



CITY OF GARDNER

Family or Medical Leave Act Policy

The City of Gardner (hereinafter “the City”) grants Family or Medical Leave in accordance with the terms of this policy. Without City permission, an employee may not work for any other company during his or her Family or Medical leave of absence from the City.

A. MEDICAL LEAVE OF ABSENCE

1. **Scope.** This type of leave permits an employee to take up to twelve (12) weeks of leave in any given twelve (12) month period.
2. **Terms and Conditions of Leave.**
 - a. Medical leaves of absence are available only to employees who have been on the City payroll for a period of 12 months and who have worked at least 1250 hours in the preceding 12 months.
 - b. A medical leave of absence will be granted to an employee upon request supported by a medical certification indicating that the employee has a serious health condition. Medical leaves are permitted only for periods of **actual** medically necessitated absence. While on medical leave, the employee must regularly report to the City concerning his or her medical status in accordance with the certification provisions of this policy.
 - c. The City will measure the 12-month period under this policy as a “rolling” 12 months measured backward from the date an employee uses any leave under this policy. Therefore, leave taken under the medical leave provisions or the family leave provisions of this policy within the 12 preceding months will reduce the amount of leave entitlement under this provision.
 - d. If an employee has accumulated vacation or other paid leave, the City requires the employee to use paid leave concurrently, with the remainder of the leave period as unpaid leave, if paid leave is exhausted.

B. FAMILY LEAVE

1. **Scope.** A family leave of absence for a definite period of time not to exceed twelve (12) weeks in any given twelve (12) month period, may be granted for the following reasons:
 - a. In order to care for the employee’s child born within the preceding 12 months. However, such leave must be concluded within 12 months of the birth of the child.

- b. In order for the employee to secure the placement of a child with him or her through adoption or foster care. Such leave also is available in order to care for a child who has been placed with the employee through adoption or foster care, but only within 12 months of the placement of the child with the employee.
- c. In order to care for the spouse, child or parent of the employee, if such spouse, child or parent has a serious health condition.

2. Terms and Conditions of Leave.

- a. A family leave of absence is available only to an employee who has been on the City's payroll for 12 months and who has worked 1250 hours during the 12-month period preceding the commencement of the leave.
- b. The City will measure the 12-month period under this policy as a "rolling" 12 months measured backward from the date an employee uses any leave under this policy. Therefore, leave taken under the medical leave provisions or the family leave provisions of this policy within the 12 preceding months will reduce the amount of leave entitlement under this provision.
- c. If an employee has accumulated vacation or other paid leave, the City encourages the employee to use paid leave concurrently, with the remainder of the leave period as unpaid leave, if paid leave is exhausted.
- d. A husband and wife who are both employed by the City may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken for the birth of the employees' child, for the placement of a child with the employees through adoption or foster care, or to care for a parent with a serious health condition.

C. TERMS AND DEFINITIONS

- 1. The term "disability" as used in this policy means a physical or mental impairment that substantially limits the employee in a major life activity.
- 2. The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential medical care facility or (b) continuing treatment by a health care provider as defined by the Department of Labor in the Family Medical Leave Act.

D. NOTICE AND CERTIFICATION

- 1. A request for leave under this policy should be made by completing an application for medical or family leave, which is available from the Human Resources Department or the City's website. For any medical or family leave that is foreseeable (including intermittent and reduced leave schedule), an employee must provide at least a 30-day advance written notice of the need and reasons for such leave. If a 30-day advance

written notice is not practicable because of unforeseen circumstances, notice must be given as soon as practicable. If an employee fails to give timely advance notice when the need for leave is foreseeable the City may deny the leave until 30 days after such notice is given.

2. To the extent a paid leave of absence under workers' compensation can be considered FMLA-qualifying, the City may count the leave of absence against the employee's leave entitlement under this policy. However, in such a situation, the provision in Sections A and B of this policy requiring substitution of accumulated vacation or other paid leave is not applicable.
3. An employee who requests leave (a) to care for his or her spouse, child, or parent, or (b) because of his or her own serious health condition or disability must furnish medical certification justifying the need for the leave. Medical certification should be provided on the Physician Certification for Family or Medical Leave Form given to the employee at the time he or she requests leave. This form must be filled out in its entirety by the appropriate health care provider and should be signed by the health care provider and the employee. When the need for leave is foreseeable and at least 30 days' notice has been provided, the employee must provide medical certification to the City prior to the time the leave commences. However, when the need for leave is not foreseeable (i.e., the employee is unable to give 30 days' notice), the employee must provide medical certification to the City within 15 days of the request, or provide a reasonable explanation for any delay. If the employee fails to provide the required medical certification in a timely manner, the City may deny leave until such certification is submitted.
4. Recertification of the employ's or family member's medical condition may be required by the City as often as every 30 days. At any time, if the employee requests an extension of leave, the circumstances described by the original certification have changed significantly, or the City receives information that casts doubt upon the continuing validity of the original certification, the City may require recertification of the employee's or family member's medical condition.
5. An employee on leave may be required to periodically report on his or her intent to return to work. If the employee gives unequivocal notice of intent not to return to work, the employee's employment will be terminated and the employee's entitlement to reinstatement and health benefits will cease.
6. Prior to being reinstated to his or her job, an employee on medical leave must submit certification that he or she is fit for duty and able to perform the essential functions of his or her position.

E. **INTERMITTENT LEAVE AND REDUCED LEAVE SCHEDULE**

1. An employee may take leave intermittently or on a reduced schedule only where medically necessary or where agreed to by the City.

2. If intermittent leave or a reduced leave schedule is medically necessary as a result of the employees own serious health condition or the serious health condition of the employee's spouse, child, or parent, the employee is required to provide certification from a health care provider of the medical necessity of such leave.

F. **REINSTATEMENT**

An employee returning from a family leave or from a medical leave not exceeding 12 weeks is entitled to reinstatement to his or her former position, if available, provided the employee furnishes a fitness-for-duty certification. If the employee's former position is not available, the employee will be reinstated to a position with equivalent employment benefits, pay and other terms and conditions of employment. Refusal of an offer to reinstatement will be treated as a voluntary resignation. An employee returning from a family or medical leave of absence exceeding 12 weeks will be restored to an available position for which he or she is qualified. However, there is no guarantee of reinstatement for an employee on leave of absence that exceeds 12 weeks.

G. **TERMINATION**

1. An employee who does not return to work after remaining on medical leave for 12 weeks or on family leave for 12 weeks is subject to termination. An individual investigation will be conducted by the City in each such situation to determine if some reasonable accommodation can be made without causing an undue hardship to the City.
2. An employee who does not return from a leave of absence within two business days of when the leave expires or who does not provide a physician's note extending the leave will be considered to have voluntarily resigned, absent extenuating circumstances.

H. **BENEFITS WHILE ON LEAVE**

1. An employee is not paid during any period of absence covered by this policy (except to the extent accrued paid leave is used concurrently during this unpaid leave). Furthermore, no benefits except group health insurance will continue while an employee is on any type of leave of absence, except to the extent such benefits are provided to individuals on other types of leave in accordance with established City policy. An employee on leave of absence shall continue to be covered for up to 12 weeks under the City's group health care plan. If an employee on leave under this policy chooses not to continue group health coverage during the leave, then upon return from leave, the employee will be reinstated to group health coverage on the same terms as prior to having taken the leave.
2. If, without reasonable explanation, an employee on leave fails to return to work after the leave expires, the City may recover all health care premiums paid in order to continue group health plan coverage for that employee.
3. To the extent the City's group health care plan requires participants to pay some portion of their health insurance premiums, an employee on leave under this policy who chooses

to continue his or her coverage under the City's group health plan must continue to pay the employee share of premiums—that is, the employee must pay the same share of premiums for coverage that he or she would be required to pay if not on leave, on the same due dates that would be applicable if he or she were not on leave.

4. If payment of the employee share of premiums is not received within 30 days of the due date, the City reserves the right to cancel the employee's health insurance coverage. At least 15 days prior to cancellation, the City will notify the employee in writing that coverage will be cancelled on a specific date unless payment is received by that date.
 - a. Notwithstanding paragraph 2 of this section, if the City paid part or all of a health care premium that was required to be paid by an employee on leave, the City is entitled to recover the employee's share of such premium.

I. PUBLIC HEALTH EMERGENCY LEAVE

In accordance with the Families First Coronavirus Response Act ("FFCR" Act), the City of Gardner (hereinafter "the City") hereby establishes a Public Health Emergency Leave amendment to the Family and Medical Leave Act ("FMLA") Policy.

1. **Scope.** Commencing April 1, 2020 and terminating on December 31, 2020, this type of leave permits an employee to take up to twelve (12) weeks of leave.
2. **Terms and Conditions of Leave.**
 - a. Public Health leaves of absence are available only to employees who have been on the City payroll for a period of thirty (30) days.
 - b. A Public Health leave shall be granted to an employee who is unable to work or telework (work from home) as a result of a bona fide need to care of a child whose school or child care provider is closed and unavailable for reasons related to COVID-19.
 - c. A Public Health leave will be granted to an employee upon request supported by an explanation of a bona fide need to care for a child whose school or child care provider is closed and unavailable for reasons related to COVID-19.
 - d. A Public Health leave may consist of twelve (12) weeks as follows:
 - The first ten (10) days shall consist of unpaid leave.
 - An employee may elect to substitute accrued benefit (vacation, personal and/or sick) time for the ten (10) days unpaid of leave.
 - The remaining leave will consist of up to an additional ten (10) weeks of paid expanded family and medical leave.
 - For the additional ten (10) weeks the employee shall be paid two-thirds (2/3) of their regular rate of pay not to exceed \$200 per day and \$10,000 in the aggregate.

- A husband and wife who are both employed by the City may be limited to a combined total of 12 weeks of Public Health leave.
- e. A Public Health leave will terminate upon:
- The re-opening of the child (ren)'s school and/or the re-opening of the child care provider;
 - The completion of the twelve (12) week period; and/or
 - December 31, 2020 (the end date of the Public Health Leave as provided by the FFCR Act).
- f. All other applicable terms and conditions of the City FMLA policy shall apply to the Public Health Leave.
- g. Exemptions and Expiration:
- First responders including Police Officers, Fire Fighters/EMTs and Civilian Dispatchers are not eligible for the Public Health Emergency Leave.
 - The Public Health Emergency Leave and the requirements under this Policy, shall expire on December 31, 2020.



City of Gardner

Policy and Procedures for Family or Medical Leave

ACKNOWLEDGEMENT OF RECEIPT

I _____, hereby acknowledge that I received a copy of the
(Please print name)

City of Gardner's Policy and Procedures for Family or Medical Leave (as amended 04/01/2020)
on _____.
(Date)

Department: _____
(Please Print)

Signature: _____

Please sign and return this portion of the Policy to the Human Resources Department.



CITY OF GARDNER

Application for Family or Medical Leave

Employee's name: _____ Department: _____

Current Address: _____

Start Date of Anticipated Leave: _____

Expected Date of Return to Work: _____

Type of Leave:

- Medical Leave
- Family Leave
- Public Health Emergency Leave (*First responders including Police Officers, Fire Fighters/EMTs and Civilian Dispatchers are not eligible for the Public Health Emergency Leave.*)

Reason for Leave (Explain): _____

Note: A leave request based on an employee's own serious health condition or the serious health condition of an employee's spouse, child or parent must be accompanied by a verifying medical certification from a physician.

I hereby authorize The City of Gardner to contact my physician to verify the reason for my requested leave or for any other information concerning my requested family or medical leave.

I understand that a failure to return to work at the end of my leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by The City of Gardner.

Employee's signature: _____ Date: _____

Approved By:

Supervisor: _____ Date: _____

Human Resources Director: _____ Date: _____