



P O T E A U
O K L A H O M A

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Employee Personnel Policy

POTEAU CITY COUNCIL
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INTRODUCTION

This handbook is intended to be an informative guide to employees of the City of Poteau regarding its policies, procedures, and benefits. The City is proud of the procedures and policies that we have developed. We think you will find that they reflect our commitment to treating our employees fairly.

It is the City's hope that you will find this handbook useful and informative. However, if you have any questions about any of these procedures and policies, do not hesitate to ask your supervisor. Whether you are just joining the City or are a current employee, the City looks forward to working with you.

We welcome employees' comments and suggestion for improving all aspects of our operation. One of the contributing factors to our success is the maintenance of an open, responsive and on-going two-way system of communications. We encourage all employees to exchange ideas and information to help themselves and, in turn, the City.

This Employee Personnel Policy replaces all previous versions.

Disclaimer: This handbook is provided as a guide and is not to be considered a contract. The City reserves the right to make changes to its policies, procedures, and other statements made in the handbook. Economic conditions, federal and state law and organizational needs may require the handbook to be re-written. This is necessary to successfully provide the appropriate employment relationship and to obtain the goals of the organization. No such change in the Employee Personnel Policy shall modify the at-will nature of employment at the City.

GENERAL POLICIES AND PROCEDURES

Authority

The Mayor shall serve as the Chief Executive Officer of the administrative branch of the City. The Mayor shall supervise and control all administrative departments, agencies, officers and employees, act promptly on a charge of neglect or violation of duty of any officer or employee, and require any officer to account for and report to the Council in writing on any subject pertaining to the duties, powers, or functions of the officer when the Mayor deems necessary. The Mayor shall also appoint, subject to the confirmation by the City Council, a City Attorney and all heads or directors of administrative departments and all other administrative officers and employees of the City. All appointments and promotions shall be made solely on the basis of merit and fitness. (11 O.S. §§ 9-105 and 9-117)

The Mayor shall remove or suspend city officers or employees against whom charges of incompetency, neglect, or violation of duty are made or as determined to be for the good of the services by said Mayor, until such time as the Council shall take action on the charges. All removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The City Council may suspend for cause, by a majority vote of all its members, *any officer of the city or employee*, except the Mayor. (11 O.S. §§ 9-105 and 9-117)

The officer or employee may appeal the action to the City Council. The appeal shall be in writing and shall be filed with the Clerk of the City Council within ten (10) days after the effective date of the layoff, suspension, demotion or removal. The City Council may affirm, reverse or modify the Mayor's decision. The Mayor may appoint a person to act during the temporary absence of such officer or employee, or, in the case of a vacancy, until a successor is appointed and qualified. (11 O.S. § 9-118)

Scope

These policies apply to all City employees. The Mayor shall administer and enforce all provisions of these policies with respect to all City employees. (11 O.S. §§ 9-105)

These policies are not a contract of employment, nor are they intended to be and shall not be interpreted by an employee as a contract of employment.

Interpretation of Policies

The Mayor shall provide administrative interpretation of these policies to the various Department Directors. (11 O.S. §§ 9-105)

Conflict

Should the interpretation, application, administration, or enforcement of any rule or regulation contained in these policies conflict with any ordinance or other law, such ordinance or law shall prevail.

A Department Director may make department/division rules and regulations, consistent with these policies, governing the conduct and performance of employees. The Mayor may review department rules for consistency with the policies. Disciplinary action may be based upon breach of any such rules and regulations. (11 O.S. §§ 9-105)

WORKPLACE POLICIES

Equal Employment Opportunity (EEO)

The City is an equal employment opportunity employer where required by law. Employment decisions are based on merit and business needs, and not on race, ancestry, religion, gender, age, marital or civil union status, national origin, sexual orientation, place of birth, citizenship, veteran status, or disability, as defined and required by state and federal laws.

It is the policy of the City to comply with all the relevant and applicable provisions of the Americans with Disabilities Act (ADA). We will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. We will also make a reasonable accommodation whenever possible for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential duties and assignments connected with the job and provided that any accommodations made do not impose an undue hardship on the City, in conformance with state and federal law.

Equal employment opportunity notices are posted as required by law. These notices summarize the rights of employees to equal opportunity in employment and list the names and addresses of the various government agencies that may be contacted in the event that any employee believes he or she has been discriminated against.

Management is primarily responsible for seeing that our equal employment opportunity policies are implemented, but all members of the staff share in the responsibility for assuring that by their personal actions the policies are followed. Any employees, including managers, responsible for or involved in discriminatory practices or actions will be subject to termination.

The City intends to provide a work environment that is pleasant and free from intimidation, hostility or other offenses that might interfere with work performance. Harassment of any sort - verbal, physical, and visual - will not be tolerated. Members of certain classes are protected by law. Those protected classes include, but are not necessarily limited to race, ancestry, religion, gender, age, marital or civil union status, national origin, sexual orientation, place of birth, citizenship, veteran status, or disability, or any other protected status defined by law.

Harassment

What Is Harassment?

Workplace harassment can take many forms. It may be, but is not limited to, words, signs, offensive jokes, cartoons, pictures, posters, pranks, intimidation, physical assaults or contact, or violence that substantially interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment. Harassment is not necessarily sexual in nature. It may also take the form of other activity, including derogatory statements, not directed to the targeted employee but observed by the affected employee. Other prohibited conduct includes, but is not limited to, written material such as notes, photographs, cartoons, articles of a harassing or offensive nature, and taking retaliatory action against an employee for discussing or making a harassment complaint.

Responsibility

All City employees, and particularly managers, have a responsibility for keeping our work environment free of harassment. Any employee, who becomes aware of an incident of harassment, whether by witnessing the incident or being told of it, must report it to their Supervisor. When a supervisor of the City becomes aware of the existence of harassment, he or she must report it to the highest administrative level whether or not the victim wants the organization to do so.

Reporting

While the City encourages you to communicate directly with the alleged harasser, and make it clear that the harasser's

behavior is unacceptable, offensive or inappropriate, it is not required that you do so. It is essential, however, to notify your supervisor or his supervisor immediately even if you are not sure the offending behavior is considered harassment. Any incidents of harassment must be immediately reported. Appropriate investigation and disciplinary action will be taken. All reports will be promptly investigated with due regard for the privacy of everyone involved. However, confidentiality cannot be guaranteed. Any employee found to have harassed a fellow employee or subordinate would be subject to severe disciplinary action up to and including termination. The City will also take any additional action necessary to appropriately remedy the situation. Retaliation of any sort will not be permitted. No adverse employment action will be taken against any employee who makes a good faith report of alleged harassment or who participates in the investigation of such a complaint.

Statement on Sexual Harassment

What Is Sexual Harassment?

Sexual harassment may include unwelcome sexual advances, requests for sexual favors or other verbal or physical contact of a sexual nature when such conduct substantially interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment. It also encompasses such conduct when it is made a term or condition of employment or compensation, either implicitly or explicitly and when an employment decision is based on an individual's acceptance or rejection of such conduct.

It is important to note that sexual harassment crosses age and gender boundaries and cannot be stereotyped. Among other perceived unconventional situations, sexual harassment may even involve two women, two men, or a bystander.

Examples of a hostile, intimidating, and offensive working environment include, but are not limited to, pictures, cartoons, symbols, or apparatus found to be offensive and which exist in the workspace of an employee. This behavior does not necessarily link improved working conditions in exchange for sexual favors but it must be unwelcome and substantially interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

The City will investigate any complaint of sexual harassment and will take immediate and appropriate disciplinary action if sexual harassment has been found within the workplace. Complaints related to sexual harassment should be made as soon as possible to your supervisor.

Workplace Violence

The City is committed to maintaining a safe work environment for its employees. The City will not tolerate any form of violence, to include threats, intimidation, harassment, physical attacks, or other acts of violence that are considered inappropriate and unacceptable behavior in the workplace. Any employee who is found to perpetrate or participate in such actions will be subject to corrective action, up to and including termination of employment. Some examples, but not inclusive acts, would be:

- physical grabbing, inappropriate touching, pushing or shoving, or hitting of another individual
- threatening violence verbally
- threatening violence by banishing a weapon or any object that could be used as a weapon
- writing and conveying messages that indicate violent tendencies.

Any employee who has knowledge of actions they believe could lead to an episode of workplace violence, should immediately report the situation to their supervisor.

Smoke-Free Workplace

The City is committed to providing a safe and healthy workplace that promotes the well-being of its employees. Consistent with this commitment, it is our policy to prohibit smoking on all city-owned property. Smoking has proved to be dangerous and damaging, not only to the smoker's health but also to nonsmokers who breathe

“secondary” smoke. It is therefore the policy of the City that smoking shall also be prohibited in all City-owned vehicles.

It is the responsibility of all employees to observe and enforce the non-smoking policy. Courtesy and consideration toward others should always be exercised in this regard.

Drug-Free & Alcohol-Free Workplace

The City will not tolerate substances in the workplace that interfere with or impair an employee’s mental or physical capacity to perform his/her duties or cause a risk to employees, property, or the public. This includes using, possessing, selling, distributing or being under the influence of intoxicants. See Employee Drug Testing Policy.

An employee or knowing party shall report to a supervisor, Division Manager or Department Director any employee suspected of violating this policy and such supervisor or manager will take appropriate action.

Confidential Information

General

Employees may be provided access to confidential information, including protected, sensitive and privileged information, during the course of their employment. Such confidential information shall only be used for the express purpose of addressing work assignments and will not be discussed or disclosed with others unrelated to those work assignments. Employees shall hold confidential all confidential information accessible as an employee of the City and shall not use their position to access information unrelated to their work assignments. Confidential information includes, among other categories:

- personal information, including medical information, about any individual
- any confidential information of a prospective location of a business or industry we obtain through the City’s economic development relationships prior to public disclosure of such information
- Certain law enforcement records as required by state and federal laws

Any inadvertent disclosure of confidential information through technological means, shall be reported immediately to a supervisor and shall be managed as set forth by State law. 24 O.S. §§ 161, *et seq.*

Employees will be subject to corrective action up to and including termination of employment, for knowingly or unknowingly revealing information of a confidential nature.

Conflict of Interest

Employees should avoid any situation that involves, or may involve, a conflict between their personal interest and the interest of the City. As in all areas of their duties, employees dealing with suppliers and vendors or any person doing or seeking to do business with the City are to act in the best interest of the City.

The City recognizes the right of employees to engage in activities outside of their employment which are of a private nature and unrelated to our business. However, the employee must disclose any possible conflicts to their supervisor so that the City may assess and prevent potential conflicts of interest from occurring.

If an employee has any question whether an action would create a conflict of interest, he or she should immediately contact their supervisor. Failure to appropriately disclose a conflict of interest situation may result in corrective and/or disciplinary action, up to and including termination

Nepotism (11 O.S. § 8-101)

No elected or appointed official or authority of the municipal government shall appoint or elect any immediate family member. For purposes of this section, immediate family member includes: spouse, child, parents, grandparents,

grandchildren, brother/sister, step and/or in-law relations (father/mother/brother/sister/son/daughter) uncle/aunt, nephew/niece, of the employee or the employee's spouse.

The employment of relatives in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships.

Relatives of persons currently employed by The City may be hired only if they will not be working directly for or supervising a relative or will not occupy a position in the same line of authority within the organization. This policy applies to any relative, higher or lower in the organization, who has the authority to review employment decisions. The City employees cannot be transferred into such a reporting relationship.

In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment.

At application, an employee shall notify the City of any immediate family member employed with the City. Any employee in a position prior to the date of adoption of these policies shall be grandfathered from application of this section, but must disclose any immediate family member working for the City to the Department Director to assist in accommodating work assignments.

At-Will Employer

The City is an at-will employer; Police officers may have different statutory provisions that apply. This means we recognize that you retain the option, as does the City, of ending your employment with us at any given time, with or without notice and with or without cause. As such, your employment with us is at-will and neither this handbook nor any other oral or written representations by any City official or employee may be considered a contract for any specific period of time.

Outside Employment

The City recognizes and respects your right to work for another employer of your choice while still employed by us. However, the City cannot allow any of its employees to work for a vendor that we do business with, as an employee or an independent contractor, while still employed by us, unless you have received specific approval from the City.

An employee is prohibited from engaging in any secondary employment that interferes with scheduled City work, or occurs when the employee is off work from City employment on administrative leave, sick leave, injury leave, FMLA leave, or is receiving temporary total disability benefits from the City under workers' compensation laws.

You must inform your immediate supervisor if you plan to engage in any type of employment outside of us. It is important that outside employment does not present a potential conflict of interest, effects your job performance to deteriorate, or reflect negatively on the City.

Employment Classifications

All new employees who enter the employment of the City are required to complete a one hundred eighty (180) day probationary period, this period may be different for Police/Fire. This is a period of time for the employee to adjust and adapt to the job requirements and to determine his/her suitability to the type of work chosen. Also, during this period, the employee's work habits, abilities, attitude, punctuality, attendance, and other pertinent work related factors will be closely observed and evaluated by the employee's supervisor. If the City determines that the designated probationary period does not allow sufficient time to thoroughly evaluate the employee's performance, the probationary period may be extended for a specific period. As with all other employees and at any other time during this period, the employee may be terminated at any time.

A Full-Time employee is anyone who has completed their probationary period and is regularly scheduled to work 30 or more hours per week. A full-time employee may be re-classified as part-time or temporary if these requirements are not met. Personnel assigned to this position are eligible for all fringe benefits available to employees.

A *Part-Time* employee is anyone who is regularly scheduled to work less than 30 hours per week. A part-time employee may be reclassified as full-time or temporary if these requirements are not met. Personnel assigned to this position do not qualify for participation in fringe benefits.

A *Temporary* employee is anyone who works for a specified period of time, usually less than 90 days, regardless of the number of hours worked. Temporary employees are not eligible to receive any fringe benefits.

An *Exempt* employee is not eligible for overtime according to the Fair Labor Standards Act (FLSA).

A *Non-exempt* employees is eligible for overtime according to the Fair Labor Standards Act (FLSA).

Use of the term “temporary” in this handbook is not intended nor should it be construed as intending, that non-temporary employees are considered permanent. **No one’s employment with the City is guaranteed to be permanent. All employees are at-will and can quit or be discharged at any time for any reason or no reason. Police officers may have different statutory provisions that apply.**

Personnel Records

The City maintains a personnel file for each employee. Maintaining these files with up-to-date information is very important as it provides the City with contact information in case of emergency, addresses for mailings, data for payroll purposes, and information required for insurance programs and other benefits. All employees should promptly notify the payroll clerk of any change in:

1. Address
2. Telephone number
3. Marital status for benefit plan purposes
4. Beneficiary or dependents indicated in your life insurance policy
5. Number of dependents for tax withholding purposes
6. Party to be notified in case of an emergency

Any changes in family status must be reported to the payroll clerk within 30 days of the event. A delay in filing the proper forms could result in lack of insurance coverage. If you become divorced or widowed, it is a good idea to check whom you have as designated beneficiaries. In the event of your death, your listed beneficiary will receive any life insurance benefits due. Be sure the listed beneficiary is the person you intend to receive the benefits.

Employees may inspect and receive copies of their own personnel records upon written request.

The City intends to protect the privacy of each employee and is committed to the confidential handling of every employee’s personnel information. All individual records, computer generated employee reports, personnel files, and information therein, except those specified by ordinance or statute as public records, shall be restricted as confidential, and shall be available only with the approval of the Mayor. However, information contained in personnel records and files may be revealed to municipal employees:

- (a) for the use of any report or record, when pertinent and necessary to an official function of the municipal service;
- (b) for the purpose of an official audit or investigation, when made under proper authority;
- (c) for any other purpose authorized by the Mayor.

Disciplinary Actions

Any action which reflects discredit upon the City is a direct hindrance to the effective performance of the municipal government function and shall be cause for discipline or termination. Note that the following list of unacceptable activities does not include all types of conduct that can result in disciplinary action, up to an including termination of employment:

1. Violation of any City policy or rule;
2. Violation of safety rules, practices or failure to wear safety equipment;
3. Unexcused absence, absence from work without permission, or failure to report any absence to the designated authority;
4. Careless actions which endanger the life or safety of others;
5. Being intoxicated or under the influence of a controlled substance while at work except for medications prescribed by a physician;
6. Possession of firearms, weapons or explosives while on City property unless permitted by law;
7. Engaging in criminal conduct or acts or threats of violence toward any other employee or official;
8. Insubordination or refusing to follow instructions of your supervisor;
9. Destruction of City property whether intentional or otherwise;
10. Theft of City property;
11. Dishonesty, falsification or misrepresentation of facts regarding your employment application;
12. Immoral or indecent conduct while on duty;
13. Unsatisfactory work performance;
14. Any act of harassment, sexual, racial; or other act of illegal discrimination while on the job; or
15. Violation of the City's email, computer or internet policy;
16. Any breach of confidentiality;
17. Gambling on City premises;
18. Discourteous or disrespectful conduct to citizens;
19. Improper use of authority by using official position for personal profit or advantage;
20. Acceptance of a gift or money given with the intent of influencing the employee in the performance of his official duties.

Discipline Procedure

Unacceptable behavior that violates City policy that does not lead to immediate dismissal may be dealt with by any of the following interventions, **taken in any order**, as your supervisor and organization management determine is appropriate.

A. Verbal Reminder

Your supervisor may meet with you to discuss the problem or violation, to make sure that you understand the nature of the problem or violation and the expected remedy. The purpose of this conversation is to remind you of exactly what the rule or performance expectation is and to remind you that it is your responsibility to meet the City's expectations.

Your supervisor may document the Verbal Reminder, which may remain in effect for an established period of time.

B. Written Warning

If you are in violation of the City's practices, rules or standards of conduct, your supervisor may discuss the problem with you, emphasizing the seriousness of the issue and the need for you to immediately remedy the problem. After the meeting, your supervisor might write a memo to you summarizing the discussion and your agreement to change. A copy of the memo may be placed in your personnel file. The Written Warning may remain in effect for an established period of time to be determined by your supervisor.

C. Suspension

A non-exempt employee may be suspended without pay for disciplinary purposes. Such suspension shall be in writing with a copy given to the employee. As a general rule, a suspension for disciplinary purposes shall be less than two biweekly pay periods.

If an exempt employee is suspended for disciplinary purposes, the suspension shall be in increments of workweeks in accordance with the Fair Labor Standards Act (FLSA).

D. Termination

Failure to adhere to the performance standards set forth in either the verbal or written warning, or some other form of behavior problem which was not preceded by warning may lead to termination.

The provision of this Disciplinary Policy is not a guarantee of its use. The City reserves the right to terminate employment at any time, with or without reason. Police officers may have different statutory provisions that apply.

Appeals

Employees hired at-will can be terminated for any reason and are not entitled to a pre or post termination hearing. The officer or employee may however appeal the action to the City Council. The appeal shall be in writing and shall be filed with the City Clerk within ten (10) days after the effective date of the layoff, suspension, demotion or removal. The City Council may affirm, reverse or modify the Mayor's decision. The Mayor may appoint a person to act during the temporary absence of such officer or employee, or, in the case of a vacancy, until a successor is appointed and qualified. (11 O.S. §§ 9-105)

Hours of Work

Employee's hours of work will greatly depend upon your particular position, physical location, organizational expectations, and changing needs of the City. See your supervisor about the work schedule.

Regular working days shall be Monday through Friday, except for Police/Fire, but an employee may be required to work different days if the workload so dictates.

Forty (40) hours of work constitute the normal work period for employees not engaged in work of an executive, administrative, professional or computer capacity.

Employees engaged in the work of an executive, administrative, professional or computer capacity shall perform their assigned tasks.

City Hall shall be open from 8:00 a.m. to 5:00 p.m. Monday through Friday, and the Police Department shall be open 24 hours a day.

Attendance, Punctuality and Dependability

It is important that all employees be at work at their scheduled time. Dependability, attendance, punctuality, and a commitment to do the job right are essential at all times.

Employees must notify their supervisors as far in advance as possible, but not later than one hour before his/her scheduled starting time if he/she expects to be late or absent. Please be sure to speak to an actual person; do not leave a message in voice mail, text or e-mail.

If your absence continues for more than one working day, daily reports should be made to your supervisor regarding your status (unless other arrangements have been made). For example, if you are out with the flu, daily calls are expected. If you are out on a medical leave because you have a broken leg, daily calls are not expected.

Any employee absent who fails to notify his supervisor (unless on an approved leave of absence) will be considered to have voluntarily resigned. Please be aware you may have certain rights under the Family Medical Leave Act (FMLA) as well as any State Laws that may have an effect on time off for illnesses.

The City reserves the right to request a medical examination or doctor's certification during or following an illness or injury.

A careful record of absenteeism and lateness is kept by the employee's supervisor and becomes part of the personnel record. Punctuality and attendance at work are important to job performance.

Professional Attire

The City recognizes that standards of appropriate dress may vary based on public contact and the nature of the employee's job responsibilities. Appropriate personal appearance and hygiene is expected by the City. Each employee is responsible to use good judgment and dress appropriately for his/her job.

Consult your Supervisor or Dept. Head if you have questions as to what constitutes appropriate attire for your job responsibilities.

Conduct

All employee positions are created for and maintained to provide services to the citizens of Poteau in a courteous, impartial, and efficient manner.

It is important for all employees to present themselves in a socially acceptable manner and to do their jobs in an efficient manner. This also includes employee conduct on social media.

It is the policy of the City of Poteau that when dealing with the Public, its employees shall be polite, courteous and fair. Employees are expected to assist the public as best they can without violating department rules. Should a problem arise that the employee cannot handle, the immediate supervisor should be notified as soon as practical.

Recording Your Time

The City is required by law to keep an accurate record of the hours you work. The time sheet provides the method to do this. Time sheets for all non-exempt employees must be submitted to their supervisor for approval at the end of each pay period.

All time sheets need to be completed thoroughly and accurately. Supervisors will provide a blank time sheet to each employee.

Compensation

Upon hire, all employees must fill out all appropriate payroll, personal data and tax forms. Paychecks cannot be processed unless all the necessary forms have been completed and received by the payroll clerk.

Employees are paid for a given pay period. The Payroll Department must process payroll prior to the pay date. Therefore, the hours worked by non-exempt employees must be reported on time and accurately.

Biweekly employees, checks are issued every two weeks by Wednesday following the end of the pay period on the previous Friday.

Semi-monthly employees, checks are issued on the 15th and the last working day of the month.

Monthly employees, checks are issued on the last working day of the month.

Longevity pay: Regular full-time employees are paid \$20.00 per year of service after the first year. Longevity pay is figured into the Police Department base pay figures.

Educational pay: Employees holding college degrees are paid annually as follows except Police Department which is figured into their base pay figures.

Associate's Degree	\$300.00
Bachelor's Degree	\$600.00
Master's Degree	\$900.00

Verification of education degree must be received by the City Clerk upon hire or when degree is completed.

Payroll Deductions: Check stubs indicate gross earnings, net earnings, and all deductions. Required payroll deductions include federal income tax, state income tax, Social Security (OASDI) and Medicare taxes. Federal and state income taxes are deducted from your gross pay and sent to the federal and state treasuries to be credited to your annual tax bill. By the 31st of January of the following year, you will receive a W-2 statement from the City which will indicate total dollars earned and taxes withheld for the previous year. This W-2 statement is for your use in filing your return with the Internal Revenue service and the state Department of Revenue.

Pay Advances: Neither pay advances nor extensions of credit on unearned wages can be provided to employees.

Garnishments: It is the policy of the City that all employees are expected to pay their debts so as not to bring discredit to the City of Poteau. Failure to pay debts, as evident by the City being served with a garnishment and/or levy on wages of an employee, may be cause for dismissal. Employees who have more than two (2) garnishments and/or levies on wages served on the City of Poteau within one (1) calendar year (continuous orders excluded) will be deemed to have violated this policy.

Overtime Pay

When operating requirements or other needs cannot be met during regular workings hours, employees may be scheduled to work overtime hours. When possible, advance notification of these mandatory assignments will be provided. All overtime work must receive the supervisor's prior authorization. Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.

Compensatory time off will be allowed to all nonexempt employees in accordance with federal and state laws in lieu of paid overtime at the following rate:

One and one-half (1 ½) times straight-time rate for all hours over 40 in a workweek. Overtime means over 40 hours WORKED, not 40 hours paid, with the exception that paid time off for holidays will be counted as hours worked for the purposes of determining where Comp-time is accrued. The payroll clerk shall keep adequate records to know how much compensatory time off you have accrued, and there are legal limits as to the number of hours an employee may accrue before being required to take time off. Contact the City Clerk to determine the number of hours you have accrued and the limits allowed. Make arrangements with your supervisor to take off the time you accrue.

Requests for Compensatory time off must be made in writing to the appropriate Department Head so that sufficient coverage for the absence can be accommodated.

Workplace Injuries

Any employee injured on the job shall report the injury immediately to his supervisor. Failure to report such injury might result in a denial of benefits available to you under the Oklahoma workers' compensation laws.

Political Activities (11 O.S. § 22-101.1)

Employees are encouraged to exercise their right to vote and belong to political parties. An employee may be a candidate for elective or public office, but shall not hold any elective or public office under the United States Government, the State of Oklahoma, or any other state or municipality (notaries public excepted).

No employee shall participate in political activities during working hours or while in a City uniform or vehicle or while on City premises. Once off duty and not in a City uniform or vehicle, an employee is free to participate in political activities to the same extent as any citizen.

Business Travel Expenses

The City will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. Business travel will include education for certification required by the City. All business travel must be approved in advance by the immediate supervisor and the Mayor.

When approved, the actual costs of travel, meals, lodging and other expenses directly related to accomplishing travel objectives will be reimbursed by the City. Reports should be accompanied by receipts for all individual expenses. When employee's personal vehicle is used, mileage will be paid at the current IRS rate if a City issued fuel or credit card is not used for purchase of fuel.

With prior approval, employees on business travel may be accompanied by a family member or friend, when the presence of companion will not interfere with successful completion of business objectives. Generally, employees are also permitted to combine personal travel with business travel, as long as time away from work is approved. Additional expenses arising from such nonbusiness travel and /or the accompaniment of a companion are the responsibility of the employee.

Abuse of this business travel expenses policy, including falsifying expense reports to reflect costs not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.

USE OF CITY TOOLS AND RESOURCES

Use of City Equipment and Computer Systems

The City provides supplies, equipment, desks, printers, files, computers, and other office equipment necessary for you to perform your job. These items are to be used solely for the City's purposes. Employees are expected to exercise care in the use of City equipment and property and use such property only for authorized purposes. Loss, damage or theft of City property should be reported at once.

City equipment, such as computers, telephones, copiers, etc. is intended to be used for business purposes. An employee may only use this equipment for non-business purposes in an emergency and only with the permission of his/her supervisor. An employee may not remove any City equipment from the premises without approval from their supervisor.

Upon termination of employment, the employee must return all City property, equipment, work products and documents in his or her possession.

Telephone Usage Policy

Personal telephone calls should be limited to non-work time to the extent possible. Outgoing long distance personal phone calls are not permitted.

Computer Usage Policy

The use of the computer system and software is limited solely to appropriate business use. Employees are not allowed to use the computer systems for their personal benefit. Employees are strictly forbidden from installing software on the system without permission from the Mayor and/or IT personnel. Further, this policy reaffirms that the City's employees have no reasonable expectation of privacy with respect to any computer hardware, software, electronic mail or other computer or electronic means of communication or storage, whether or not employees have private access or an entry code into the computer system.

The City reserves the right to monitor the use of its computer system and limit e-mail messaging and/or Internet browsing at any time.

E-Mail Policy

Every employee is responsible for using the electronic mail (e-mail) system properly and in accordance with this policy. The e-mail system is the property of the City. It has been provided for use in conducting City business. All communications and information transmitted by, received from, or stored in this system are City records and property of the City. The e-mail system is to be used for City purposes only.

Employees have no right of personal privacy in any matter stored in, created, received, or sent over the City's e-mail system.

The City, in its discretion as owner of the e-mail system, reserves and may exercise the right to monitor, access, retrieve, and delete any matter stored in, created, received, or sent over the e-mail system, for any reason and without the permission of any employee.

Employees should be aware that deletion of any e-mail messages or files may not truly eliminate the messages from the system. All e-mail messages are stored on a central back-up system in the normal course of data management.

The City's policies against sexual or other harassment apply fully to the e-mail system, and any violation of those policies is grounds for corrective action up to and including termination of employment. Therefore, no e-mail messages should be created, sent, or received if they contain intimidating, hostile, or offensive material concerning race, color, religion, sex, age, national origin, disability or any other classification protected by law.

The e-mail system may not be used to solicit for religious or political causes, commercial enterprises, outside organizations, or other non-job related solicitations.

Internet Use Policy

Certain employees may be provided with access to the Internet to assist them in performing their jobs. The Internet can be a valuable source of information and research. Use of the Internet, however, must be tempered with common sense and good judgment.

If you misuse your right to use the Internet, your access will be taken away from you. In addition, you may be subject to corrective action, up to and including termination of employment, and civil and criminal liability.

Your use of the Internet is governed by this Handbook and the Computer, email and internet usage policy.

No expectation of privacy. The computers and computer accounts given to employees are to assist them in performance of their jobs. Employees should not have an expectation of privacy in anything they create, store, send, or receive on the computer system. The computer system belongs to the City and may only be used for business purposes.

Monitoring computer usage. The City has the right, but not the duty, to monitor any and all of the aspects of its computer system, including, but not limited to, monitoring sites visited by employees on the Internet, monitoring chat groups and news groups, reviewing material downloaded or uploaded by users to the Internet, and reviewing e-mail sent and received by users.

Prohibited activities. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful, inappropriate, offensive (including offensive material concerning sex, race, color, national origin, religion, age, disability, or other characteristics protected by law), or violating the City's equal employment opportunity policy and its policies against sexual or other harassment may not be downloaded from the Internet or displayed or stored in the City's computers. Employees encountering or receiving this kind of material should immediately report the incident to their supervisor. The City's equal employment opportunity policy and its policies against sexual or other harassment apply fully to the use of the Internet and any violation of those policies is grounds for corrective action up to and including termination of employment.

Social Media, games, and entertainment software. Refrain from using social media while on work time or on equipment provided by the City, unless it is work-related as authorized by your supervisor. Social media includes all means of communicating or posting information or content of any sort on the internet including to your own or someone else's social networking site. Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. The City's Internet connection is not to be used to download games or other entertainment software, or to play games over the Internet.

Use of the Internet via the City's computer system constitutes consent by the user to all of the terms and conditions of this policy.

Vehicles

Each employee who is responsible for driving a City vehicle must possess a valid Oklahoma Driver's License and Class designation as required by state law. If at any time the employee becomes ineligible to operate a vehicle because of a suspended or revoked Driver's License, the employee shall notify his supervisor immediately. The City will also maintain the right to check for suspended or revoked Driver's Licenses periodically or at the City's discretion.

CITY BENEFITS

Salary

Employees may be paid (biweekly, semimonthly or monthly).

Health and Life Insurance

The City provides health and life insurance as determined by the City Council. The amount and coverage of insurance to which an employee of the City is eligible shall be determined by the employer.

With exceptions as adopted by the City Council the City may pay the premium cost of insurance coverage on the employee working over 30 hours a week, and not working in a part-time or temporary capacity commencing on the first day of the calendar month following the employee's first 60 days of employment. The City may pay a percentage of the premium cost of any insurance coverage for eligible dependents. Supplemental policies may be offered to eligible employees, and the premium cost will be deducted as a payroll deduction.

Any changes in family status must be reported to the City Clerk within 30 days of the event. A delay in filing the proper forms could result in lack of coverage. If you become divorced or widowed, it is a good idea to check whom you have as designated beneficiaries. In the event of your death, your listed beneficiary will receive any life insurance benefits due. Be sure the listed beneficiary is the person you intend to receive the benefits.

Consolidated Omnibus Budget Reconciliation Act (COBRA)

This Act provides employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the City of Poteau's health plan when a "qualifying event" would normally result in the loss of eligibility. Under COBRA, the employee or beneficiary pays the full cost of coverage at the City's group rates plus an administration fee.

Pension or Retirement Benefits

Eligible employees (full-time employees, and the parties determined by the City Council) will have a set percentage deducted from their paycheck to be contributed to the employee's portion of the pension plan. The City also contributes a percentage based on the employee's wages to the retirement trust. The terms of the City retirement plan are on file with the City Clerk.

For employees in all departments except Police and Fire, normal retirement vesting is 10 years. Retirement age is 65, however a vested employee may take an early retirement at age 55 with reduced benefits. Retirement benefits will vary based on the type of plan chosen at the time of retirement, the salary of the employee, and the length of service.

Police and Fire Department employees are allowed a full retirement after 20 years of service.

Leave: Annual, Sick or Personal, Holidays, Vacation and Voting

Holidays

The City will grant paid holiday time off to all full-time employees including those that have not met the probationary period.

The approved holidays are as follows:

New Year's Day

Martin Luther King Jr.'s Birthday – the third Monday in January

Presidents' Day – the third Monday in February

City Election Day – on years that there is a City Election
Memorial Day – the last Monday in May
Independence Day
Labor Day – first Monday in September
Columbus Day – second Monday in October
Veteran’s Day
Thanksgiving Day and Friday after Thanksgiving
Christmas Day and bonus day

Whenever a holiday falls on a Saturday, the Friday preceding shall be considered a holiday; whenever a holiday falls on a Sunday, the Monday following shall be considered a holiday.

If a recognized holiday falls during an eligible employee’s paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have been applied. This allows the employee to save his/her leave for another time period.

If an eligible employee is required to work on a recognized holiday, he/she will receive regular pay at his/her straight time rate for the hours worked on the holiday, and may save the listed holiday for a day when the time may be taken without inconvenience to the City, as approved by the supervisor. It is preferred, when possible, that the listed holiday be taken within the same pay period.

Sick Leave

Sick leave with pay is granted to full-time employees of the City of Poteau whose positions are funded for thirty (30) hours or more per week as a means of protecting them in the event of absence from work due to illness or injuries.

Employees can request use of paid sick leave after completing the probationary period. Benefits for the first year of service are set at 40 hours of paid sick leave.

Eligible employees will accrue sick leave benefits at the rate of 80 hours per year after the first year of continued service. Sick leave benefits are calculated on the basis of a “benefit year,” the 12-month period that begins when the employee has accrued twelve months of continuous service with the City of Poteau.

In addition to regular sick leave benefits, the employee is allowed up to 2 days for the purpose of caring for a sick family member. This additional sick leave is not to be counted towards the 80 hours per year an employee is entitled under regular sick leave benefits, nor are they accruable.

Eligible employees may use sick leave benefits for an absence due to their own illness or injury or that of a family member who resides in the employee’s household, or may be required by the City when it is deemed that the employee may be jeopardizing his own health, or that of other employees or customers.

Employees who are unable to report to work due to illness or injury must notify their direct supervisor as far in advance as possible, but not later than one hour before his/her scheduled start of their workday. Please be sure to speak to an actual person; do not leave a message in voice mail, text or e-mail. The direct supervisor must also be notified of the approximate length of absence of the employee so that appropriate scheduling may be done. A doctor’s statement of other evidence of illness may be required as verification for a claim for sick leave with pay.

Sick leave benefits will be calculated based on the employee’s base pay rate at the time of absence.

Unused sick leave benefits will be allowed to accumulate until the employee has accrued a total of 240 work hours worth of sick leave benefits. Further accrual of sick leave benefits will be suspended until the employee has reduced the balance below the limit.

Sick leave benefits are intended solely to provide income protection in the event of illness or injury, and may not be used for any other absence. Unused sick leave benefits will not be paid to employees while they are employed or upon termination of employment.

The City has implemented a Sick Leave Donation Policy for full-time employees. See the Policy for details.

Employees shall not receive reimbursement for accrued sick leave upon separation from the employment with the City. However, any employee who is indebted to the City for sick leave shall have their final pay deducted to offset the indebtedness, unless separation is due to the death of an employee.

Leave of Absence without Pay/Family Medical Leave Act

Purpose of the Act

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

Definitions

- A. *Son or Daughter:* A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either less than 18 years of age or 18 years of age or older and “incapable of self-care” because of a physical or mental disability at the time that FMLA leave is to commence. “Incapable of self care” means that the individual requires active assistance or supervision to provide daily self-care in three or more activities or instruments of daily living (i.e. hygiene, eating, paying bills, cleaning, etc.). (§ 825.122(c)).
- B. *Parent:* The biological parent, adoptive, step or foster father or mother, of an employee or an individual who stood *in loco parentis* to an employee when the employee was a son or daughter. Persons who are *in loco parentis* include those with day-to-day responsibilities to care for and financially support a child. A biological relationship is not necessary. (§ 825.122(b)).
- C. *Spouse:* A husband or wife as defined or recognized under State law for purposes of marriage in the State of Oklahoma, including common law marriage under the laws of the State of Oklahoma. (§ 825.122(a)).
- D. *Health Care Provider:* A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services (i.e., podiatrist, dentists, clinical psychologists, optometrists, chiropractor, nurse practitioner and nurse-midwife, physician assistants, clinical social workers, and certain Christian Science practitioners). (§ 825.125(b)).
- E. *Serious Health Condition:* An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, continuing treatment by a health care provider or a chronic condition. (§ 825.113).
- F. *Intermittent Leave:* Leave taken in separate blocks of time due to a single qualifying reason. (§ 825.202(a)).
- G. *Reduced Leave:* A leave schedule that reduces an employee’s usual number of working hours per workweek or hours per workday. A change in the employee’s schedule for a period of time, normally from full time to part time. (§ 825.202(a)).
- H. *FMLA 12-Month Period:* The 12-month period is measured forward from the date an

employee's first FMLA leave begins. Example: If an employee's FMLA 12-month period begins on June 9 it will run until the following June 8. (§ 825.200(b)(4)).

Eligibility Requirements

- A. To be eligible for leave under the FMLA, an employee must have been employed by The City for at least 12 months within the past seven years *and* worked at least 1,250 hours during the previous 12 month period preceding the request for leave. (§ 825.110).
 - 1. The 12 months do not need to be consecutive months. (§ 825.110(b)). For example, if an employee worked for The City five (5) years before the current period of employment, the previous service could be counted toward the employee's 12-month eligibility requirement.
 - 2. If the break in service is to fulfill National Guard or Reserve military service obligations, there is no limit in the gap between periods of employment. (§ 825.110(b)).
- B. If The City grants non-FMLA leave to an employee before the employee is eligible for FMLA leave and the employee becomes eligible for FMLA leave while on non-FMLA leave, the leave period after the date the employee becomes eligible is FMLA leave and the leave period before such leave is non-FMLA leave. (§ 825.110).
- C. An eligible employee shall be entitled to a total of 12 workweeks of leave during the FMLA 12 month period for one or more of the following *FMLA qualifying events*:

Birth or Adoption:

- 1. The birth of a son or daughter of the employee or placement of a son or daughter with the employee for adoption or foster care. (§ 825.112).
 - a. Both the mother and father are entitled to FMLA leave to be with the healthy newborn child (i.e. bonding time) during the 12-month period beginning on the date of birth. (§ 825.120).
 - b. The mother is entitled to FMLA leave for incapacity due to pregnancy (i.e. morning sickness), for prenatal care, or for her own serious health condition following the birth of the child. (§ 825.120).
 - c. The husband is entitled to FMLA leave if needed to care for his pregnant spouse who is incapacitated, if needed to care for her during her prenatal care, or if needed to care for the spouse following the birth of a child if the spouse has a serious health condition. (§ 825.120).
 - d. Employees may take FMLA leave *before* the actual placement or adoption of a child if an absence from work is required for placement for adoption or foster care to proceed (i.e. appear in court, counseling, or travel to another country, etc.). (§ 825.121).

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

FMLA leave, the other spouse would be entitled to a full 12 weeks of leave. (§ 825.120(a)).

Employee's Serious Health Condition:

2. A serious health condition that renders the employee “unable to perform the functions of the position” because of an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. (§ 825.112).
 - a. An employee is “unable to perform the functions of the position” where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position. An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. (§ 825.123).
 - b. An on-the-job injury that qualifies as a serious health condition under FMLA will be charged to the employee's FMLA entitlement. The workers' compensation absence and FMLA leave shall run concurrently subject to proper notice and designation by the department.

Family Member's Serious Health Condition:

3. An employee may be eligible for FMLA when “needed to care for” the employee's spouse, son, daughter, or parent of the employee with a “*serious health condition.*” Care for parents-in-law is not covered by the FMLA. (§ 825.112; § 825.201).
 - a. “Needed to care for” means an employee may take leave to care for a family member if needed to provide physical and/or psychological care (i.e. basic medical needs, hygiene, transportation to the doctor, or emotional support). (§ 825.124).
 - b. The employee does not need to be the only individual or family member available to provide the care nor is the employee required to provide actual care. (§ 825.124).
 - c. If both spouses work for The City, each is entitled to 12 weeks to care for a sick son or daughter. If one spouse is ill and must be cared for by the other, each spouse is entitled to 12 weeks.

Service member leave – See PSB 09-07

Notice and Designation of FMLA

- A. Eligibility notice. When an employee requests FMLA leave, or when the department/division acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the FMLA Coordinator must notify the employee of the employee's eligibility within five business days, absent extenuating circumstances. If it is determined that the employee is not eligible, the notice must state at least one reason why the employee is not eligible. See DOL Notice of Eligibility of Rights and Responsibilities form. (§ 825.300).
- B. Employee notice requirements. An employee must provide at least verbal notice to the department/division at least 30 days before FMLA leave is to begin if the need for the leave is

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

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

1. If the department/division will require the employee to present a fitness-for-duty certification to be restored to employment, it must provide notice of such requirement with the designation notice. If the fitness-for-duty is to address the employee's ability to perform the essential functions of the employee's position, it must so indicate in the designation notice, and must include a list of essential functions of the employee's position. (§ 825.300(d)).
2. If the information provided by the employer to the employee in the designation notice changes (e.g. the employee exhausts the FMLA entitlement), the employer shall provide, within five (5) business days of receipt of the employee's first notice of need for leave subsequent to any change, written notice of the change. (§ 825.300(d)(5)).

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

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

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

1. Calling in "sick" without providing more information will not be considered sufficient notice to trigger obligations under the FMLA. (§ 825.303).
2. An employee has an obligation to respond to questions designed to determine whether an absence is potentially FMLA qualifying. Failure to respond to reasonable inquiries regarding the leave request may result in denial of FMLA protection if unable to determine whether the leave is FMLA qualifying. (§ 825.303).

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

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

Certification

- A. Certification requirement. The department/division may require an eligible employee to provide certification from a health care provider supporting the need for family and/or medical leave no later than 15 days from the date leave is requested. (§ 825.305(b)).
- B. Costs. Any and all costs associated with obtaining medical certification for purposes of FMLA are the sole responsibility of the employee.
- C. Complete and sufficient certification. In all instances in which certification is requested, it is the employee's responsibility to provide a complete and sufficient certification and failure to do so may result in denial of FMLA leave. (§ 825.305; §825.306).
1. The FMLA Coordinator shall advise an employee whenever the certification is incomplete or insufficient, and shall state in writing what additional information is necessary to make the certification complete and sufficient. The employee has seven (7) calendar days to resubmit the certification. If the deficiencies are not cured in the resubmitted certification FMLA leave may be denied. (§ 825.305; § 825.306).
 2. A medical certification is considered incomplete if one or more of the applicable entries have not been completed. A medical certification is considered insufficient if the information is vague, ambiguous, or non-responsive. (§ 825.305; § 825.306).
 3. A certification that is not returned is not considered incomplete or insufficient, but constitutes a failure to provide certification. (§ 825.305).
- D. Certification for each event. A separate request for leave must be submitted for each FMLA purpose. Approved leave shall only apply to that single purpose.
- E. Statement of essential functions. The department/division has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. The essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier. (§ 825.123).
- F. Certification forms. When leave is taken because of an employee's own serious health condition or the serious health condition of a family member, the employee may be required to obtain a medical certification from the health care provider. For use in obtaining medical certification, employees can either submit the current Department of Labor form WH-380E or WH-380F or some other form of documentation that sets forth the following information: (§ 825.306)
1. The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
 2. The approximate date on which the serious health condition commenced, and its probable duration;
 3. A statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave. Such medical facts may include information on symptoms, diagnosis, hospitalization, doctor visits, whether medication has been

prescribed, any referrals for evaluation or treatment (physical therapy, for example), or any other regimen of continuing treatment;

4. If the employee is the patient, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability (see § 825.123(b) and (c));
 5. If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is *in need of care*, and an estimate of the frequency and duration of the leave required to care for the family member;
 6. If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;
 7. If an employee requests leave on an intermittent or reduced schedule basis for the employee's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and
 8. If an employee requests leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such leave is medically necessary to care for the family member, which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required leave.
- G. HIPAA privacy rules. The City has a statutory right to require sufficient medical information to support an employee's request for FMLA leave for a serious health condition. Generally, HIPAA privacy rules only apply in a physician/patient relationship and not to the employee/employer relationship. The HIPAA privacy rule does not apply in situations where an employee is providing medical certification to the employer for purposes of qualifying for FMLA leave. If an employee fails to provide the requested medical information, the employee will not qualify for FMLA.
- H. Contact with health care providers. The FMLA specifically allows Human Resource professionals to contact an employee's health care provider for the sole purpose of authenticating or clarifying a medical certification but only after the employee has been given the opportunity to cure any deficiencies. The FMLA specifically prohibits direct supervisors from contacting the employee's health care provider. (§ 825.307).
- I. Recertification. If a minimum duration for the *period of incapacity* is specified, recertification may not be requested until that time period has expired. For example, if the certification states the employee will be unable to perform essential functions of job for two weeks, then the department/division cannot request recertification until that two weeks has expired. (§ 825.308).
1. Recertification may be requested in less than 30 days if the employee requests an extension of leave, circumstances have changed significantly from the original certification, or there are doubts about the stated reason for the employee's absence. (§ 825.308).
 2. In all circumstances, recertification is permitted every six (6) months. (§ 825.308).

3. The employee is responsible for the costs of recertification. (§ 825.308).
4. If the recertification is not provided in 15 days, the department/division may deny continuation of FMLA leave until recertification is provided. (§ 825.308).

Intermittent And Reduced Leave Schedule

- A. Birth or placement of a child. When leave is taken after the birth of a *healthy* child or placement of a *healthy* child for adoption or foster care, intermittent or reduced leave may be taken only with the agreement of the supervisor. An agreement is not required for leave during which the mother has a serious health condition with the birth of her child or if the newborn child has a serious health condition. (§ 825.202(c)).
- B. Medical need for intermittent leave. Intermittent or a reduced leave schedule taken because of one's own serious health condition or to care for a parent, son or daughter with a serious health condition requires a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. (§825.202(b)).
- C. Scheduling treatment. When planning medical treatment, the employee must consult his/her supervisor and make a reasonable effort to schedule the treatment so as not to unduly disrupt operations, subject to the approval of the health care provider. (§ 825.302).
- D. Temporary transfer. An employee on intermittent leave or on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or family member may be temporarily transferred from their regular position to an alternative position for which the employee is qualified and which better accommodates recurring periods of leave. (§ 825.204).
 1. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced schedule leave. (§ 825.204(b)).
 2. When the employee no longer needs to continue the intermittent leave or reduced leave schedule the employee must be placed in the same or equivalent job as he/she left when the leave commenced. (§ 825.204(e)).
 3. Transfers may require compliance with applicable collective bargaining agreements. (§ 825.204(b)).
- E. Time keeping. Intermittent and reduced leave schedule will reduce the 12-week FMLA entitlement minute for minute. (§ 825.205).

Effect On Pay, Accrued Leave, Benefits And Policies

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

- B. Exempt employees. If an employee is otherwise exempt from minimum wage and overtime requirements under the Fair Labor Standards Act (FLSA) as a salaried employee, providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. (§ 825.206).
- C. Vacation and sick leave accruals. Vacation and sick leave shall not continue to accrue during any family and/or medical leave, which exceeds two (2) consecutive payroll periods. (§ 825.209(h)).
- D. Retirement and longevity. Unpaid family and/or medical leave will result in an adjustment to the employee's retirement and longevity eligibility (see applicable state statute with respect to eligibility for members of the Police and Fire pension systems). Salary review and eligibility dates will be adjusted one day for each day of absence in excess of 30 continuous calendar days. (§ 825.209(h)).
- E. Health and welfare benefits. An employee on FMLA leave will have health and welfare benefits maintained while on leave as if the employee had continued to work instead of taking the leave.
 - 1. Premiums. The employee will continue to pay his/her share of the premiums during the leave period. Failure to pay the required premium may result in cancellation of the employee's coverage. (§ 825.209; § 825.210; § 825.212).
 - 2. COBRA. Once all leave, including FMLA, has been exhausted and the employee has been in an unpaid status exceeding two (2) consecutive payroll periods, the employee will be offered allowable continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Should the employee elect COBRA continuation coverage, he/she will be responsible for all premiums associated to continue health insurance coverage. Failure to pay the required premiums may result in cancellation of insurance benefits. (§ 825.209(f)).
- F. Overtime. If an employee would normally be required to work overtime, but is unable to do so because of a FMLA-qualifying reason that limits the employee's ability to work overtime, the hours which the employee would have been required to work may be counted against the employee's FMLA entitlement. Voluntary overtime hours that an employee does not work due to a serious health condition may not be counted against the employee's FMLA leave entitlement. (§ 825.205).
- G. Holiday. Holidays are counted as FMLA leave if the employee is on FMLA leave the entire week in which the holiday falls. If the employee takes FMLA for less than a full workweek in which the holiday falls, the holiday does not count as FMLA leave unless the employee was otherwise scheduled and expected to work during the holiday. (§ 825.200).
- H. Periodic reporting. The department/division may require an employee on FMLA leave to report *periodically* on the employee's status and intent to return to work. The relevant facts and circumstances related to the individual employee's leave situation must be taken into account before determining how often the employee should be required to report the status and intent of their return to work. (§ 825.311).
- I. Division reporting requirements. The department/division may require an employee to comply with the usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. (§ 825.302).
- J. Bonuses. If a bonus, award, or other payment is based on the achievement of a specified goal (e.g., hours worked, production output, perfect attendance, safety, etc.) and the employee has not met the goal due to FMLA leave, then the bonus or payment can be denied (and does not need to be pro-rated) as long as other employees on an equivalent leave status (e.g., vacation, sick days, paid time off, etc.) for a reason that does not qualify as FMLA leave are treated the same. (§ 825.215).

- K. Secondary employment. An employee is prohibited from engaging in any secondary employment that occurs when the employee is off work from City employment on FMLA leave.
- L. Recordkeeping. Each department/division will be responsible for establishing procedures for entering and tracking FMLA leave in the payroll system for benefit purposes, as well as, maintaining records and documents related to health care certifications in a separate confidential medical file. (§ 825.500).

Return From Family/Medical Leave

- A. Restoration to position. An employee returning from FMLA leave within the 12 week FMLA period shall be restored to the position held prior to the leave commencing; or if the previously held position is unavailable, shall be restored to an equivalent position with equivalent pay and benefits, within his/her current department or division. (§ 825.214).
 - 1. Necessary leave. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. (§ 825.311(c)).
 - 2. Light duty. If an employee accepts a light duty assignment while still eligible for FMLA leave, he/she has reinstatement rights to his/her original or an equivalent job, but only until the end of the FMLA 12-month period. (§ 825.220(d)).
 - 3. Qualifications expired. If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, etc. as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return. (§ 825.215(b)).
- B. Medical release to return to work. Prior to an employee's return to work, the employee may be required to provide The City with a medical release, indicating that he/she is able to resume work. (§ 825.312(a))
- C. Fitness for duty. The department/division is entitled to a fitness-for-duty certification up to once every 30 days if reasonable safety concerns exist regarding the employee's ability to perform his/her duties, based on the serious health condition for which the employee took such leave. In order to require a fitness-for-duty, the department/division must provide an employee with a list of the essential job functions no later than with the designation notice and it must be indicated in the designation notice that the fitness-for-duty must address the employee's ability to perform those essential functions. (§ 825.312(a)).
 - 1. The cost of the fitness-for-duty shall be borne by the employee. (§ 825.312(c)).
 - 2. A department/division may delay restoration to employment until an employee submits a required fitness-for-duty. (§ 825.312(e)).
 - 3. An employee who does not provide a fitness-for-duty certification or request additional FMLA leave is no longer entitled to reinstatement under the FMLA. (§ 825.312(e)).
- D. Second opinion. The City reserves the right to obtain a second opinion, and if necessary a third opinion, at The City's expense. If the second or third opinion supports the original release, the employee shall be compensated, from the date of the original release. However, if *both* the second and third opinion do not support the original release, the employee shall not be compensated for time lost. (§ 825.307(b)).

Failure To Return From Family/Medical Leave

- A. Failure to Return. An employee who fails to return from FMLA leave after the 12 weeks of FMLA leave has expired and has not been approved for leave of absence or after being medically certified to do so, may be subject to disciplinary action, up to and including termination.
- B. Personal leave of absence. An employee who is medically unable to return to work after the 12-week FMLA period has expired, and is unable to perform the essential functions of his/her position with or without restrictions, may apply for a leave of absence through his/her department director. (See Personal Leave of Absence Section of the Personnel Policies).
 - 1. If the leave of absence is approved, the employee will be permitted to use accrued vacation/sick leave/comp time. If the employee does not have any accrued vacation, sick leave, or comp time, he/she will be placed in an unpaid status.
 - 2. If after the leave of absence expires the employee remains unable to perform the essential functions of the position he/she held at the time FMLA was granted (with or without restrictions), the employee may be subject to termination.
 - 3. Medical documentation from the employee's health care provider indicating that the employee is unable to work because of the continuation, recurrence, or onset of the serious health condition, must be provided at the time the leave of absence is requested. The City reserves the right to investigate an employee's continued absence. **Note:** Continued absences due to job injuries are covered under applicable job injury policies.
- C. Restoration after expiration of FMLA. The employee does not have the right to restoration to his/her position after the 12-week FMLA entitlement has expired, except where the employee's job injury leave exceeds the FMLA period. In that instance, the employee will be restored according to applicable injury leave policies. An employee whose medical leave exceeds 12 weeks will be returned to the same or similar position, only if available. If the same or similar position is not available, the employee may be terminated.

Administration

- A. Each City department shall have an assigned FMLA Coordinator who is responsible for administration of the FMLA policy as it pertains to that department's employees. If an employee has questions or concerns about the interpretation or administration of the FMLA policy they are to consult their FMLA Coordinator.
- B. The Personnel Department shall be responsible for general oversight and interpretation of the FMLA; provide advice and guidance to all FMLA Coordinators regarding applications of the Act; and, the coordination of all FMLA dispute resolution activities between The City and the United States Department of Labor, Wage and Hour Division.

Vacation

Employees accrue vacation leave based upon their length of service. Benefits are calculated on the basis of a "benefit year", the 12-month period that begins when the employee has accrued twelve months of continuous service with the City of Poteau.

After one (1) year of continuous service	40 hours
After two (2) years of continuous service	80 hours
After ten (10) years of continuous service	120 hours

Earned vacation time is available for use in the year following its accrual. To take vacation, employees should request advance approval from their supervisor. Requests will be reviewed based on a number of factors, including business needs and staffing requirements.

In the event that available vacation is not used by the end of the calendar year, employees will forfeit the unused time.

Upon termination of employment, employees will be paid for unused vacation time that has been earned through the last day of work.

Funeral Leave

A maximum of 3 days leave with pay is allowed for death in the immediate family of regular full-time employees.

Any employee may, with the supervisor’s approval, use any available paid leave for additional time off as necessary.

Military Leave

An employee is allowed 30 days each year for military service. The employee will be paid at his regular rate of pay for this leave time. Employees requiring the use of authorized military leave of absence shall furnish copies of military orders or other appropriate certification to document the necessity for leave.

Voting (26 O.S. § 7-101)

An employee who is a registered voter shall be granted up to two (2) hours to vote during the period when the polls are open. No employee shall be entitled to voting leave unless the voting time is scheduled with the supervisor before Election Day. Supervisors shall select the hours which an employee is granted to vote. The department/division may change the work hours to allow voting leave before the beginning of work or after work hours.

Voting leave shall not apply to an employee whose shift begins three (3) hours or more subsequent to poll opening or ends three (3) hours or more prior to poll closing.

Jury Service/Court Leave

An employee required to render jury service in any court of law or called to be present on behalf of the City in court service or called pursuant to a subpoena to be present as a non-party in interest in court service during normal working hours shall receive their regular pay for such period, and the time spent in such service shall be reported as Jury Service or Court Leave. Time off for such service shall be granted only for the actual period of required service and the supervisor may require proof of the actual hours of service.

