continuing the outside employment while taking leave for medical purposes, regardless of being approved for outside employment prior to taking the leave for medical purposes.

If an employee has not been approved for outside employment prior to taking a leave for medical purposes, the employee must get advance written approval from the Director of Human Resources before engaging in outside employment while on a leave for medical purposes. The Director of Human Resources will determine if the request regarding outside employment conflicts with the need for leave, as described above.
XI. Dual Employment

Unless specifically approved in writing by the City Manager, no person shall hold more than one position as a City employee.

XII. Political Activity (Revised 06/08, 09/16, 09/17)

The City recognizes and respects the rights of its employees to participate in the political process. Every employee has the right to register and vote in all elections. Employees are permitted to join political organizations, civic associations or groups and become involved in political activities subject to the restrictions of the City’s Political Activity procedure. The Political Activity procedure is located on the intranet and should be consulted prior to seeking a public office or becoming involved in a political campaign. This procedure also provides information on what employees can and cannot do in support of a particular candidate. Contact the Human Resources Director for additional information.

XIII. Gratuities

a) No employee shall accept a gratuity or an offer of employment in connection with any decision or recommendation concerning a proposed or actual purchase on behalf of the City of Derby; nor shall any employee permit any influence which could conflict with the best interest of the City, or prejudice the City’s reputation. The responsibility for adherence to this policy is a joint one. Individuals who represent the City must be beyond reproach in every business transaction, and not allow themselves to be put in a position where their judgment can be influenced.

b) In order to avoid the appearance of favoritism or bribery, City employees are prohibited from accepting any gratuities, special discounts, favors, hospitalities or services having an aggregate value of $100 or more in any calendar year.

c) Gratuities shall not include pens, calendars, or other novelty items used as advertising, or meals or other events attended for the purpose of conducting or discussing official business.

XIV. Personal Property

Personal belongings brought onto the City of Derby’s premises are the employee’s responsibility, and must be appropriate and must not be obscene or offensive to other employees or to the public we serve. While the City does all it can to protect the property of employees, it cannot be held responsible for the loss or theft of personal belongings. Employees who find property missing or damaged are encouraged to report it to their supervisor immediately and to law enforcement if appropriate.

a) In accordance with applicable laws, City management may search, review or inspect any of the following, without prior notice:
   
   • Any personal property, including vehicles, brought onto City-owned or leased grounds; and
• Any City property assigned to the employee, including City computers, including all electronic mail, internet usage logs and electronic documents.

b) Searches of employee property will only be conducted when reasonable suspicion of violation of City or department policies or regulations is suspected.

c) All searches must be authorized by the department director and the City Manager.

XV. Use of City Vehicles (Revised 11/10, 09/16)

a) City Vehicle Take-Home Usage. Certain job positions allow for the personal assignment of a City vehicle, which can be driven home by the employee. As a general rule, personally assigned vehicles are to be used by employees for the sole purpose of transportation to and from work and work-related usage. Personal use of City vehicles is prohibited. Pursuant to Internal Revenue Service regulations, transportation to and from home is considered a form of compensation and non-emergency personnel must be taxed for this benefit. Employees will be taxed based on a daily commuting usage benefit for the value of not having to drive their personal vehicle to and from work.

b) City Vehicle Business-Only Usage. Certain job positions provide for a vehicle to be assigned to a particular employee for the purpose of City business only. Under no circumstances will a City vehicle be taken home or used for non-business purposes without prior authorization from the department director. If a vehicle is assigned to a department director, authorization from the City Manager is required.

c) Motor Vehicle Records. Motor vehicle records may be obtained on any employee driver prior to employment and at least once a year thereafter. A driving record that fails to meet the criteria established by the City’s liability insurance provider will result in a loss of the privilege of driving a City vehicle and may result in termination if driving is a necessary function of the position. Criteria that may indicate an unacceptable driving record includes, but is not limited to: (1) DUI within five years; (2) two or more speeding violations greater than 15 mph over the speed limit in three years; (3) three or more moving violations in one year; (4) three or more accidents within one year where the employee is determined to be the primary cause of the accident; or (5) any combination of three or more accidents or moving violations.

d) Driver Guidelines and Reporting Requirements. Failure to observe the following driver guidelines and reporting requirements may result in disciplinary action up to and including termination of employment:

• The use of City vehicles while under the influence of alcohol, drugs, or other substances which impair a motorist’s abilities is strictly prohibited.

• Cell phone use while driving a City vehicle shall be kept to a minimum and in accordance with applicable laws. Drivers shall complete calls while the vehicle is parked or use the phone in a “hands free” mode via a headset or speaker. Texting while driving is prohibited. While driving, attention to the road and safety should always take precedence over conducting business over the phone.

• Only authorized persons are allowed to ride in City vehicles without the prior
Drivers are responsible for securing City vehicles assigned to them. Unless driving an emergency response vehicle, the vehicle engine must be shut off, ignition keys removed, and vehicle doors locked whenever the vehicle is left unattended.

Any employee who has his or her driver’s license revoked or suspended shall notify their supervisor immediately (next business day if not a work day) and discontinue operating any City vehicles or equipment, which require a driver’s license.

Employees must report any accident, theft or malicious damage involving a City vehicle to their supervisor and to the police department as soon as possible after the incident. Employees are expected to cooperate fully with authorities in the event of an accident. Employees must complete an Employee City Property Damage/Vehicle Accident Report and, if applicable, the Employee Report of Work Related Injury Report.

Payment of speeding or parking tickets is the sole responsibility of the employee driving the vehicle. Failure to pay such tickets prior to notification to the City of Derby by law enforcement agencies may result in disciplinary action up to and including termination of the employee driver.

XVI. Ethics (New 07/09)

a) City employees shall conduct themselves with integrity and refrain from any activities that may raise questions as to the City’s business practices, impartiality or reputation or that would otherwise cause embarrassment to the City. Employees will avoid any action, whether or not specifically prohibited in the personnel policies, which adversely affect the confidence of the public in the integrity of the City or could reasonably be expected to create an appearance of using public position for private gain or giving preferential treatment to any person or entity.

b) Employees shall ask questions, seek guidance, and report violations of this policy to their supervisor. If for any reason this is not possible or if the employee is not comfortable discussing the ethical question or concern with his or her supervisor, the issue can be taken to a department director or the Director of Human Resources.

c) All allegations of questionable or unethical behavior will be investigated promptly and when improper behavior is found to have occurred, appropriate action will be taken.

d) Retaliation will not be tolerated against any employee who raises a legitimate ethics concern or raises a concern in good faith.

XVII. Return to Work After On-the-Job Injury (Revised 04/10, 09/17, 09/20, 09/21)

a) It is the City’s policy to aggressively return employees to work after a work-related injury, within the restrictions provided by the physician.
b) Supervisors, in consultation with department directors and the Director of Human Resources, will be responsible for finding productive work that meets the restrictions for each injured employee.

c) If no work is available within the injured employee’s department that meets the employee’s work restrictions, work in another department of the City may be assigned. The rate of pay received by the injured employee will be based on the temporary assignment and duties performed and may be lower than the employee’s rate of pay for their standard job functions. Employees’ work schedules may also be adjusted while on restrictions to better meet the needs of the department. In the event a Fire and Rescue employee’s schedule is adjusted, due to work restrictions, from the normal 56-hours worked to a 40-hour per week schedule, when eligible, worker’s compensation wages will provide for a portion of the wages and the employee will be allowed to utilize Injury Leave and other available leave to make up the difference.

d) In the event the employee is unable to perform the essential functions of the job within six weeks, the Human Resources Director, in consultation with the department director, will determine if it is in the best interest of the City to continue to accommodate the work restrictions. If it is not in the City’s best interest, the employee may be placed on worker’s compensation leave, which is paid at 66 2/3% of the employee’s average weekly wage after the waiting period has occurred. Time off work due to a workers’ compensation covered injury will be counted against any FMLA entitlement. Employees with paid leave will be provided the option to utilize their leave to make up the difference between their worker’s compensation benefits and their regular rate of compensation. Those with no paid leave available, who are not eligible or who have exhausted their FMLA, may submit a Leave Without Pay Request Form to request a leave without pay. Leave Without Pay Request Forms are located on the intranet.

XVIII. Light Duty for Off-the-Job Injury (New 09/20)

a) For non-work-related injuries and medical conditions, an employee must provide medical restrictions from a physician to Human Resources to be considered for light duty. The Director of Human Resources, in consultation with department directors, will evaluate each situation on a case by case basis to determine if there is sufficient productive work available to temporarily meet the work restrictions. The department director and the Director of Human Resources will consider the employee’s skills, abilities, and past performance when determining whether or not to meet the employee’s work restrictions.

b) Employees with an ADA covered condition who are in need of temporary light duty restrictions, pregnant employees, and those injured on the job will be given first consideration for light duty work.

c) If temporary light duty work is approved, it will normally be limited to six weeks, except for reasons related to pregnancy accommodations. If the employee is not able to perform all of the essential functions of their regular job within this period, the Director of Human Resources and the supervisor will engage the employee in a discussion about how we might help them perform their job.
d) Once the light duty work is no longer available, if the employee is still unable to perform the essential functions of the job, the employee will need to utilize their available paid leave and will be offered FMLA leave, if eligible. Those with no paid leave available, who are not eligible or who have exhausted their FMLA, may submit a Leave Without Pay Request Form to request a leave without pay. Leave Without Pay Request Forms are located on the intranet.

XIX. Reporting of Violations of Policies and Procedures (New 09/14)

a) Violations of policies and procedures and complaints of retaliation for reporting violations can be made to the supervisor, department director or the Director of Human Resources.

b) No employees shall in any manner retaliate against an employee, applicant for employment or customer for reporting a violation of city policies and procedures.

XX. Special Requests (New 10/18)

Employees who have a special circumstance that they believe should qualify them for an exception to a City policy can submit a Special Request Form to Human Resources. Within 5 business days of receiving the request, Human Resources will review all policies and procedures that relate to the request as well as examples of previous request of this nature, and will make a recommendation to the City Manager. Within 5 business days of receiving the recommendation from Human Resources, the City Manager will make a determination to approve or deny the request based on all of the information provided.

Example of a special request: An employee who was unable to use down their vacation leave to the carryover limit due to work demands might submit a special request to extend their vacation carryover date.
Chapter 7: General Rules of Safety

I. Workplace Safety

a) The City is committed to the safety and health of all employees and recognizes the need to comply with regulations governing injury and accident prevention and employee safety. The City will maintain safety and health practices consistent with the needs of the City and its citizens, employees, guests and customers. Maintaining a safe work environment, however, requires the continuous cooperation of all employees. Compliance with these safety rules is considered a condition of employment. It is the responsibility of each employee to accept and follow established safety regulations and procedures.

b) In addition to the safety rules provided herein, all City employees are expected to follow safety procedures as outlined in the City of Derby Employee Safety Manual. The policies contained in the City of Derby Employee Safety Manual are considered part of this Manual. From time to time, the City may also post notices dealing with specific safety issues. These notices may not be removed without authorization from the City.

c) The safety of our employees and citizens lies in each employee’s ability to act correctly and responsibly. Each employee must do his or her part to maintain a safe work environment. Below are some general safety rules to assist employees in making safety a regular part of their work.

- Keep work areas clean. Grease, debris, ice and spills must be cleaned up immediately to avoid slips and falls.
- Never attempt to operate defective or malfunctioning equipment.
- Never operate machinery or equipment until adequately trained in its use.
- Horseplay on City premises, including the parking lot, whether on duty or off duty, may cause accidents and will not be permitted.
- Compliance with all federal, state and local safety laws, as well as City regulations and policies, is required at all times.
- Employees must be familiar with the use and location of fire extinguishers.
- Exit doors are to be unlocked at all times during business hours.
- Exit hallways must never be blocked during business hours.
- If in doubt regarding the safe way to perform a task, do not proceed without consulting a supervisor. Employees will not be asked to perform any task that may be dangerous to their health, safety or security. If an employee feels a task may be dangerous, he or she should inform his or her supervisor at once.

d) The City strongly encourages employee participation and input on health and safety matters. Employees may report potential hazards and make suggestions regarding safety without fear of retaliation. The City appreciates, encourages and expects this type of involvement. Although it is the City’s responsibility to provide for the safety, health and security of its employees during working hours, it is the responsibility of each employee to abide by the rules, regulations and guidelines set forth, and to report
any potential dangers. Failure to adhere to these rules will be considered a serious infraction of safety rules, and will result in disciplinary action.

II. Use and Maintenance of City Equipment

Employees are to use City equipment, facilities, and vehicles for official use only in the manner prescribed in the City of Derby Employee Safety Manual. All equipment is to receive proper maintenance at intervals specified. Abuse of City equipment will lead to disciplinary action. All City property must be returned upon termination of employment with the City.

III. Reporting Safety Issues (Revised 09/16, 10/18)

a) All accidents, injuries, damage to City property, potential safety hazards, and health- and safety-related issues must be reported immediately to the employee’s supervisor or department director. In the event of a life threatening situation or risk of harm to the public, the City Manager should be notified as quickly as possible. If an employee is injured, contact outside emergency response agencies, if needed. Even in instances where immediate medical treatment is not needed, an Employee Work-Related Injury Report MUST be completed in case medical treatment is needed at a later date and to ensure that any existing safety hazards are corrected.

b) In the event of a non-employee accident, injury or damage to personal property, including vehicles, the incident must be immediately reported to the supervisor or department director. If an injury is sustained, offer assistance but allow the injured person to determine the assistance he or she requires, including the need for medical assistance. Employees are required to report vehicle accidents to 911. Employees should never admit fault or promise any remuneration or consideration by the City. Be sure to gather all of the facts, including the name, address and phone number of the injured party, as well as the nature and time of the accident. If possible, gather the same information from any witnesses to the accident or injury.

c) The City is not responsible for any loss, theft or damage to any vehicle or its contents, whether employee, customer or guest owned.
Chapter 8: Employment Status and Records

I. Employment Classifications (Revised 06/08, 07/09, 10/11, 03/13, 09/16)

a) All employees are classified as one of the following:

- **FULL-TIME**: Employees who work on a regular and continuing basis and who work thirty-six (36) or more hours per work week for a period of twelve months. *Employees who work an average of at least 30 hours per week are not considered full-time but will be eligible for medical insurance in compliance with the Patient Protection and Affordable Care Act.*

- **PART-TIME**: Employees who work less than a regular full-time work week on a regular and continuing basis. Students 18 years of age and under working between academic terms shall be considered part-time employees regardless of the number of hours worked.

- **TEMPORARY/SEASONAL**: Employees who work on a temporary or recurring basis for a specific purpose or program and whose employment is not intended or expected to exceed five (5) months in any calendar year. These employees are not eligible for any benefits except those required by law. Workers who are employed by a temporary employment agency to do work for the City are not considered employees.

All part-time and full-time employees are considered introductory employees until they have completed the one-year introductory period. Once the introductory period has been satisfactorily completed the employees are considered Regular Employees.

- **ELECTED OFFICIALS**: Members of the Governing Body are not employees of the City, and this Manual does not apply to them.

- **VOLUNTEERS**: Unpaid individuals performing services for or on behalf of the City and, though not employees of the City, may be dismissed from service for dangerous or unsafe acts or omissions, for failure to perform volunteer duties satisfactorily, or if their services are no longer needed. This Manual does not apply to volunteers.

- Employees hired from temporary employment agencies for specific assignments are employees of the respective agency and not of the City.

b) In addition, employees are classified in one of two classifications for wage and hour purposes under state and federal law:

- **NON-EXEMPT EMPLOYEES**: Non-exempt employees are eligible to receive overtime or compensatory time as required by the Fair Labor Standards Act (FLSA). Non-exempt employees are paid on an hourly basis. Overtime pay is 1.5 times the regular rate of pay.

- **EXEMPT EMPLOYEES**: Exempt employees are exempt from the minimum wage and overtime provisions of the federal Fair Labor Standards Act (FLSA). Exempt employees are paid a salary and are not eligible to receive overtime compensation for hours worked in excess of 40 hours in a work week. All exempt employees shall be notified at the time of hire or change in status of their exempt classification.
c) **Introductory Period.** The introductory period is an integral part of the selection and screening process and shall be used for close observation of the work of the employee and for termination or reassignment of an employee whose work does not meet the standards for his or her position, as determined by the supervisor or department director. Unless waived by the City Manager, all new employees and the majority of promoted, transferred and demoted employees shall serve an introductory period as follows:

- “Initial Introductory Period” means twelve (12) consecutive months of employment by the City, commencing on the employee’s initial hiring date or from the rehire date for employees rehired after a break in employment of more than forty-five (45) days.
- “Position Change Introductory Period” means six (6) consecutive months of employment by the City, commencing on the date the employee is promoted, transferred, or demoted within a department or from one department to another within the City. The position change introductory period may be waived by the department director for a demotion and transfer within the same department.
- Any introductory period may be extended in increments of up to three (3) months at the request of the department director and upon approval by the City Manager.

II. **Performance Reviews (Revised 06/08, 09/16)**

a) **Purpose.** Employee performance evaluations will be considered in determining wage increases and decreases, as a factor in promotions, as a factor in determining the order of layoffs, and as a means of identifying employees who should be promoted or transferred, or who, because of their low performance should be subject to disciplinary action, up to and including termination.

b) **Frequency and Use.** An evaluation of the performance of each newly hired, promoted, demoted, and transferred (except lateral transfer) full-time and part-time employee shall be prepared after six months in the position. However, they will not be eligible for merit increases until completion of one year in the position. After the initial review, performance reviews will be conducted annually on the latter of the employee’s anniversary date of hire, promotion, demotion, or transfer. An employee who has received a poor performance rating may be evaluated on a more frequent basis. The reviews will be conducted in writing on a form approved by the City Manager. (See Chapter 9 for additional information on promotion, demotion, and transfer performance reviews).

III. **Reinstatement (Revised 04/10)**

a) When a former employee is rehired by the City, such employee’s service date may be adjusted by the City to give him or her credit for previous service if the break in service is no longer than 45 days. Former employees who apply for positions with the City are not guaranteed reinstatement. Reinstatement and adjustment of service dates is solely at the City’s discretion.
b) The employee’s date of hire will be used to determine a rehired employee’s eligibility for vacation leave. For all other benefits, the applicable plan document will govern whether previous service can be used to establish eligibility.

c) If extenuating circumstances are determined to exist, the City Manager may make exceptions to the reinstatement policy.

IV. Personnel Records and Rules (Revised 04/10)

a) Records. The City keeps accurate, up-to-date employment records on all employees to ensure compliance with state and federal regulations, to keep benefit information up-to-date, and to make certain that important mailings reach all employees. In addition to a general personnel file, the City maintains a separate payroll file, medical file, and restricted access file for each employee. Access to an employee’s medical file and restricted access file is highly restricted and based on a need-to-know basis only. The organization considers the information in employment records to be confidential.

b) Updates. Employees must inform the City of any necessary updates to their personnel information such as a change of address, change of telephone number, emergency contact, marital status, number of dependents, or military status. Employees should also inform their supervisor and the Human Resources division of any outside training, professional certifications, education, or any other change in status.

c) Employment Verifications and References. All employment verifications and reference requests must be submitted to the Human Resources division. The Human Resources division will only verify factual information contained within the personnel file pertaining to employment. This includes: dates of employment, rates of pay, job titles, documented job performance, and the reason for separation. Except when required by law, additional information will only be provided with written authorization from the employee.

d) Access. Personnel files are the City’s property, and access to them is restricted. Generally, only the department director, City Manager or Human Resources personnel who have a legitimate reason to review information in an employee’s file are permitted to do so. Employees may, upon a reasonable request, review their own personnel files. All personnel files shall be viewed only on the City’s property and in the presence of the department director, City Manager or Director of Human Resources. Employees may request copies of portions of their file by submitting such request to the Director of Human Resources. Under no circumstances may an employee remove his or her personnel file, or any part of it, from the City’s property.

V. Health Insurance Portability and Accountability Act (HIPAA) (New 04/10)

a) The City of Derby complies with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) relating to the privacy requirements for Protected Health Information (PHI). This policy defines how PHI obtained by the City during the employment relationship with an employee will be used and who will have access to the information.
b) Definitions:

- “Protected Health Information” (PHI) includes individually identifiable health information relating to a specific employee or dependent, that is maintained or transmitted in any form to a healthcare provider, group health plan or to which the City may have access.

- “Privacy Officer” is the person in the organization who is assigned to ensure compliance with all federal and state laws regarding privacy of PHI. The Director of Human Resources serves as the Privacy Officer for the City of Derby and may be contacted at 611 Mulberry, Derby, KS 67037.

c) Medical information about employees and their dependents health is personal and confidential. City policy limits use of PHI to the extent necessary to make City benefits effective. Under HIPAA regulations, permitted use and disclosure is limited to treatment, payment, or operation (TPO) of the health plan(s). PHI cannot be used or disclosed for any other purpose without prior written authorization by the individual. City Human Resources staff may be exposed periodically to PHI, such as during benefits enrollment, assisting employees with claims processing, plan interpretation or medical leave. The City will, to the extent required by law:

- Keep medical information that identifies an employee confidential;
- Disclose or use medical information only for the purpose of treatment, payment or operation of the health plan(s) or if properly authorized to be used for another purpose permitted by law or regulation;
- Provide employees notice of the City's privacy practices;
- Train employees exposed to PHI regarding proper handling of the information;
- Inform employees of their right to inspect and copy medical information; and
- Require that all business agents that process or have access to PHI comply with the privacy requirements of HIPAA.

d) The Privacy Officer is responsible for the functions of auditing, training, record keeping, corrective action, and receipt of requests and exercise of employee rights, and receipt of notices from employees and/or enforcement agencies. Employees have the right to inspect and copy PHI maintained by the employer, to the extent required by law. The Privacy Officer will be responsible for maintaining all records of requests to inspect or copy PHI.

- Request to Review: A formal written request must be submitted to the Privacy Officer to review Private Health Information. If known, the type of information requested should be listed.
- Time of Review: A mutually agreeable time will be set up to review the information in the presence of the Privacy Officer.
- Copies of Information: A fee per copy that is commensurate with the fee for open records related requests may be charged for copies of requested documents.
- Denial: A request may be denied as provided by HIPAA. Upon a denial, the city will inform the employee of the basis of the denial and, if applicable, furnish a
statement regarding how to obtain a denial review and a description of the complaint filing procedures.

- **Request to Amend:** An employee who feels that the PHI maintained by the City is incorrect or incomplete, may ask to have the file amended. This request must be in writing and submitted to the Privacy Officer along with a reason for the request. The Privacy Officer will be responsible for maintaining all records of such requests to amend the file.

- **Denial of Request:** A request to amend the file may be denied as provided by HIPAA. Upon a denial, the City will inform the employee of the basis for the denial. The City will also provide a statement that the individual has the right to submit a written statement disagreeing with the denial and explaining how the statement may be filed. If a statement of disagreement is not filed, the employee may ask the City to provide (1) a copy of the amendment request with any future PHI disclosure; and (2) a description of the complaint procedures used by the City.

e) Employees who violate this policy will be subject to discipline up to and including termination.
Chapter 9: Promotion, Transfer, Demotion and Reclassification

I. Purpose

To establish uniform procedures for processing of promotions, transfers, demotions, and reclassifications.

II. Promotion (Revised 07/09, 01/20)

a) Definition. A promotion means that the employee is: (1) moving to a new, more responsible position with increased responsibilities; (2) the new position is in a higher pay classification; and (3) the new position is in the same established job family as the former position (e.g. Wastewater I and Wastewater II). A title change does not necessarily constitute a promotion.

b) Promotion Procedures. A higher pay grade position must be vacant in an established job family. Departments are encouraged to develop specific criteria for promotions, which may include testing, performance evaluation standards, interviews, and other criteria for determining an employee’s ability to perform satisfactorily in a higher-level position. A copy of any promotion procedures developed by individual departments shall be provided to the Director of Human Resources. Upon approval by the City Manager or designee, a vacancy may be filled by promotion without public job advertisement. A vacancy exists when:
   - An incumbent leaves a position; or
   - A new position is authorized by the City Manager with the approval of the City Council.

c) Pay Rate. Upon promotion, an employee will receive the greater of the minimum rate of pay for the new position or 105% of their current pay. In the event a performance review is due within 4 months of the promotion, consideration will be given as to whether to provide an additional increase in the amount of the last merit increase on top of the 5% promotion pay.

d) Unused Leave. An employee who is promoted shall be entitled to retain all unused leave balances; provided, however, that accrued balances may be paid out if the transfer is from a position that accrues a particular type of leave to a position that does not (e.g. compensatory time is accrued by non-exempt employees, but not accrued by exempt employees). Leave that is paid out under these circumstances will be paid out at the employee’s current pay rate prior to the promotion.

e) Performance Review Schedule. The performance review schedule for a promoted employee shall be adjusted to reflect the date of the promotion. Performance evaluations will be completed for promoted employees after six months of service in the new position. Employees will be eligible for a merit increase after completion of one year in the new position.

f) Demotion of Promoted Employees. A demotion that occurs due to a promoted employee being unable to perform satisfactorily in the new position during the
introductory period will return the employee to their previous position and previous pay or a reasonably comparable position, provided such an opening is available.

III. Transfer (Revised 07/09, 09/17, 01/20)

a) **Definition.** A transfer means a lateral transfer or a non-lateral transfer.
   - A lateral transfer is the movement of an employee from one position to another with the same pay range.
   - A non-lateral transfer is the movement of an employee from one position to another with a higher or lower pay range.

b) **Transfer Procedures.** Any employee may request a transfer at any time when there exists a vacancy for which the employee desires consideration and all such requests require approval from the City Manager or designee. The City Manager or designee may also make a non-requested lateral transfer or non-lateral transfer whenever deemed to be in the City’s best interest.

c) **Pay Rate.** A transferred employee may be paid at or above the minimum entry level of the new pay range, depending on the employee’s qualifications for the new position. In the event a performance review is due within 4 months of the promotion, consideration will be given as to whether to provide an additional increase in the amount of the last merit increase on top of the non-lateral transfer pay rate.

d) **Unused Leave.** An employee who transfers from one position to another shall be entitled to retain all unused leave balances; provided that unused balances may be paid out if the transfer is to a department or position that does not accrue a particular type of leave (e.g. holiday leave is not accrued by non-exempt Fire and Rescue Department employees). Leave that is paid out under these circumstances will be paid out at the employee’s current pay rate prior to the transfer.

e) **Performance Review Schedule.** A lateral transfer does not change the transferred employee’s performance review date. For non-lateral transfers, the employee’s performance review date will be the date of the transfer. Performance evaluations will be completed for non-lateral transfers after six months in the new position. Non-lateral transfers are eligible for merit increases after completion of one year in the new position.

IV. Demotion (Revised 03/13)

a) **Definition.** A demotion is a downward movement of an employee from one position to another within an established job family (e.g. Wastewater I and Wastewater II), whether based on inability to satisfactorily perform assigned duties, disciplinary reasons, changes in the City’s workforce needs, or lack of work or funds. Demotion does not include placement of an employee in a position at a lower pay grade within an established job family at the employee’s request, which will be considered to be a non-lateral transfer.

b) **Pay Rate.** Employees who are demoted or request a non-lateral transfer to a lower paying position will be paid at the maximum for the position to which
they are demoted or 95% of their pay immediately before demotion, whichever provides the greater reduction, provided that newly promoted employees who are demoted to their previous position during an introductory period will be returned to their previous pay.

c) **Unused Leave.** An employee who is demoted shall retain all unused leave balances, provided, that unused balances may be paid out if the demotion is to a department or position that does not accrue a particular type of leave (e.g. Deputy Fire Chief accrues holiday leave, but Fire Lieutenant does not).

d) **Performance Review Schedule.** The employee’s performance review date will generally be adjusted to reflect the date of demotion. Performance evaluations will be completed for demoted employees after six months in the new position. Demoted employees will be eligible for merit increases after completion of one year in the new position.

V. **Reclassification (Revised 01/20)**

a) **Definition.** Reclassification means the re-evaluation and reassignment of a position to assure that the pay plan accurately reflects the worth of the position. A position may be reassigned either upward to a higher pay range or downward to a lower pay range. Reclassification does not constitute either promotion or demotion. Employees holding positions which are reclassified will not serve an introductory period.

b) **Conditions Supporting Reclassification.** Reclassification is an action taken to recognize one of two conditions:

- The duties, responsibilities and qualifications of an existing position have substantially changed over time to the extent that the position no longer resembles others in its class; or
- Labor market conditions, as demonstrated by recruitment and retention experience and verified by salary survey data; indicate a need to re-evaluate the classification of a position.

The reclassification process will not be used to reward an employee who is performing well in a properly classified position and possesses potential to perform in a higher level position which the City does not need, or to provide additional salary growth to an employee who has reached the top of his or her pay range.

c) **Pay Rate.** A department director may place the employee in the reclassified position at or above the minimum entry level pay of the new pay range, depending on qualifications. In the event a performance review is due within 4 months of the reclassification, consideration will be given as to whether to provide an additional increase in the amount of the last merit increase on top of the reclassification pay.

d) **Unused Leave.** An employee whose position is reclassified shall be entitled to retain all unused leave balances; provided, that unused balances may be paid out if the reclassification includes a change in the ability to accrue certain leave balances (e.g.
compensatory time is accrued by non-exempt employees, but not accrued by exempt employees).

e) **Performance Review Schedule.** The performance review date of an employee whose position is reclassified will not change.
Chapter 10: Timekeeping, Payroll, Hours and Compensation

I. Purpose

It is the intent and policy of the City to comply with the provisions of the FLSA, as it applies to local governments, in its overtime and compensatory time provisions and pay practices for City employees. In the event that the City’s personnel policy should differ from the FLSA, the FLSA controls.

II. Official Pay Plan

The Director of Human Resources will maintain the pay plan, including an inventory by number of all positions in the service of the City and a pay matrix establishing the minimum and maximum compensation for each authorized position within the City workforce. Pay ranges are set in accordance with market rates for comparable work in cities similar to the City of Derby, and to the greatest extent practical reflect the duties and responsibilities of each position. The City Manager, with approval of the City Council, may change the pay plan or any component of the pay plan at any time, with or without notice to affected employees.

III. Entry Level Wage/Salary (Revised 09/22)

A new employee with no experience will normally enter employment at the minimum wage/salary established for the position. Employees with prior similar experience will be given credit for their years of service, in a manner consistent with how it is provided to existing employees during pay studies. Department directors may present justification for exceptions to the City Manager for consideration.

IV. Work Week and Work Periods (New 09/22, 11/22)

The standard work week for all employees is a seven-day period beginning on Sunday, at 12:01 a.m. and ending the following Saturday night at 12:00 midnight. The work period for all employees matches the standard work week, except that for sworn Fire and Rescue personnel working a 24-hour shift the work period is a 14-day period beginning on Sunday, at 12:01 a.m. and ending 14 days later at 12:00 midnight.

V. Pay Periods and Paychecks (Revised 09/22)

Employees will be paid on a bi-weekly (every other Wednesday) basis. While the normal payday is Wednesday, if a scheduled payday falls on an observed holiday, employees will be paid on the day preceding the holiday. A pay stub summary with details of earnings will be electronically distributed on each payday.

By January 1 of each year, the Payroll Coordinator will make available an annual schedule indicating the starting and ending dates of each pay period during such year.
V. Overtime

a) Eligibility. Nonexempt full-time and part-time employees will be paid at one and one-half (1 ½) times their regular rate of pay for each hour worked in excess of the maximum allowed by the FLSA during a work period or, at the discretion of the authorized supervisor, be credited one and one half (1 ½) hours of compensatory time off for each hour worked in excess of the maximum allowed by the FLSA during such work period. For employees that are not public safety employees this will include all hours worked in excess of 40 hours in a 7 day work period. Exempt employees as defined by the FLSA are not eligible to receive overtime pay. No employee shall be permitted to work overtime except when an emergency exists or overtime work is necessary to carry out normal and essential services of the city, and is assigned by his or her immediate supervisor. Working overtime without authorization may subject an employee to discipline, up to and including termination.

b) Payment. 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 director, an employee may be given compensatory time off in lieu of cash payments for the overtime worked. Any compensatory time shall be at the rate of one and one-half times the hours of overtime worked.

c) Recording Actual Hours Worked. It is the employee’s responsibility to accurately record and submit record of any overtime worked. The department director shall maintain such records.

VI. Compensatory Time Off (Revised 07/09, 09/22)

a) Purpose. Occasionally eligible employees may be called upon to work overtime, and subject to supervisor approval these employees may receive compensatory time in lieu of overtime at a rate of one and one half hours for each hour worked in excess of the maximum allowed by the FLSA during a work period.

b) Eligibility. Only employees eligible for overtime pay are eligible for compensatory time off in lieu of overtime pay. Employees not eligible for overtime pay are those employees defined by the FLSA as “Non-Covered Employees”. Included within the definition of non-covered employees are all exempt employees.

c) Use of Compensatory Time. Employees working approved overtime may receive compensatory time off in lieu of overtime pay, either compensation being earned on the basis of one and one half hours for each hour of overtime worked in excess of the maximum hours applicable to the type of employment in which the employee is engaged. Compensatory time is used in most cases, but department directors can sign off on electronic time sheets to approve overtime in lieu of comp time.

d) Accrual. Employees receiving compensatory time off in lieu of overtime pay may accrue compensatory time up to the maximum amounts specified below, and must be paid overtime for overtime hours worked when the maximum accrued amounts have been earned and are unused. Employees may accrue a maximum of forty (40) hours of compensatory time with the exception of firefighters who may accrue a maximum of
fifty-six (56) hours of compensatory time. All other overtime will be paid at a rate of one and one half hours for each hour of overtime worked in excess of the maximum hours applicable to the type of employment in which the employee is engaged.

e) Non-Covered Employees. Non-covered employees, including all exempt employees, are not eligible for overtime compensation or compensatory time off. It is recognized that the positions of these employees often require them to work beyond the regular scheduled hours of duty, and some flexibility shall be granted them in adjusting their work schedules to meet varying work loads. These employees are granted the privilege of adjusting their work schedules to work lesser hours when their work loads permit. There shall be no accumulation of administrative leave of any nature beyond the employee’s privilege of adjusting their work schedules. Upon departure from employment with the City, employees will not be paid for any claimed administrative leave for supposed “overtime” work.

f) Compensatory Pay. If compensation is paid to an eligible employee for accrued compensatory time off, the compensation will be paid at the regular rate earned by the employee at the time the employee receives such payment. An eligible employee who has accrued compensatory time off upon termination of employment will be paid for the unused compensatory time at a rate of compensation not less than (1) the average regular rate received by the employee during the last three years of the employee's employment, or (2) the final regular rate received by the employee, whichever is higher.

g) Records. The official time and attendance records maintained by the City will be the controlling records for any compensatory time purpose. The City may pay an employee, in whole or in part, for accumulated compensatory time, at any time.

VII. Longevity Pay (Revised 07/09, 04/10)

Full-time employees who have completed five (5) years of continuous service with the City as of December 31, 2009, will continue to receive monthly longevity pay based on the rate of $5 per year of continuous service worked as of December 31, 2009, up to a maximum of $100 per month. No other employees will receive longevity pay.

VIII. Merit Increases and One Time-Performance Pay (OTPP) (01/20)

a) Each employee, whose performance meets requirements or better, based on criteria selected for evaluation by the department director, will receive a merit increase.

b) Performance evaluations will be completed for new employees and transferred or promoted employees after six months service in the new position; provided, that employees will not be eligible for merit increases until completion of one year in the new position.

c) An employee whose wage or salary is above or at the maximum pay for his or her position will continue to be eligible for performance pay based on his or her performance evaluation. Performance pay shall not increase such employee’s regular
rate of pay, unless the employee’s pay range maximum is increased, in which case any portion of the OTPP that can be added to the base pay without exceeding the new maximum, will be added to the base pay. Performance pay will be paid in bi-weekly installments throughout the year.

d) All pay increases shall be granted strictly on the basis of merit only. To be eligible for a merit increase or performance pay, an employee must receive an overall performance evaluation indicating that he or she has met the supervisor’s expectations.

e) Merit increases and performance pay may be suspended, postponed or terminated at any time when, in the judgment of the City Manager, the City lacks available funds therefore.

f) Changes to this policy will take effect prior to any reviews processed on or after the pay period beginning December 29, 2019, since this is the first pay period of 2020.

IX. Pay Study Process and Implementation (New 09/20)

a) Due to the importance of attracting and retaining employees, a pay study for each position will be conducted approximately once every three years to compare each position’s pay range to the market. The market for the purpose of City of Derby pay studies includes: Butler County, Dodge City, Emporia, Garden City, Hays, Hutchinson, Newton, Prairie Village, Salina, Sedgwick County, and Wichita. When there are insufficient comparisons identified from these entities, additional comparisons will be made with other cities and counties within the state (on rare occasions non-profit and private sector matches may be utilized, when these are appropriate comparisons).

b) Determination for which comparable positions will be used for each entity will be made based on job descriptions and not solely based on titles. The factors used to determine whether a position is a good match will include the skills, education, and responsibilities of the position. For unique positions, the position may be matched to another position within the City of Derby that is deemed to have similar requirements.

c) When pay studies are implemented and the pay range increases, service credit will be given based on the number of years of similar work performed at the City of Derby. Due to budget constraints, service credit will be based on a set percentage of service credit, as determined by the City Manager or designee.

d) New employees who have not yet completed one full year of service with the City will not be eligible for service credit for their time at the City of Derby but may be provided service credit for prior similar service on a case by case basis.

e) The HR Director will recommend a rotating schedule for performing pay studies based on several factors including when the position was last studied, the difficulty involved in filling the position, turnover rates, similarity between positions, etc. The final schedule will be determined by the City Manager or designee.
X. General Pay Adjustment (Revised 01/14)

A general pay adjustment ("GPA") is an across-the-board percentage increase in compensation for all employees based on available budgeted funds. A GPA may be granted by the City Council during the annual budget process and, when granted, will become effective January 1st of the following year. Any employee whose pay is above the maximum range for his or her position classification on January 1st of such year will be ineligible for a GPA.

XI. Interim and Acting Assignment Pay (Revised 06/08)

a) Interim Assignment. An employee may be assigned to a position of greater responsibility and duty for a period of at least thirty (30) days and up to eighteen (18) months and will be paid the greater of the minimum pay for that position or a 5% increase. The employee’s review date will be recalculated and the merit date will be in accordance with the new review date during interim assignment. When the employee’s assignment is completed, the employee will be placed back at his or her former salary with the appropriate GPA and merit advancement that may have been awarded, as if the interim assignment had not occurred. All interim assignments must be approved by the City Manager.

b) Acting Assignment. An employee may be assigned additional job responsibilities or duties while remaining in his or her current job classification for a period of at least two (2) weeks and up to 12 weeks. The employee may be given a temporary compensation adjustment with the approval of the department director and City Manager. The employee’s review date will remain the same. When the employee is no longer performing the assigned additional job responsibilities or duties, the employee will be placed back at his or her former salary as if the acting assignment had not occurred with the appropriate GPA and merit advancement that may have been awarded.

c) Exceptions. Exceptional circumstances will be considered by the City Manager for application of this policy on a case-by-case basis.

XII. Acting Officer Pay (New 09/19)

a) All firefighters, regardless of rank, who are assigned to perform the work of a higher ranking officer for two or more hours, due to the absence of one or more higher ranking officers, will receive $2 per hour in the form of Acting Officer pay. This pay is designed for temporary absences that are estimated to last less than two weeks.

b) Firefighters, regardless of rank, who are selected to perform the duties of a higher ranking officer, must meet minimum qualifications including years of experience, education, certifications, and required testing, as provided in the job description for the position for which they are temporarily assigned. Qualification during biennial testing will also be required in order to be placed on the qualified list for Acting Officer assignments.

c) This policy will be effective January 1, 2020.
XIII. Payroll Discrepancies and Payroll Deductions (Revised 10/15)

a) Employees who believe they have been subject to improper salary deductions or who have not been fully paid for any payroll period, should notify the Human Resources Department immediately upon discovering such discrepancy. If it is determined that a salary deduction was improper or that the employee did not receive full compensation for any payroll period, the employee will be reimbursed for any improper deduction or paid for any previously unpaid wages on the next payroll period following the determination.

b) The City is required by law to make certain deductions from every employee’s paycheck, including federal, state and local income taxes and the employee’s share of Social Security. Eligible employees may authorize deductions from their paychecks to cover the costs of participation in certain benefit programs and for other purposes as allowed by law. In addition, the City is required by law to recognize certain court orders, liens and wage assignments. The City does not condone unlawful deductions, and will make every effort to ensure compliance with the FLSA.

XIV. Meal Periods and Rest Breaks

Time off for meal and rest breaks will be allowed, if workload permits, according to the schedule set by the supervisor or department director.

a) Meal Periods. As a general rule, employees are provided with one meal period of 60 minutes in length each workday. Daily arrangements for the appropriate lunch hour should be made with the employee’s supervisor, and the appropriate front desk or administrative personnel shall be advised upon leaving and returning. Any meal periods in excess of thirty minutes shall not constitute time worked and will not be compensated.

b) Rest Breaks. Subject to workload, a maximum of two 15-minute (or equivalent of 30 minutes) paid break periods will be allowed per workday. Rest breaks are a privilege, not a right. Abuse of this privilege may lead to discontinuance of break periods.

XV. Standby and Callback Pay (Revised 07/09, 01/14, 10/15, 11/22)

a) Standby Pay. Standby pay is pay due an employee when in standby status. “Standby status” means that an employee is off duty but subject to call back to work, required to remain within a 30-minute legal drive time of the City boundary, and required to be available for call back to work at any time. Employees may periodically be placed on standby status. When so designated, all employees shall be paid standby pay at a rate of $3.00 per hour. No standby pay will be paid for hours actually worked. Employees on standby status are subject to disciplinary action for failure to promptly report to work upon callback. Employees who are unable to work due to illness or other cause are ineligible for standby pay but may resume standby status once available and able to work. Eligibility for standby status is at the discretion of the City Manager or his or her designee.
b) **Callback Pay.** Employees who are called back to duty after completion of their scheduled shift shall receive compensation at their regular rate of pay for their travel time to and from work and for all hours worked in response to such call. Employees responding to callbacks will receive a minimum of three hours of callback pay. Overtime pay will only be paid for actual hours worked in excess of the maximum permitted under the FLSA or a lesser number as established by practice for that work period.

**XVI. Shift Differential (Revised 01/14, 10/18, 01/20, 11/22)**

Shift differential applies to positions in which multiple shifts are used to perform the same or similar work on a regular and recurring basis. It does not apply to temporary schedule changes such as schedule changes made due to inclement weather and snow removal needs.

a) **Shift Classification**

- Work shifts may be eight (8), ten (10) or twelve (12) hours depending upon the schedule implemented by the department. All scheduling will be made to meet the personnel needs of the department.
- Eight (8) hour shifts and ten (10) hour shifts will be classified as 1st Shift (the “day shift”), 2nd Shift (the “evening shift”) and 3rd Shift (the “night shift”) irrespective of the specific hour the shift begins.
- Twelve (12) hour shifts will be classified as either day shift or night shift, irrespective of the specific hour the shift begins.

b) **Shift Differential Pay**

- Employees working eight (8) or ten (10) hour shifts shall receive $1.00 per hour shift differential pay for 2nd and 3rd shift assignments. Employees assigned to 1st shift are not entitled to shift differential pay.
- Employees working twelve (12) hour shifts shall receive $1.00 per hour shift differential pay for night shift assignments. Employees assigned to the day shift are not entitled to shift differential pay.
- Employees must regularly work a shift for which shift differential pay is authorized in order to receive the differential pay.
- Employees regularly working a shift for which differential pay is authorized shall receive shift differential pay at the rate applicable for all hours worked. For example, officers assigned to 2nd or 3rd shift who are required to attend court during 1st shift will receive shift differential for this time.
- Shift differential pay is not paid when security pay is authorized.

**XVII. Special Duty Pay (New 01/14, Revised 05/22)**

Special Duty Pay of $25 per pay period will be provided to Employees in the positions identified as specialty assignments, to include Special Operations Team and hostage negotiators. Employees assigned as School Resource Officers will receive $50 per pay period for those pay periods during which they are working in the schools. Employees
working as 24-hour shift firefighters, who serve as practicing paramedics, will receive the following: Full time employees will receive $100 per pay period and part-time employees will receive $50 per pay period, provided that they have hours worked during the pay period.

XVIII. Training Compensation (New 01/14, 11/22)

An employee designated as a Field Training Officer (FTO) by the Chief of Police or otherwise designated as a trainer by a department director will receive training compensation at the rate of $2.00 per hour in addition to base pay for time assigned to the training of new employees. This pay shall occur only during a regular training cycle established for a new employee and shall be limited to 13 weeks per employee.

XIX. Security Pay (New 01/14)

The City agrees to pay compensation of $2.00 per hour in addition to base pay to each Employee who is assigned by the Chief of Police to and does perform security duties at a scholastic sport event, dance sponsored by the Derby Recreation Commission, race sponsored by the Derby Running Club, or other similar event as determined by the Chief of Police.

XX. Court Appearance Pay (Revised 01/14, 09/19)

a) Employees required to attend court as a witness pertaining to their work-related duties who are called in while off duty will be paid for two hours worked or the actual time worked performing their court related duties, whichever is greater; provided, that employees attending court as a witness while on-duty will not receive any additional pay.

b) Employees subpoenaed for more than one case at different times on the same day will receive court appearance pay for each separate court appearance as long as the court appearance times do not overlap.

c) Employees subpoenaed for a time falling at the end of their shift will be paid as if the regular shift had been extended, whereas employees subpoenaed for a time prior to the beginning of their shift will be paid the greater of two hours court appearance pay or for actual time in court up to the beginning of their shift. Should court time overlap shift time, employees will not be paid for court time and shift time concurrently.

d) Employees will be paid court appearance pay when they are subpoenaed to court and appear during off-duty time and are subsequently advised that they are not needed as a witness and are released. No payment will be allowed if the employee was notified in advance that they were not needed.

e) All witness fees received by employees will be turned over to the City. Failure to turn in witness fees may result in disciplinary action.
f) The City will pay travel expenses for Employees unexpectedly subpoenaed for court when they are out of the immediate area on vacation. This applies only to court appearances which were not coordinated or scheduled in advance of the employee’s vacation. The City will reimburse the employee for travel to court and return to their vacation site and the City will credit the employee’s leave balance for time spent traveling and appearing in court.

XXI. Bilingual Pay (New 01/14)

Bilingual pay in the amount of $10.00 per hour for translation, paid in 15 minute increments, in addition to their base hourly rate shall be paid to each employee when authorized by their department director to use their bilingual skills to assist with City business.

XXII. Pay for Interviews and Hearings (New 01/14)

When an Employee appears pursuant to an order for a Professional Standards interview or Accident Review Board hearing which occurs outside of the employee’s normal working hours, such employee will be paid for one hour or the actual time spent, whichever is greater. Employees shall be paid for all required fitness-for-duty examinations which occur outside of the employee’s normal working hours.

XXIII. Education Pay (New 10/18)

Certified police officers with a Bachelor’s or Master’s degree, who have served at least one year as a member of the Derby Police Department, will receive Education Pay in the amount of $500 per year ($41.67 a month) until the maximum of $2,000 is reached for a Bachelor’s degree and maximum of $3,500 is reached for a Master’s degree, or their employment with the Derby Police Department ends, whichever occurs first.

XXIV. Certification Pay (New 01/20, Revised 09/22)

a) All utilities division employees, regardless of rank, who have received one or more certifications in Water, Wastewater, or Laboratory disciplines will receive certification pay in in the amount of $0.42 per hour for certification level I with an additional $0.21 per hour for each additional certification up to level four. Each of the three disciplines has four levels of certification. Certification pay will only be provided for up to two disciplines. Certification pay will not be part of an employee’s base pay, but will instead be tracked in a separate certification pay line.

For example, a utilities employee, who has a Water Operator Certification Class III, Wastewater Operator Certification Class II, and Lab Analyst Class I, will receive $0.84 for the Water Operator III ($0.42+$0.21+$0.21) and $0.63 for the Wastewater Operator II ($0.42+$0.21), and nothing for the Lab certification since that is the lowest level of certification for the three disciplines.

b) Upon receiving certification in one of the three disciplines, the employee must submit documentation confirming their new certification level to their immediate supervisor
XXV. Bonus and Recognition Program (Revised 06/08, 09/14, 09/19)

a) **Overview.** Bonus awards shall be tied to a specific action or event rather than awarded for consistently exceptional performance. The latter situation should be addressed by means of a merit increase. A bonus award shall not be given for work that has already been recognized through Interim or Acting Assignment pay. Bonus awards shall be given for an action or accomplishment that is beyond the scope of the employee’s regular day-to-day activities and assignments. Categories for nomination include the following:

- **Innovation.** Includes creative problem solving or developing a cost saving initiative.
- **Exceptional effort.** Includes volunteering for extra assignments during critical times, taking on additional or higher level of work or performing an outstanding act of customer service.
- **Team Work.** Includes cross-departmental or other team-building initiative.
- **Communications.** Includes building rapport with partners or customers (including other city departments), using new tools or forms of communication to build or enhance trust.

b) **Eligibility.** All part-time and full-time employees except director level or higher, are eligible for nomination for a bonus, provided that they have received no major discipline within the previous 12 months.

c) **Bonus Committee.** The City Manager shall appoint a Bonus Committee of no more than six employees with representation from multiple departments. The Deputy City Manager shall serve as an ex officio member.

d) **Nomination Process.** Any employee or supervisor may nominate any other employee (except director level or higher) for a bonus by completing a Bonus Nomination form. The Bonus Nomination form is reviewed by the employee’s department director who indicates his or her level of support for the nomination. At least quarterly the Bonus Committee shall convene to discuss the merits of nominations. The Bonus Committee shall determine appropriate recognition and bonus amounts, subject to the City Manager’s approval.

e) **Bonus Amount.** Bonuses may be awarded in $100 increments with a maximum limitation of $1,000 per employee each year.

XXVI. Referral Incentive (Revised 10/15, 2/19, 05/22)

a) **Purpose.** The purpose of the Referral Incentive is to provide a monetary award to current employees who refer applicants who are subsequently selected and successfully employed.
b) **Eligibility.** Employees can only receive the incentive for referring applicants who are not currently and have not previously been employed by the City. All employees are eligible to receive a referral incentive with the exception of the following:

1) Department directors
2) Employees in the Human Resources division
3) Hiring manager/supervisor and other persons associated with selection of the candidate who is hired.

c) **Process.**

1) Applicants must provide the name of the employee who is referring them on the supplemental question associated with the application.
2) The hiring process will be consistent with normal hiring procedures and processes, with no bias for or against candidates whose selection might make another employee eligible for a referral incentive.
3) Both the referred candidate and the referring employee must be employed at the time the incentive is to be paid.
4) Referral incentives will be paid after the new employee has been employed for twelve months, or as designated in the Referral Incentive procedure.

d) **Determination of Award.** The City Manager, in consultation with the Human Resources Director, will determine the amount of the incentive with larger incentives provided for hard-to-fill positions. Positions will be designated as hard-to-fill, and the amount of the incentive will be set before the position is posted. The following factors will be considered when designating a position as hard-to-fill:

1) difficulty experienced in filling a current or previous vacancy
2) how critical the position is to the City’s operation
3) availability in the labor market of well–qualified candidates for employment
4) special qualifications needed for the position
5) other unique factors that demonstrate difficulty in filling the position

e) **Referral Incentive Amount.** The amount of the referral incentive will vary depending on the level of difficulty, training, and other investments involved in filling the position. The referral incentive amounts and the list of positions designated as hard-to-fill will be provided in the Referral Incentive procedure and will be posted on the intranet. Positions may be added or removed at the City Manager’s discretion.

**XXVII. Hiring Bonus for Police Officers (New 09/19)**

a) **Hiring Bonus.** Police officer candidates will receive a hiring bonus of $1,500, $500 of which will be paid out after starting employment and the other $1,000 after twelve months of employment, provided that the officer receives a “satisfactory” or higher rating on their performance evaluation.
b) **Military Experience.** Police officer candidates, who were honorably discharged from the military and are selected for employment, will receive a hiring bonus of $2,000, half of which will be paid out after starting employment and the other half after twelve months of employment, provided that the officer receives a “satisfactory” or higher rating on their performance evaluation.

c) **Commissioned Officers.** Police officer candidates, who are already Kansas commissioned officers or who have a commission from another state that will transfer to Kansas, will receive a hiring bonus of $2,500, half of which will be paid after starting employment and the other half after twelve months of employment, provided that the officer receives a “satisfactory” or higher rating on their performance evaluation.

d) Police officer candidates who qualify for multiple hiring bonuses described above will receive whichever bonus provides the greatest benefit.

e) Former Derby police officers who return to the police department are not eligible for a hiring bonus.

**XXVIII. Relocation Reimbursement (New 11/22)**

a) Police Officer candidates, who are relocating for the purpose of employment, are eligible for up to $1,500 in reimbursement for moving related expenses. Receipts must be submitted within 12 months of starting employment in order to be eligible for reimbursement.

b) Eligibility for relocation reimbursement for candidates for other positions will be determined on a case-by-case basis, as will the amount of reimbursement. If a request for reimbursement is approved, receipts must be submitted within 12 months of starting employment in order to be eligible for reimbursement.

**XXIX. W-2s**

W-2 Forms will be issued in accordance with the guidelines established by the Internal Revenue Service. It is each employee’s responsibility to keep the Director of Human Resources informed of their current address. W-2 Forms will be mailed to the last address on file for persons no longer employed with the City.

**XXX Alternative Work Schedule (AWS)**

a) **Purpose.** The City of Derby desires to be an employer of choice and recognizes that a healthy work/life balance is necessary. To assist employees in this endeavor, an alternative work schedule program is available. It provides employees with the opportunity to request adjustments to their work schedules to assist in meeting their personal work performance goals and family or personal needs.

b) **Eligibility.** All full-time and part-time employees, who have completed their introductory period are eligible to request an alternative work schedule, provided that
they maintain a “Satisfactory” or higher performance evaluation score. Exceptions may be approved by the department director.

c) **Examples of Alternative Work Schedules.** Examples of alternative work schedules include: starting work earlier or later; taking shorter lunch breaks (30 minutes will be required for full-time employees); leaving work earlier or later, working a reduced work schedule such as 9 hours per day (at least 36 hours will be required per week to be considered full-time); or telecommuting for a portion of each day or week.

d) **Approval.** Alternative work schedules are discretionary and subject to approval by the department director. When staffing changes occur or a major change in the work schedule occurs, each (non-emergency) department will provide an opportunity for all employees to submit an alternative work schedule request form by a specified date. Requests can also be submitted by employees at other times throughout the year, as work/life needs change. Requests must be submitted to the immediate supervisor at least 14 calendar days prior to being implemented. Requests will be routed through all supervisors within the chain of command and then to the Human Resources Director for review prior to being considered by the department director. Employees desiring an alternative work schedule must fill out an *Alternative Work Schedule Request* form detailing the requested change to the work schedule, the reason for the request and the expected effect that the change will have on the department. When considering the request, supervisors will take into account several factors including length of service, seniority, the reason for the request, effect the change will have on the department, and any FMLA or ADA accommodations that take precedence over the request.

e) **Termination of Alternative Work Schedule.** An agreed upon alternative work schedule may be withdrawn at any time or for any reason, if the department director determines that it is no longer in the best interest of the City of Derby to continue the schedule. Disciplinary actions that occur while an alternative work schedule is in place may be grounds for discontinuing an alternative work schedule.
XXXI. Telework Policy (New 09/20)

a) **Purpose.** Providing for telework in addition to the City’s Alternative Work Schedule is designed to support employees with their work/life balance. Telework, also known as remote work or telecommuting, can provide alternatives and options to assist city employees, when feasible, with varying circumstances such as family illness, natural disasters, pandemics, weather, or other situations. Telework can also serve as a plan for delivery of public services in the event of a future emergency or disaster. Approved telework would allow the employee to work offsite as long as that arrangement does not negatively affect the employee’s productivity or the operations or productivity of the department or the City.

b) **Eligibility.** Telework is not a universal employee benefit, nor is it suitable for all employees or positions, including those in public safety roles or whose jobs require regularly assisting the public and face-to-face interactions. When evaluating a request, supervisors and department directors should carefully examine the employee’s job description and regular duties to determine whether a particular job would align well with remote work. Selection of employees for telework shall be based on specific, work-related criteria, which include the following:

1) The employee must have received an overall “satisfactory” or better rating on the most recent performance evaluation and must maintain satisfactory or better ratings while teleworking.

2) The employee’s history of being reliable, managing workloads with minimal supervision, and establishing priorities and managing their time effectively.

3) Establishment and maintenance of clear and effective communications between the employee, supervisor, and any key contacts.

4) The amount of public contact and in-person communication required.

5) Access needed to certain documents or special equipment that are only available at the physical job site.

6) Travel and field work requirements.

7) Whether remote work will additionally burden other staff members.

c) **Procedure.** Employees must use the Alternative Work Schedule/Telework form to request approval from their immediate supervisor and department director. The form will include a list of equipment requested for use offsite.

d) **Types of Telework Requests.** An employee may request to work remotely on an ongoing basis or on particular days, and will make this request using the Alternative Work Schedule/Telework form. An employee may also request to work remotely for up to one week without submission of an Alternative Work Schedule/Telework form. This option might apply to the following types of situations:

1) The employee needs uninterrupted time to complete a project.
2) The employee has a minor condition that temporarily limits mobility but not their ability to perform the job.

3) The employee needs to be home to care for a child or spouse but is able to perform work for at least a portion of the day. The employee would use their available leave for the portion of the day they were unable to work.

4) The employee has a business or personal appointment, and commuting would not be reasonable. The employee would use their available leave for the portion of the day they were unable to work.

e) **Expectations.** Clear communication is expected of any employee provided the opportunity to work remotely. This includes answering calls and e-mails promptly during agreed-upon work hours and also a commitment to a high level of communication with supervisors and other staff regarding work produced, project status, and deadlines. Below are additional expectations:

1) The employee must maintain appropriate levels of production and quality of work while working at an alternative location.

2) A mutually established schedule must be defined. The AWS/Telework request should specify the days and times work will be completed at the remote location and at the office.

3) Employees working remotely are expected to attend work-related meetings. When possible, meetings will be held virtually or by phone.

4) The employee and supervisor must establish expectations for handling telephone messages and forwarding of telephone calls.

5) The employee must be accessible throughout the agreed-upon teleworking schedule.

6) Supervisors are encouraged to request a log of work performed while teleworking.

7) Supervisors will certify the biweekly timesheet, which will include all hours worked, regardless of location.

f) **Conditions.** Employees who telework are governed by the same policies regarding work schedules, leave, and pay as other employees. All normal policies associated with leave remain in place, including the need to request and be approved for use of vacation or other types of leave. Regardless of work location, employees must adhere to the requirements of the Fair Labor Standards Act and not work longer than permitted or incur overtime without prior supervisor approval. Employees working remotely must continue to follow established department procedures for requesting and obtaining approval of leave. Additionally:

1) Employees will not be eligible for travel reimbursement for travel to and from the city work site.

2) The City of Derby will not reimburse personal expenses incurred (furnishings, Internet, utility costs) related to telework.
3) The City will determine on a case-by-case basis whether an employee who is working remotely should be eligible for a City-provided cell phone or cell phone allowance. Consideration will be given to how often the employee is required to utilize their personal cell phone for work-related calls.

g) **Supplies and Equipment.** Equipment, software, data and supplies provided by the City of Derby for telework must be used only by City employees. Employees working remotely shall obtain supplies through their department’s normal supply procurement process. Office supplies generally will be made available at the office for the employee to pick up. Maintenance, repair and replacement of City-owned equipment issued for telework will be the responsibility of the City. In the event of equipment malfunction, the employee must notify his or her supervisor immediately. All equipment must be delivered to Operations staff for maintenance or repair. Negligence which results in damage to City equipment may be grounds for discontinuing telework, as well as disciplinary action. Repairs to equipment owned by anyone other than the City, even if used for telework, will be the responsibility of the employee.

h) **Cybersecurity and Data Integrity.** The teleworker must take reasonable precautions to ensure hardware and software integrity. The City will supply teleworkers with appropriate security and access information and will train teleworkers. All employees, including those performing telework, are responsible for the safety and security of City confidential data and information. This includes establishing appropriate passwords for all confidential information that could be obtained from a computer.

i) **Termination of Participation.** Telework arrangements may be terminated by the City of Derby at any time, for example when expectations of the City are not being met or if performance issues develop. The employee may also terminate the arrangement, contingent on the availability of office space at the employee’s primary work location. An employee who no longer wishes to telework should consult with their supervisor and fill out a new AWS/Telework agreement form. Nothing in this policy precludes the City from taking any appropriate disciplinary action against an employee who fails to comply with the provisions outlined in this policy, in addition to ending the telework arrangement.
Chapter 11: Employee Benefits

I. Purpose

This section generally describes and summarizes various benefits the City makes available to eligible employees. The City continually reviews its benefits programs. These summaries are not exhaustive or all-inclusive, and further information is available in the form of plan descriptions or insurance subscription agreements maintained by the City, which may be reviewed upon request. In the event the information included in this Manual is inconsistent with, or conflicts with, benefit plan documents, the latter documents are deemed controlling.

II. Health and Dental Insurance

All full-time employees are eligible for group medical and dental coverage as of the first day of the month following one full month of employment. No employee shall be paid a cash payment of any kind in lieu of health or dental insurance coverage.

III. Children’s Health Insurance Program Reauthorization Act (CHIPRA) New 04/10

a) The Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA) provides for special enrollment opportunities for employees and eligible dependents who are eligible for employer sponsored health coverage and are covered under a Medicaid plan or state children’s health insurance program (CHIP), and lose eligibility under that plan; or employees and dependents who become eligible under a CHIP or Medicaid plan for premium assistance that can be used toward the cost of an employer plan.

b) Employees and dependents who are already enrolled in Medicaid or CHIP can contact the Kansas Medicaid office at [www.khpa.ks.gov](http://www.khpa.ks.gov) or 1-800-766-9012 to find out if premium assistance is available to help pay for health insurance premiums for the City’s health insurance plan.

c) An employee who is NOT currently enrolled in Medicaid or CHIP, but believes he or she might be eligible for either of these programs, can contact the Kansas Medicaid office or dial 1-877-kids now or go to [www.insurekidsnow.gov](http://www.insurekidsnow.gov) to find out how to apply.

d) Employees and dependents who become eligible for premium assistance under Medicaid or CHIP or who lose coverage under Medicaid or CHIP are provided with a special enrollment opportunity to enroll in the City’s health plan within 60 days of being determined eligible for premium assistance or of loss of Medicaid or CHIP coverage.

IV. COBRA – Insurance Continuation

a) The Consolidated Omnibus Budget Reduction Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue, for a specific period of time, health insurance coverage under the City’s group health plan when a qualifying event would otherwise result in loss of participation eligibility. Common disqualifying events include resignation, termination of employment or employee death; a reduction in an
employee’s hours or a leave of absence; an employee’s divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

b) Under federal law, continuation coverage is dependent upon the employee or beneficiary paying the full cost of coverage at group rates plus an administration fee. The City provides each eligible employee with a written notice describing the continuation rights when they become eligible for continuation coverage. The notice contains important information about the employee’s rights and obligations. For additional details, employees should consult the terms of the individual plan involved.

c) COBRA coverage is not automatic. Employees must inform the Director of Human Resources that coverage continuation is desired and must also submit all required paperwork within the required time limits specified in the written materials.

V. Retirement Benefits (Revised 07/09, 04/10, 01/14, 10/15, 09/17)

a) OASDI Benefits. All eligible City employees are under the federal Old-Age, Survivors, and Disability Insurance program (OASDI) social security system, and receive the benefits thereof in accordance with federal laws and regulations. The cost of this benefit is paid equally by the City and the employee, with the employee contributions subject to payroll deductions.

b) Kansas Public Employee Retirement System (KPERS) Benefits. Membership in KPERS is mandatory and begins on the first day of employment for all employees in covered positions. A covered position is one that is not seasonal or temporary, requires at least 1,000 hours of work per year, and is not covered under KP&F. KPERS members receive benefits in accordance with state laws and regulations. Employees’ required KPERS contributions will be made through a payroll deduction plan. KPERS periodically determines the rates to be paid by both employees and the City.

c) Kansas Police & Fire Retirement System (KP&F) Benefits. All full-time firefighters, certified full-time police officers regardless of rank, and full-time police officers in training are members of KP&F. KP&F members receive the benefits thereof in accordance with state laws and regulations. Employees’ required KP&F contributions will be made through a payroll deduction plan. KP&F periodically determines the rates to be paid by both employees and the City.

d) Deferred Compensation. The City provides a deferred compensation program to both full-time and part-time employees. All employee contributions are deducted from payroll checks and are not subject to federal income tax withholdings. Additional terms and details are provided in the plan document.

e) Health and Dental Insurance. Employees who meet the KPERS or KP&F retirement requirements, have at least 10 years of service with the City, are under the age of 65, and are enrolled in the health or dental insurance plan on their KPERS/KP&F retirement or disability date are eligible to continue single or family health and dental plans. Eligibility will cease if any of the following occur: the retiree fails to make premium contributions, has other health insurance, attains age 65, or dies. If already on the plan, the retiree’s spouse is eligible to continue on the retiree plan until one of the
following occurs: the retiree becomes ineligible; the spouse has insurance available through a group health insurance plan, or the spouse reaches age 65. If already on the plan, dependent children are eligible to continue coverage until the earlier of the retiree becoming ineligible or losing dependent status.

Retirees are responsible for 100% of the premium cost for both health and dental insurance, plus a 2% administrative fee.

VI. Workers’ Compensation Insurance (Revised 09/19)

a) The City provides workers’ compensation benefits as required by law and at no cost to employees. This program covers on-the-job injuries to the extent required by law. Subject to applicable legal requirements, workers’ compensation benefits begin after a short waiting period or immediately if the employee is hospitalized.

b) No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. Employees who sustain work-related injuries must immediately call NurseNow Telephonic Triage at 855-513-3003, unless it is a severe emergency situation. For severe emergencies, contact 911 and the supervisor will call NurseNow after the employee has received medical attention. All on-the-job injuries must be reported. Failure to report these injuries in a timely manner may affect an employee’s eligibility for workers’ compensation benefits and may subject the employee to discipline, up to and including termination of employment.

c) Neither the City nor its insurance carrier will be liable for payment of workers’ compensation benefits for injuries occurring during an employee’s voluntary participation in any off-duty recreational, social or athletic activity sponsored by the City.

d) Workers’ compensation leave will run concurrently with FMLA leave. Normally FMLA leave requires the use of all paid leave before unpaid leave will occur, but in the case of workers’ compensation leave, the employee and employer may agree to supplement the employee’s workers’ compensation payments with paid leave. In all cases the amount of paid leave and workers’ compensation payment combined will be limited to no more than 100% of the employee’s regular wages.

VII. Unemployment Compensation

All employees may receive the benefits of the Kansas Employment Security (unemployment compensation) Act, in accordance with such law and regulations. The cost of this benefit is paid by the City.

VIII. Life Insurance

In addition to the death benefit under OASDI and KPERS, the City makes available to each full-time employee the option of purchasing group life insurance, administered by KPERS, 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.
IX. Death and Disability

The City has affiliated with KPERS for first day coverage to provide death and disability benefits for employees in KPERS covered positions.

a) All employees who are in KPERS-covered positions are eligible for death and disability benefits, the cost of which is paid entirely by the City.

b) The Director of Human Resources has additional information about benefits and any limitations and exclusions that may apply.

X. Flexible Spending Plan

The City encourages its employees to maximize their compensation by participating in a flexible spending plan that allows a pre-tax set-aside of income for payment of certain anticipated financial obligations. Under this plan, a portion of the employee’s income may be deferred and later used to reimburse the employee for covered expenses incurred during the plan year.

a) All full-time employees are eligible to participate, as of the first day of the month following one full month of employment. Employees must elect whether and to what extent to participate in the plan at the beginning of each plan year. Once made, the election cannot be changed until the next open enrollment date.

b) The City reserves the right to change plan administrators. Employees will be notified of any changes to the plan administrator.

c) Only eligible expenses incurred during the plan year can be reimbursed from compensation deferred during that plan year; any remaining balance is forfeited.

XI. Tuition Reimbursement (Revised 06/08, 04/10, 09/17)

The City recognizes the need for and supports the continued professional growth and development of its employees. To assist employees in this endeavor, the City of Derby has established a tuition reimbursement procedure. The tuition reimbursement procedure is located on the intranet and includes information on the qualifications, limits on requests, and the application form. Contact the Benefits Coordinator for additional information.
Chapter 12: Employee Privileges, Time Off and Leaves of Absence

I. Holidays (Revised 06/08, 07/09, 04/10, 11/10, 03/13, 01/14, 09/17, 02/19, 09/20, 09/22)

a) The following holidays are recognized by the City:
   New Year’s Day (January 1)
   Martin Luther King Day (third Monday in January)
   President’s Day (third Monday in February)
   Memorial Day (last Monday in May)
   Independence Day (July 4)
   Labor Day (first Monday in September)
   Veteran’s Day (November 11)
   Thanksgiving Day (fourth Thursday in November)
   Day following Thanksgiving
   Christmas Day (December 25)
   Day before or after Christmas Day (to be determined by the City)

b) When any of the above-listed holidays falls on a Saturday or Sunday, the preceding Friday or the following Monday will be declared a holiday, as determined by the City Manager.

c) Full-time employees who are present for duty or in a paid leave status on the workday before and the workday after a holiday shall be paid for eight (8) hours of holiday leave, except shift workers will receive holiday accrual that is equivalent to their regular shift of 8, 10, or 12 hours. Part-time employees who regularly work 15 or more hours a week shall be paid for four (4) hours of holiday pay for each City holiday provided they worked or were in a paid leave status during the pay period. Part-time employees who regularly work less than 15 hours a week will only receive four (4) hours of holiday pay if they work the day of a holiday or would have worked had the holiday not occurred. KPERS covered employees must actually work on their last day of employment (15 minutes or more for Non-Exempt and 2 hours or more for Exempt). No employee will be allowed to utilize holiday leave on their last day of work, unless they are unable to return to work due to a serious medical situation that is covered by the FMLA or have received approval from the City Manager for an exception to policy.

d) In lieu of holiday leave, full-time 24-hour shift Fire and Rescue employees who work or are in a paid leave status for the pay period of a holiday will be paid for 11.2 hours of holiday pay for each City holiday. Part-time Fire and Rescue employees will receive four (4) hours of holiday pay when working the day of a holiday or the day before or the day after a holiday.

e) Holiday leave is subject to a maximum accumulation of forty (40) hours. Holiday leave in excess of forty (40) hours will be paid out to the employee on the payroll check in which the holiday occurred. For part-time employees, the maximum accumulation is twenty (20) hours.

f) When possible, non-exempt employees are expected to work with their supervisors to adjust their schedules during weeks with holidays to ensure that the hours of holiday leave used and hours worked do not exceed 40 hours, unless the employee was required
to work the holiday. Non-exempt employees who work on a holiday will receive (in addition to compensation for time actually worked) either holiday pay or compensatory time off based on their normal rate of accrual for holiday leave. Exempt employees will only be allowed to bank holiday leave when required to work a holiday and approval is received by the City Manager. Exempt employees with a balance of 40 hours are expected to use their holiday leave to avoid payouts occurring due to the leave exceeding 40 hours. All other holiday leave will be used as it is accrued. Non-exempt employees shall use their holiday leave in no less than 15-minute increments. Exempt employees shall round their holiday leave to the nearest four-hour increment (less than 2 hours requires no leave, between 2 and 6 hours rounds to 4 hours, and 6 to 10 hours rounds to 8 hours). Each employee is responsible for ensuring that holiday leave is reported accurately.

g) Holiday leave accrual, usage and balance information is reported on bi-weekly payroll records distributed to employees. Employees should carefully review holiday leave entries. No adjustment of holiday leave accrual or usage records will be made unless reported to the Director of Human Resources within six (6) months of the date of the error.

II. Vacation (Revised 06/08, 07/09, 11/10, 10/11, 01/14, 09/16, 09/17, 02/19, 05/22, 09/22)

The purpose of this policy is to provide eligible employees with time off for rest and relaxation as the City is committed to helping employees work towards work-life balance..

a) Eligibility. Vacation leave is a benefit provided to full-time and part-time employees, who work at least 10 hours a week, with the exception of part-time Firefighters. Employees must work or use authorized paid leave for at least 50% of their regularly scheduled work days in a pay period to accrue vacation credit for such pay period.

b) Accrual. Eligible employees will have vacation leave available when they start employment and will also accrue paid vacation leave according to the following schedules. Adjustments will be made for those employees who hired on within one year of May 24, 2022 in order to ensure they are provided the same benefit of available vacation leave. Carryover maximums will be enforced on the employee’s anniversary date. Employees should carefully review vacation leave entries. No adjustment of vacation leave accrual or usage records will be made unless reported to the Director of Human Resources within six (6) months of the date of the error.

Thirty-six (36) to forty (40) hour week employees receive 40 hours of vacation upon hire and thereafter accrue according to the following schedule:

<table>
<thead>
<tr>
<th>Years of Continuous Service</th>
<th>Hours Earned per Pay Period</th>
<th>Annual Accrued Hours</th>
<th>Maximum Carryover</th>
<th>Maximum Payout</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-1 year</td>
<td>1.54</td>
<td>40</td>
<td>80</td>
<td>0</td>
</tr>
<tr>
<td>1-5 years</td>
<td>3.08</td>
<td>80</td>
<td>160</td>
<td>120</td>
</tr>
<tr>
<td>5-10 years</td>
<td>4.62</td>
<td>120</td>
<td>160</td>
<td>120</td>
</tr>
<tr>
<td>10-15 years</td>
<td>5.54</td>
<td>144</td>
<td>160</td>
<td>120</td>
</tr>
<tr>
<td>15-20 years</td>
<td>6.15</td>
<td>160</td>
<td>160</td>
<td>120</td>
</tr>
<tr>
<td>20+ years</td>
<td>6.77</td>
<td>176</td>
<td>160</td>
<td>120</td>
</tr>
</tbody>
</table>
Fifty-six (56) hour week employees receive 56 hours of vacation upon hire and thereafter accrue according to the following schedule:

<table>
<thead>
<tr>
<th>Years of Continuous Service</th>
<th>Hours Earned per Pay Period</th>
<th>Annual Accrued Hours</th>
<th>Maximum Carryover</th>
<th>Maximum Payout</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-1 year</td>
<td>2.16</td>
<td>56</td>
<td>112</td>
<td>0</td>
</tr>
<tr>
<td>1-5 years</td>
<td>4.31</td>
<td>112</td>
<td>224</td>
<td>168</td>
</tr>
<tr>
<td>5-10 years</td>
<td>6.46</td>
<td>168</td>
<td>224</td>
<td>168</td>
</tr>
<tr>
<td>10-15 years</td>
<td>7.77</td>
<td>202</td>
<td>224</td>
<td>168</td>
</tr>
<tr>
<td>15-20 years</td>
<td>8.62</td>
<td>224</td>
<td>224</td>
<td>168</td>
</tr>
<tr>
<td>20+ years</td>
<td>9.48</td>
<td>246</td>
<td>224</td>
<td>168</td>
</tr>
</tbody>
</table>

PT employees working fifteen (15) or more hours per week receive 20 hours of vacation upon hire and thereafter accrue according to the following schedule:

<table>
<thead>
<tr>
<th>Years of Continuous Service</th>
<th>Hours Earned per Pay Period</th>
<th>Annual Accrued Hours</th>
<th>Maximum Carryover</th>
<th>Maximum Payout</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-1 year</td>
<td>0.77</td>
<td>20</td>
<td>40</td>
<td>0</td>
</tr>
<tr>
<td>1-5 years</td>
<td>1.54</td>
<td>40</td>
<td>80</td>
<td>60</td>
</tr>
<tr>
<td>5-10 years</td>
<td>2.31</td>
<td>60</td>
<td>80</td>
<td>60</td>
</tr>
<tr>
<td>10-15 years</td>
<td>2.77</td>
<td>72</td>
<td>80</td>
<td>60</td>
</tr>
<tr>
<td>15-20 years</td>
<td>3.08</td>
<td>80</td>
<td>80</td>
<td>60</td>
</tr>
<tr>
<td>20+ years</td>
<td>3.39</td>
<td>88</td>
<td>80</td>
<td>60</td>
</tr>
</tbody>
</table>

PT employees working ten (10) to fifteen (15) hours per week receive 10 hours of vacation upon hire and thereafter accrue according to the following schedule:

<table>
<thead>
<tr>
<th>Years of Continuous Service</th>
<th>Hours Earned per Pay Period</th>
<th>Annual Accrued Hours</th>
<th>Maximum Carryover</th>
<th>Maximum Payout</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-1 year</td>
<td>0.39</td>
<td>10</td>
<td>20</td>
<td>0</td>
</tr>
<tr>
<td>0-5 years</td>
<td>0.77</td>
<td>20</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>5-10 years</td>
<td>1.16</td>
<td>30</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>10-15 years</td>
<td>1.39</td>
<td>36</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>15-20 years</td>
<td>1.54</td>
<td>40</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>20+ years</td>
<td>1.7</td>
<td>44</td>
<td>40</td>
<td>30</td>
</tr>
</tbody>
</table>

b) Use. Full-time and part-time employees may use vacation leave for vacations, illness or time away from work for personal or family matters. Absences should be scheduled in advance with supervisory approval. City holidays which fall during an employee’s authorized vacation leave will not be counted as a day of vacation. Each department may develop procedures for scheduling vacation to ensure that the department is sufficiently staffed. KPERS and KP&F covered employees must actually work on their last day of employment (any time worked will count), unless they are unable to return to work due to a serious medical condition that is covered by the FMLA. In accordance
with federal law, exempt employees are required to be paid for a full day of work in most instances, so in the event less than a full day of work occurs, vacation leave will be utilized to ensure a full day of pay for their last day worked.

Non-exempt employees shall use their vacation leave in no less than 15-minute increments. Exempt employees shall round their vacation leave to the nearest four-hour increment (less than 2 hours requires no leave, between 2 and 6 hours rounds to 4 hours, and 6 to 10 hours rounds to 8 hours). Each employee is responsible for ensuring that vacation leave is reported accurately.

d) **Payout.** An employee who separates from service through resignation, layoff, termination, retirement, or death shall be compensated at their regular rate of pay at the time of separation for their accumulated, unused vacation leave up to the Maximum Payout listed above. Employees who started on and after May 24, 2022 will not receive a vacation leave payout if they leave within their first year of employment, whereas employee who hired on prior to May 24, 2022, but who are in their first year of employment, will only be paid out for the vacation accrued prior to May 24, 2022.

III. **Sick Leave (Revised 06/08, 07/09, 10/11, 01/14, 10/15, 09/16, 02/19, 09/21, 09/22)**

The purpose of this policy is to provide paid leave to eligible employees who are unable to work because of illness, injury or disability, including illness, injury or disability of child, spouse, or parent of an employee, requiring such employee’s care. Use of sick leave for purposes not authorized by this policy may subject an employee to disciplinary action, up to and including termination of employment.

a) **Eligibility.** Full-time and part-time employees are eligible for paid sick leave, and shall begin accruing sick leave on the first day of employment, according to the following schedule:

- Full-time employees who regularly work between thirty-six (36) and forty (40) hours per week accrue sick leave at a rate of three and seven tenths (3.7) hours per pay period.
- Full-time employees who regularly work fifty-six (56) hours per week accrue sick leave at a rate of five and seventeen hundredths (5.17) hours per pay period.
- Part-time employees who regularly work fifteen (15) hours or more per week accrue sick leave at a rate of one and eighty five hundredths (1.85) hours per pay period.
- Part-time employees who regularly work ten (10) to fifteen (15) hours per week accrue sick leave at a rate of ninety-three hundredths (0.93) hours per pay period.

Employees must work or use authorized paid leave for at least 50% of their regularly scheduled work days in a pay period to accrue sick leave for such pay period.

b) **Notification.** To be eligible for paid sick leave, an employee shall notify his or her supervisor or department director of the reason for his or her absence no later than the beginning of the workday on each day that leave is taken, unless physically unable to do so. Except in extraordinary circumstances, no employee shall be permitted to use sick leave for any period spent on unauthorized leave. Each department may establish additional departmental sick leave reporting requirements or procedures as determined
by the department director. Employees anticipating prolonged sick leave due to an illness or disability should notify their supervisor or the Director of Human Resources of the need for the prolonged absence.

c) **Health Care Practitioner’s Statement.** If an employee is away from employment due to an illness or medical condition for three or more consecutive days or if the supervisor suspects abuse of sick leave due to the pattern of usage or excessive use, the employee will be required to provide a signed statement from a licensed health care practitioner verifying the employee’s inability to perform their duties because of illness or injury. Except in extraordinary circumstances, this statement must be provided to the Director of Human Resources within six (6) days of the onset of the employee’s illness or injury. Employees may not return to work from sick leave status attributable to an accident or injury unless and until the employee has been fully released from care and a doctor’s signed written release has been submitted to the City.

d) **Reclassification.** If an employee becomes ill or is injured while on vacation leave and is effectively deprived of all or a substantial portion of such vacation, the employee may make a written request to his or her department director for use of sick leave in lieu of the scheduled vacation leave. Such request must include a statement from the employee’s health care provider attesting that the employee’s illness or injury would have prevented the employee from performing his or her duties. The department director shall review the request and may, at his or her discretion, reclassify some or all of the employee’s vacation leave as sick leave.

e) **Use.** Non-exempt employees shall use their sick leave in no less than 15-minute increments. Exempt employees shall round their sick leave to the nearest four-hour increment (less than 2 hours requires no leave, between 2 and 6 hours rounds to 4 hours, and 6 to 10 hours rounds to 8 hours). Each employee is responsible for ensuring that sick leave is reported accurately. KPERS and KP&F covered employees must actually work on their last day of employment (any time worked will count). No employee will be allowed to utilize sick leave on their last day of work, unless they are unable to return to work due to a serious medical situation that is covered by the FMLA or have received approval from the City Manager for an exception to policy.

f) **Abuse.** Employees who improperly claim sick leave shall be subject to disciplinary action up to and including termination from employment.

g) **Accrual and Payout.** Employees should carefully review sick leave entries. No adjustment of sick leave accrual or usage records will be made unless reported to the Director of Human Resources within six (6) months of the date of the error. Employees hired on and after July 1, 1990 will not be paid for accrued unused sick leave when they leave employment. Employees hired prior to July 1, 1990 will be paid for a portion of their accrued unused sick leave if they leave employment with the City in good standing according to the following schedule:

- Employees hired before July 1, 1990 shall receive pay for accrued unused sick leave, up to a maximum of 240 hours.
• Employees with more than 240 hours of accrued unused sick leave as of January 1, 1982 shall receive pay for accrued unused sick leave, up to a maximum of 360 hours.

• Employees hired on or after July 1, 1990 are not eligible to receive pay for accrued unused sick leave.

h) Conversion of Sick Leave to Wellness Days. Employees who participate in the City’s wellness program are able to convert the greater of up to 10% of their banked sick hours or two sick days to wellness days on the second pay date in March of each year according to the following schedule:

• Employees who achieve gold level the prior year are eligible to convert the equivalent of one sick day (11.2 hours for 56-hour per week employees, 8 hours for other full-time employees, 4 hours for part-time employees working 15 or more hours per week, and 2 hours for part-time employees working 10-15 hours per week) to a wellness day.

• Employees who achieve platinum level the prior year are eligible to convert the greater of the equivalent of 10% of their banked sick hours (capped at 56 hours for 56-hour week employees, 40 hours for other full-time employees, 20 hours for part-time employees working more than 15 hours per week, 15 hours for part-time employees working between 10 and 15 hours per week) or two sick days (22.4 hours for 56 hour per week employees, 16 hours for other full time employees, 8 hours for part-time employees working 15 or more hours per week, and 4 hours for part-time employees working 10-15 hours per week) to wellness days.

• Wellness days will not pay out when an employee leaves employment and wellness days not used on or before December 31 of each year will convert back to sick leave on the next pay period.

• Refer to the Be Well Derby Guide located on the intranet for more information on the wellness program, wellness activities, and available points. Contact the Benefits Coordinator to sign up to join Be Well Derby.

IV. Emergency Shared Leave Pool (New 10/15)

a) The purpose of this policy is to allow full-time employees to donate sick leave to a pool that will assist other full-time employees when an emergency medical condition will require the employee to exhaust all available leave.

b) Full-time employees are eligible to receive donated leave for medical emergencies. A medical emergency is defined as a critical or catastrophic illness or injury of the employee, employee’s spouse, or employee’s dependent that poses a threat to life or requires inpatient or hospice health care. Examples of life-threatening conditions may include but are not limited to: cancer, stroke, coma, organ failure or transplant, debilitating heart conditions, and end of life hospice care. This policy is not intended to apply to incidental, routine, or short-term conditions, such as pregnancy, knee or hip replacement, and other routine surgical procedures; unless life threatening complications arise.

c) The employee in need of leave must submit an Emergency Donation Request form and provide medical evidence to support the need for leave that exceeds the employee’s
leave balance. In the event the employee is incapacitated, the supervisor or a family member may submit a request on behalf of the employee.

d) The employee must have a history of judicious use of leave time prior to the need for donation as determined at the discretion of the Director of Human Resources and the City Manager.

e) The City Manager, in consultation with the Director of Human Resources, will make the final decision of eligibility and the determination for the total amount of leave to be donated to an individual employee based upon the individual circumstances of each request.

f) In no event will the total amount of leave donated to an individual employee exceed 480 hours (12 weeks) within any 12-month period.

g) All donated leave hours will count toward the total annual Family Medical Leave Act entitlement, provided the employee has been approved for FMLA. (Approval for FMLA does not guarantee approval for Emergency Shared Leave).

h) Employees who work between 36 to 40 hours a week may donate up to 120 hours of sick leave and employees who work 56 hours a week may donate up to 168 hours of sick leave, provided that employees may only donate sick leave that has already been accrued, and may not reduce their sick leave balance below a minimum of eighty (80) hours.

i) All approved donations of sick leave are final and will be deducted from the donating employee’s leave balance and placed in the Emergency Shared Leave Pool. The Emergency Shared Leave Pool balance will be limited to 1,920 hours. When the balance drops below 480 hours, Human Resources staff will inform employees of the low balance and will provide information on the process for donating leave.

j) Donations of sick leave shall be strictly voluntary and shall not be solicited by directors or supervisors, other than general notices sent by the Human Resources Director.

V. Bereavement Leave (Revised 07/09, 09/14)

a) In the case of a death of a member in the employee’s immediate family (as defined in Chapter 2- Definitions), all full-time and part-time City employees may be granted bereavement leave not to exceed three (3) working days to be taken within seven (7) days of the loss or of the funeral services. The employee must attend the funeral or services in order to be eligible.

b) Employees may use accrued unused sick leave to supplement authorized bereavement leave for the death of the employee’s spouse, child or parent according to the following schedule:

- Employees who regularly work forty (40) hours or less per week may supplement authorized bereavement leave with up to an additional eighty (80) hours. Supplemental bereavement leave time shall be up to forty (40) hours for part-time employees.
Employees who regularly work fifty-six (56) hours per week may supplement authorized bereavement leave with up to an additional one hundred twelve (112) hours.

c) Bereavement leave will not be paid at termination and will not be added to any other accumulated leave.

VI. Jury Duty and Other Civil Leave (Revised 06/08)

a) The City encourages employees to fulfill their civil obligations. Employees shall be given necessary time off with pay when (1) performing jury duty; (2) 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) performing emergency civilian duty in connection with national defense; or (4) voting (when the polls are not open at least two hours before or after the employee’s scheduled hours of work). Absence from work for purposes of voting shall not exceed two (2) consecutive hours.

b) Employees shall notify their supervisor or department director upon notification of jury duty, subpoena or prior to the day of election to allow the City to cover the employee’s duties in his or her absence. In the event that an employee is selected to sit on the jury or testify as a witness, he or she shall promptly notify the supervisor of the anticipated length of trial. Employees must provide the City with a copy of their jury summons or subpoena. Employees will receive their regular pay for time actually spent engaging in any of the four civic duties described above.

c) Employees shall endorse over to the City all compensation received from the court for jury duty or subpoenaed court appearance. However, this obligation extends only to those expenses for which the City reimburses the employee. Employees shall not be required to endorse over to the City mileage or other personal expense reimbursements. Reimbursement for meals and mileage will only be provided when the employee appears in court on behalf of the City and the employee produces documentation of these expenses.

d) Employees who are excused early from jury duty or testifying in court, must report to work, provided four or more hours remain on his or her regularly scheduled shift, in order to qualify for payment. In such situations, and unless other arrangements are made with the supervisor or department director, employees are expected to return to work within one (1) hour of their release from duty.

e) Employees involved in a personal lawsuit either as a plaintiff or as a defendant in an action not related to his or her duties with the City may request leave without pay unless he or she elects to utilize accumulated vacation or compensatory time.

VII. Family and Medical Leave (Revised 06/08, 07/09, 04/10, 09/19)

The Family and Medical Leave Act (FMLA) is a federal law that allows eligible employees to take job protected leave for FMLA covered conditions. This policy is designed to
provide an overview of employee rights to FMLA. In the event of any conflict between this policy and the law, employees will be afforded all rights required by law.

Under certain conditions, the FMLA entitles eligible employees to time off with or without pay for personal and family health reasons, for the birth or adoption of children or placement of foster children, for military caregiver leave and for military family qualifying exigency leave. In most cases, employees taking FMLA leave are entitled to return to the position they held prior to leave or a substantially equivalent position with equivalent benefits, pay, and other terms of employment.

a) **Eligibility.** The City of Derby is a covered employer and therefore City employees are eligible for FMLA leave if they (1) have been employed with the City for at least 12 months in the prior seven years (the months need not be consecutive), and (2) they worked at least 1,250 hours during the 12-month period immediately preceding the leave.

b) **Qualifying Leave.** Up to 12-workweeks of FMLA leave may be taken by eligible employees, unless caring for a seriously injured or ill military service member in which case up to 26 weeks may be taken. For reasons of birth or placement of a child, leave must be completed within 12 months of the birth or placement.

The 12-workweek leave entitlement is computed on a rolling 12-month period measured backward from the date an employee uses FMLA leave. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy in the prior 12 months and subtract it from the 12-workweek leave entitlement.

The 12-workweek entitlement is calculated based on the employee’s regular schedule. For example, a firefighter who works 56 hours during a regular workweek will have an entitlement of 672 hours of FMLA. Whereas, a police officer who works 40 hours during a regular workweek will have an FMLA entitlement of 480 hours. If an employee transfers from one position to another, any remaining FMLA entitlement will be calculated based on the regular workweek of the new position as of the date of transfer.

Generally, FMLA leave may be taken for the following reasons:

- For the birth of a son or daughter, and to care for the newborn child;
- For placement with the employee of a son or daughter for adoption or foster care;
- For care for the employee’s spouse, child, or parent with a serious health condition;
- Because of a serious health condition that makes the employee unable to perform the functions of the employee’s job;
- For a qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is a member of the Armed Forces (including the National Guard and Reserves) and who is on covered active duty. Covered active duty is duty during deployment to a foreign country or, for the Reserve components, a call to order to active duty in a contingency operation; or
To care for a seriously injured or ill covered servicemember who was injured in the line of duty on active duty, to whom the employee is the spouse, parent, child, or next of kin. This leave is only available during a single 12-month period, measured forward from the date the leave starts, and, if utilized in combination with any other FMLA reason, the eligible employee shall be entitled to no more than a total of 26 work weeks. Nothing in this section limits the availability of another type of FMLA leave being utilized in a subsequent rolling 12-month period.

c) Definitions.

A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves one or more of the following:

- inpatient care requiring an overnight stay at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care;
- continuing treatment by a licensed health care provider for a chronic or long-term health condition. Generally, a health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of incapacity and a second visit within 30 days of the incapacity, or a visit to the health care provider within seven days and a regimen of continuing treatment under supervision of the health care provider would be considered a serious health condition. At least two health care visits a year must occur to be considered a chronic condition;
- Any period of incapacity due to pregnancy or prenatal care;
- Incapacity which is permanent or long-term due to a condition for which treatment may not be effective;
- Conditions requiring multiple treatments.

Employees with questions about whether an illness is covered under this policy should consult with the Director of Human Resources.

“Qualified exigencies” include:

- Issues arising from a covered military member’s short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or
day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;

- Making or updating financial and legal arrangements to address a covered military member’s absence;

- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;

- Taking up to **fifteen** days of leave to spend time with a covered service member who is on short-term temporary, rest and recuperation leave during deployment;

- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member’s active duty status, and addressing issues arising from the death of a covered military member; Certain parental care activities where the parent of the military member is incapable of self-care and leave is required to arrange for alternative care for the parent of the military member, to provide care for a parent of the military member on an urgent, immediate need basis, to admit or transfer the parent to a care facility, or to attend meetings with staff at a care facility;

- Any other event that the employee and employer agree is a qualifying exigency.

- The term “Covered servicemember” means:

  - a member of the Armed Forces (including the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness;

  - a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the armed Forces at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, and who was discharged or released under conditions other than dishonorable.

**d) Employee Responsibilities.**

1) **Notification.** An employee desiring to use FMLA leave must notify his or her supervisor or Human Resources at least 30 days in advance of the anticipated start date of leave, when leave is foreseeable. If 30 days is not practicable, the employee must give notice as soon as practicable. When leave is not foreseeable, the employee must provide notice as soon as possible and in accordance with instructions previously provided by the supervisor or as established in department procedures, or the Personnel Policy Manual if there are no established supervisor
instructions or department procedures, absent unusual circumstances. Failure to provide timely notice of the need for FMLA may result in denial or delay of FMLA leave, and could result in unexcused absences and disciplinary action in accordance with the City’s absenteeism policy.

2) **Respond to Requests.** Employees are expected to respond in a timely manner to requests from Human Resources pertaining to medical certifications and recertifications, requests for approval to contact medical providers, etc.

3) **Outside Employment.** If an employee has been approved by his or her department director for outside employment prior to taking FMLA leave, the employee must notify the Human Resources Director if they intend to continue to work their other job while on FMLA. The Human Resources Director (with input from the employee’s health care provider, as necessary) will determine if the pre-approved outside employment conflicts with the employee’s need for leave. If there is a conflict, the employee is prohibited from continuing the outside employment during the period of FMLA leave, regardless of being approved for outside employment prior to taking FMLA leave.

   - If an employee has not been approved for outside employment prior to taking FMLA leave, the employee must get advance written approval from the Director of Human Resources before engaging in outside employment while on FMLA leave. The Director of Human Resources will determine if the request regarding outside employment conflicts with the need for leave, as described above.

   - These guidelines for outside employment while on FMLA leave also apply to outside employment for other types of leave taken for medical purposes.

e) **Employer Responsibilities.**

   1) **Provide Eligibility Information.** When a request for FMLA leave is received, Human Resources will notify the employee of his or her eligibility to take leave, within five business days of the request for FMLA leave. If the employee is not eligible, the response will include the reason for ineligibility.

   2) **Provide Rights and Responsibilities.** Human Resources will also inform the employee of his or her rights and responsibilities under FMLA, including specific written instructions on any additional information that will be required.

   3) **Designation Notice.** Once sufficient information is received regarding the requested leave, Human Resources will notify the employee within five business days if the FMLA leave request is approved. The employee will also be notified of the number of hours, days, or weeks that will be counted against the employee’s FMLA entitlement. Human Resources will notify supervisors of any FMLA approvals and updates.

f) **Use of Paid and Unpaid Leave.** Employees on FMLA leave are required to exhaust all accumulated vacation, sick, holiday and compensatory time before using unpaid leave. In such a case, the paid time will be counted against the employee’s FMLA leave time and the employee’s accrued leave time. All remaining FMLA leave shall be unpaid. In the event a condition for which the employee has utilized paid or unpaid leave progresses into a serious health condition, the City, with the employee’s
permission, will retroactively designate the portion of the leave taken that falls under these qualifications as FMLA leave. Employees who are injured on the job and are unable to work will utilize workers’ compensation leave concurrently with FMLA. Refer to the Workers’ Compensation section for more information.

g) **Medical Certification.** If the employee requests FMLA leave for his or her own serious health condition, the serious health condition of a family member or military caregiver leave, the City will require medical certification by a health care provider, to support an employee’s request for leave. The employee must return the medical certification to Human Resources within 15 calendar days of receiving the City’s request for certification. The City will provisionally approve FMLA leave while the medical certification is pending. Certification regarding a serious health condition must include, among other things, a statement that the employee is unable to work at all or is unable to perform at least one of the essential functions of his or her position (if leave is for the employee’s own serious health condition), sufficient medical facts to determine that the condition is a serious health condition, and an estimate of the duration of the need for medical leave.

The City may also require a second medical opinion at the City’s expense, if it has reason to doubt the medical certification provided by the employee. If the first and second opinions conflict, the City and employee will jointly select a third health care provider, who will provide a binding third opinion (at the City’s expense). The City will provisionally approve FMLA leave while second and/or third opinions are pending.

A health care provider’s release (a “fitness for duty certification”) is required if an employee is returning from a medical leave exceeding three (3) days in duration for the employee’s own serious health condition. The release shall include any work restrictions, if applicable.

For requests to care for injured or ill service members, documentation of the injury, recovery or need for care may be a copy of a certification completed by an authorized health care provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember’s family. Second opinions and re-certifications are not allowed. Human Resources may authenticate or clarify a medical certification or an ITO or ITA. In no event will the employee’s immediate supervisor make contact with a medical provider.

The City may request recertifications from time to time, and in accordance with the rules and regulations governing the FMLA. For example, the City may request a recertification when there are changed conditions, a request for extension of leave, suspicious leave patterns, and at least every six month in connection with an FMLA absence. The City may also request annual medical certifications for conditions that last more than one year.

Medical certifications will be kept confidential in accordance with applicable state and federal law.
h) **Genetic Information.** The Genetic Information Nondiscrimination Act of 2008 ("GINA") prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the City asks that employees not provide any genetic information when responding to requests for medical information. "Genetic information" as defined by GINA includes an individual's family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

i) **Documentation for Qualifying Exigency.** Employees requesting leave for a qualifying exigency arising out of the active military duty or notice of impending call or order to active duty must provide a copy of the covered military member’s active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party. The department director or Director of Human Resources may contact the individual or entity named in a certification of leave to verify the existence and nature of the order or certification.

j) **Intermittent Leave or Reduced Schedule.** FMLA leave may be taken intermittently or on a reduced schedule basis when medically necessary and when the employee seeks leave: 1) for an employee’s serious health condition, 2) the serious health condition of a spouse, child, or parent, 3) for a qualifying exigency, 4) for bonding after the birth or placement of a child, or 5) for the care of a seriously injured or ill covered servicemember. When an employee seeks intermittent or reduced schedule leave for planned medical treatment, the employee must make a reasonable effort to schedule treatment to minimize disruption to their work schedule. In addition, when leave is for planned medical treatment, the City may require the employee to transfer temporarily to an alternative position for which the employee is qualified and that has equivalent pay and benefits, and which better accommodates recurring periods of leave than the employee’s regular position.

If an employee requests and is permitted to use accrued compensatory time off to receive pay for time taken of for an FMLA reason, the time taken will be counted against the employee’s FMLA leave entitlement.

k) **Spouses’ Combined Leave.** Spouses who are both employed by the City are entitled to a combined total of 12 workweeks of leave for the birth of a child, for placement for adoption or foster care of a child, for the care of a parent with a serious health condition, or for the qualifying exigency of an active service member. Spouses can take a combined total of 26 workweeks to care for an ill or injured service member.

l) **Benefits During FMLA Leave.** Group health insurance coverage will continue for employees on FMLA leave as if they were not on leave, and will do so on the same conditions as coverage would have been provided if the employee had been continuously working during the entire leave period. Employees who paid part of the
premiums to maintain health coverage before taking leave must, to continue coverage during leave, make those payments, and the payments should be coordinated through the City. Health care coverage will cease if the premium payment is more than 30 days late. Should the employee fail to return to work, or remain at work upon return for less than 30 days, for reasons other than serious health conditions, or retirement, or for reasons beyond the employee’s control, the City may recover from the employee the costs of payments made to continue the employee’s health insurance.

Other benefits shall accrue during FMLA leave only if they would continue under other types of leave.

m) **Failure to Return to Work.** If an employee fails to return to work at the conclusion of an approved leave of absence, including any extension of such leave, the employee may be considered to have voluntarily terminated employment. The City may seek reimbursement from the employee for any of its costs of insurance premiums during the employee’s unpaid leave, unless the employee’s reason for not returning to work is due to the continuation, recurrence, or onset of a serious health condition that would entitle the employee to FMLA leave; the continuation, recurrence, or onset of a covered servicemember’s serious injury or illness that would entitle the employee to FMLA leave; or other circumstances beyond the employee’s control.

n) **Fraudulent Request or Use of FMLA Leave.** If an employee fraudulently requests or obtains FMLA leave, the employee is not protected by the FMLA’s job restoration or maintenance of health benefits provisions. An employee who fraudulently requests or obtains FMLA leave is subject to disciplinary action, up to and including termination.

o) **Unlawful Acts and Enforcement.** The FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under the FMLA, or discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to FMLA. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. The FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

**VIII. Military Leave (Revised 09/21)**

a) Leaves of absence shall be granted to City employees whose United States uniformed services (military) obligations necessitate their absence from work. These leaves are applicable to all such obligations, including Reserve and National Guard assignments, and are governed pursuant to the Uniformed Services Employment and Reemployment Rights Act (“USERRA”). Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable.

b) Any employee who leaves city service for military duty shall be placed on military leave without pay. If not accepted for such duty, the employee shall be reinstated in his present position without loss of status or reduction in pay.
c) Prior to taking military leave, the employee taking leave may request that the vacancy be temporarily filled by completing a Special Request Form to that effect. If the City Manager determines that the position should be temporarily filled, HR will work with the department to determine the best method for temporarily filling the vacancy.

d) Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable position depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service. Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. If the period of service was more than 31 days, but less than 181 days, the employee must submit an application to the City no later than 14 days following completion of service. For service in the military of over 180 days, the employee must submit an application to the City not later than 90 days after completion of service.

e) Employees who are subject to multiple military duty assignments may, at their option, present leave notices covering all such obligations or individual leave notices.

f) Continuation of health insurance benefits will be as required by and in accordance with USERRA, based on the length of the leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible.

IX. Domestic Violence Leave

The City of Derby domestic violence leave policy is designed to raise awareness of domestic violence; provide time off for purposes required by law; provide support, when appropriate, to employees experiencing domestic violence; give guidance to management on addressing the effects of domestic violence in the workplace; comply with all federal and state laws concerning domestic violence; and create a safer work environment.

a) Definitions:

- “Domestic violence” means a pattern of coercive behavior that is used in an intimate relationship by one person to gain power and control over another. Domestic violence includes physical, sexual, emotional, psychological and financial abuse. Examples of coercive behavior include, but are not limited to: hitting, punching, shoving, stabbing, shooting, slapping, threatening behavior, name calling, humiliating in front of others, controlling what one wears, says and does, controlling the financial decisions, stalking, destroying or attempting to destroy property, and using children to control. Domestic violence occurs between people of all racial, economic, educational, and religious backgrounds, living together or separately, married or unmarried, in short-term or long-term relationships.
- “Abuser” means the individual who commits an act of domestic violence.
- “Survivor” or “Victim” means an employee who is the subject of an act of domestic violence.
b) The City of Derby will not discharge, discriminate or retaliate against a victim of domestic violence or sexual assault for taking time off from work to:

- Obtain or attempt to obtain relief, including but not limited to a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or the victim’s children;
- Seek medical attention for injuries caused by domestic violence or sexual assault;
- Obtain services from a domestic violence shelter, domestic violence program or rape crisis center as a result of domestic violence or sexual assault; or
- Make court appearances in the aftermath of domestic violence or sexual assault.

c) As a condition of taking time off for a purpose set forth in subsection (b), the victim shall provide reasonable advance notice, unless such advance notice is not possible.

d) Within 48 hours after returning from time off pursuant to this policy, the victim shall provide documentation to support taking time off. Documentation may include but is not limited to:

- A police report indicating that the employee was a victim of domestic violence or sexual assault;
- A court order protecting or separating the victim from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or
- Documentation from a medical professional, domestic violence advocate, or advocate for victims of sexual assault, health care provider or counselor that the victim was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.

e) Victims may utilize any accrued unused paid leave or, if paid leave is unavailable, unpaid leave, not to exceed a total of eight days per calendar year.

f) To the extent allowed by law, the City will maintain the confidentiality of any victim requesting domestic violence leave.

g) The City will make available appropriate information, referrals, and resources to victims. Employees desiring such information should contact the Director of Human Resources.

X. Injury Leave (Revised 06/08, 11/10, 01/14, 10/15)

a) Eligibility. Full-time public safety employees are eligible to utilize up to 80 hours of injury leave per year if unable to work with or without restrictions because of injuries covered by workers compensation that occurred while performing on-the-job assignments.

b) Restrictions. Public safety employees on approved injury leave are prohibited from working other jobs.
c) **Reporting Requirements.** On-the-job injuries should be reported immediately to the employee’s supervisor and department director. Employees shall follow accident reporting procedures and seek medical treatment as outlined in the *City of Derby Employee Safety Manual*. The employee or a responsible representative of the employee must notify the employee’s supervisor or department director if the employee will be absent from work.

**XI. Leave without Pay (Revised 04/10, 10/15, 09/17)**

a) Occasionally, for medical, personal or other reasons, employees may need to be temporarily released from the duties of their job with the City. Leaves of absence without pay not specifically covered by this manual or federal, state or local law will be considered only when no paid leave is available.

b) Requests for leave without pay shall be submitted in writing on a Leave Without Pay Request Form which is located on the intranet. The request should state the reason for, and duration of, the requested leave. Approval from both the department director and the City Manager will be required, provided that leave without pay requests for part-time employees, can be approved by department directors if the amount of leave does not exceed an amount equal to the part-time employee’s regular weekly schedule. Refer to unexcused absences on page 20 for handling unapproved leave without pay.

c) Leaves of absence without pay will be limited to six weeks. Exceptions may be granted by the City Manager for extraordinary circumstances.

d) Employees on an approved leave of absence without pay pursuant to this policy will not accrue vacation, sick leave or other benefits during the leave of absence.

e) Generally, the City will continue its contribution toward dental and health insurance during the leave of absence without pay; provided that in cases of extended leaves of absence, continuation of benefits will be evaluated on a case by case basis.

f) Failure to return to work as scheduled from an approved leave of absence or to inform the supervisor of an acceptable reason for not returning as scheduled will be considered a voluntary resignation of employment.
Chapter 13: Drug and Alcohol-Free Workplace

I. Purpose (Revised 07/09, 10/15, 01/20)

The City is committed to providing a work environment which is safe, healthy and productive. The use of drugs and alcohol significantly increases the likelihood of accidents and injuries in the workplace. Employees are prohibited from using, possessing, distributing, selling, manufacturing, or being under the influence of any illicit drug (including prescription drugs that are illegally obtained or misused) or alcohol, while on duty, including paid or unpaid breaks or lunch periods, while on call, or while operating a vehicle or equipment owned, leased, or rented by the City.

II. Prescription or Over-the-Counter Medications (Revised 09/14)

Legal use of prescribed drugs is permitted on the job only if such use does not impair an employee’s ability to safely and effectively perform his or her job. The use of prescribed drugs or over-the-counter medication which may adversely affect performance or behavior must be reported to the supervisor before beginning work on the day in which the medication is taken. Employees taking controlled substance and other medications which contain an alert about driving or operating equipment under the influence, must complete a Controlled Substance Information Report and submit the report through their chain of command along with a doctor’s note indicating whether they can operate vehicles and equipment. Once reviewed, all forms and notes will be submitted to Human Resources where they will be kept in the employee’s medical file. Employees are responsible for keeping their controlled substance medications in a safe and secure place.

III. Duty to Report

a) If an employee suspects that another employee or supervisor is under the influence, using, selling, possessing, or purchasing alcohol or drugs while on duty or engaged in City business, or while using City vehicles or other property, that employee shall report his or her suspicions to a non-involved supervisor, department director, or the Director of Human Resources. Failure to report suspicion of alcohol or drug use is cause for disciplinary action.

b) If a supervisor suspects that an employee is under the influence of alcohol or drugs, the supervisor will contact the Director of Human Resources or his or her designee to arrange for testing in accordance with applicable alcohol and drug screening and testing guidelines. The supervisor or designee will provide transportation to and from testing.

IV. Drug-Related Convictions

Any City employee convicted of violating a criminal drug statute, whether resulting from a trial or a plea of guilty or nolo contendere, shall inform the City of such conviction, within five days after the conviction. The City reserves the right to
offer employees convicted of violating a criminal drug statute outside of the work place, participation in an approved rehabilitation or drug abuse assistance program as an alternative to termination. If such a program is offered and accepted by the employee, such employee must satisfactorily participate in the program as a condition of continued employment.

V. Drug and Alcohol Testing (Revised 06/08)

All employees are subject to reasonable suspicion and post accident drug and alcohol testing, whereas certain employees are also subject to random drug and alcohol testing depending on the nature of their positions with the City. The City’s drug and alcohol testing policies and procedures are fully described in Appendix E: Substance Abuse Policy and Testing Procedures.

VI. Violation of Policy

Employees who violate any aspect of this policy may be subject to disciplinary action, up to and including termination. In addition, the City may, in its discretion, require employees who violate this policy to successfully complete an alcohol or drug abuse assistance or rehabilitation program as a condition of continued employment.
Chapter 14: Employee Advisory Committees

I. Purpose

The City Manager shall provide for a Fire Employee Advisory Committee (FEAC), Police Employee Advisory Committee (PEAC) and City Employee Advisory Committee (CEAC) to provide a forum for discussion and recommendations about employment-related policies, procedures, and benefits. All three committees are advisory in nature with PEAC and FEAC providing recommendations to the Chiefs of their departments and CEAC providing recommendations to the City Manager. PEAC and FEAC shall focus on items pertaining to their specific departments; whereas, CEAC shall focus on issues and concerns that affect multiple departments.

Details pertaining to PEAC and FEAC can be found in the Standard Operating Procedures (SOP) for their respective departments.

II. Election, CEAC Composition, and Term (Revised 09/16, 09/19, 09/21)

a) Election. CEAC representatives and alternates are elected via secret ballot elections conducted by Human Resources.
   • An election ending with a tie shall be determined by a run-off election. A run-off election ending in a tie shall be determined by a coin toss.
   • PEAC and FEAC shall each select their representative to CEAC.

b) CEAC Composition.
   Voting Members. CEAC is composed of employee representatives who are selected from the following:
   • City Hall 2 representatives
   • Fire and Rescue 1 representative (FEAC selects)
   • Police and Courts Building 1 representative (PEAC selects)
   • Public Works Building 1 representative
   • Utilities Building 1 representative
   *City Hall and Court includes all departments and divisions at City Hall and Municipal Court.

   Non-Voting Members. The following employees will provide staff support and serve as ex-officio members to CEAC, but will not vote:
   • Deputy City Manager- Assists with creating agenda and provides professional advice.
   • HR Director – Performs research, provides historical background on issues, and provides professional advice.
   • CEAC Secretary- The City Manager shall designate an employee to serve as secretary to take minutes and assist with meetings.

c) Term. CEAC representatives shall serve two-year terms with no limitation to the number of terms that can be served.
d) **Officers.** CEAC members shall elect a chair and vice chair.

e) **Eligibility.** Full-time employees of the City of Derby, who have a minimum of one year of service with the City, have had no major disciplinary actions within the last two years, and who have not been on a performance improvement plan (PIP) within the past 12 months, are eligible to serve as CEAC representatives. Division managers and higher are not eligible to serve as voting members of CEAC.

### III. Role of CEAC Members

a) CEAC members are responsible for taking employee suggestions and concerns to CEAC and for reporting back to the colleagues they represent. After a majority of CEAC members approve meeting summaries, those summaries are shared with all employees and the City Council. After discussing items, CEAC may make recommendations for changes to various policies, procedures, and benefits.

b) CEAC does not resolve work-related issues pertaining to individual employees. Employees with personal grievances or complaints should seek resolution through appropriate line management or Human Resources.

c) CEAC may discuss and make recommendations pertaining to the need for pay studies or policies pertaining to how often pay studies should be conducted but does not evaluate or make recommendations on pay ranges for specific positions. Discussion of pay and benefits specifically for police or fire (that doesn't affect other city employees) is handled by PEAC and FEAC.
Chapter 15: Employee Assistance Program (EAP)

I. Purpose

The City contracts with a private company to provide counseling to employees of the City and their families in dealing with any type of personal problem, including, but not limited to: alcoholism, drug abuse, financial or legal difficulties, family problems, and other similar difficulties. The program is designed to encourage early intervention and awareness of such problems and to offer help at the earliest opportunity.

II. Training

The EAP provider will provide training and education for all employees on how to utilize the program and will provide additional training and education for supervisors who have the authority to make mandatory referrals.

III. Self Referral

a) Eligibility. All full-time and part-time employees, members of an employee’s household, and benefit-eligible dependents are eligible to receive assistance through the EAP.

b) Employee Responsibilities. Employees are responsible for their performance and for taking constructive action to resolve any personal problems that affect or threaten to affect their on-the-job performance. The City expects the EAP provider to provide training and education for all employees on how to utilize the program.

c) Telephone Access. Employees will be provided with a toll-free number to reach the City’s EAP service provider. The phone numbers will also be available on bulletin boards located in break rooms of City buildings.

d) Confidentiality. All medical and rehabilitation records concerning self-referred counseling, including the employee’s identity, diagnosis, prognosis or treatment, are confidential. The City expects that the EAP will not reveal any information that the individual discloses to the EAP, except under the following circumstances:

- The employee consents in writing;
- The law requires disclosure; or
- It is believed that life or safety is threatened by nondisclosure.

IV. Mandatory Referral

The City may require that an employee participate in the EAP (“mandatory referral”) as a condition of suspending the imposition of discipline or reducing the
severity of discipline imposed. All mandatory referrals shall be approved by the City Manager. The Director of Human Resources will advise the EAP service provider of the required contact and will serve as the City’s point of contact for the EAP counselor. When a mandatory referral has been made, the employee shall, within forty-eight (48) hours after signing the referral form, contact the EAP counselor by telephone and set up a personal interview. Absent good cause, failure to timely contact the EAP counselor will result in imposition of such disciplinary action as the City deems appropriate and consistent with this policy. An employee’s fitness to continue in his or her current position while participating in the EAP after mandatory referral will be determined on a case-by-case basis. For additional information on mandatory referrals pertaining to alcohol and drug use, refer to Appendix E: *Substance Abuse Policy and Testing Procedures.*
Chapter 16: Technology and Computer Use

I. Purpose

To remain competitive and provide our employees with the best tools to do their jobs, the City provides electronic media and services, including computers, software, e-mail, telephones, voicemail, fax machines, online services, internet and the worldwide web (collectively “Computer Technology”), to its employees.

II. General (Revised 10/18)

a) Scope of Policy. This policy applies to all departments, divisions and other individuals or groups that use Computer Technology. Individual departments or divisions may implement more restrictive policies for application within their departments, once approved by Human Resources, but may not implement more lenient policies.

b) Ownership. Computer Technology, including all data files and applications, is the property of the City of Derby. All materials and information created, transmitted or stored on or through the use of Computer Technology are the property of the City and may be accessed only by authorized personnel.

c) Employee Responsibilities. The City encourages the use of Computer Technology to make communication more efficient and effective. However, all employees should remember that Computer Technology is provided solely to facilitate and support City business. All Computer Technology users have the responsibility to use these resources professionally, ethically, and lawfully.

III. E-Mail and Internet Usage (Revised 10/15, 10/18)

The following guidelines apply to use of e-mail and the internet. Rather than attempting to cover every possible situation, this policy is designed to express the City’s philosophy and set forth general principles when using Computer Technology.

a) Prohibited Communication. Computer technology shall not be used to knowingly transmit, retrieve, or store any communication that is: discriminatory or harassing; derogatory to any individual or group; obscene, sexually explicit or pornographic; defamatory or threatening; fraudulent; in violation of any license governing the use of software; illegal or contrary to the City’s policy or business interests; related to political activity or campaigning; or in furtherance of a personal business enterprise.

b) Participation in Online Forums. The City recognizes that participation in some online forums might be beneficial to an employee's job performance, such as by finding the answer to a technical problem by consulting members of
a group devoted to the technical area. Employees should remember that any messages or information sent via Computer Technology to one or more individuals via an electronic network, to include internet mailing lists, bulletin boards, and online services, are identifiable and attributable to the City.

c) **Unknown Sources or Unexpected E-mails.** Employees must use extra caution when an e-mail is received from an unknown source or when an e-mail is from a known source but is unexpected or appears suspicious. Address books are sometimes used by outside sources to spread viruses. The potential to spread viruses is significant; opening an unexpected or suspect e-mail could have undesirable consequences to the entire City’s computer system. Extra care should also be used in opening attachments: “When in doubt, throw it out.”

d) **Use of Personal E-mail Accounts for City Business.** Employees are cautioned that e-mails pertaining to work are considered City of Derby work records and may be subject to open records or disclosure in the event of litigation. For this reason, employees are encouraged to limit their use of personal e-mail accounts for work related purposes. When utilizing a personal e-mail account for work related purposes, employees shall carbon copy (cc) their work-related e-mail account to ensure that a record is created on the City’s network.

IV. **Social Media (New 09/16, Revised 10/18)**

a) **Definition.** Social media includes all means of communicating or posting information or content of any sort on the Internet, including to your own, or someone else’s, blog, personal web site, social networking web site (including Facebook, Twitter, etc.), chat room, as well as any other form of electronic communication, whether or not associated or affiliated with the City of Derby.

b) **Guidelines.** The principles and guidelines found in this policy apply to your activities online. The City respects your 1st Amendment rights; ultimately, you are solely responsible for what you post online. Before creating online content, consider how the communication you are posting might be perceived. Keep in mind that any conduct adversely affecting your job performance, the performance of fellow employees or that otherwise adversely affects residents, customers, vendors, or people who work on behalf of the City may result in disciplinary action up to and including termination.

- **Know and follow the rules.** Carefully read these guidelines, and ensure your postings are consistent with these policies. Inappropriate posts which include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.
• **Be fair and courteous.** Even when off duty, employees are expected to be fair and courteous to fellow employees, customers, residents, vendors and others encountered while working on behalf of the City of Derby. When posting content, ensure that you are not posting something you would not want to take credit for in a public meeting.

• **Be honest and accurate.** Make sure content is honest and accurate and correct any mistakes quickly. Never post false information or rumors about the City of Derby, employees, customers, or contractors of the City. Be open about posts that have been altered and remember that the Internet archives almost everything; therefore, even deleted posts can be recovered.

• **Think about what you are posting and harm it could cause.** Keep in mind that work-related complaints can typically be resolved more effectively by speaking directly with a co-worker or by talking with a supervisor rather than by posting complaints to a social media outlet. Employees who decide to post complaints or criticism are cautioned to avoid using statements, photographs, video or audio that (1) reasonably could be viewed as malicious, obscene, threatening or intimidating; (2) disparage customers, employees, supervisors, or suppliers; or (3) might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to harm someone’s reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or city policy.

• **Never represent yourself as a City spokesperson.** Unless it is part of your job duty to post City content, never represent yourself as a spokesperson for the City of Derby. Your posts should express only your personal opinions. If operations of the City of Derby are the subject of the content you are creating, be clear and open about the fact that you are an employee and make it clear that your views do not represent those of the City of Derby, fellow employees, customers, residents, etc. If you are referencing the City of Derby’s operations on a website or other social media outlet, it is best to include a disclaimer such as “The postings on this site are my own and do not necessarily reflect the views of the City of Derby.”

c) **Retaliation is Prohibited.** The City of Derby prohibits taking negative action against an employee for reporting a possible violation of this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible violation of this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.
d) **City Social Media Accounts.** All official City social media accounts must be reviewed by the Communications Director and approved by the employee’s Department Director. An employee setting up or maintaining a City social media account shall have at least one other City employee as an administrator on the account to ensure that information can be updated in the employee’s absence. When possible, the City social media account should contain the official City or department logo to set it apart from non-City sponsored sites.

V. **Personal Use of Computer Technology**

Computer Technology is provided by the City of Derby for business use. Limited, occasional, or incidental use of Computer Technology for personal, non-business purposes is permissible but must be done in a manner that does not interfere with performance of official duties or negatively impact the City. Employees are expected to act responsibly and not abuse this privilege. Non-business use of the following Computer Technology is prohibited: entering or monitoring chat rooms, instant messaging, or accessing live streaming video or audio.

VI. **Monitoring Employees’ Use of Computer Technology (Revised 10/18)**

a) The City has the right, but not the duty, to monitor any and all use of Computer Technology, including electronic files and employee e-mail, to the extent necessary to ensure that Computer Technology is being used in compliance with law, this policy and other City policies.

b) Employees should use the same care in drafting e-mail and other electronic documents as they would for any other written communication. Anything created on a computer may, and likely will, be reviewed by others. E-mail should not be considered a confidential form of communication. Even deleted e-mails may be recovered and read by others. To the extent practical, employees should use other media to transmit sensitive or confidential information. When employees are sending, as part of their job functions, medical information, information subject to HIPAA protection, or social security numbers, encrypted e-mail must be used. Contact Human Resources if you need to send an encrypted e-mail.

VII. **Non-Exempt Employee Use of Technology Outside of Work Hours (New 10/18)**

a) Non-exempt employees should not perform work outside of their normal hours, which includes checking work e-mails, unless it has been authorized and should not conduct overtime work unless pre-approved by their department director. The general guideline is any work performed that is 7 minutes or longer, should be reported on the timesheet. Working outside of normal hours or with unauthorized overtime may result in disciplinary action up to and including termination.
b) When a supervisor directs an hourly employee to check, read, send or respond to work-related communication outside of work hours, the employee and supervisor must ensure that any time worked is reflected on the time sheet.

VIII. Software (Revised 10/18)

a) All City-owned software is the property of the City and shall be used only in compliance with applicable software agreements.

b) To prevent computer viruses from being transmitted through Computer Technology, unauthorized downloading of software is strictly prohibited. To ensure that incompatible software is not installed, all software must be approved by the Computer Systems Management Division prior to downloading.

c) All employees will comply with licensing requirements for software purchased by the City.

IX. Confidentiality

a) Employees will respect the confidentiality of other individuals' electronic communications. Except when permission has been expressly granted by City management, employees are prohibited from engaging in, or attempting to engage in the following:

- Monitoring or intercepting the files or electronic communications of other employees or third parties;
- Hacking or obtaining access to systems or accounts they are not authorized to use;
- Using other employees’ log-ins or passwords; and
- Breaching, testing or monitoring computer or network security measures.

b) No e-mail or other electronic communications that hide or attempt to hide the identity of the sender or represent the sender as someone else will be sent using Computer Technology.

c) Computer Technology and services should not be used in a manner that is likely to cause network congestion or significantly limit the ability of other employees to access and use the network.

d) Anyone obtaining electronic access to other materials that are the property of other companies or individuals must respect all copyrights and cannot copy, retrieve, modify or forward copyrighted materials except as permitted by the copyright owner.

e) Employees are responsible for safeguarding their passwords. Individual passwords should not be printed, stored online, or given to others. Each employee is responsible for all transactions made using their password. Misuse of other employee’s passwords is cause for disciplinary action.
f) Employees must exercise caution when conducting City business on personal computers or when transporting City electronic files off of City premises, particularly when the information is of a confidential nature. Employees are responsible for the security of all electronic files they carry on their person or work on outside of a City facility.

X. Law Enforcement, Legal and Investigation Exception (Revised 10/18)

Exceptions to this policy will be made as needed for the purposes of conducting law-enforcement investigations, complying with applicable laws (ex. Kansas Open Records Act), for litigation, claims, or investigation purposes as determined by the City Attorney and City Manager and for investigation of suspected employee misconduct.

XI. Violation of Policy

Any employee who uses Computer Technology or accesses or uses e-mail or the internet in violation of this policy will be subject to disciplinary action, up to and including termination of employment, and may be subject to criminal prosecution and civil liability.

XII. Terminology

“Computer Equipment” means computers or computer output devices to include printers, plotters, communication devices, display terminals, personal computers, servers, switches.

“Computer Technology” means any and all electronic media and services, including computers, software, e-mail, telephones, voicemail, facsimile machines, online services, internet, provided to employees by the City.

“Download” means the transfer of a copy of machine-readable data from one originating computer to another.

“Licensing” means a requirement that computer software or other programs be used only with the permission of and subject to the restrictions, including restrictions on the number of users, imposed by the owner of the software or program.

“Password” means a secure combination of characters entered by a person and used by the computer to verify authorized access to computer functions.

“Software” means a stored sequence of machine-readable instructions that cause a machine to perform calculations or functions. Software may be purchased or created in-house.
Chapter 17: Employee Conduct and Discipline

I. Purpose (Revised 06/08, 07/09, 02/19)

These guidelines are placed in written form for the benefit of all employees, and to ensure fair treatment for all. The City expects all employees to conduct themselves in a professional and ethical manner at all times. The City has established standards of conduct outlined below. This list is not intended to be a complete list of misconduct which may result in immediate termination or other disciplinary action; these are merely some examples of unacceptable conduct. The City reserves the right to discipline or terminate employees for violation of department regulations and for other conduct not listed herein.

II. Standards of Conduct (Revised 06/08, 07/09, 01/14, 09/16, 09/17, 01/20)

The following are examples of conduct that may lead to discipline, up to and including termination:

- Violation of any policy or procedure contained in this Manual or any other City policy or procedure manual.
- Violation of any policy, procedure, or regulation required by state, federal or any governmental or regulatory agency.
- Conviction or violation of city, state or federal law.
- Excessive absenteeism or tardiness.
- Making, publishing or distributing false, vicious or malicious statements concerning any customer or employee.
- Working overtime without prior authorization.
- Leaving the assigned work areas during working hours without approval.
- Immoral or indecent conduct or solicitation of another person for such conduct.
- Possession of, selling or being under the influence of alcohol or illegal drugs when reporting for work, on City property, or while on duty.
- Insubordination, including improper conduct or abusive language toward a supervisor, disparaging a supervisor, or refusal to perform tasks in a manner prescribed by a supervisor. Refusal to work any assigned hours, shifts or overtime.
- Unprofessional conduct, such as fighting, gambling, discourtesy, rudeness, intimidation or threats of any kind against other employees or citizens, or using vulgar, profane or derogatory language or gestures.
- Verbal or physical harassment, intimidation or interference with the rights of any fellow employee, vendor or citizen, including sexual harassment.
- Operating a motor vehicle in an unauthorized manner that endangers the life or safety of a guest or employee while on duty or on City property.
- Inattentive driving or failure to obey city and state traffic laws.
- Unauthorized use of the telephone or conducting personal business while on duty. This shall include, but not be limited to, engaging in excessive personal telephone calls, texts, emails, and social media activity.
- Incompetence or inefficiency, including failure to perform job assignments timely and satisfactorily.
- Engaging in conduct that endangers the safety of yourself or others.
- Failure to observe established health, fire, safety or emergency procedures or policies.
- Failure to immediately report unsafe conditions, actions or injuries to employees or customers.
- Failure to notify supervisor or department director if unable to report to work.
- Falsifying or altering City records, including, but not limited to, employment information, time records, or time cards.
- Repeated failure to record time worked.
- Possession or use of any type of fireworks, explosives or weapon not authorized by law or authorized by the City Manager.
- Theft, attempted theft, unauthorized storage or removal, misappropriation, misuse or willful destruction of guest, employee, vendor or City property, including misuse of lost and found property, without the express written authorization of the City or the owner of the property.
- Filing or pursuing any false worker’s compensation claim.
- Failure to fully cooperate with a City internal investigation, whether conducted by City personnel or a third-party at the City’s request.
- Sleeping while on duty.
- Engaging in dishonest or unethical conduct, including lying to supervisors, coworkers and citizens.
- Engaging in conduct having a significant adverse effect upon or disruption to the operation or reputation of the City.
- Unauthorized dissemination of confidential City, employee, or citizen information.
- Losing or damaging City equipment due to improper care or negligence.
- Misuse or abuse of City funds or property.

The City may, at its discretion, add or amend rules and regulations as deemed appropriate and necessary. It is each employee’s responsibility to learn and adhere to all the City’s rules, regulations, policies, procedures and principles of professional and personal conduct.
The form of discipline is determined on a case-by-case basis and depends entirely upon the facts and circumstances of each situation. The City is not obligated to use increasingly severe means of discipline with individual employees, but is free, at and within its sole discretion, to impose the discipline it deems necessary.

The City may, in its sole discretion, take other, more-stringent disciplinary actions if it believes such action is appropriate and necessary. Under certain circumstances, the City Manager may determine the misconduct is so severe that termination is warranted. In certain situations, an employee may be suspended with or without pay subject to termination following approval by the City Manager. Administrative leave with pay may be authorized by a department director when the employee’s conduct poses a danger to others or when an investigation is required. Prior to authorizing administrative leave with pay, the department director must consult with the Human Resources Director, or if unavailable, the City Attorney or Deputy City Manager. The City Manager will be notified immediately of the administrative leave with pay. On all occasions, and at the discretion of the department director or the City Manager, the following forms of disciplinary action may be taken:

a) **Minor Disciplinary Action.** May be issued by the supervisor after being approved by the department director and Director of Human Resources and is subject to grievance. Minor Disciplinary Action Forms are available on the Intranet.

   - **Written Warning.** A written warning is written documentation of an oral warning, describing the violation and the plan for improvement. The warning will be documented and placed in the employee’s personnel file. The written warning shall serve as a reminder of what transpired and will be used for reference should further counseling be necessary.

   - **Written Reprimand.** A written reprimand shall be issued to and discussed with an employee for serious offenses or where informal verbal warnings have been previously given or proven insufficient. The reprimand will be documented and placed in the employee’s personnel file. The written reprimand shall serve as a record of the employee’s reprimand, and will be used for reference should further counseling or discipline be necessary.

b) **Major Disciplinary Action.** Requires City Manager approval and is subject to grievance. Major Disciplinary Action Forms must be reviewed by the Director of Human Resources and City Attorney and approved by the City Manager before the disciplinary action is delivered.

   - **Suspension.** A suspension is the removal of an employee from service for a specific period of time. Suspension without pay shall not exceed fifteen calendar days for any given offense, except in the case of an employee
charged with a criminal offense. In lieu of a suspension without pay, the City Manager may elect to allow public safety employees to work and forfeit vacation leave equivalent to the length of the suspension. All suspensions or forfeitures of vacation will be based on the regular shift length (i.e., if the regular shift is ten (10) hours, a one day suspension will also be ten (10) hours in length).

An employee charged with a criminal offense not related to his or her job may be suspended without pay pending a full investigation. Following such investigation, the employee may be reinstated at the discretion of the City Manager.

- **Demotion.** A demotion is a downward movement of an employee’s job title and rate of pay within the pay range to which the employee’s position is assigned. Employees will be paid at the maximum for the position to which they are demoted or 95% of their pay immediately before demotion, whichever provides the greater reduction,

- **Termination.** Termination is the removal of an employee from City employment.

### IV. Investigation, Prosecution and Termination

It is the policy of the City to investigate any theft, misappropriation or diversion of assets. The City works in conjunction with local law enforcement agencies to investigate any allegations of theft, misappropriation or diversion of assets. The City may, in its discretion, secure a neutral third-party to investigate into any suspected misconduct. If third-party investigators are used, disclosure of any investigation report and its contents will be restricted to the City; any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government; or any self-regulatory organization with regulatory authority over the activities of the employer or employee; as otherwise required by law. The City will immediately terminate and vigorously prosecute any and all employees found to be responsible for or involved in any of these activities. It is the responsibility of all employees to report any actual or suspected theft. Failure to report such acts will be grounds for termination.
Chapter 18: Grievance Procedure

I. Purpose (Revised 07/09)

Open communication is essential to the maintenance of a productive work environment. From time to time, problems, concerns or complaints may arise which, if left unresolved, will negatively impact the work environment.

II. Limitations (Revised 07/09, 01/14)

a) Eligibility. Only regular full-time and part-time employees who have successfully completed an initial introductory period (“Grievant”) are eligible to utilize the grievance procedure.

b) Grievable Items. Items subject to grievance include: (1) an act or omission alleged to violate a city or department policy, procedure, rule, regulation or provision of this Manual, and (2) any disciplinary action.

III. Grievance Processing (Revised 07/09)

a) A grievance must be submitted in writing within five (5) business days after the event upon which it is based. Grievances challenging disciplinary action shall be filed within five (5) business days after receipt of official notice of imposition of discipline. Grievances shall be submitted to the Grievant’s immediate supervisor, with a copy to the Director of Human Resources. Grievances shall be signed by the Grievant and dated as of the date of submission. All grievances shall include:

- A statement of all facts upon which it is based;
- The rule, regulation, procedure or policy provision at issue or the disciplinary action challenged; and
- The remedy or adjustment sought.

b) The Grievant’s supervisor shall forward the grievance along with his or her recommended disposition to the department director within five (5) business days of receipt. The supervisor’s recommended disposition shall include confirmation or denial of each factual allegation set out in the grievance, along with any recommended remedy or adjustment.

c) For grievances challenging minor disciplinary action, the department director will render a written decision on the grievance within five (5) business days following receipt of the supervisor’s recommended disposition. Copies of the department director’s decision will be sent to the Grievant, and the supervisor involved. If the Grievant is dissatisfied with the decision of the department director, he or she may appeal to the City Manager. Appeals to the City Manager must be submitted in writing within seven (7) business days following receipt of the department director’s decision. The City Manager will render a
written decision on the appeal within five (5) business days. Copies of the City Manager’s decision will be sent to the Grievant and the department director. The City Manager’s decision shall be final and conclusive.

d) For grievances challenging major disciplinary action, the department director shall forward the grievance, his or her recommended disposition, and the immediate supervisor’s recommended disposition to the City Manager within five (5) business days of receipt. The City Manager will render a written decision on the appeal within five (5) business days. Copies of the City Manager’s decision will be sent to the Grievant and the department director. The City Manager’s decision shall be final and conclusive.

IV. Limitation on Review

No grievance shall be reviewed or decided by any person outside the City, except by a court of competent jurisdiction.

V. Retaliation Prohibited

Retaliation in any form against an employee who has filed a grievance in good faith is prohibited and is cause for disciplinary action pursuant to this Manual. No employment-related decision shall be made in retaliation for filing a grievance in good faith.

VI. Abeyance

If a complaint is filed with any other board, agency or court with concurrent jurisdiction concerning the subject matter of a grievance filed pursuant to this policy, the grievance may, at the City’s option, be held in abeyance until such other board, agency or court has rendered its decision.
APPENDIX A: EMPLOYEE ACKNOWLEDGMENT
OF PERSONNEL POLICY MANUAL

By signing below, I acknowledge receipt of my copy of the City of Derby, Kansas Personnel Policy Manual. I have read and understand its contents, including the Standards of Conduct. I understand that I am responsible for knowledge of all content of this Manual and that failure to comply with the policies and rules set forth in this Manual may result in disciplinary action, including the possibility of termination. I understand the Manual applies to my employment by the City. I understand that the City reserves the right to change, interpret, withdraw or add to any of the policies, benefits or terms of this Manual at its discretion and without prior notice or consideration to any employee. None of the policies, benefits or terms and conditions of employment has been or is required to be approved by any employee or employee group.

I acknowledge that my employment with the City is “at-will,” meaning that the terms of employment may be changed with or without notice and with or without cause, including, but not limited to, termination, demotion, promotion, transfer, compensation, benefits, duties and location of work. There is no agreement expressed or implied between the City and me for continuing or long-term employment. Furthermore, I understand that nothing contained in the Manual is an express or implied contract of employment. While supervisors have certain hiring authority, no supervisor or representative of the City has any authority to alter the at-will relationship.

I further acknowledge my understanding that, on occasion, I may be asked to work overtime and, in such circumstances, may be provided compensatory time off in lieu of overtime pay (non-exempt only).

I have received the Manual and I understand that it is my responsibility to read and comply with the policies contained in it and any revisions made to it. I understand and acknowledge that I have been given the opportunity to ask any questions that I have about the contents of the Manual and have had those questions answered. I also understand that it is my responsibility to update my copy of the Manual when I am notified of a revision to the Manual.

Do not sign this receipt until you have completely read and understand the contents of the Manual and have satisfied yourself with answers to any questions you may have concerning it.

____________________________________  ______________________________________
Employee Signature                      Employee Printed Name

____________________________________
Date

After signing, please return this Employee Acknowledgement of Personnel Policy Manual to the Human Resources division.
APPENDIX B: ACCEPTABLE USE AGREEMENT
FOR INFORMATION TECHNOLOGY

I understand and agree that –

- by using information technology either on equipment provided by the City of Derby or during time for which I am paid by the City of Derby, I agree to be bound by policies and procedures established by the City to govern access to such technology;
- this information technology is provided for transaction of City business including research, communication and creation and maintenance of official instruments and other records;
- no one is authorized to access information technology provided by the City without signing this agreement, and that violation of this Agreement may subject me to disciplinary action including dismissal of my employment;
- for the purposes of this Agreement, “information technology” includes internet access, electronic mail and voice message systems, facsimile devices, and all other electronic systems used by the City;
- electronic mail is an extension of the government of the City of Derby;
- electronic mail messages can be traced to the sender and recipient even after deleted from computers;
- the City may be required to produce evidence relating to or arising out of my use of information technology for matters of litigation, pursuant to the Kansas Open Records Act, and other purposes;
- I will not knowingly solicit, receive, communicate, download, forward or otherwise access anything that might be construed as harassing, hostile, or offensive to others based on ethnicity, race, sex, disability, age, religion, national origin, or any other characteristic protected by law;
- I will not use the City’s information technology to solicit for or communicate with respect to any personal cause, including political or religious issues;
- I will not participate in a chain letter or otherwise send to multiple recipients electronic mail with non-City business content;
- I will not knowingly solicit, receive, display, print, download, or send any questionable image or message;
- I will immediately advise people I know who are sending me improper or questionable material that such transmissions should stop;
- I will not open items that the virus scanner has warned contains a virus or other content harmful to the City’s e information technology and will delete such items immediately;
- I will use caution when replying to e-mails and ensure that auto reply messages are set to reply to only valid e-mail addresses;
• I will abide by the City’s Information Technology Usage policy and procedures, as they may from time to time be amended or supplemented; and

**I will not use** City information technology for inappropriate uses. Examples of inappropriate uses of City information technology include, but are not limited to:

• any illegal activity;
• gaming: betting, gambling, wagering;
• representing personal opinion as that of the City;
• unauthorized solicitations;
• revealing unauthorized or confidential information;
• engaging in slander, libel, or other forms of defamation;
• accessing pornographic material for other than law-enforcement purposes; or
• communicating obscene messages or information in any form;

**If I have a question** about whether a use is inappropriate, I will contact my supervisor and abide by his or her decision.

**I further understand and agree** that I have no expectation of privacy in electronic communications sent or received while on duty in my capacity as a City employee, use of City property, or internet access. The City of Derby reserves the right to review, audit, or monitor my use of any City information technology, with or without notice to me.

____________________________________  ________________________________  
Employee Signature  Employee Printed Name

____________________________________
Date

After signing, please return this Acceptable Use Agreement for Information Technology to the Human Resources division.
APPENDIX C: EMPLOYEE ACKNOWLEDGMENT OF NON-HARASSMENT POLICY

I acknowledge that I have been provided with a copy of the City of Derby’s Non-Harassment Policy and that I have had a reasonable opportunity to review the policy and ask any questions regarding the Policy and the complaint procedures.

I understand that harassment of any kind is expressly prohibited by the City, and that if I have reason to know of an incident of harassment, I must immediately report it, as outlined in the Harassment Complaint Procedure.

I further understand that the most important aspect of the Harassment Complaint Procedure is that the incident is immediately reported, investigated and addressed. I understand that I may report an incident of harassment to my supervisor, department director, the City Manager or the Director of Human Resources at any time.

____________________________________  __________________________
Employee Signature                  Employee Printed Name

____________________________________
Date

After signing, please return this Employee Acknowledgement of Non-Harassment Policy to the Human Resources division.
APPENDIX D: APPLICANT AFFIRMATION OF SUBSTANCE ABUSE POLICY AND TESTING PROCEDURES
Revised 09/20

STATEMENT OF POLICY

The City of Derby is committed to providing a safe, drug and alcohol-free workplace for all City employees and the general public.

The City of Derby is concerned with the safety and well-being of its employees. The City of Derby’s Drug and Alcohol Testing Program offers a helping hand to those who need it, while sending a clear message that drug or alcohol use WILL NOT BE TOLERATED!

It is the policy of the City of Derby that all applicants, who receive a conditional offer of employment, submit to a drug test to document that they are drug free. Refusal to comply with this requirement will be considered the equivalent of receiving a confirmed “positive” result for employment and disqualification purposes. Any applicant who receives a confirmed “positive” drug screen result will have the offer of employment withdrawn and will be subject to disqualification from employment, but will be referred on to a Substance Abuse Professional (SAP). If an applicant receives a verified positive drug test results and requests a retest of the split sample, applicant agrees to reimburse the City for the cost of the retest at the rate of $250.

AFFIRMATION OF POLICY

As an applicant for a position, I affirm that I have read and understand the City of Derby’s Substance Abuse and Testing Statement of Policy noted above, and I am aware that any offer of employment is conditional upon my taking a drug test and the results thereof. If hired into a position for the City of Derby, I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the City.

Applicant Name (Please Print)

Applicant Signature        Date

City of Derby Representative      Date
APPENDIX E: SUBSTANCE ABUSE POLICY AND TESTING PROCEDURES

Part 1: Non-Regulated Substance Abuse Policy and Testing Procedures
(Revised 06/08, 01/14, 01/20)

I. Purpose

In order to safeguard the health of its employees and provide a safe place for its employees to work the City of Derby (hereinafter “the City”) has established this substance abuse policy and its testing procedures to identify and address use or abuse of alcohol and drugs “substance abuse” by City employees. Substance abuse seriously endangers the safety of employees and the public, and creates or exacerbates a variety of workplace problems, including: increased injuries on the job, absenteeism, health care and benefit costs, and theft; and decreased morale, productivity, and quality of products and services provided by the City. The City has established this policy to detect users and remove abusers of alcohol and illegal drugs from the workplace. It is also the policy of the City to prevent the use and/or presence of these substances in the workplace in accordance with the following guidelines.

Employment with the City is at-will. City policies, procedures, and employee assistance programs are not intended to create any implied or express contracts, written or verbal, between the City and its employees, independent contractors, or job applicants. The City reserves the right to alter any policy, procedure, or program at its discretion and without notice to its employees, independent contractors, or job applicants. The City creates no promises with any of its policies, procedures, and programs, and remains free to change wages and all other working conditions without having to consult employees or anyone else and without anyone’s agreement. The City reserves the right to terminate an at-will employee with or without cause and to refuse to hire any job applicant, as is consistent with existing law.

II. Scope

As a condition of employment, employees are required to abide by the terms of this policy. This substance abuse policy primarily governs actions in the areas of alcohol and drugs. Other City policies may apply in these areas to the extent that they do not conflict with this policy.

III. Definitions

“Alcohol” means ethanol, isopropanol, or methanol and includes alcohol, spirits, wine, beer, and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being.

“City Property” means all buildings, work sites; parking lots; vehicles; and offices owned, rented, utilized or serviced by the City and, when interacting with a City employee, by any customer of the City; employee-owned, employee-rented and employee-operated or occupied vehicles on the property of the City or of any customer of the City while on City business; and locations where the employee
represents the City in any capacity.

“Designated Employer Representative” (DER) means the employee responsible for receiving test results and other communications for the employer, who is required to make required decisions in the testing and evaluation process. The City’s DER is the Director of Human Resources.

“Illegal Drugs” means drugs or controlled substances that are (1) not legally obtainable or (2) legally obtainable but not obtained or used in a lawful or prescribed manner, including but not limited to, cocaine, marijuana, opiates, amphetamines, and phencyclidine (PCP); prescription drugs that are not lawfully obtained or not properly utilized; and mind-altering or addictive substances such as glue and peyote that are not sold as drugs or medicines but are used for the mind- or behavior-altering effect.

“Legal Drugs” means those prescribed by a medical professional and over-the-counter drugs that are legally obtained by the employee and used for the purpose for which they were prescribed and sold.

“On Call” means a set timeframe when an employee must be available to return to duty if they are called upon to do so, in compliance with the policies or practices of their department (For example, Police Detective Call Rotation)

“On Duty” means all working hours as well as meal periods and break periods, regardless of whether on premises, and all hours when the employee represents the City in any capacity.

“Public Safety Employee” means an employee who is working in a position as a certified law enforcement officer or firefighter, regardless of rank.

“Sample” means a sample of urine, saliva, breath or blood from the human body, capable of revealing the presence of alcohol or other drugs, or their metabolites. However, “sample” does not mean blood except as authorized pursuant to a blood test for drugs or alcohol made on any employee involved in an accident at work if the test is administered by or at the direction of the person providing treatment or care to the employee without request or suggestion by the City that a test be conducted and the City has lawfully obtained the results of the test.

“Subject to Call” means employees who are assigned to positions which may require irregular or occasional work. (i.e. Police Special Operations Team)

IV. Drug Use Prohibitions

a) The use, sale, purchase, possession, manufacture, distribution or dispensing of illegal drugs on City property or while on duty is against City policy and is cause for immediate termination.

b) It is also against City policy for any employee to report to work or to work with the presence of illegal drugs in the employee’s body. Employees who violate this policy are subject to disciplinary action, up to and including termination.

c) The use of legal drugs can also affect the safety of the employee, fellow employees or members of the public. Therefore, any employee who is taking any legal drug that might impair safety, performance or any motor function must advise his or her supervisor before reporting to work under such medication. A
failure to do so may result in disciplinary action. Improper use of “legal drugs” is prohibited and may result in disciplinary action up to and including termination.

d) Refusal to submit to, efforts to tamper with, or failure to pass a drug test will result in disciplinary action, up to and including termination, and/or referral to the City’s EAP.

V. Alcohol Use Prohibitions

a) Consumption, possession or being under the influence of alcohol while on duty or on call is prohibited and will result in disciplinary action, up to and including termination. Consumption or possession of alcohol on City property is only allowed at events where alcohol consumption is allowed and the employee is not on duty or on call (For example, a wedding dance for a friend or family member that is hosted at the Venue).

b) It is always against City policy to report to work or to work under the influence of alcohol and such action will result in disciplinary action, up to and including termination.

c) Employees asked to submit to an alcohol test and the test result is .04 or higher will be considered positive. Employees in public safety positions asked to submit to an alcohol test must produce a result of .00, unless the employees was subject to call and responded for duty, in which case a level of .02 or higher will be considered positive. If the test result shows the employee has a higher content, further testing will be requested.

d) Refusal to submit to, efforts to tamper with or failure to pass an alcohol test will result in a disciplinary action, up to and including termination.

VI. Testing Events

a) Job Applicant Testing.

1) Applicants will be advised of the City’s pre-employment testing requirements in writing following an offer to hire and prior to referral for a physical and/or drug and/or alcohol testing. Applicants will be asked to sign the Applicant Drug/Alcohol Testing Consent Agreement.

2) All applicants considered final candidates and who have received an offer for a position will be tested for the presence of illegal drugs and/or alcohol and must receive negative test results as a part of the hiring process.

b) Post-Accident Testing. All employees who are involved in an accident or a “covered event” as defined in this procedure, will be tested for the presence of drugs and alcohol following the accident or other covered event. Any event that involves one or more of the following shall be considered a covered event: a fatality, an injury to an employee or other individual, or disabling damage to any motor vehicle that requires towing services.

c) Reasonable Suspicion Testing. Employees will be required to submit to drug and/or alcohol testing if reasonable suspicion exists that an employee is
violating, or has violated any provision of this policy. Any supervisor or employee who believes another employee is violating this policy should report his or her belief to the DER.

d) Follow-up Testing. All employees who have participated in a substance abuse counseling or rehabilitation program or who have been referred by a supervisor due to work performance problems will be subject to unannounced follow-up testing as determined by the Substance Abuse Professional or at the discretion of the City for a period of twelve-months following completion of the program.

e) Random Testing. Employees in public safety positions are subject to random drug and alcohol testing.

1) Random testing will be unannounced and unpredictable; spread reasonably throughout the calendar year. Testing will be conducted at all times of the day when public safety functions are performed.

2) Employees are required to proceed immediately to the collection site once notified of testing.

3) Drug and alcohol tests will be conducted anytime a public safety employee is on duty.

4) The list of employees selected will be retained by the DER in a secure location.

f) Additional Testing. Additional testing may also be conducted as required by applicable state or federal laws, rules or regulations, or as deemed necessary by the City. Upon initial implementation of this substance abuse policy, all current employees will be subject to testing.

VII. Testing Procedures

a) The City will determine for which drugs and/or alcohol testing will be performed.

b) All samples will be analyzed by an appropriately licensed or certified laboratory.

c) Employees will be informed of the results by the DER or his or her representative.

d) The testing laboratory will report each confirmed positive test result to a designated Medical Review Officer (MRO). The MRO will contact the employee to verify the positive result. Following the verification of a positive result by the MRO, the DER will be informed of the positive test result.

e) An employee may request and receive from the City a copy of the test result report.

f) An employee may appeal a verified positive result by submitting the appeal in writing to the MRO, within three (3) working days of the employee having been notified of the positive result.

g) The employee will be responsible for all costs associated with conducting any requested retest.
VIII. Disciplinary Action. Any violation of the City’s substance abuse policy, including a verified positive drug or confirmed alcohol test, will result in discipline up to and including termination of employment.

IX. Investigation
a) To ensure that illegal drugs and alcohol do not enter or affect the workplace, the City reserves the right to search all vehicles, containers, lockers or other items on City property in furtherance of this policy. Individuals may be requested to display personal property for visual inspection upon City request.

b) In accordance with applicable laws, City management may search, review or inspect any of the following, without prior notice:

1) Any personal property, including vehicles, brought onto City-owned or leased grounds; and

2) Any City property assigned to the employee, including City computers, including all electronic mail, internet usage logs and electronic documents.

c) Searches of employee property will only be conducted when reasonable suspicion of violation of City or department policies or regulations is suspected.

d) All searches must be authorized by the department director and the City Manager.

e) The City will turn over all confiscated drugs to the proper law enforcement authorities. Further, the City will cooperate with and may enlist the services of the proper law enforcement authorities in the course of any investigation.

X. Arrest for or Conviction of Drug-Related Crime
a) With respect to any employee arrested or convicted of a drug-related crime, the City may investigate the circumstances and require a drug test.

b) As a condition of employment, an employee shall notify the City’s Designated Employee Representative (DER) of any criminal drug statute conviction or for any plea of guilty, nolo contendere or suspended imposition of sentence that has been entered on a criminal drug related criminal charge. Such notice shall be given to the City in writing within five (5) days after such conviction, plea or imposition.

XI. Confidentiality and Access to Records
a) All communications received by the City relevant to employee drug or alcohol tests results or otherwise received through the City’s drug and alcohol testing program, are confidential communications.

b) Results of an applicant’s or employee’s test for the use of illegal drugs or alcohol shall be remitted to the Director of Human Resources, who serves as the
Designated Employee Representative (DER). In order to effectively address the employees with drug or alcohol problems, it will be necessary for the Director of Human Resources to consult with other persons in the process. However, such results may be disseminated only on a need-to-know basis.

c) An employee who is the subject of a drug or alcohol test conducted under this Policy and for whom a confirmed positive test result is reported shall, upon written request, have access to any records relating to the employee’s drug or alcohol test, including records of the laboratory where the testing was conducted and any records relating to the results of any relevant certification or review by a medical review officer.

1) The City may use and disclose information concerning the results of a drug or alcohol test conducted pursuant to this Policy under any of the following circumstances:

2) In an arbitration proceeding pursuant to a collective bargaining agreement, or an administrative agency proceeding or judicial proceeding under workers’ compensation laws or unemployment compensation laws or under common or statutory laws where action taken by the City based on the test is relevant or is challenged.

3) To any federal agency or other unit of the federal government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract.

4) To any agency of this state authorized to license individuals if the employee tested is licensed by that agency and the rules of that agency require such disclosure.

5) To a substance abuse evaluation or treatment facility or professional for the purpose of evaluation or treatment of the employee.

d) Employees are encouraged to approach their supervisor, department director, or the Director of Human Resources at any time with any questions they have about the City’s substance abuse policy as stated herein.
Part 2: Regulated Substance Abuse Policy and Testing Procedures

(FMCSA/DOT)

Revised 01/14

I. General

The Department of Transportation (DOT), Federal Motor Carriers Safety Administration (FMCSA) requires the City of Derby (hereinafter “the City”) to establish a drug and alcohol testing program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. Further, the purpose of this policy is to bring the City into compliance with all regulations, which require affirmative actions to eliminate the impact of the use of controlled substances and misuse of alcohol in the workplace.

a) This policy does not create any contractual rights in favor of employees to whom the Policy is applicable. Nor does this Policy in any way alter the at-will nature of employment or imply that discharge will occur only “for cause”.

b) The presence of controlled substances in the body as well as the use or possession of controlled substances and/or alcoholic beverages while on City property, or in any City vehicle, or on duty, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

c) Designated Employer Representative: Appendix E-1 contains the name, address, and telephone number of the Designated Employer Representative (DER). The DER is authorized by The City to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer consistent with the requirements of 49 CFR, part 40.

d) This policy applies to any employee of the City who holds a Commercial Drivers License (CDL) and uses that license to operate a commercial motor vehicle. 49 CFR, part 382.107 defines these vehicles as a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

2) Has a gross vehicle weight rating of 26,001 or more pounds; or

3) Is designed to transport 16 or more passengers, including the driver; or

4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the hazardous Materials Regulations (49 CFR Part 172, Subpart F)
e) Testing Procedures. All testing conducted under this policy will follow the procedures as set forth in 49 CFR, parts 40 and 382.

f) Definitions. Words and phrases used in this Appendix are as defined and found in 49 CFR, parts 40.3 and 382.107.

II. Prohibitions

a) Alcohol.
   1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
   2) No driver shall use alcohol while performing a safety-sensitive function. This includes beverages containing alcohol or substances containing alcohol including any medication, mouthwash, food, candy, or any other substance that would cause alcohol to be present in the body.
   3) No driver shall perform safety-sensitive functions within four hours after using alcohol.
   4) No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until a post-accident alcohol test has been administered, which ever occurs first.

b) Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver has used any controlled substance.
   1) ILLEGAL DRUGS: The use of any illegal drug or any substance identified in Schedules I through V of the Controlled Substance Act is prohibited at all times unless a legal prescription has been written for the substance. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.
   2) LEGAL DRUGS: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a supervisor. In addition, the employee must obtain a written release from a licensed medical practitioner releasing the person to perform their job duties any time they obtain a performance-altering prescription.
   3) PRESCRIPTION DRUGS: A legally prescribed drug means that the employee has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs or prescription drugs while performing safety-sensitive functions is prohibited.
c) Refusal to submit to a required alcohol or controlled substances test. No driver shall refuse to submit to an alcohol or controlled substance test required by 49CFR, parts 40 and 382.

d) Behavior that Constitutes a Refusal to Test.
   1) Refusing to provide specimen. This includes an insufficient volume of urine without a valid medical explanation.
   2) Tampering with, adulterating, or substituting a specimen.
   3) Failure to appear for testing upon notification.
   4) Leaving the scene of an accident without just cause prior to submitting to a test.
   5) Leaving collection facility prior to test completion.
   6) Failing to permit an observed or monitored collection when required.
   7) Failing to take a second test when required.
   8) Failing to undergo a medical examination when required.
   9) Failing to cooperate with any part of the testing process.
  10) Failing to sign Step 2 of the alcohol test form.
  11) Once test is underway, failing to remain at site and provide a specimen.

e) For Pre-Employment Tests, the Following Are NOT Refusals
   1) Failure to appear for the test.
   2) Failure to remain at the site prior to the commencement of the test.
   3) Failure to provide a specimen before the test commences.

III. Tests Required

a) Pre-Employment Testing.
   1) Any applicant offered a safety-sensitive position or an employee transferring to a safety-sensitive position must first take a pre-employment drug test. This applicant or employee must receive a verified negative test result before performing any safety-sensitive function. Details of pre-employment testing and exemptions can be found in 49 CFR, part 382.301.
   2) The City must request alcohol and controlled substances information from previous employers in accordance with the requirements of 49 CFR, parts 40, 382.413 and CFR 391.23 (e).
   3) Applicants offered a safety-sensitive position and employees transferring to a safety-sensitive position must sign release of information forms allowing the City to receive alcohol and controlled substances information from previous employers.
b) Post-Accident Testing.

1) As soon as practicable following an accident the driver of a commercial motor vehicle, operating on a public road in commerce, must be tested for alcohol and controlled substances under certain conditions.

   a) Alcohol testing must be conducted if a driver receives a citation for a moving violation within 8 hours of the accident.

   b) Drug testing must be conducted if a driver receives a citation for a moving violation within 32 hours of the accident.

2) The driver who is subject to post-accident testing shall remain readily available for such testing (meaning that the employer knows where the driver is) or may be deemed by the City to have refused to submit to testing.

3) Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

4) Details of post-accident testing and exemptions can be found in 49 CFR, part 382.303. The following chart defines when an accident has occurred and when testing must take place.

<table>
<thead>
<tr>
<th>Type of accident</th>
<th>Citation issued to CMV driver</th>
<th>Tests required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Human fatality</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td></td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>2. Bodily injury with immediate medical treatment</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>away from the scene</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>3. Disabling damage to any motor vehicle, requiring</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>tow away</td>
<td>NO</td>
<td>NO</td>
</tr>
</tbody>
</table>

c) Random Testing.

1) All drivers that perform safety-sensitive functions are subject to random drug and alcohol testing.

2) Random testing will be unannounced and unpredictable; spread reasonably throughout the calendar year. Testing will be conducted at all times of the day when safety-sensitive functions are performed.

3) Employees are required to proceed immediately to the collection site once notified of testing.
4) Drug tests will be conducted anytime a safety-sensitive employee is on duty. Alcohol tests will only be conducted on an employee immediately before performing, while performing, or just after performing a safety-sensitive function.

5) The list of employees selected will be retained by the DER in a secure location.

6) Details of the random testing process can be found in 49 CFR, part 382.305.

d) Reasonable Suspicion Testing. All drivers that perform safety-sensitive functions are subject to reasonable suspicion alcohol and/or drug testing. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances that are consistent with the short-term effects of substance abuse or alcohol misuse. A trained supervisor must make the determination to test based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Examples of reasonable suspicion include, but are not limited to, the following:

   1) Physical signs and symptoms consistent with prohibited substance use or alcohol misuse.
   2) Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substance.
   3) Occurrence of a serious or potentially serious accident that may have been caused by prohibited substance abuse or alcohol misuse.
   4) Details of the reasonable suspicion testing process can be found in 49 CFR, part 382.307.

e) Return-to-Duty Testing. Details of the return-to-duty testing process can be found in 49 CFR, part 40, subpart O.

f) Follow-up Testing. Details of the follow-up testing process can be found in 49 CFR, part 40, subpart O.

IV. Handling of Test Results, Confidentiality

a) Access to records.

   1) Except as required by law or expressly authorized by release by an employee, the City will not release driver information that is contained in records required to be maintained under 49 CFR, parts 40 and 382.
   2) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver’s use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.
   3) A driver’s testing records will be made available to a subsequent employer upon receipt of a written request from the driver.
4) The City may disclose information required to be maintained pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual (including, but not limited to, a worker’s compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver), and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test result).

V. Consequences for Drivers Engaging in Prohibited Conduct

a) Use of drivers who fail or refuse a drug test

1) General. Compliance with this drug testing policy is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing safety-sensitive functions. Additional disciplinary action up to and including termination may result.

2) Prohibitions on Use. The City will remove from performing a safety-sensitive function any employee who:

   a) Fails a drug test as verified by the Medical Review Officer (MRO), or
   b) Refuses to take a drug test required by this policy. (See Section II.C.)

3) Required Referrals and Evaluation. Any applicant or employee who fails or refuses a drug test will be referred to a Substance Abuse Professional (SAP) for evaluation and treatment.

b) Retesting of Drug Positive Samples

1) General. An applicant/employee may request a retest of a positive sample, within 72 hours of notification of the positive test result from the MRO. The request may be verbal or in writing to the MRO.

2) Retest Provisions. The retest will be conducted at a different SAMHSA certified laboratory. The test will be conducted on the split sample that was provided by the applicant/employee at the same time as the original sample. All costs for such testing are to be reimbursed to the City by the applicant/employee unless the result of the split sample test invalidates the result of the original test. The method of collection, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR, part 40.

3) Detection Levels. Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

c) Use of drivers who fail or refuse an alcohol test

1) General. Compliance with this alcohol testing policy is a condition of employment. Refusal to take a required alcohol test or failure of an alcohol test will result in removal from performing safety-sensitive
functions. Additional disciplinary action up to and including termination may result.

2) Refusal and Prohibited Conduct. The City will remove from performing a safety-sensitive function any employee who:
   a) Has a confirmed alcohol test result of 0.02 or higher but less than 0.04. This driver must be removed from duty for a minimum of 24 hours. This is not a positive test requiring a SAP referral
   b) Fails an alcohol test with a confirmed result of 0.04 or higher, or
   c) Refuses to take an alcohol test required by this policy (See Section II.C.)

3) Required Referrals and Evaluation. Any employee who fails or refuses an alcohol test will be referred to a Substance Abuse Professional (SAP) for evaluation and treatment.

4) All costs associated with the evaluation and rehabilitation program are the responsibility of the employee.

5) Employees should consult their health insurance policy for extent of nervous, mental and substance abuse coverage.

6) The City may impose such additional disciplinary actions as deemed appropriate. This may include removal from performing covered functions, suspension (with or without pay), and even termination.

VI. Investigation
   a) To ensure that illegal drugs and alcohol do not enter or affect the workplace, the City reserves the right to search all vehicles, containers, lockers or other items on City property in furtherance of this policy. Individuals may be requested to display personal property for visual inspection upon City request.

   b) In accordance with applicable laws, City management may search, review or inspect any of the following, without prior notice:

      1) Any personal property, including vehicles, brought onto City-owned or leased grounds; and

      2) Any City property assigned to the employee, including City computers, including all electronic mail, internet usage logs and electronic documents.

   c) Searches of employee property will only be conducted when reasonable suspicion of violation of City or department policies or regulations is suspected.

   d) All searches must be authorized by the department director and the City Manager.

   e) The City will turn over all confiscated drugs to the proper law enforcement authorities. Further, the City will cooperate with and may enlist the services of the proper law enforcement authorities in the course of any investigation.
VII. Arrest for or Conviction of Drug-Related Crime

a) If an employee is arrested or convicted of a drug-related crime, the City may investigate the circumstances and require a drug test.

b) As a condition of employment, an employee shall notify the City’s Designated Employee Representative (DER) of any drug-related conviction or for any plea of guilty, *nolo contendere* or suspended imposition of sentence that has been entered on a drug-related charge. The employee must give notice in writing to the City within five (5) days after such conviction, plea or imposition.
APPENDIX E-1

DRUG AND ALCOHOL TESTING PROGRAM
PERSONNEL AND SERVICES

1. DESIGNATED EMPLOYER REPRESENTATION (DER)

Primary Contact
Director of Human Resources
611 Mulberry
Derby, Kansas 67037
(316) 788-1519

Secondary Contact
Human Resources Coordinator
611 Mulberry
Derby, Kansas 67037
(316) 788-1519

2. LOCAL COLLECTION SITE
As determined by the City

3. MEDICAL REVIEW OFFICER (MRO)
John Tetrick, M. D.
2121 S.W. Chelsea Dr.
Topeka, KS 66614
Toll Free (1-888-265-6362)

4. CERTIFIED LABORATORY
Clinical Reference Laboratory
11844 W 85th St
Shawnee Mission, KS 66214
(888) 716-0006
APPENDIX E-2:

EMPLOYEE AFFIRMATION OF NON-REGULATED SUBSTANCE ABUSE POLICY AND TESTING PROCEDURES

As an employee of City of Derby, I affirm that I have received, read and understand the City of Derby's Substance Abuse Policy and Testing Procedures. I am aware that I may be required to undergo a drug and/or alcohol screen as outlined by City of Derby's policy requirements and that I will be informed prior to the drug/alcohol screen; and, that I may be referred to an education and treatment program depending on the results of the drug/alcohol screen. I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the City. I am aware and agree that the Policy does not create any contractual rights in my favor or in any way alter the at-will nature of my employment or imply that discharge will occur only “for cause.”

_______________________________________________________________________________
Employee Name (Please Print)

_______________________________________________________________________________
Employee Signature        Date

City of Derby Representative      Date
APPENDIX: E-3

EMPLOYEE AFFIRMATION OF
REGULATED SUBSTANCE ABUSE POLICY AND TESTING PROCEDURES (DOT)

As an employee in a safety-sensitive position, I affirm that I have received, read and understand the City of Derby's Substance Abuse Policy and Testing Procedures. I am aware that I may be required to undergo a drug and/or alcohol screen as outlined by City of Derby's policy requirements and that I will be informed prior to the drug/alcohol screen; and, that I may be referred to an education and treatment program depending on the results of the drug/alcohol screen. I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the City. I am aware and agree that the Policy does not create any contractual rights in my favor or in any way alter the at-will nature of my employment or imply that discharge will occur only “for cause”.

_______________________________________________________________________________
Employee Name (Please Print)

_______________________________________________________________________________
Employee Signature       Date

_______________________________________________________________________________
City of Derby Representative     Date
APPENDIX F: ANTI-DRUG AND ALCOHOL MISUSE PREVENTION POLICY
for Transportation Program Safety Sensitive Employees (FTA/DOT)

I. General

a) Purpose

1) The City of Derby has a long-standing commitment to maintaining the highest standards for employee safety and health. The use of controlled substances and the misuse of alcohol are contrary to these high standards. The purpose of this policy is to bring the City of Derby into compliance with all DOT regulations that require affirmative actions to eliminate the impact of the use of controlled substances and misuse of alcohol in the workplace. The purpose of this anti-drug and alcohol misuse prevention policy is to reduce accidents that result from the use of controlled substances and misuse of alcohol, thereby reducing fatalities, injuries, and property damage.

2) This policy does not create any contractual rights in favor of employees to whom the Policy is applicable. Nor does this Policy in any way alter the at-will nature of employment or imply that discharge will occur only “for cause”.

3) Title 49 Code of Federal Regulations (CFR) Part 655.3 requires any recipient of Federal financial assistance under Sections 5307, 5309, or 5311 of the Federal Transit Act, as amended and any contractor to comply with these regulations, and submit to drug and alcohol testing administered in accordance with part 655. Recipients of these funds and their subcontractors must test their employees for prohibited drugs and misuse of alcohol under the following work-related conditions:

<table>
<thead>
<tr>
<th>DRUG TESTING</th>
<th>ALCOHOL TESTING</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Pre-employment</td>
<td>a. Random</td>
</tr>
<tr>
<td>b. Random</td>
<td>b. Post-accident</td>
</tr>
<tr>
<td>c. Post-accident</td>
<td>c. Reasonable cause</td>
</tr>
<tr>
<td>d. Reasonable cause</td>
<td>d. Return-to-duty</td>
</tr>
<tr>
<td>e. Return-to-duty</td>
<td>e. Follow-up</td>
</tr>
<tr>
<td>f. Follow-up</td>
<td></td>
</tr>
</tbody>
</table>

4) Those areas of the policy printed in bold and underlined text reflect the City of Derby’s independent authority to require additional provisions with regard to the drug and alcohol testing procedures.

5) The presence of controlled substances in the body as well as the use or possession of controlled substances and/or alcoholic beverages while on City of Derby property, or in any City of Derby vehicle, or on duty, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.
6) **Drug and Alcohol Program Manager**: Appendix F-2 contains the name, address, and telephone number of the responsible individual(s). The DAPM shall be responsible for providing oversight and evaluation on the policy; providing guidance and counseling; reviewing of all discipline applied under this policy for consistency and conformance to human resources policies and procedures; scheduling drug and alcohol tests for random, return-to-duty and follow-up testing; maintaining a locked file system with limited access to all test results; and promotion of the employee assistance program (EAP). The City of Derby shall ensure that all covered employees are aware of the provisions and coverage of the City of Derby’s anti-drug and alcohol misuse policy.

7) **Designated Employer Representative**: Appendix F-2 contains the name, address, and telephone number of the Designated Employer Representative (DER). The DER is authorized by the City of Derby to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer consistent with the requirements of 49 CFR Part 40.

b) Applicability

1) This policy applies to any employees of the City of Derby who perform safety-sensitive functions.

2) The FTA has determined that “safety-sensitive” functions are performed by those who (49 CFR Part 655.4):
   
   a. Operate revenue service vehicles including when not in revenue service.
   
   b. Operate non-revenue service vehicles that require drivers to hold a CDL.
   
   c. Dispatch or control revenue service vehicles.
   
   d. Performing maintenance function including repairing, overhauling, and rebuilding revenue service vehicles or equipment used in revenue service;
   
   e. Provide security and carry a firearm.
   
   f. These categories include supervisors who perform these functions. Supervisors of employees in these categories who do not themselves perform these functions, are excluded.
   
   g. Volunteers required to hold a commercial driver’s license to operate the vehicle; or perform a safety-sensitive function for any entity subject to this part.
   
   h. Contractor employees that stand in the shoes of Transit System employees.
   
   i. A list of safety-sensitive positions that perform one of the above-
mentioned duties is found in Appendix F-3.

c) Testing Procedures

It is a condition of employment that all safety-sensitive employees submit to drug and alcohol testing. All testing conducted under this policy will follow the procedures as set forth in 49 CFR Part 40. The procedures have been developed to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to ensure that the test results are attributed to the correct employee.

d) Definitions

Words and phrases used in this policy are as defined and found in 49 CFR Part 40.3 and 655.4.

II. Prohibitions

The City of Derby shall test each covered employee who performs a safety-sensitive function for evidence of the following substances: Alcohol, Marijuana, Cocaine, Opiates (including but not limited to: Hydrocodone, Oxycodone, Hydromorphone, and Oxymorphone), Phencyclidine, Amphetamines, Heroin (6-acetylmorphine), and MDMA (Ecstasy).

a) Alcohol

1) No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

2) No employee shall use alcohol 4 hours prior, on call, or while performing a safety-sensitive function. This includes beverages containing alcohol or substances containing alcohol including any medication, mouthwash, food, candy, or any other substance that would cause alcohol to be present in the body.

3) No employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until a post-accident alcohol test has been administered, whichever occurs first.

b) Controlled Substances

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance.

1) ILLEGAL DRUGS: The use of any illegal drug or any substance (identified in Schedules I through V of the Controlled Substance Act) is prohibited at all times unless a legal prescription has been written for the substance. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

2) LEGAL DRUGS: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that
mental functioning, motor skills, or judgment may be adversely affected must be reported to a supervisor. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription.

3) PRESCRIPTION DRUGS: A legally prescribed drug means that the employee has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing safety-sensitive functions is prohibited.

c) Refusal to Submit to a Required Alcohol or Controlled Substances Test

No employee shall refuse to submit to an alcohol or controlled substance test required by 49 CFR Part 40 and 655.

1) As an employee, you have refused to take a drug test if you:

a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer.

b. Fail to remain at the testing site until the testing process is complete.

c. Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations.

d. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of the provision of a specimen.

e. Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.

f. Fail or decline to take an additional drug test the employer or collector has directed you to take.

g. Failing to undergo a medical examination when required.

h. Failing to cooperate with any part of the testing process.

i. For an observed collection, fail to follow the observer’s instructions to raise and lower clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have a type of prosthetic or other device that could be used to interfere with the collection process.

j. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
k. Admit to the collector or MRO that you adulterated or substituted the specimen.

l. Fail to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT agency regulations.

m. Fail to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.

n. Failing to sign Step 2 of the alcohol test form.

2) For Pre-employment Tests the Following are NOT Refusals (Once the donor has received the specimen collection cup from the collector the test has commenced.)

   a. Failure to appear for the test.
   b. Failure to remain at the site prior to the commencement of the test
   c. Failure to provide a specimen before the test commences.

III. Tests Required (DOT Panel)

   a) Pre-employment or Transfer Testing

      The following conditions establish who may be screened and under what circumstances the drug and alcohol screening may occur. All testing will comply with 49 CFR Part 40 and Part 655.

      All applicants for employment in a safety-sensitive position with the City of Derby will undergo urine drug testing immediately following the offer of employment. All current employees who are requesting transfer to a position covered in this policy are also subject to this policy. This policy covers applicants for, or requests for transfer to, full-time or part-time employment and applicants for regular or temporary employment.

      Testing involves the following situations:

      1) Prior to the first time an employee or applicant performs any safety-sensitive functions, the employee will undergo pre-employment testing. If the employee has a verified negative result, no further immediate action is necessary. (§655.41(a)(1))

      2) When a covered employee or applicant has previously failed or refused a pre-employment drug test, the employee must provide proof to the Director of Human Resources of having completed a referral, evaluation, and treatment plan as described in section 655.62 of subpart G. (§655.41(a)(2))

      3) Prior to transferring an employee from a Non safety-sensitive function to a safety-sensitive function, the employee must undergo a pre-employment drug test and have a verified negative result. (§655.41(b))
4) If a pre-employment drug test is canceled, the employee or applicant is required to schedule another pre-employment drug test and have a verified negative result. (§655.41(c))

5) When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days, and the employee has not been in the random selection pool during that time, the employee is subject to a pre-employment test which produces verified negative results. (§655.41(d))

b) Post-accident Testing

Post-accident testing is required for prohibited drugs and alcohol in the case of certain transit accidents:

1) **Fatal Accident:** Whenever there is a loss of human life, each surviving safety-sensitive employee operating the transit vehicle at the time of the accident must be tested. The City of Derby will also determine using the best information available at the time of the decision whether to test any other safety-sensitive employees (e.g., maintenance personnel) where performance could have contributed to the accident.

2) **Non-fatal Accident:** Whenever an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or vehicles incur disabling damage as a result of the occurrence and vehicles are transported away from the scene by a tow truck or other vehicle, the City of Derby shall test each safety-sensitive employee operating the transit vehicle at the time of the accident, unless their behavior can be completely discounted as a contributing factor to the accident. The City of Derby shall test any other safety-sensitive employee, whose performance could have contributed to the accident, using the best information available at the time of the accident.

3) **Post-accident drug and alcohol tests must be performed as soon as possible:** Drug tests must be performed as soon as possible but within 32 hours following the accident. Alcohol tests must be performed as soon as possible, within 2 hours following the accident. If the alcohol test is not administered within 2 hours following the accident, the City of Derby must still attempt to administer the test, and must also prepare and maintain on file, a record stating the reason(s) the test was not promptly administered. If the alcohol test is still not administered within 8 hours following the accident, the City of Derby shall cease attempts to administer the test, and must also prepare and maintain on file, a record stating the reason the test was not completed.

4) The requirement to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means the transit agency knows the
location of the safety-sensitive employee. If he or she leaves the scene of
the accident prior to submission to such test, employee may be deemed by
the employer to have refused to submit to testing.

c) Random Testing

Random testing of safety-sensitive employees will be conducted in a manner
consistent with the requirements of 49 CFR Part 655 (Prevention of Alcohol
Misuse and Prohibited Drug Use in Transit Operations) and 49 CFR Part 40
(Procedures for Transportation Workplace Drug and Alcohol Testing
Programs).

The City of Derby participates in a statewide rural transit consortium; therefore,
all employees performing safety-sensitive functions are placed in a statewide
pool and will have an equal chance of being selected for testing and will remain
in the pool, even after being tested. There is no discretion on the part of
management in the selection and notification of the individuals who are to be
tested.

Random testing will meet the following criteria:

1) The random alcohol testing will be conducted using the current applicable
rates required by KDOT which meets or exceeds FTA requirements.
Safety-sensitive positions in the testing pool are tested on a random basis
annually under the drug and alcohol testing requirement for alcohol.

2) The random drug testing will be conducted using the current applicable
rates required by KDOT which meets or exceeds FTA requirements.
Safety-sensitive positions in the testing pool are tested on a random basis
annually under the drug and alcohol testing requirement for drugs.

3) Random selection is made through a scientifically valid computerized
random number generator program matched with employees’ social
security number. This program is provided by a contracted, third party
administrator for the drug program. (§655.45(e))

4) The dates for administering unannounced testing of randomly selected
employees shall be spread reasonably throughout the calendar year.
Testing must be unannounced, unpredictable and will be conducted at all
times of the day when safety-sensitive functions are performed.(§655.45(g))

5) A covered employee will only be randomly tested for alcohol just prior to,
during or just after performing a safety-sensitive function. (§655.45(i))
The City of Derby will ensure that the employee stops performing the
safety-sensitive function and proceeds to the testing site immediately.
(§655.45(h))

6) Random tests for drugs can be conducted at any time during an
employee’s shift. Testing can occur during the beginning, middle or end
of an employee’s shift. (§655.45(i))
d) Reasonable Suspicion Testing

1) A safety-sensitive employee is required to submit to a drug and/or alcohol test when the employer has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol as defined in the regulations.

2) A trained supervisor’s determination that reasonable suspicion exists will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

3) Under this policy drug testing can occur anytime the employee is on duty. Alcohol testing will only occur during, just preceding, or just after the employee has performed a safety-sensitive function.

   a. An employer shall conduct a drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

   b. An employer’s determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor (s), or other company official (s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

   c. Alcohol testing is authorized under this section only if the observations required by paragraph (b) of this section are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to performing safety-sensitive functions; or just after the employee has ceased performing such functions.

   d. If an alcohol test required by this section is not administered within two hours following the determination under paragraph (b) of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (b) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
Details of the reasonable suspicion testing process can be found in 49 CFR Part 40, subpart E.

e) Return-to-duty Testing

Details of the return-to-duty testing process can be found in 49 CFR Part 40, subpart O.

f) Follow-up Testing

Details of the follow-up testing process can be found in 49 CFR Part 40, subpart O.

IV. Handling of Test Results, Confidentiality

Access to Records

a) Except as required by law or expressly authorized by release by an employee, the City of Derby will not release information that is contained in records required to be maintained under 49 CFR Part 40 and 655.

b) An employee is entitled, upon written request, to obtain copies of any records pertaining to the use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.

c) An employee’s testing records will be made available to a subsequent employer upon receipt of a written request from the employee.

d) The City of Derby may disclose information required to be maintained pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test result), (including, but not limited to, a worker’s compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

V. Consequences of Failing or Refusing a Drug Test

a) General. Compliance with this drug testing policy is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing covered functions and immediate termination.

b) Refusal and Prohibited Conduct Prohibitions

1) The City of Derby shall not permit any employee, who fails a drug test as verified by the Medical Review Officer (MRO), as described in Part 655, to perform covered functions or continue to perform covered functions and immediate termination.

2) A covered employee who refuses to submit to a random, post-accident, reasonable suspicion or follow-up drug test shall result in the covered employee not being allowed to perform or to continue to perform any covered functions and immediate termination.
c) On duty use or possession of drugs on company time or on company premises will result in termination from the City of Derby.

A covered employee who engages in prohibited conduct shall be advised of available resources to evaluate and resolve problems associated with substance abuse misuse.

d) Retesting of Drug Positive Samples

1) General. An applicant/employee may verbally request a retest of a positive sample by contacting the MRO by phone, within 72 hours of notification of the positive test result from the MRO.

2) Retest Provisions. The retest will be conducted at a different SAMHSA certified laboratory. The test will be conducted on the split sample that was provided by the applicant/employee at the same time as the original sample. **All costs for such testing are to be reimbursed to the City of Derby by the applicant/employee unless the result of the split sample test invalidates the result of the original test.** The method of collection, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40.

3) Detection Levels. Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

VI. Consequences of Failing or Refusing an Alcohol Test

a) General. Compliance with this alcohol testing policy is a condition of employment. Refusal to take a required alcohol test or failure of an alcohol test shall result in removal from performing covered safety-sensitive functions and immediate termination.

b) Refusal and Prohibited Conduct.

1) A covered employee who has engaged in prohibited conduct as described in Part 655 shall not be permitted to perform covered functions or continue to perform covered functions.

2) A covered employee who refuses to submit to a random, post-accident, reasonable suspicion or follow-up alcohol test shall result in the covered employee not being allowed to perform or to continue to perform any covered functions.

c) Alcohol Concentration. A covered employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater.

1) On-Duty Use: A covered employee shall be prohibited from using alcohol while performing covered functions.

2) Pre-Duty Use: A covered employee that is on call shall be prohibited from performing a covered function, if the employee has consumed alcohol within four hours of being called to duty.
An employee who refuses to provide an adequate breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirement to be tested in accordance with the requirements of the DAPM, or who engages in conduct that clearly obstructs the testing procedure, will be terminated from the City of Derby.

On duty use or possession of alcohol on company time or on company premises will result in termination from the City of Derby.

A covered employee who engages in prohibited conduct shall be advised of available resources to evaluate and resolve problems associated with alcohol misuse.
APPENDIX F-1

ALCOHOL SUPPLEMENT

A. Why you should get involved:

1. Although the City of Derby has no history of substance abuse problems, we recognize that alcoholism and alcohol misuse are problems throughout America.

2. There are three good reasons why you should be concerned if any of your co-workers are using drugs or alcohol on the job.
   a. Your health and safety may be at risk.
   b. Alcohol misuse costs you money.
   c. Alcohol creates a negative work environment.

3. According to the National Institute on Alcohol Abuse and Alcoholism, drug and alcohol use on the job costs society an estimated $102 billion a year. Since most of this cost is passed on to you in the form of higher health insurance rates or in consumer prices, drug and alcohol use on the job costs you and your fellow workers a significant amount of money.

4. Absenteeism among problem drinkers or alcoholics is 3.9 to 8.3 times greater than normal. If your fellow workers don’t come to work, you may have to do their jobs in addition to your own.

5. Workers who misuse alcohol don’t function at their full potential. Not only is absenteeism a problem, when they are at work these employees may have reduced capabilities and productivity. Since our product is the safe transportation of people, alcohol misuse is an especially serious issue.

6. No matter what your position is in the organization, there is something you can do to ensure that drug and alcohol use on the job never becomes a problem at the company. Acceptance of any misuse puts you, this company, and the public at risk.

B. Effects of alcohol misuse on an individual’s health, work, and personal life:

1. Alcohol is a central nervous system depressant. Taken in large quantities, it causes not only the euphoria associated with being drunk, but also adversely affects your judgment, ability to think, and your motor functions. Drink enough alcohol fast enough and it can kill you.

2. Long term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.

3. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease. Left untreated it will inevitably get worse.

4. Workers who use alcohol (and other drugs) affect everyone. Studies show that compared to alcohol-and drug-free workers, substance abusers are far less productive, miss more workdays, are
more likely to injure themselves or someone else, and file more workers compensation claims.

5. The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers’ compensation can be substantial. However, the hidden costs resulting from diverted supervisory and managerial time, friction among workers, damage to equipment, and damage to company’s public image means that workplace substance abuse can further cut profits and competitiveness.

6. Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.

7. If drinking affects your work life, it could lead to job loss and all the financial problems that would follow.

C. Signs and symptoms of alcohol misuse - Any one or more of the following signs may indicate a drinking problem:

- Family or social problems caused by drinking
- Job or financial difficulties related to drinking
- Loss of a consistent ability to control drinking
- “Blackouts” or the inability to remember what happened while drinking
- Distressing physical and/or psychological reactions if you try to stop drinking
- A need to drink increasing amounts of alcohol to get the desired effect
- Marked changes in behavior or personality when drinking
- Getting drunk frequently
- Injuring yourself - or someone else while intoxicated
- Breaking the law while intoxicated
- Starting the day with a drink

D. Available methods of evaluating and resolving problems associated with the misuse of alcohol.

1. Outpatient programs exist in a variety of settings:
   a. Community mental health centers
   b. Full service agencies
   c. Private physicians’ and therapists’ offices
   d. Occupational settings
e. Specialized alcoholism treatment facilities

2. Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities, community halfway houses, and some alcoholism clinics.

3. Your local telephone directory will list helpful referral organizations such as:
   a. Local council on alcoholism
   b. Alcoholics Anonymous
   c. Community alcoholism or mental health clinic
   d. Social services or human resources department
   e. County medical society

4. The SAP will perform an initial evaluation, recommend any additional treatment if necessary, and will refer employees needing assistance for treatment covered under our health insurance program.
APPENDIX F-2
City of Derby

DRUG AND ALCOHOL TESTING PROGRAM
PERSONNEL AND SERVICES

1. DESIGNATED EMPLOYER REPRESENTATION (DER)/DRUG
   AND ALCOHOL PROGRAM MANAGER

   **Primary Contact**
   Director of Human Resources
   611 Mulberry
   Derby, KS 67037
   316-788-1519

   **Secondary Contact**
   Human Resources Coordinator
   611 Mulberry
   Derby, KS 67037
   316-788-1519

2. LOCAL COLLECTION SITE
   Mid-America Orthopedics
   1824 James St.
   Derby, KS 67037
   (316) 978-9000

   In most instances the TMHC Services, Inc. mobile collector can do your
   collections on site. However, a local collection site has been set up for use when
   the on-site collector is unavailable.

3. MEDICAL REVIEW OFFICER (MRO)
   Sanford E. Pomerantz, M.D.
   515 South Kansas Ave, Suite 301
   Topeka, Kansas 66603
   Local (785) 291-9162
   Toll Free (1-888-842-0348)

4. CERTIFIED LABORATORY
   MEDTOX
   402 West County Road D
   St. Paul, Minnesota 55112
   (800) 832-3244

5. EMPLOYEE ASSISTANCE PROGRAM (EAP)
   REFERRAL FOR SUBSTANCE ABUSE PROFESSIONAL (SAP)
   Employee Assistance Program (EMPAC)
   Local 316-265-9922
   Toll Free 1-800-234-0630
APPENDIX F-3

TRANSIT EMPLOYEE POSITIONS
SUBJECT TO DRUG AND ALCOHOL TESTING

(JOB CLASSIFICATIONS/TITLES)

SAFETY–SENSITIVE FUNCTIONS
A safety-sensitive function, as defined by FTA 49 CFR Part 655, is any specified
duty performed by City of Derby employees related to the safe operation of mass
transit service. These duties include the following activities:

1. Operating a revenue service vehicle, including when not in revenue service;

2. Operating a non-revenue service vehicle, when required to be operated by a
   holder of a Commercial Driver’s License (CDL);

3. Controlling dispatch or movement of a revenue service vehicle;

4. Maintaining (including repairs, overhaul, and rebuilding) a revenue service
   vehicle or equipment used in revenue service;

5. Carrying a firearm for security purposes.

The following specific job titles identify those employees who perform
Transportation Program safety-sensitive job functions at the City of Derby:

   a. Van Driver
   b. Senior Services Dispatcher/Administrative Assistant
APPENDIX: F-4

EMPLOYEE AFFIRMATION OF DRUG AND ALCOHOL TESTING POLICY
(for Transportation Program Safety Sensitive Employees)

As an employee in a safety-sensitive position, I affirm that I have received, read and understand the City of Derby’s Drug and Alcohol Testing Policy and educational materials. I am aware that I may be required to undergo a drug and/or alcohol screen as outlined by the City of Derby’s policy requirements and that I will be informed prior to the drug/alcohol screen; and, that I may be referred to an education and treatment program depending on the results of the drug/alcohol screen. I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the company.

_________________________________________________________________________
Employee Name (Please Print)

_________________________________________________________________________
Employee Signature Date

_________________________________________________________________________
City of Derby Representative Date
APPENDIX F-5
SUPPLEMENT
DILUTE NEGATIVE DRUG TEST RESULTS
(This supplement explains what happens when an employer receives a report from the MRO of a negative dilute specimen and employer options)

City of Derby

A negative dilute specimen (Creatinine 5mg/dl to <20 mg/dl, Specific gravity between 1.001 & 1.003) is a specimen that contains an unusually high level of water concentration. Some of the ways this can occur are outlined below:

1. Donor may consume large amounts of water as part of their regular routine.
2. In the case of “shy bladder” collector may offer extra fluids in order to obtain a specimen.
3. Donor may consume large amounts of water in an effort to intentionally dilute the specimen causing drug concentrations to fall below the cutoff levels.
4. Donor may conceal additional water on their person and add to the specimen in an effort to deliberately dilute the sample.

As an employer you may establish different policies regarding dilute negative specimens based on different types of tests. Under 49 CFR Part 40 Section 40.197, you have the following options:

a. Accept a negative dilute specimen as a valid drug test.
b. Require one recollection of the specimen.

Please mark the different types of tests in which your company will accept a negative dilute specimen or require a repeat test to be performed.

Pre-Employment ___X____ Accept Test _________ Repeat Test
Post-Accident ___X_____ Accept Test _________ Repeat Test
Reasonable Cause ___X____ Accept Test _________ Repeat Test
Return to Duty ___X____ Accept Test _________ Repeat Test
Follow-Up ___X___ Accept Test _________ Repeat Test
Random ___X____ Accept Test _________ Repeat Test

1) You must treat all employees the same for this purpose. For example, you must not retest some employees and not others for each test type. Retests should be done as soon as possible and within the same selection quarter.
2) You are required to inform your employees in advance of your decisions on these matters.

3) You must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site.

4) You must treat the result of the recollected test as the test result of record.

5) You are required to follow the provisions regarding negative dilute specimens as outlined under Section 40.197 of 49 CFR Part 40.

__________________________________  ___________________________  ____________
Signature                              Title                                           Date
APPENDIX F-6

FMCSA CLEARINGHOUSE POLICY

This FMCSA Clearinghouse Policy Appendix is incorporated into and made part of the City of Derby’s Regulated Substance Abuse Policy and Testing Procedures, which applies to drivers of commercial motor vehicles. This appendix is effective January 1, 2020.

The Clearinghouse is a secure online database that will give employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver’s license (CDL) and commercial learner’s permit (CLP) holders’ drug and alcohol program violations.

The Clearinghouse will contain records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information will also be recorded in the Clearinghouse.

The following personal information collected and maintained under this part shall be reported to the FMCSA Clearinghouse:

i. A verified positive, adulterated, or substituted drug test result;
ii. An alcohol confirmation test with a concentration of 0.04 or higher;
iii. A refusal to submit to any test required by subpart c of this part;
iv. An employer’s report of actual knowledge, as defined at Part 382.107:
   a. On duty alcohol use pursuant to Part 382.205;
   b. Pre-duty alcohol use pursuant to Part 382.207;
   c. Alcohol use following an accident pursuant to Part 382.209; and
   d. Controlled substance use pursuant to Part 382.213;
v. A substance abuse professional (SAP as defined in Part 40.3 of this title) report of the successful completion of the return-to-duty process;
vi. A negative return-to-duty test; and
vii. An employer’s report of completion of follow up testing.

Optional provision. The materials supplied to drivers may also include information on additional employer policies with respect to the use of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled level, that are based on the employer’s authority independent of this part. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

Certificate of receipt. Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this
section. Each employer shall maintain the signed certificate and may provide a copy of the certificate to the driver.

Employers will be required to conduct **BOTH** electronic queries and traditional manual inquiries with previous employers to meet the three-year timeframe, required by FMCSA’s drug and alcohol use testing program, for checking CDL driver violation histories. Drivers may also view their own records for information recorded on or after January 6, 2020.
FMCSA CLEARINGHOUSE CONSENT FORM
(for DOT Employees)

I, (employee) _____________________________ hereby provide consent to the City of Derby to conduct a limited query of the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

This consent form will be in effect for the duration of my employment with the City of Derby and will cover both annual and employer requested queries.

I understand that if the limited query conducted by the City of Derby indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the City of Derby without first obtaining additional specific consent from me.

I further understand that if I refuse to provide consent for the City of Derby to conduct a limited query of the Clearinghouse, the City of Derby must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA’s drug and alcohol program regulations.

_____________________________   _____________
Employee Signature      Date
# INDEX

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absence</td>
<td>21</td>
</tr>
<tr>
<td>Absenteeism</td>
<td>21</td>
</tr>
<tr>
<td>Acting Assignment</td>
<td>44</td>
</tr>
<tr>
<td>Acting Officer Pay</td>
<td>44</td>
</tr>
<tr>
<td>Alternative Work Schedule (AWS)</td>
<td>51</td>
</tr>
<tr>
<td>Americans with Disabilities</td>
<td>12</td>
</tr>
<tr>
<td>Appearance</td>
<td>20</td>
</tr>
<tr>
<td>Benefits</td>
<td>56</td>
</tr>
<tr>
<td>Bereavement Leave</td>
<td>66</td>
</tr>
<tr>
<td>Bilingual Pay</td>
<td>48</td>
</tr>
<tr>
<td>Bonus Program</td>
<td>49</td>
</tr>
<tr>
<td>Breaks</td>
<td>45</td>
</tr>
<tr>
<td>Callback Pay</td>
<td>45</td>
</tr>
<tr>
<td>Certification Pay</td>
<td>48</td>
</tr>
<tr>
<td>Children’s Health Insurance Program Reauthorization Act (CHIPRA)</td>
<td>56</td>
</tr>
<tr>
<td>City Employee Advisory Committee (CEAC)</td>
<td>80</td>
</tr>
<tr>
<td>COBRA</td>
<td>56</td>
</tr>
<tr>
<td>Compensatory Time</td>
<td>41</td>
</tr>
<tr>
<td>Court Appearance Pay</td>
<td>47</td>
</tr>
<tr>
<td>Death and Disability</td>
<td>59</td>
</tr>
<tr>
<td>Deferred Compensation</td>
<td>57</td>
</tr>
<tr>
<td>Definitions</td>
<td>9</td>
</tr>
</tbody>
</table>
Demotion 37, 93
Disciplinary Procedures 92
Domestic Violence Leave 75
Donations of Sick Leave 65
Drug and Alcohol Testing 79
Drug and Alcohol-Free Workplace 78
Dual Employment 24
Education Pay 48
E-Mail and Internet Usage 84
Emergency Procedures 18
Emergency Shared Leave Pool 65
Employee Assistance Program (EAP) 82
Employee Conduct 90
Employment Classifications 31
Employment Verifications 33
Equal Employment Opportunity 11
Ethics 26
Exempt 31
Family and Medical Leave (FMLA) 67
Fire Employee Advisory Committee (FEAC) 80
Flexible Spending Plan 59
Fraternization 23
Full-Time 31
Gender Harassment 14
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Pay Adjustment</td>
<td>44</td>
</tr>
<tr>
<td>Gratuities</td>
<td>24</td>
</tr>
<tr>
<td>Grievance Procedure</td>
<td>94</td>
</tr>
<tr>
<td>Harassment Prohibited</td>
<td>13</td>
</tr>
<tr>
<td>Health and Dental Insurance</td>
<td>57</td>
</tr>
<tr>
<td>Health Insurance Portability and Accountability Act (HIPAA)</td>
<td>33</td>
</tr>
<tr>
<td>Hiring Bonus for Police Officers</td>
<td>50</td>
</tr>
<tr>
<td>Holidays</td>
<td>60</td>
</tr>
<tr>
<td>Immediate Family</td>
<td>9</td>
</tr>
<tr>
<td>Immigration Law Compliance</td>
<td>11</td>
</tr>
<tr>
<td>Injury Leave</td>
<td>76</td>
</tr>
<tr>
<td>Interim Assignment</td>
<td>44</td>
</tr>
<tr>
<td>Intermittent Leave</td>
<td>73</td>
</tr>
<tr>
<td>Interview and Hearing Pay</td>
<td>48</td>
</tr>
<tr>
<td>Introductory Period</td>
<td>32</td>
</tr>
<tr>
<td>Job Abandonment</td>
<td>21</td>
</tr>
<tr>
<td>Job Family</td>
<td>9</td>
</tr>
<tr>
<td>Jury Duty</td>
<td>67</td>
</tr>
<tr>
<td>KP&amp;F</td>
<td>57</td>
</tr>
<tr>
<td>KPERS</td>
<td>57</td>
</tr>
<tr>
<td>Leave without Pay</td>
<td>77</td>
</tr>
<tr>
<td>Life Insurance</td>
<td>58</td>
</tr>
<tr>
<td>Light Duty for Off-the-Job Injury</td>
<td>27</td>
</tr>
<tr>
<td>Longevity Pay</td>
<td>42</td>
</tr>
</tbody>
</table>
Major Disciplinary Action 92
Mandatory Referral 82
Meal Periods 45
Merit Increase 42
Military Leave 74
Minor Disciplinary Action 92
Nepotism 22
Non-Exempt 31
Non-Harassment Policy 13
Official Pay Plan 40
Off-the-Job Injury 27
One Time-Performance Pay (OTPP) 42
On-the-Job Injury 27
Outside Employment 23
Overtime 41
Part-Time 31
Pay Period 40
Pay Study 43
Payroll Discrepancies 45
Performance Reviews 32
Personal Property 24
Personnel Records 33
Police Employee Advisory Committee (PEAC) 80
Political Activity 24
Privacy Officer 34
Promotion 36
Property Search 25
Protected Health Information (PHI) 34
Public Relations 20
Punctuality 21
Qualifications of Employment 22
Qualified Exigencies 69
Reclassification 38
References 33
Referral Incentive 49
Reinstatement 32
Reporting of Violations of Policies and Procedures 28
Reporting Safety Issues 30
Residency Requirements 22
Rest Breaks 45
Retaliation Prohibited 86, 95
Retaliation Protection 15
Retirement Benefits 57
Return to Work After On-the-Job Injury 26
Safety 29
Seasonal Employees 31
Security Pay 47
Sexual Harassment See Non-Harassment Policy
Shift Differential 46
Sick Leave 63
Social Media 85
Special Duty Pay 46
Special Requests 28
Standards of Conduct 90
Standby Pay 45
Substance Abuse Policy - FMCSA 107
Substance Abuse Policy - FTA 118
Substance Abuse Policy- Non Regulated 101
Suspension 92
Tardiness 21
Technology and Computer Use 84
Telework 53
Temporary Employees 31
Termination 93
Tobacco Use 20
Training Compensation 47
Transfer 37
Tuition Reimbursement 59
Unemployment Compensation 58
Unexcused Absences 21
Unexcused Tardiness 21
Use and Maintenance of City Equipment 30
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use of City Vehicles</td>
<td>25</td>
</tr>
<tr>
<td>Vacation</td>
<td>61</td>
</tr>
<tr>
<td>Vehicles</td>
<td>25</td>
</tr>
<tr>
<td>Violence</td>
<td>See Workplace Violence</td>
</tr>
<tr>
<td>Volunteers</td>
<td>31</td>
</tr>
<tr>
<td>W-2s</td>
<td>51</td>
</tr>
<tr>
<td>Weapons</td>
<td>16</td>
</tr>
<tr>
<td>Wellness Day</td>
<td>65</td>
</tr>
<tr>
<td>Workers’ Compensation</td>
<td>58</td>
</tr>
<tr>
<td>Workplace Safety</td>
<td>29</td>
</tr>
<tr>
<td>Workplace Violence Prohibited</td>
<td>16</td>
</tr>
<tr>
<td>Written Reprimand</td>
<td>92</td>
</tr>
<tr>
<td>Written Warning</td>
<td>92</td>
</tr>
</tbody>
</table>