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Chapter 1: Introduction

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

- 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 Municipal Judge or Governing Body. 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)

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.

“At-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 attached as Appendix C.

“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

- 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)

- 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 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 788-1510.

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)

- a) The City prohibits all persons from possessing or using a "weapon," as defined below. This prohibition applies when an employee is engaged in official duties or in the course of City employment regardless of the location of said duties. This prohibition also applies to all employees who drive or ride in City vehicles or equipment.
- b) A "weapon" includes, but is not limited to, any handgun, firearm, knife or sword with a blade exceeding four (4) inches in length, any explosives, or any chemical used to cause harm to another person.
- c) The only exceptions to Section II(a) above, shall be as follows:
 - Law enforcement officers or other employees who have been given consent by the City Manager to carry a weapon in the course of their employment with the City are hereby exempted from the prohibition contained in Section II(a) above.

- Employees licensed pursuant to the Kansas Personal and Family Protection Act, K.S.A. 75-7c01, *et seq.* (hereinafter “the KPFPA”), may carry a concealed handgun into City buildings open to the public, where the carrying of a concealed handgun is allowed under the provisions of “the KPFPA.” Any employee electing to carry a concealed handgun pursuant to “the KPFPA” shall do so only for the purposes of personal protection. Any employee carrying a concealed handgun pursuant to “the KPFPA” must keep said handgun concealed on his or her person and attended to at all times and must further comply with all provisions of “the KPFPA.”
- d) Subject to other policies and procedures of the City of Derby and Kansas law, law enforcement and other employees authorized to carry weapons within the scope of their employment are the only individuals authorized to use deadly force while acting for and 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 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.
- e) Any employee violating this policy will be subject to disciplinary action up to and including termination.
- f) 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.

III. Emergency Procedures (Revised 06/08)

- 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 911 and to a supervisor and department director.
- b) When it is inappropriate to refer an incident to the Police Department, the Director of Human Resources will evaluate the incident and determine whether to conduct an investigation. If an investigation is directed, the Director of Human Resources will coordinate the investigation process and will notify the City Manager of the findings.

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)

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 whenever illness or personal emergencies cause absences or lateness. 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)

All employees are required to live within Sedgwick County or an adjoining County. Because of the value that the City places on the safety of life and property, the following emergency service and transportation safety sensitive employees shall live within thirty (30) minutes lawful drive time of the City limits:

- Police officers, regardless of rank;
- Firefighters, regardless of rank; and
- Wastewater and Public Works and Parks 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. Fraternalization (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

- 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.

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)

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 this policy. By its very nature, however, government employment has important implications in this area and, in some circumstances, limits City employees' political activity. This section addresses those implications and limitations.

With the exception of persons duly appointed to City boards or commissions, or elected City officials, these provisions apply to all City employees, including full and part-time employees.

Notwithstanding any other provision of this Political Activity section, City employees, and City appointees on reserve status, may become, or continue to be, members of political parties, clubs, organizations, and associations; attend political meetings; and vote in any and all elections. All such political activity by such persons shall be limited to their personal time. Such persons shall not use City equipment, supplies or resources in their political activity

- a) **Voting.** City employees are encouraged to register and vote in all elections and are permitted, with supervisory permission, to leave work to vote if the polls are not open for at least two hours before or after working hours.
- b) **Candidacy for City Office.** No City employee shall, without first obtaining a special unpaid leave of absence, run for any public office which is incompatible with, or conflicts with, their City position, duties, or obligations. Such persons may maintain their City positions until they file for the elective position they seek and may then commence, if they have so requested, their special leave. If elected, such person's City position shall terminate; if they are not elected, they may return to their City position if it is vacant. The City is under no obligation to hold the position open.

City employees shall inform the City Manager in writing of their intention to file for election to a public office which they do not believe is incompatible with, or conflicts with, their City position, duties, or obligations. The City Manager shall promptly, and in writing, deliver to the person a determination whether the position they seek is incompatible with or in conflict with, their

City position, duties, or obligations. If the position is incompatible or in conflict, the person shall proceed pursuant to the immediately preceding paragraph. If the position is not incompatible or conflicting, the City may impose appropriate conditions on the person's continued association with the City during the campaign and election.

- c) **Political Influence.** City employees shall not use or promise to use, directly or indirectly, any official authority or influence to secure or attempt to secure an appointment, or advantage in obtaining an appointment, to a position in the City service, an increase in compensation, a promotion, or any other employment advantage, for the purpose of influencing a vote or political or official action. They also shall not, while on duty, openly campaign for any political party or candidate or use the influence of their position with the City to promote the election thereof. All such political activity by such persons shall be limited to their personal time. Such persons shall not use City equipment, supplies or resources in their political activity.
- d) **Contributions.** City employees shall not solicit monetary contributions or donations, or make monetary contributions or donations, to any municipal political campaign or to the campaign of any candidate for municipal office.
- e) **Interest Groups.** City employees may engage in activities of civic organizations and special interest groups unless such action would create a conflict of interest relating to the employee's job. If an employee has a question as to whether his or her participation in certain interest groups creates a conflict of interest, the employee should discuss this matter with the department director or City Manager.

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)

- 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. During any absence from work exceeding three days, employees assigned a vehicle for take-home usage shall park the vehicle at their place of work and ensure that keys are made available to the designated employee within their department or building (example: A City Hall employee with a take-home vehicle that is taking a week of vacation shall park the vehicle in the designated parking area and ensure that the Executive Secretary has keys to the vehicle).
- 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 stated below 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) three or more moving violations in one year; (2) three or more accidents within one year where the employee is determined to be the primary cause of the accident; or (3) 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 approval of the department director or City Manager, unless the transportation occurs as part of the City business (example: providing a tour to a prospective developer).
 - 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 Injury (New 04/10)

- 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) In the event there is no work 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.

XVIII. Reporting of Violations of Policies and Practices (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 employee shall in any manner retaliate against an employee, applicant for employment or customer for reporting a violation of city policies and procedures.

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

- a) All accidents, injuries, damage to City property, potential safety hazards, safety suggestions and health- and safety-related issues must be reported immediately to the employee's supervisor or department director. If an employee is injured, contact outside emergency response agencies, if needed. Whether or not medical treatment is needed, a Report of Work Related Injury Report MUST be completed in case medical treatment is needed later 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 emergency response agencies. 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)

- 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 are 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.

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

- a) **Purpose.** Employee performance evaluations will be considered in determining salary 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)

- 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)

- 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, 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.
- 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)

- 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; provided that the City Manager may make a non-requested lateral transfer or non-lateral transfer whenever deemed to be in the City's best interests.
- 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.
- 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 at the Fire Department). 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**

- 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.
- 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

A new employee will normally enter employment at the minimum wage/salary established for the position. Department directors may present justification for exceptions to the City Manager for consideration.

IV. Pay Periods and Paychecks

Employees will be paid once every two weeks. The normal work week or normal work period for City employees shall be declared in writing by the City Manager and a copy of said declaration shall be furnished to the respective department.

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)

- 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. Each supervisor will communicate their department's policy on earning compensatory time off in lieu of overtime to employees before work is performed.
- 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 cash, 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

- 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 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. 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.

IX. 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.

X. Interim and Acting Assignment Pay

- 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.

XI. Payroll Deductions

- a) 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.
- b) The City does not condone unlawful deductions, and will make every effort to ensure compliance with the FLSA. If an employee notices deductions on their paycheck that are incorrect, or were taken in error, the employee should notify his or her supervisor or department director. The City will make any necessary corrections as soon as possible.

XII. 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.

XIII. Standby and Callback Pay (Revised 07/09, 01/14)

- 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 except public safety employees shall be paid standby pay at a rate of \$0.75 per hour. Public safety employees will be compensated at the rate of \$1.00 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 call back. 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 one hour of callback. 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.

XIV. Shift Differential (Revised 01/14)

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 \$0.25 per hour shift differential pay for 2nd shift assignments and \$0.40 per hour shift differential pay for 3rd shift assignments. Employees assigned to 1st shift are not entitled to shift differential pay.
- Employees working twelve (12) hour shifts shall receive \$0.40 per hour shift differential pay for night shift assignments. Employees assigned to the day shift are not entitled to shift differential pay.
- Employees must actually work a shift for which shift differential pay is authorized to receive it.

- Employees working a shift for which differential pay is authorized shall receive shift differential pay at the rate applicable to such shift for all hours continuously worked.
- Shift differential pay is not paid when event pay is authorized.

XV. Special Duty Pay. (New 01/14)

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.

XVI. Training Compensation. (New 01/14)

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 \$1.00 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 12 weeks per employee. Supervisors are not eligible to receive training pay.

XVII. 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.

XVIII. Court Appearance Pay. (New 01/14)

- 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; provided, that Employees will not receive pay if they fail to contact the prosecutor and/or court within two (2) hours of the scheduled court appearance or are advised in advance that their attendance is no longer required. Failure to make the pre-appearance check or appearing in court when not required to do so may result in disciplinary action. 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.

XIX. Bilingual Pay. (New 01/14)

- a) 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.

XX. 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.

XXI. Bonus and Recognition Program (Revised 09/14)

- 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.
- 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 City Manager shall serve as an ex officio member.
- d) **Nomination Process.** Any employee or supervisor can nominate any other employee or supervisor 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 once a year 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.

XXII. 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.

XXIII. 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.

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 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 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)

- 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 full-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.** Retirees 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 retirement 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.

Effective January 1, 2011, retirees are responsible for 100% of the premium cost for both health and dental insurance, plus a 2% administrative fee.

VI. Workers' Compensation Insurance

- 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 notify the City within 24 hours of sustaining the injury. **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 shall 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.

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

The City recognizes the need for, and supports the continued professional growth and development of its employees to improve service to the City and employee performance. To assist employees in this endeavor, the City of Derby has established a tuition reimbursement policy. It provides eligible employees with the opportunity to obtain, maintain, or improve job related capabilities through participation in courses of study at accredited colleges, universities, vocational

schools, and other organizations specializing in job and career-related education and training.

- a) **Eligibility.** All regular full-time employees who have been employed with the City for at least one year are eligible. The employee must be in an eligible employment status at the time of application and remain in an eligible status until the course is completed. Course(s) of study must be related to the employee's position with the City. Class(es) must not interfere with the employee's job responsibilities or adversely affect the department's services or activities. Class(es) must be for a specific duration of time, and reimbursement will not be made for courses taken more than once.
- b) **Approval.** Employees seeking tuition reimbursement shall complete a tuition reimbursement application and receive authorization from their department director, the Director of Finance, and the City Manager at least seven days **prior** to enrolling in the course or training. Approval is on a semester or term basis, and does not guarantee continued reimbursement for subsequent classes. A new application form must be submitted each semester or term for which reimbursement is desired. Tuition reimbursement is subject to the availability of funds and approval by the City Manager.
- c) **Completion Requirement.** In order to receive reimbursement for an approved course or training session, the employee must provide proof of a grade of "C" or better, as well as proof of payment. For classes without grades, proof of successful completion is required.
- d) **Reimbursement.** Upon receipt of the required documentation, the City will reimburse eligible, approved employees for up to \$1,000 per year. Reimbursement will occur as soon as administratively possible. Tuition reimbursement covers tuition and applicable fees. Applicable fees include but are not limited to: books, application fees, parking fees, identification cards and similar expenses or administrative fees associated with enrollment. An employee who is eligible for reimbursement from another source (e.g. scholarships or grants) may seek assistance under the Tuition Reimbursement Program, but is only eligible for reimbursement for the *difference* between the amount received from the other funding and the employee's actual tuition expenses. Guaranteed loans are not considered financial assistance, and are eligible for reimbursement.
- e) **Documentation.** Within sixty (60) days from completion of the class, the following documents must be submitted to the Director of Human Resources:
 - Final grade report or transcript;
 - An itemized school bill showing the cost of tuition, how much was paid, and for what items payment was made; and

- Proof of payment (e.g. cancelled checks, credit card receipt or statement, official cash receipt, loan agreement which shows written acknowledgement from school of payment received directly from funding source).
- f) **Violation of Policy.** Failure to follow the Tuition Reimbursement Policy and Procedure, falsification of academic or financial records, or failure to provide all required documentation will result in denial of the reimbursement request and may be cause for disciplinary action.
- g) **Continued Employment Requirement.** Any employee who receives tuition reimbursement shall be required to continue to work for the City for one (1) year following the completion of the continuing education course(s). Should the employment relationship between the City and the employee end for any reason within one (1) year following the date of completion of the course(s), the employee shall repay such reimbursement on a pro-rata basis, based on the number of months remaining in the one (1) year period.
- h) Under no circumstances shall anything in this section be construed to constitute an employment contract between the City and a participating employee.

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)

- a) For those days designated as holidays, 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. Part-time employees shall receive four (4) hours of holiday pay for each City observed holiday provided they have worked or utilized paid leave during the pay period.
- b) In lieu of holiday leave, fire department personnel who work 24 hour shifts shall receive holiday pay equivalent to 11.2 hours.
- c) 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)
- d) 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.
- e) 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. 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. 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.

- f) 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 the holiday occurred. For part-time employees, the maximum accumulation is twenty (20) hours.
- 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)

The purpose of this policy is to provide eligible employees with sufficient time off for rest and relaxation in recognition of services performed. It also serves to provide uniform treatment of City of Derby employees.

- a) **Eligibility.** Vacation leave is a benefit provided to full-time and part-time employees. Employees begin earning vacation beginning with the first day of employment. Employees must work or use authorized paid leave for at least 30% of their regularly scheduled work days in a pay period to accrue vacation credit for such pay period. No employee shall be permitted to use vacation time for any period spent on unauthorized leave.
- b) **Accrual.** Full-time and part-time employees accrue paid vacation leave according to the following schedules. 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:

Years of Continuous Service	Hours Earned per Pay Period	Annual Accrued Hours	Maximum Carryover
0-1 year	1.54	40	40
1-5 years	3.08	80	120
5-10 years	4.62	120	120
10-15 years	5.54	144	120
15 + years	6.15	160	120

- Fifty-six (56) hour week employees (Fire Department):

Years of Continuous Service	Hours Earned per Pay Period	Annual Accrued Hours	Maximum Carryover
0-1 year	2.15	56	56
1-5 years	4.31	112	168
5-10 years	6.46	168	168
10-15 years	7.77	202	168
15 + years	8.62	224	168

- PT employees working fifteen (15) or more hours per week:

Years of Continuous Service	Hours Earned per Pay Period	Annual Accrued Hours	Maximum Carryover
0-1 year	0.77	20	20
1-5 years	1.54	40	60
5-10 years	2.31	60	60
10-15 years	2.77	72	60
15 + years	3.08	80	60

- PT employees working ten (10) to fifteen (15) hours per week:

Years of Continuous Service	Hours Earned per Pay Period	Annual Accrued Hours	Maximum Carryover
0-1 year	0.39	10	10
1-5 years	0.77	20	30
5-10 years	1.16	30	30
10-15 years	1.39	36	30
15 + years	1.54	40	30

- c) **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. Unscheduled absences are

strongly discouraged except in emergency situations. 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.

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 all accumulated, unused vacation leave. On and after January 1, 2012, payout will be limited to the maximum carryover hours.

III. Sick Leave (Revised 06/08, 07/09, 10/11, 01/14)

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 30% 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.
- f) **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.

g) **Conversion of Sick Leave to Wellness Days.** Employees who participate in the City's wellness program are able to convert up to two sick days to wellness days on the pay period following March 1 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 to a wellness day (For 56 hour per week employees will be 11.2 hours).
- Employees who achieve platinum level the prior year are eligible to convert the equivalent of two sick days to wellness days (For 56 hour per week employees will be 22.4 hours)

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

h) **Emergency Donation of Sick Leave.** On a very limited case-by-case basis, for medical emergencies only, full-time employees will be permitted to donate accrued but unused sick leave to other full-time City employees who have exhausted all available leave time. 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. Emergency donations are subject to the following restrictions:

- The employee in need of leave donations must sign a written application to be considered for an emergency donation of sick leave and a medical release form, providing the Director of Human Resources with the authority to release pertinent information regarding the situation to alert other employees of the need for an emergency donation of unused sick leave;
- The employee in need of leave donations 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;
- The employee donating leave 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;

- Donations of sick leave shall be strictly voluntary and shall not be solicited by directors or supervisors;
 - Employees who work between 36 to 40 hours a week may donate up to 40 hours of sick leave and employees who work 56 hours a week may donate up to 56 hours of sick leave, provided that no employee may donate more than 50% of their sick leave balance;
 - No employee who receives donated sick time may receive more than 480 hours (12 weeks) within any 12-month period.
 - The final decision of eligibility and the determination for the total amount of leave to be donated to an individual employee will be made by the City Manager in consultation with the Director of Human Resources.
- i) **Abuse.** Employees who improperly claim sick leave shall be subject to disciplinary action up to and including termination from employment.

IV. 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.

V. 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.

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

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 qualifying exigency leave. In most cases, employees taking FMLA leave are

entitled to return to the position they held prior to leave or an 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 (the months need not be consecutive), (2) they worked at least 1,250 hours during the 12-month period immediately preceding the leave.

b) **Qualifying Leave.** Up to 12 weeks of FMLA leave may be taken by eligible employees, unless caring for a seriously injured or ill 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 event. Leave is computed as a rolling 12 month period measured backward from the date an employee uses FMLA leave. 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 on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces; 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 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) A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves:

- inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
- 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 would be considered a serious health condition. At least two health care visits a year must occur to be considered a chronic condition; or

- Incapacity which is permanent or long-term due to a condition for which treatment may not be effective.
- Employees with questions about whether an illness is covered under this policy should consult with the Director of Human Resources.

d) “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 **five** 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;

- Any other event that the employee and employer agree is a qualifying exigency.
- e) 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; or
 - 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.
- f) **Employer Notification.** An employee desiring to use FMLA leave must, when practicable, notify his or her supervisor or Human Resources 30 days in advance of the anticipated start date of leave. When leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as possible and in accordance with the stricter of the Personnel Policy Manual for reporting sick leave or department procedure, unless physically unable to do so due to an emergency situation.
- g) **Employer Response.** 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. The employee will also be informed of their rights and responsibilities under FMLA, including specific written instructions on any additional information that will be required. Once sufficient information is received, the employee will be notified of the status of determination of the FMLA leave request within five days of the determination. The employee will also be notified of the number of hours, days, or weeks that will be counted against the employee’s FMLA entitlement. Supervisors will receive notification of any FMLA approvals.
- h) **Use of Paid and Unpaid Leave.** Employees on FMLA leave are required to exhaust all accumulated vacation, sick, holiday and compensatory time. 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 will retroactively designate the portion of the leave taken that falls under these qualifications as FMLA leave.
- i) **Medical Certification.** The City will require medical certification, by a health care provider, to support an employee’s request for leave to attend to the

employee's own serious health condition, or to care for a seriously ill child, spouse, or parent. Certification of an employee's 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. For leave to care for a seriously ill child, spouse, or parent, the certification must include, among other things, an estimate of the amount of time the employee is needed to provide care. The City may require a second medical opinion, and subsequent and periodic re-certifications, at its expense. If the employee's and the City's opinions conflict, the City may require the binding opinion of a third health care provider, whose identity the City and employee must approve and which shall be paid for by the City.

A health care provider's release 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. The department director or Director of Human Resources may authenticate or clarify a medical certification or an ITO or ITA, provided that in no event will the employee's immediate supervisor make contact with a medical provider.

- j) **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 meeting.

- k) **Intermittent Leave or Reduced Schedule.** When medically necessary for an employee's serious health condition, the serious health condition of a spouse, child, or parent, for a qualifying exigency, or the care for a seriously injured or ill covered servicemember leave may be taken intermittently or by way of a reduced work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment to minimize disruption to their work schedule. For intermittent leave related to a serious health condition of the employee, the employee's spouse, child, or parent, or servicemember family leave, the City can require the employee to transfer

temporarily to an alternative position for which the employee is qualified and that has equivalent pay and benefits; and better accommodates recurring periods of leave than the employee's regular position.

- l) **Spouses' Combined Leave.** Spouses who are both employed by the City are entitled to a *combined total* of 12 weeks' leave, for the birth of a child, or for placement for adoption or foster care of a child, for the care of a sick parent, or for the qualifying exigency of an active service member. (26 weeks for an ill or injured service member)

- m) **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.

VII. Military Leave

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

VIII. Domestic Violence Leave

The City of Derby domestic 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.

IX. Injury Leave (Revised 06/08, Deleted 11/10, New 01/14)

- 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 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.

X. Leave without Pay (Revised 04/10)

- 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, stating the reason for, and duration of, the requested leave. Approval from both the department director and the City Manager will be required. 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)

The City is committed to providing a work environment which is safe, healthy and productive and use of drugs and alcohol significantly increases the likelihood of accidents and injuries in the workplace. Employees are prohibited from using, possessing, distributing, selling 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, 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 (Added 03/13)

I. Purpose of Employee Advisory Committees

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 and Term for CEAC Representatives

- a) **Election.** CEAC representatives are elected via secret ballot elections conducted by Human Resources.
 - Employees in each department elect a representative to serve on CEAC. Large departments shall each have one representative, whereas departments with fewer than 10 employees shall be combined for their representation. Departments include: Administration, Finance, Fire, Operations, Planning and Engineering, Police, and Public Works.
 - 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) **Term.** CEAC representatives shall serve one-year terms with no limitation to the number of terms that can be served.
- c) **Officers.** CEAC members shall elect a chair and vice chair.

III. Role of CEAC Members

- a) CEAC members are responsible for taking employee suggestions and concerns to CEAC and for reporting back to colleagues in their departments. After a majority of CEAC members approve meeting summaries, those summaries are shared with all employees and the City Council. After discussing items, CEAC members 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

- 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, 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

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 news 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."

IV. 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.

V. Monitoring Employees' Use of Computer Technology

- 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. Employees should use other media to transmit sensitive or confidential information.

VI. Software

- 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 Division prior to downloading.

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

VII. 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.

VIII. Law Enforcement and Investigation Exception

Exceptions to this policy will be made as needed for the purposes of conducting law-enforcement investigations and for investigation of suspected employee misconduct.

IX. 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.

X. 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 and the worldwide web, 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)

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. Department directors shall have authority to discipline employees for violations of personnel regulations or department regulations. 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 conduct not listed herein.

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

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, 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 any manner that would endanger the life or safety of a guest or employee on any City property.
- 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.
- Incompetence or inefficiency, including failure to perform job assignments timely and satisfactorily.
- 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.
- 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.
- Repeated failure to record time worked.
- 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.

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 and principles of professional and personal conduct.

III. Disciplinary Procedures and Termination

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. On all occasions, and at the discretion of the supervisor, 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 or department director and is subject to grievance. Minor Disciplinary Action Forms must be reviewed by the Director of Human Resources before the disciplinary action is delivered.
 - **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**

(Revised 01/14)

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: LIST OF JOB FAMILIES
BY DEPARTMENT
(Revised 06/08, 07/09, 11/10, 10/11, 03/13)**

This list reflects only those positions with connections to another position in the department –i.e. promotion or demotion capability. All other internal position changes will be considered a lateral or non-lateral transfer

Administration

1. Administrative Assistant
Management Assistant

2. Court Clerk I
Court Clerk II
Court Administrator

3. Administrative Assistant- Senior Center
Senior Center Activity Coordinator

4. Administrative Assistant- Human Resources
Benefits Coordinator

Community Development

1. GIS Coordinator
Project Manager/GIS Programmer

2. Assistant City Engineer
City Engineer

Finance

1. Utility Billing Clerk
Administrative Assistant

Fire

1. Firefighter
Firefighter II
Fire Lieutenant
Deputy Chief
Fire Chief

Operations

1. Operations Technician
Network Administrator

Police Department

1. Police Officer
Master Police Officer
Sergeant
Lieutenant
Deputy Chief of Police
Chief of Police

2. Police Records Clerk
Senior Police Records Clerk
Police Records Supervisor

Public Works Department

1. Assistant Public Works Director
Public Works Director

2. Groundskeeper
Senior Groundskeeper
Arborist
Landscape Foreman
Parks Superintendent

3. Operator
Senior Operator
Street Superintendent

4. Sign and Signal Technician
Senior Sign and Signal Technician

5. Meter Reader
Water Operator
Senior Water Operator
Water Superintendent

6. Mechanic
Fleet Manager

7. Code Enforcement Officer I
Code Enforcement Officer II

8. WW Operator I
WW Operator II
WW Senior Operator
WW Superintendent

APPENDIX E: SUBSTANCE ABUSE POLICY AND TESTING PROCEDURES

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

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 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.

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) The consumption, possession or being under the influence of alcohol on City property or while on duty is prohibited and will result in disciplinary action, up to and including termination.
- 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.
- 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 D-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.

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

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 Administrative Assistant
611 Mulberry
Derby, Kansas 67037
(316) 788-1519

2. LOCAL COLLECTION SITE

As determined by the City

3. MEDICAL REVIEW OFFICER (MRO)

Sanford E. Pomerantz, M. D.
534 South Kansas Ave, Suite 600
Topeka, Kansas 66603
Local (785) 232-3191
Toll Free (1-888-842-0348)

4. CERTIFIED LABORATORY

MEDTOX
402 West County Road D
St. Paul, Minnesota 55112
(800) 832-3244

APPENDIX E-2:

**APPLICANT AFFIRMATION OF
SUBSTANCE ABUSE POLICY AND TESTING PROCEDURES**

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 \$150.

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-3:

**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-4

**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)
(New 12/11)

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:

DRUG TESTING

- a. Pre-employment
- b. Random
- c. Post-accident
- d. Reasonable cause
- e. Return-to-duty
- f. Follow-up

ALCOHOL TESTING

- a. Random
- b. Post-accident
- c. Reasonable cause
- d. Return-to-duty
- e. Follow-up

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, 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.

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
 - 4) 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.
 - 5) 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.
 - 6) 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 Administrative Assistant
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

**EMPLOYEE/SUPERVISORY 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 Activity Coordinator
- c. 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	<input checked="" type="checkbox"/>	Accept Test	<input type="checkbox"/>	Repeat Test
Post-Accident	<input checked="" type="checkbox"/>	Accept Test	<input type="checkbox"/>	Repeat Test
Reasonable Cause	<input checked="" type="checkbox"/>	Accept Test	<input type="checkbox"/>	Repeat Test
Return to Duty	<input checked="" type="checkbox"/>	Accept Test	<input type="checkbox"/>	Repeat Test
Follow-Up	<input checked="" type="checkbox"/>	Accept Test	<input type="checkbox"/>	Repeat Test
Random	<input checked="" type="checkbox"/>	Accept Test	<input type="checkbox"/>	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

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(Revised 06/08, 07/09, 04/10, 10/11, 03/13, 01/14)

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