

**ORDINANCE NO. 376**


**AN ORDINANCE AMENDING ORDINANCE 374  
ESTABLISHING THE CITY OF BARLING PERSONNEL  
POLICY**

BE IT HEREBY ORDAINED by the Board of Directors of the City of Barling, Arkansas:

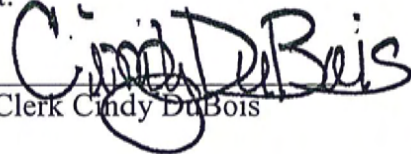
Section 1. Ordinance No. 374 adopting the City of Barling Personnel Policy, Section VI-4, Vacation for non-uniform services, dated February 8, 2011 is hereby amended as provided by the attached revision of this Section VI-4.

Section 2. These changes in the Barling Personnel Policy are necessary in order to conduct the business of the City of Barling and therefore an emergency is hereby declared to exist such that this Ordinance shall be in full force and effect from and after its passage.

PASSED AND APPROVED this 22<sup>nd</sup> DAY OF FEBRUARY 2011.

  
\_\_\_\_\_  
Mayor Jerry Barling

Attest:

  
\_\_\_\_\_  
City Clerk Cindy DuBois

# City of Barling Personnel Policy

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- a. **Written Examination** - Written examination will be administered on an annual basis or as needed. A score of 70% or more is required to pass this examination.
  - b. **Oral Board Examination** – Employees who pass the written examination shall appear before an oral board appointed by the Police Chief. This board will establish criteria for evaluating applicants and establishing a rating for each applicant.
  - c. **Eligible List** – Applicants who pass the written and oral board examinations will have their names placed on an eligible list by rank of grade with the highest grade placed at the top of the list.
  - d. **Review of Eligible Applicants** – Once the eligible list is created the Police chief shall review the applications of the eligible applicants for further consideration. In determining which applicants will receive further consideration, the Police Chief may consider education, training, certification and other indications of achievement in law enforcement and related areas.
  - e. **Polygraph Examination** – Eligible applicants selected for further consideration shall be required to take a polygraph examination to help determine the applicant's fitness for a police officer position.
  - f. **Psychological Examination** – Eligible applicants selected for further consideration shall be required to take a psychological examination to help determine the applicant's fitness for a police officer position.
  - g. **Appointment** – Upon successful completion of these steps the applicant shall be eligible for appointment as a probationary police officer by the Police chief.
3. **Starting Salary:** The starting salary shall be that which is approved by the mayor and Board of Directors
  4. **Temporary Appointment:** During periods when a position is vacant, and a certified, and otherwise qualified individual is available, a temporary appointment to the position of police officer may be made by the Police Chief. This appointment is limited to ninety (90) days or until an eligible applicant can be appointed, whichever is shorter.

**SECTION 4:** EMPLOYMENT OF OFFICE PERSONNEL – the following steps shall be followed in the employment of personnel for positions in the police and administrative offices.

1. **Recruitment:** Applications shall be accepted as vacancies occur for positions located in the administration and police departments. Completed applications will be maintained on file for a period of six (6) months. Vacant positions may be advertised utilizing a variety of media.
2. **Selection:** Applications received shall be reviewed by the appointing authority for the appropriate qualifications. Only

**SECTION 7:** TERMS OF EMPLOYMENT – The employees of the City of Barling are employed as at-will employees, and serve at the will of the City and may be terminated at any time for any reason or without reason without previous notice.

**SECTION 8:** EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to provide equal employment opportunity to all qualified persons and not discriminate against applicants or employees because of race, color, religion, sex, pregnancy, national origin, age, veteran status, disability, and any other factor protected by law. This applies to all phases of employment, including recruitment, placement, promotion, training, transfer, layoff, discipline, termination, compensation, benefits, and participation in all city-sponsored employee activities, events, and programs. All employees must follow this policy in dealing with applicants, co-workers, customers (citizens), vendors and visitors.

Retaliation against employees for bringing complaints forward about discrimination is strictly prohibited.

In addition, the City will reasonably accommodate the known disabilities of employees who are otherwise qualified to perform the essential functions of their jobs. We take pride in reflecting the community we serve and welcome diversity within our workplace.

**SECTION 9:** Resolution No. 87-1 is hereby repealed.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_

Jerry Barling, Mayor

ATTEST:

\_\_\_\_\_  
Cindy Dubois, City Clerk

**PERSONNEL POLICY FOR EMPLOYEES  
OF THE CITY OF BARLING, ARKANSAS.**

**ARTICLE I      ORGANIZATION OF PERSONNEL SYSTEM**

Section I-1      Purpose

It is the purpose of this Policy to establish a personnel system under the direction of the City Administrator by which all matters relating to personnel shall be administered. It is the intent of the City Board to establish an equitable and uniform system of personnel administration, to place municipal employment on a merit basis to the end that only the best qualified persons available shall be employed by the City. This policy shall serve to govern administrative action concerning all personnel activities and transactions consistent with the following general standards:

- (1) Employment shall be based on merit without regard to race, sex, color, national origin, religion, age, marital or veteran status, political affiliation, or other legally protected status. Any applicants with a physical or mental impairment that limits a major life activity shall be given equal consideration with other applicants for positions in which their impairment does not represent an unreasonable barrier to the performance of the essential functions of the position applied for.
- (2) Conditions of employment shall be maintained to promote efficiency and economy in the operation of the City government.
- (3) Position classification and compensation plans shall be maintained and revised from time to time to meet changing market/economic conditions.
- (4) New hires promotions shall be made solely on the basis of qualifications, merit and fitness, demonstrated by experience, education, job performance and/or other evidence of competence.
- (5) Continued employment shall be subject to continued satisfactory performance of work, personal conduct compatible with the trust inherent in public service, and availability of operating funds.

Section I-2      Applicability

The provisions of this policy shall be applicable to all uniformed and non-uniformed employees except those provided as follows:

- (1) Elected officials and officials appointed by the City board to advisory or special boards and commissions shall be exempt from the provisions of this policy.
- (2) The City Administrator shall be exempt from those sections governing the hiring and termination of employees.
- (3) Certain sections where exceptions are noted for uniformed employees including, but not limited to, vacation, holidays, and sick leave, recognizing that Arkansas statutes may govern those personnel matters.

to the Board of Directors for their information at the first Board of Directors meeting following the effective date of the evaluation.

- (2) If a new or revised position is required which increases the authorized salary budget or headcount, inform the City Board of Directors of the need to include the position. The Board of Directors will consider the recommendations of the City Administrator in determining the need for such new or revised positions. Authority to approve a position under these circumstances is vested with the Board of Directors.

## **ARTICLE III                    SALARY PLAN**

### **Section III-1                    Coverage**

Once adopted, the "Schedule of Salary Ranges" shall be the pay plan for the City. The plan shall include all positions included in the classification plan.

### **Section III-2                    Payroll Deductions**

Many payroll deductions are required by law. Other payroll deductions are allowable for the purpose of facilitating employee contributions for certain specified purposes. An employee may authorize deductions from his pay check for pension plan contribution, group insurance, credit union, deferred compensation, and United Fund. Authority to allow any other payroll deductions is vested in the City Board. In considering whether or not to allow any other deductions, the following criteria, individually and collectively, shall be considered:

- 1). Would the deduction benefit the entire Barling community?
- 2). Would the deduction be in the nature of a fringe benefit of which the City would bear a portion of the cost?
- 3). Would the deduction be available to all City employees and not just a special group of City employees?
- 4). Would the deduction benefit individual employees and not just some organization to which they may belong?
- 5). Would the deduction have the interest of a sufficient number of employees that it would be representative of all the departments of the City?

In determining whether or not to grant payroll deductions, the City Board shall consider any one, a combination of, or all of the above factors.

### **Section III-3                    Severance Pay**

Any full-time employee who is terminated from City employment due to reduction in force, shall be entitled to a two (2) week severance pay benefit. Reduction in force shall be defined as any full-time position deleted from the City budget due to a reduction of the City services, elimination of City services or insufficient funds.

## **ARTICLE IV                    NEW HIRES, PROMOTIONS, DISMISSALS, DEMOTIONS, SUSPENSIONS**

### **Section IV-1                    Applicability**

## Section IV-5

### Employment of Relatives

The employment of relatives by the City of Barling is prohibited. For this purpose, the term "relatives" is defined as spouse, children, mother, father, sister, brother, guardian, grandparents, grandchildren, aunt, uncle, nephew, niece, plus the various combinations of half-, step-, in-law, and adopted relationships that can be derived thereof.

All relatives presently employed by the City of Barling shall be entitled to maintain their status as an employee of the City of Barling. Current part-time employees who have relatives working for the City shall not be hired as a full-time employee if their relatives remain employed by the City. For this purpose, the term "part-time employees" is defined as employees who were paid on average 30 hours per week.

It shall be permissible to employ relatives as volunteer firefighters and, for the purpose of this ordinance, the members of the volunteer fire department who perform as unpaid volunteers (notwithstanding payment for attendance of meetings) are excluded. Full-time employees of the fire department are not excluded from this ordinance.

All persons related by blood or marriage to the third degree of consanguinity to a member of the Board of Directors or the City Administrator shall not be employed by the City of Barling.

## Section IV-6

### Introductory Period

#### 1). Original Introductory Period

Any employee hired in a position in City employment shall serve an introductory period of ninety (90) days. The introductory period shall be regarded as an important part of the examination process, and shall be utilized for closely observing the employee's work. An introductory employee may be dismissed without privilege of appeal at any time during the introductory period if the hiring Department Head, with the approval of City Administrator, determines that the employee is incapable of performing assigned duties in a satisfactory manner. Job performance appraisals shall be completed on all introductory employees at the end of ninety (90) days and twelve (12) months of service. The employee's Department Head shall indicate to the City Administrator by these appraisals:

- (a) the employee's accomplishments, failures, strengths and weaknesses have been discussed with the employee;
- (b) whether or not the employee is performing satisfactory work; and,
- (c) whether or not the employee should be retained in the position.

#### 2). Promotional Introductory Period

Any employee promoted to a higher position shall serve a trial period of ninety (90) days. Before the end of this ninety day period, the employee's Department Head shall indicate to the City Administrator, in writing the following:

- (a) whether or not the employee is performing satisfactorily; and,

- (b) The following causes relating to failure in the performance of duties are representative, but not limited to, those considered to be adequate grounds for corrective action.
1. Inefficiency, negligence or incompetence in the performance of duties.
  2. Careless, negligent or improper use of City equipment, property or resources.
  3. Discourteous and/or unprofessional treatment of the public or other employees.
  4. Absence without approved leave.
  5. Improper/excessive use of leave privileges.
  6. Habitual pattern of failure to report for duty at the assigned time and place.
  7. Improper political activity as defined in Section VII-3.

2). Failure in Personal Conduct

- (a) An employee may be suspended, or subject to other corrective without warning for causes relating to personal conduct detrimental to City services.
- (b) The following causes relating to failure in personal conduct are representative but not limited to, those considered to be adequate grounds for suspension or dismissal:
1. Fraud in securing employment.
  2. Insubordination.
  3. Conviction of a felony, or the entry of a plea of nolo contendere to such crime.
  4. Misuse of City funds.
  5. Falsification of City records.
  6. Use of alcohol, controlled substance or non-prescription mind altering drugs while on duty or which inhibits the performance of tasks.
  7. Harassment and/or discriminatory actions.
  8. Failure to follow chain of command unless special conditions or emergency conditions dictate otherwise.

3). Dismissal

Discharge for cause must be approved by the Department Head. An employee who is to be dismissed for disciplinary reasons shall be relieved immediately of all duties and responsibilities. The recommendation by the City Administrator for dismissal of Department Heads will be forwarded to the Board of Directors. Dismissal of Department Heads must be approved by the Board of Directors.

4). Corrective Action Suspension

An employee who is suspended as a result of a corrective action shall be relieved temporarily of all duties and responsibilities. An employee may or may not receive compensation for the period of his/her suspension. The recommendation by the City Administrator for suspension of Department Heads will be forwarded to the Board of Directors. Suspension of Department Heads must be approved by the Board of Directors.



The employee's supervisor and Department Head are responsible for the return of all City issued items included but not limited to clothing, keys, tools and equipment.

Section IV-13            At Will Employment

In no event shall this policy be construed as a contract with any employee as creating any debt or obligation upon the City or as a property right entitling an employee to due process. The City will, at all times, remain an "Employment At Will" employer.

**SECTION V**            **PROBLEM RESOLUTION PROCEDURE**

Section V-1            Applicability

The provisions of this Article shall apply to all employees except and those exempted in Section I-2 (1) and (2).

Section V-2            Purpose

The prompt settlement of misunderstandings or problems on an informal basis at the work level is desirable in the interest of sound employee/employer relations. The purpose of this regulation is to assure that employees are able to receive prompt, fair and considerate review of problems. It is expected that the procedures set forth will encourage employees to discuss with their supervisors matters pertaining to conditions of employment. Any disagreement must be considered objectively and in an atmosphere of mutual assistance. This problem resolution procedure shall not be construed as imposing contractual requirements upon the City or as the City conferring a property right upon the employee. The City shall remain an "Employment at Will" employer.

Section V-3            Definition

A grievance is a criticism, belief or feeling that insufficient consideration or unfair treatment has been given to an individual pertaining to employment conditions, to relationships between an employee and his/her supervisor or to relationships between an employee and other employees.

Issues related to work performance must be dealt with pursuant to the applicable paragraph(s) in Section IV and are not subject to Article V, "Problem Resolution Procedures."

Section V-4            Policy

It is the policy of the City to provide a procedure for the presentation and mutual adjustment of points of disagreement which arise between employees and their supervisors. Administrative and supervisor personnel are expected to act promptly and objectively within the framework of this policy.

- (2) submission to or rejection of the conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion or other aspects of the individual's employment; or
- (3) the conduct is unwelcome and has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

Examples of the type of unwelcome conduct that are prohibited by this policy include, but are not limited to: unwanted touching or sexual advances; unwanted and repeated sexual jokes, flirtation, advances, or propositions; foul or obscene language or other communication, such as e-mails; slurs, derogatory or sexual jokes; taunts, threats or derogatory or offensive comments based on race, color, religion, sex, pregnancy, national origin, age, veteran status, disability, or other factors protected by law; the display of sexually explicit or offensive materials; and, insulting or indecent comments or gestures.

Complaints will be promptly investigated and appropriate corrective action will be taken whenever it is determined that harassment has occurred. All complaints by employees will be kept in the strictest confidence except as necessary to complete an investigation.

Retaliation against employees for bringing complaints forward about harassment or providing information related to such complaints is strictly prohibited. Requiring employees to properly perform their jobs is not unlawful harassment. Violations of this policy will not be tolerated at the City and will result in corrective action, up to and including termination of employment.

#### Section V-9                      Designated City Spokesperson

The City does not recognize any employee organization as the sole spokesman for any category of employees. Furthermore, the City Administrator is hereby designated as the spokesperson for the City in matters concerning employee-employer relations under ordinary conditions. The City Administrator, or designee, is hereby empowered to meet and confer with employees. The final determination of employee-employer relations policy rests with the City Board.

### **ARTICLE VI                      EMPLOYMENT PRACTICES**

#### Section VI-1                      Applicability

All employees except those exempted by Section I-2 (1), (2) and (3).

#### Section VI-2                      Hours of Work

The normal business hours of work of employees shall be determined by the City Administrator from time to time.

#### Section VI-3                      Overtime Compensation

The Department Head acting within the budget, shall be empowered to authorize overtime work as conditions require.

Section VI-4                      Vacation and Sick Leave (Non-uniformed Services)

**Vacation for Non- Uniformed Services**

<b>Years of Full Time Service</b>	<b>Amount of Vacation Earned</b>
Less than one year	No vacation
1 - 4 years	80 hours per annum
5 - 9 years	120 hours per annum
10 + years	160 hours per annum

A maximum balance of 320 hours may be carried over from one year to the next. In order to maintain continuous departmental coverage, you must receive approval from your supervisor for vacation prior to the scheduled date of your absence. An employee should notify his/her supervisor as early as possible as to when he or she wishes to schedule vacation preferably no less than two (2) weeks in advance. No less than 1 (one) hour vacation will be paid for an absence.

Since vacation is considered a city paid benefit in anticipation of continuing employment, vacation is for time off and not paid in cash. In case of separation of employment from the City, vacation is considered an earned benefit for cash payment, except where otherwise provided by law. Hours paid for vacation throughout the year will not be included in total number of hours worked for overtime calculations.

Department Heads will be responsible for scheduling vacation within their division. All employees shall not take more than two (2) consecutive weeks of vacation at any one time except by approval of the Department Head.

**Sick Leave for Non- Uniformed Services**

<b>Years of Full Time Service</b>	<b>Amount of Sick Leave Earned</b>
Less than 6 months	No sick leave
6 months	48 hours
1 + years	96 hours per annum

A maximum balance of 480 hours may be carried over from one year to the next. An employee should notify his/her supervisor as early as possible as to when he or she is ill. No less than 1 (one) hour sick leave will be paid for an absence.

Section VI-5                      Funeral Leave

Employees will be paid up to (3) consecutive days of leave to attend the funeral of an immediate family member, as defined below, and to handle related personal affairs. Unpaid time off to attend the funeral of a non-relative may be granted at your department head's discretion, or you may be permitted to use vacation, again at

his/her total earnings for that month. His/her future regular or sick leave paycheck will be reduced by the excess compensation received over an amount of equal to base pay during the first seven (7) days.

- 3). Procedure for injury cases is determined by the State of Arkansas Worker's Compensations Laws. In no case will any of the benefits contained herein be allowed or granted to an employee until an "Employee's Report of Injury" form has been completed and submitted to the Personnel Office. It shall be the employee's responsibility that an "Employee's Report of Injury" is filled out and turned into the Personnel Office. This report must be filled out immediately after an accident.

#### Section VI-7

#### Holidays

- 1). All full-time non-uniformed employees shall be entitled to the following holidays for which they will be paid the regular rate of pay:
  - New Year's Day
  - Martin Luther King Jr.'s birthday
  - President's Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Veteran's Day
  - Thanksgiving Day
  - Friday following Thanksgiving Day *(If granted by Executive Proclamation of the Governor.)*
  - Christmas Day
  - One day at Christmas, either December 24 or December 26, to be determined by the City Administrator

*The Governor may at his discretion establish by Executive Proclamation additional days when state offices shall be closed in observance of special events or for other reasons.*

- 2). Hours paid for Holidays throughout the year will not be included in total number of hours worked for overtime calculations. Any holiday that falls on Saturday or Sunday shall be observed on the preceding Friday or the following Monday, as determined by the City Administrator.
- 3). To qualify for holiday pay an employee must work his/her last regularly scheduled shift immediately preceding and the first regularly scheduled shift immediately following the holiday, or on an Authorized Leave with Pay.
- 4). All employees shall be subject to being scheduled to work holidays by the Department Head as the need may arise.

#### Section VI-8

#### Military Leave

An employee who is a member of an armed forces reserve organization or the National Guard shall be granted up to fifteen (15) days of military leave for required military training in a calendar year. If the employee's military pay is less than the pay

or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.

2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.

3) The employee must work in a worksite where 50 or more employees are employed by the city within 75 miles of that office or worksite. The distance is to be calculated by using available transportation by the most direct route.

### C. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) The birth of a child and in order to care for that child.
- 2) The placement of a child for adoption or foster care and to care for the newly placed child.
- 3) To care for a spouse, child or parent with a serious health condition (described below).
- 4) The serious health condition (described below) of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as a condition that requires 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 a condition that requires continuing care by a licensed health care provider.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term 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 the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to take care of leave to care for that service member.

Next of kin is defined as the closest blood relative of the injured or recovering service member.

The term "covered service member" means:

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

(b) 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 (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

The term "serious injury or illness":

(a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

(b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on an active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

#### D. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The city will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the city will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver

conditions. The city may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

#### G. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, if an employer provides six weeks of pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the city's sick leave policy) prior to being eligible for unpaid leave.

#### H. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

The city may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the city and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach

The city has the right to ask for a second opinion if it has reason to doubt the certification. The city will pay for the employee's family member to get a certification from a second doctor, which the city will select. The city may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the city will require the opinion of a third doctor. The city and the employee will mutually select the third doctor, and the city will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

#### K. Certification of Qualifying Exigency for Military Family Leave

The city will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave (<http://www.dol.gov/esa/whd/forms/WH-384.pdf> ).

#### L. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

The city will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service member (<http://www.dol.gov/esa/whd/forms/WH-385.pdf> ).

#### M. Recertification

The city may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employee receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the city may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The city may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

#### N. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HR manager. Within five business days after the employee has provided this notice, the HR manager will complete and provide the employee with the DOL Notice of Eligibility and Rights (<http://www.dol.gov/esa/whd/fmla/finalrule/WH381.pdf> ).



- 1) Verbal Warning
- 2) First Written Warning
- 3) Second Written Warning
- 4) Final Written Warning leading to suspension and/or termination.

The policies are described below for the affected employees:

The employee's first unexcused absence will result in a First Written Warning. A second unexcused absence (or any combination) will result in a Second Written Warning. The Final Written Warning will be given when the employee has incurred a third unexcused absence. A suspension of two days will normally be included with the Final Written Warning. Termination will take place after the employee has either exceeded four (4) unexcused absences (or any combination).

An unexcused absence is defined as an absence without the prior approval of management except in an emergency situation. If a full time employee has vacation or sick leave available they must use this paid time for the absence to be considered excused.

Approved absences, such as the list below, are not counted against the employee for purposes of this attendance policy:

- Funeral Leave
- Worker's Compensation
- FMLA Leaves (see Family Medical Leave section on page 14)
- Military Leave
- Jury Duty
- Approved Leaves of Absences

## Section VI-13            Insurance Programs

The City shall make a group health insurance program available for employees participation. Other group insurance plans will be made available upon authorization of the City Board.

Employees shall be enrolled in the programs in accordance with the provisions of the insurance contracts, and the City shall participate in the cost of the programs in such manner as determined by the City Board.

## **ARTICLE VII            SAFETY AND SECURITY**

### Section VII-1            Workplace Violence

The City of Barling is committed to preventing workplace violence and to maintaining a safe work environment. All employees are required to review and understand all provisions of the workplace violence policy as written in the Employee Handbook.

### Section VII-2            Prohibited Conduct

All employees, including supervisors and temporary employees, shall be treated with courtesy and respect at all times. Employees are prohibited from making threats or

- Displaying overt signs of extreme stress, resentment, hostility, or anger;
- Making threatening remarks;
- Sudden or significant deterioration of performance;
- Displaying irrational or inappropriate behavior.

**Employees at Risk:** The City will identify and maintain a list of employees who have been determined to be at risk for becoming victims of violence because of the nature of their job or because they are subject to harassment, violence, or threats from a non-employee. In order to provide a safe work environment for employees in such situations, the employee must discuss the circumstances with the City Administrator. The City will design a plan with at-risk employees to prepare for any possible emergency situations.

#### Section VII-5 Dangerous/Emergency Situations

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm, make constant eye contact and talk to the individual. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, cooperate and follow the instructions given.

#### Section VII-6 Enforcement

Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to disciplinary action, up to and including termination. Non-employees engaged in violent acts on the City's premises will be reported to the proper authorities and fully prosecuted.

#### Section VII-7 Emergency Safety Procedures

The City's goal is to provide employees with a safe and secure work environment. To report an emergency, employees should call their Supervisor, Department Head, and/or City Administrator. If needed, the police and/or the fire department should also be contacted. For additional information on City emergency procedures, please visit with your Department Head or the City Administrator.

#### Section VII-8 Inclement Weather

In exceptional circumstances beyond the employee's control, such as weather causing hazardous conditions, the employee is required to contact his/her supervisor for instructions regarding job assignments for that particular work day. If an employee's department is open for business, the employee is expected to report for work. However, if in the employee's opinion, the conditions are too hazardous for him/her to get to work safely; he or she will have the option of taking the time off as a vacation day. Regardless of the situation, an employee is required to give his/her supervisor proper notice if he or she is unable to report for work.

As used in this Policy, the term "legal drug" is defined as including any prescribed drugs and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured.

As used in this Policy, the term "illegal drug" is defined as follows: Drugs, or the synthetic or generic equivalent of drugs which are illegal under federal, state or local laws, including but not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, depressants and stimulants not prescribed for current medical treatment by an accredited physician and any other drug-like substance, the use, possession or sale of which is unlawful. It also includes any legal drug, which is being used in a manner or for a purpose other than as prescribed or labeled.

The term "possession" when used in the Policy relating to alcohol includes traces of alcohol found in the body at a rate equal to or greater than .040%.

As used in this policy, the phrase "aberrant/reckless behavior" is defined as any act(s) performed or the omission of the performance of any act(s) by an employee which is unusual, reckless or abnormal which indicates the employee is incapable of properly or safely performing job responsibilities and duties. Circumstances that could be indicators of such include, but are not limited to:

- 1) Apparent physical state of impairment
- 2) Incoherent mental state
- 3) Marked changes in personal behavior
- 4) Deteriorating work performance or reckless conduct not readily attributable to other factors.

The term "on-the-job" accident refers to any act(s) performed or the omission of the performance of any act(s) by an employee resulting in physical injury to any person, or to any employees. Should such an incident occur, then all employees involved would be tested. A determination as to which employees are "involved" as well as what constitutes a "significant physical injury" will be left to management's discretion, as such may vary from incident depending upon the facts involved.

#### B) General Proscription:

In order to attain the described objective, the following proscriptions apply to all employees:

- The use or possession of illegal drugs.
- The use, consumption or possession of alcohol on City property or during working hours.
- The sale, distribution, purchase or transfer, or attempt to do the same, of illegal drugs at any time or place.

Any illegal drugs found on City property, or in the possession of a city employee while on the job may subject the employee to criminal prosecution.

At specified city-sponsored events, approved by the mayor or a City Official, the possession or use of alcoholic beverages does not constitute a violation of City policy. If alcohol is served at a city-sponsored event, employees are expected to

## G) Test Results – Drugs

A positive test result occurs when the initial screening or the confirmation test indicates the presence of the drug(s) for which the test was conducted. A positive test result is in violation of City policy and will be reviewed by a Medical Review Officer. If the employee tests positive for a substance for which the employee could have a valid explanation, i.e. a legal drug, the City will consider the test result as a negative. The City nevertheless retains the right to ensure that the employee is capable of performing the essential functions of the position (with or without an accommodation) and that the employee's use of the drug or medication does not constitute a direct threat of harm to the employee or others.

A negative test result occurs when either the initial screening or the confirmation test indicates the absence the drug(s) for which the test was conducted.

## H) Test Results – Alcohol

A positive test result occurs when both the breath/saliva and the blood serum test indicate the presence of alcohol equal to or greater than .040%. A positive test result is violation of City policy.

A negative test result occurs when either the breath/saline test or the blood serum test indicates the presence of alcohol at less than .040%.

## I) Confidentiality

Information regarding test results will be treated as confidential. In the regard, the City will attempt to provide it only to persons within the City with the need to know and to the employee who was tested, if requested.

## I) Potential Action for Violation of This Policy

- 1) Applicants for all positions:
- 2) If the result is positive, the individual will not receive any further employment consideration.
- 3) Sale, distribution, purchase or transfer, or attempting to do the same, of illegal drugs:
- 4) The individual will be subject to immediate discharge and denial of re-employment opportunities.
- 5) Observed use or possession of illegal drugs while on the job or on City property; observed use consumption, or possession of alcohol while on the job or on City property:
- 6) This will result in immediate suspension with or without pay pending the results of further investigation. Upon conclusion of the investigation, if the investigation establishes that the employee violated the provisions of this policy, the employee may be discharged and denied re-employment opportunities. Testing may occur as part of the investigation.
- 7) Suspected use, consumption or possession of illegal drugs/alcohol; aberrant/reckless behavior; random selection for illegal drugs; or on-the-job accident;

All employees are responsible for keeping their computer passwords secure. Passwords should be a non-obvious combination of letters or symbols and should be changed frequently. All employees are required to log off the computer when they leave their desks.

Employees are asked to take appropriate measures to secure confidential, privileged, proprietary, or sensitive information when sending this type of information via e-mail. Messages should be routed only to those with a legitimate need to know and they should have appropriate marking that such messages are privileged, confidential, and proprietary or contain sensitive information, and if necessary, the transmissions should also be encrypted.

Examples of actions and behaviors that are considered inappropriate include the display and/or transmission of voice, images and/or text that are sexually-oriented, ethnic slurs, racial comments, off-color jokes, forgeries or misidentifications of the sender, and alterations to other's messages not clearly identified as such. Anything that may be construed as harassing or showing disrespect for others is considered inappropriate.

Because the City does not tolerate inappropriate behavior, employees should contact their immediate supervisor if they encounter another employee engaged in what is believed to be inappropriate behavior using electronic business equipment. The City's Anti-Harassment Policy details further information regarding how to report these issues. Employees who violate this policy will be subject to corrective action, up to and including termination of employment. Employees may also be held personally liable for any violations of this policy.

## **ARTICLE VIII            CONFLICT OF INTEREST AND POLITICAL ACTIVITY**

### **Section VIII-1            Applicability**

The provisions of this article shall be applicable to all employees.

### **Section VIII -2            Outside Employment**

The work of a full-time employee of the City shall have precedence over other occupational interests of the employee. In order to protect the interest of the employee and the City, all outside employment for salary, wages or commissions and all self-employment must be reported in writing by the employee and reviewed for potential conflict of interest. Copies shall be maintained by the City Administrator and the employee's department. Conflicting outside employment must be resolved to the satisfaction of the City Administrator and City Attorney.

### **Section VIII -3            Political Activity Restricted**

- 1). Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the constitution and laws of the

**Section VIII -4            Political Campaigns**

Individuals seeking a City elective office shall not seek to contact and talk to employees are on duty for the City.

**Section VIII -5            Solicitation, Distribution and Trespassing**

Solicitation, distribution of literature or materials, or trespassing by non-employees is prohibited on City property at all times.

Solicitation and distribution of literature or materials by employees for any cause or organization is prohibited during working time. Solicitation is prohibited if either the solicitor or the person being solicited is on working time. Non-working time includes before work, after work, and approved break times and meal times.

Distribution of literature or materials by employees is prohibited during working time and in working areas. Non-working areas include break areas and rest rooms. Employees are not permitted to loiter on City property during their off-duty hours.

**ARTICLE IX            CODE OF ETHICS**

**Section IX-1            Standard of Conduct for Barling City Officials and Employees**

- 1). It is the obligation of every public official and employee to support the Constitution of the United States and the Constitution of the State of Arkansas.
- 2). Every citizen shall receive a fair and impartial hearing on any matter coming before the City Board, its appointed agencies or any employee of the City. No public official or employee shall make any promise or pledge to any person concerning any matter to be heard before a public official or employee except upon fair, impartial and final hearing thereof.
- 3). The conduct of public business shall be free of any hidden personal or financial interest of any public official or employee. No public official or employee shall advocate in any public meeting or private discussion any matter in which he has a personal or financial interest except upon full and timely disclosure of the interest.
- 4). It is the obligation of every public official to faithfully discharge the duties of his office. In the conduct of public business, no public official shall be excused from voting except on matters involving consideration of his own official conduct, or where his financial interests are involved. Every public official shall make full and timely disclosure of any personal or financial interest which he has in any matter of public business to be transacted before him.
- 5). The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. It is the obligation of every public official and employee to refuse personal gifts, favors or special privileges in every instance where such public official or employee reasonably believes such gift, favor or special privilege would not have been extended but for the position of such public official or employee, or where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the public official or employee, or where the gift is or may reasonably be considered to be designed to influence the actions of the public official or employee. No public official or

Administrative budget adjustments may be approved by the City Administrator. Administrative budget adjustments generally do not have any impact on fund balance. Administrative budget adjustments are generally required because additional revenue received in a fund requires or has an attendant expenditure increase in that fund. Example: A portion of County Sales Tax receipts are required to be transferred to the Parks and Recreation Commission. County Sales Tax revenue in excess of budgeted amount will create an over budget for the transfer category in the Parks and Recreation Commission program in General Fund.

Adjustments to an expenditure item, capital project, or operational program are considered to be cumulative. Therefore, a single adjustment may meet the criteria for one type of adjustment, but fall into another type due to prior adjustments to the same expenditure category, capital project, or operational program. The City Administrator shall have the authority to make the final determination as to which type of adjustment is necessary.

**RESPONSIBILITIES AND PROCEDURES:**

It is the responsibility of the City Administrator to develop a procedure and form for such adjustments and oversee the budget adjustment process. It is the responsibility of each Department Head to prepare his/her adjustment whenever required and obtain proper approval. A form for such adjustments may be requested by Department Heads from the City Clerk/Treasurer.

Following review by the City Administrator a copy of the adjustment is to be processed and returned to the Department Head requesting the adjustment. It is the responsibility of the City Administrator to inform the Board of Directors of such adjustments and advise them of any consequences.

Passed and approved by the Board of Directors this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Jerry Barling, Mayor

\_\_\_\_\_  
Attest: Cindy Dubois, City Clerk