

CHAPTER 12

EMPLOYEE PERSONNEL CODE

ARTICLE I - GENERALLY

12-1-1 **PURPOSE.** The purpose of the Employee Code is to implement and maintain a uniform system of employment within all departments of the City and shall hereinafter be referred to as the "**Code**". The Code is designed to provide employees and management with information pertaining to the employment policies and procedures applicable to all City employees.

All policies and procedures contained in this Code originally shall go into effect immediately upon passage by the City Council and approval by the Mayor.

All employees shall be required to adhere to the policies and procedures as they are outlined in this Code.

Upon adoption by the City Council, this Code shall be the nonexclusive policy of all departments of the City concerning terms and/or conditions of employment.

In order to implement and carry out the express provisions and the intent of this Code, all Elected Officials/Department Heads may pronounce policies consistent with this Code. A copy of any such policy shall be distributed to the Mayor and the City Council.

Nothing in this Code shall in any way affect the City's and Superintendent's right to develop and disseminate information concerning the operations of any department and employee's job functions, duties and job position description.

12-1-2 **DEFINITIONS.**

(A) **Employer.** The term employer, as used in this Code, means the City.

(B) **Employee.** The term employee, as used in this Code, means a person working as a volunteer or for remuneration for services rendered to the City. For purposes of this Code, an Elected Official is not an employee whose personal rights are affected by the Code.

(C) **Department.** The term department, as used in this Personnel Code, shall mean the governmental unit for whom the employee is directly working for and rendering services.

(D) **Elected Official/Department Head.** The term Elected Official/Department Head, as mentioned in this Code, means the one individual ultimately responsible for all operations of the department. The term Elected Official/Department Head includes city elected public office holders such as Mayor and City Council. The term Elected Official and/or Department Head applies to individual who are responsible for the operations of the department and to City elected office holders unless specifically indicated otherwise in this Code. The Elected Official/Department Head may designate a representative as being responsible for carrying out the immediate functions as enumerated in this Code, and that representative, upon designation, shall be considered the Elected Official and/or Department Head.

(E) **Immediate Supervisor.** The term immediate supervisor, as used in this Code, shall mean the individual to whom the employee shall immediately report and be responsible for his work. An immediate supervisor may be the Elected Official/Department Head.

(F) **Immediate Family.** The term "immediate family" includes spouse, child, parent, brother, sister, mother, father, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law and grandparents-in-law.

12-1-3 **EQUAL EMPLOYMENT.** No person shall be discriminated against in any aspect of employment on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, political affiliation, or any other prohibited form of discrimination under Federal or State law or government contract or grant regulations.

All employees shall adhere to this nondiscriminatory policy. Any and all affirmative action plans in effect shall also apply with regard to equal opportunity employment.

Sexual harassment in the workplace is considered by the City to be a form of sex discrimination, and no employee shall engage in any form of sexual harassment in the workplace.

Any employee, person or individual who feels in any way wronged, harassed, interfered with, or discriminated against should feel free to contact the City Council. This City Council will investigate the matter. No employee shall be retaliated against by co-employees or supervisors for making contact with the City Council or otherwise complaining of any form of discrimination.

12-1-4 HIRING POLICY; RESIDENCY.

(A) **Requirements.** Employment is based on each applicant's qualifications as compared with the requirements of the available position. Consideration is given to ability, experience; education, training and character.

No consideration shall be given to the applicant's political party affiliation or support in regard to any decisions on hiring, promotion, transfer, or recall.

(1) **Residency.** All new non-collective bargaining unit City Officers, Personnel, and Employees must be residents of the area contained within the Benton Grade School District #47 or the City limits within **twelve (12) months** of the commencement of their employment. **(Ord. No. 12-11; 04-09-12)**

(2) **Police and Fire Department.**

(a) **Physical Examination – Annual.** Members of the Fire and Police Departments, except clerical personnel shall be required to submit to an annual physical by a doctor or doctors designated by the City. The cost of said member's physical exam shall be paid by the City. **(Ord. No. 1030; 09-24-79)**

(b) **Report to Commissioner.** The results of any physical administered hereunder shall be submitted to the Commissioner of Public Health and Safety for his inspection.

(c) **Compliance to Report.** All members of the Police and Fire Departments submitting to any such physical examination specified hereinabove shall use all due diligence to comply with any recommendations or recommendations given by the doctor to promote sound physical and mental condition in any such member.

(d) **Weight Requirements.** Included in any such physical shall be a determination of a minimum and maximum weight for any such member, considering his age, height, and general physical condition. All members shall be required to meet said minimum and maximum weight standards within **one (1) year** of the date of the physical establishing said minimum and maximum weight limitations.

(e) **Failure to Comply.** All members who shall fail to comply with any provisions of this Section shall be subject to possible suspension or termination according to the provisions established by the Board of Police and Fire Commissioners. **(Ord. No. 1030; 09-24-79)**

(f) Any policeman or fireman who does not serve, except in case of involuntary discharge instituted by the City, at least **one (1) year** after completion of his/her probation period as a City policeman or fireman shall, at the termination or within **sixty (60) days** thereafter, repay to the City actual costs incurred by the City in education and training for the officer. Provided, however, that in the event that such policeman or fireman resigns and the resignation is accepted, and that the individual does not begin employment with a governmental

Police or Fire Department within **one (1) year** of the termination of employment with the City, such repayment shall not be required. (**Ord. No. 1324; 10-26-92**)

(B) **Probationary Period.** A minimum of **twelve (12) months** of employment will be designated as a probationary period for patrolmen and firemen. To assure that new employees are aware of the expectations and functions of their job and to answer any questions the probationary employee may have, a formal evaluation will be made at the end of the probationary period by the employee's supervisor. The probationary period is tolled during periods of approved leave of absences.

12-1-5 WAGES AND CLASSIFICATIONS.

(A) **Employment Classifications.** Employees are classified according to the following guidelines:

Salaried Exempt. This classification includes all Elected Officials and Department Heads and supervisory and administrative personnel. Salaried Exempt employees are exempt from overtime. Salaried Exempt employees are paid at a fixed salary rate with the expectation that the work load will dictate the number of hours worked.

Full-Time. Those employees scheduled to work a minimum of **forty (40) hours** per work week on a continuous basis. Full-time employees are eligible for overtime pay and compensatory time.

Special Assignment. Those employees hired for a specific project for a limited period and may include those hired to fill in summer vacations, illness and the like. Such employees are hired with the understanding that their employment is to terminate upon completion of the project or at the end of the period. Special Assignment may be either full-time or part-time as determined by the requirements of the job.

Volunteers. Those individuals who accept on an unpaid basis various work assignments for any department. These individuals receive no wages or benefits.

(B) **Paychecks.** Employees shall receive their paycheck on a biweekly basis. Employees shall work at least **two (2) weeks** before being paid, creating a **two (2) week** lag, which will be paid upon termination of employment. The paycheck actually issued will be for the preceding pay period.

(C) **Compensation.** The basic rate of pay shall be set forth in the Union contract(s) and the pay resolutions adopted by the City Council.

(D) **Overtime.** Overtime shall be based upon the Union Contract.

(E) **Salary Increases.** Employees are eligible for a salary increase according to their longevity or as the City Council deems appropriate for non-union personnel or by union contract wage agreements.

12-1-6 LEAVE. For all types of leaves, the Elected Official/Department Head may require employees to use vacation, sick leave, comp time or any other type of accumulate3d or accrued benefits before the employee is placed on leave without pay status.

Employees shall be granted an excused leave of absence for the following:

(A) **Special Leave.** All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and must be approved by the employee's Elected Official/Department Head. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs. Length of service or benefits shall not accrue or accumulate during a special leave. A person either hired or promoted to fill the position vacated by the person on leave shall be considered in that position temporarily and shall relinquish it upon the employee's return.

If a special leave is approved by the City Council, coverage under Illinois Municipal Retirement Fund may be maintained pursuant to IMRF rules and regulations.

(B) **Military.** Any full-time, salaried exempt, or part-time employee who is a member of a Reserve component of the Armed Service, the Illinois National Guard, or the Illinois Naval Militia, shall be allowed annual leave with pay for **one (1) full pay period** and such additions or extensions thereof without pay as may be necessary for the employees to fulfill the military reserve obligation. Such leaves will be granted without loss of length of service or other accrued benefits.

In case of an emergency call up (or order to state active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of length of service or other accrued benefits.

Military earnings during the military reserve obligation or for the emergency call must be submitted and assigned to the City, and the City shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earning for the period, the City Council shall return the difference to the employee.

To be eligible for military reserve leave or emergency call up pay, the employee must provide the City with a certificate from the commanding officer of the employee's unit that the leave taken was for either such purpose.

Full-time employees entering into military service as a result of voluntary enlistment, induction into the service by draft, or conscription will be afforded all of the privileges provided by the **Illinois Compiled Statutes, Chapter 330, Section 60/1 et seq.**

(C) **Jury Duty.** An employee shall be excused from work for days in which the employee serves on Jury Duty. The employee shall receive his regular pay for jury service. The employee shall present proof of jury service and the amount of pay received is to be deposited in the City treasury. The employee shall also turn over to the City any expense allowances paid by the court, if the jury duty is located at the County Courthouse. If an employee is given an early release from jury duty, the employee shall then report to his or her regular work assignment.

(D) **Witness.** An employee shall be excused from work when lawfully subpoenaed to serve as a witness. The employee must present written proof of the summons to testify to qualify for an excused absence. Notice to employee's supervisor should be made in advance of appearing in court. An employee's excused absence from work shall be on an unpaid basis, unless the employee's witness activity is work related and the witness activity is requested by the City. The employee shall turn over to the City any witness fee when the employee's witness activity is work related.

(E) **City Disability Leave.** To be eligible for City Disability Leave, the employee must submit to the Personnel Department a medical opinion that the employee cannot work in his normal job position, and a medical opinion that the employee may possibly be able to return to work within the next **six (6) months**. Employees are not eligible for disability benefits until they have been employed at least **one (1) year**. Employees may be required to use their accrued sick or vacation time to continue regular wages.

Employees must submit a letter requesting disability leave to their immediate supervisor within a reasonable amount of time before disability leave is taken. Upon return to work, employees must submit a release statement from their physician to the Elected Official/Department Head. If the Elected Official/Department Head has reason to believe that the employee is unable to perform the normal duties or the employee is able to perform duties and is still absent, they may seek and rely upon the decision of an impartial physician. The Elected Official/Department Head will select a physician who is not a City employee to act as an impartial physician.

(F) **Family and Medical Leave Act.** It is the policy of the City to comply with the provisions of the Federal Family and Medical Leave Act of 1993 (the "FMLA") and the regulations described hereunder. Employees are to be able to participate in early child rearing of their children, to care for family members with serious health conditions, or be absent from work due to their own serious health conditions, without being forced to choose between such family obligations and job security. Accordingly, all eligible City employees shall be entitled to a Family Medical Leave, on a gender-neutral basis, provided the leave is taken in accordance with the following provisions.

(1) **Eligible Employee.** The minimum requirements for an employee to be eligible for FMLA are:

(a) worked for the City at least **twelve (12) months**;

- (b) worked at least **one thousand two hundred fifty (1,250) hours** in the **twelve (12) months** prior to when the leave will commence;
 - (c) has not used all available FMLA leave in the **twelve (12) months** looking back from the date the requested leave will begin; and
 - (d) there is a qualifying event.
- (2) **Qualifying Event.** Under FMLA, there are only **four (4)** qualifying events:
- (a) birth and care of the employee's newborn child;
 - (b) placement of a child with the employee for adoption, or by the State for foster care; (private placement does not qualify.)
 - (c) to care for the employee's spouse, child or parent with a serious health condition (this does not include in-laws); and
 - (d) the employee's own serious health condition (an illness, impairment, or physical or mental condition) that prevents him or her from performing the essential functions of the job.
- (3) **Definitions.**
- (a) A child means a biological, adopted, foster, step child or legal ward, or a child of a person standing in *loco parentis*, who is either under the age **eighteen (18)**, or **eighteen (18) years** of age or older, but is incapable of self-care because of a mental or physical disability. Leave for placement of a child must be taken within **one (1) year** of the date of birth or placement.
 - (b) Spouse means a husband or wife.
 - (c) A parent means the biological parent of an employee or an individual who stood in *loco parentis* to an employee when the employee was a son or daughter.
 - (d) A serious health condition involves one of the following:
 - (i) Any period of incapacity or treatment connected with inpatient care in a hospital, hospice or residential medical care facility, and any additional treatment in connection with that inpatient care;
 - (ii) A health condition, including treatment and recovery, lasting more than **three (3) consecutive days** and any later treatment or incapacity (absence from work) relating to the same condition that also includes treatment **two (2)** or more times by a health care provider with a continuing regimen of treatment;
 - (iii) Pregnancy or prenatal care;
 - (iv) Chronic conditions requiring medical treatment;
 - (v) Permanent/long term conditions requiring supervision;
 - (vi) Non-chronic conditions requiring multiple treatments.
- (4) **Amount and Time of Leaving.** Eligible employees may take up to **twelve (12) weeks** of leave during a rolling **twelve (12) month** period. The **twelve (12) month** period is determined by measuring from the date an employee starts FMLA leave. Spouses who are employed by the City and who request FMLA leave for the birth, adoption or foster care placement of a child with the employee, are eligible for a combined **twelve (12) weeks** between the two employees. In other words, both employees continue to be eligible for **twelve (12) weeks** of FMLA a piece, but may only take **twelve (12) weeks** between them for this event. If the leave is for birth, adoption or foster placement of a child with the employee, the leave must be taken within **twelve (12) months** of the birth or placement. Intermittent and reduced schedule

leave are only mandated for serious health conditions and only if such leave is medically necessary. The employee can be requested to schedule planned medical treatment so as not to unduly disrupt the employer's workplace. Employees may take leave intermittently for the birth of a child or the placement of a child for adoption or foster care only with the consent of the City Council. Leave taken under these provisions will be unpaid.

- (5) **Employee Notice.** If the reason for FMLA leave is foreseeable, (such as based upon an expected birth or placement for adoption or foster care, or planned medical treatment for the employee or the employee's seriously ill family member), the employee must give **thirty (30) days' notice** before the date the leave is to begin to his/her immediate supervisor if the leave will require an absence of **three (3) consecutive work days**. If the need for leave is unexpected (such as a serious injury in a car accident or a premature birth), the employee or his or her designee must notify the City as soon as possible. The immediate supervisor will notify the payroll/benefits personnel within **forty-eight (48) hours** of the request. The payroll/benefits personnel will provide the supervisor with the appropriate documentation to be completed by the employee and/or designee. The employee must return the request for "FMLA Leave" form to the payroll/benefits personnel within **forty-eight (48) hours** of receipt of the form. If the reason for leave involves a serious health condition, you will be given a Certification of Health Care Provider form that must be completed by your physician and returned to the payroll department within **fifteen (15) calendar days**. The employee's leave may be delayed until the certification is submitted. The failure to provide the certification may result in the employee's request being denied.

In the case where an intermittent or reduced schedule leave is requested to care for a seriously ill family member or for the employee's own serious health condition, a statement completed by a healthcare provider, that the intermittent or reduced leave schedule is medically necessary for the seriously ill employee, or necessary for the care of the family member including the expected duration of the intermittent or reduced schedule leave. The City may deny an employee's leave request until at least **thirty (30) days** after the date the employee provides notice of intention to take leave for unreasonable failure to provide timely advance notice for foreseeable leaves.

In cases where the City has reason to doubt the validity of a medical certification it may require the employee to obtain a second opinion, at the City's expense. The City shall select the health care provider to supply the second opinion. In cases where the medical opinions in the first and second certifications conflict, the City may require the employee to obtain a third certification at the City's expense. The third health care provider shall be jointly selected by the City and the employee and this certification shall be final and binding upon both the City and the employee.

The City reserves the right to request certification at a later date in cases where it does not initially request medical certification to support the leave request, but it later has reason to question the appropriateness or duration of the leave. The City may deny a leave request for foreseeable leaves, or deny continuation of leave for unforeseeable leaves, until the employee provides the required certification.

- (6) **Medical Recertification.** The City may request recertification at reasonable intervals, but not more often than once every **thirty (30) days**. The City may request recertification, regardless of the length of time since the last request, for the following:
- (a) When the employee requests a leave extension;
 - (b) When the circumstances described by the original certification change significantly (i.e., the nature or duration of the illness changes significantly); and
 - (c) When the City receives information that casts doubt upon the continuing validity of the original certification.
- (7) **Pay and Benefits During Leave.** The City will require FMLA leave to be taken concurrently with paid leave in any case where the employee qualifies for FMLA leave, subject to applicable law. The employee must use all earned, but unused vacation, personal, sick time and any extended care leave days, as determined by union contract, that are available during the absence. If all paid leave is exhausted the FMLA leave will be unpaid.
- Benefits such as vacation, personal, sick, clothing allowance and extended care leave do not accrue during an unpaid FMLA leave. An employee on an unpaid FMLA leave is not eligible for holiday pay during a FMLA leave.
- The City shall maintain the employee's group health and dental plan coverage for the duration of leave under the same conditions as if the employee not taken leave. The employee must continue to pay the portion (dependent coverage and/or any supplemental policies paid for through payroll deductions) he or she normally pays toward the premiums or risk cancellation of the benefits during the leave. If the employee is on paid leave, the premiums will be deducted from his or her pay as usual. If some or all of the leave will be without pay, information on how and when to make premium payments will be provided to the employee at the beginning of the leave. If necessary, the employee will be allowed to discontinue any dependent health coverage and be reinstated to the plan, if you return to work on or before expiration of the FMLA leave. The City may recover from the employee its share of any premium payments for any periods of unpaid leave if the employee fails to return to work after his or her leave entitlement has been exhausted. The City also may recover any portion of the premium paid by the City which the employee was obligated to pay.
- (8) **Return to Work.** The employee must notify the City of his/her intent to return to work and the anticipated date of return, or of any medically necessary changes in the date of return as soon as possible. If the employee's leave was due to a serious health condition, the City will require a "fitness for duty" certificate from the employee's health care provider, confirming the ability to work with or without restrictions. The City may require the employee to submit to a medical examination, at the City expense, before returning to work. If the circumstances of the employee's leave changes, allowing the employee to return to work earlier than the date specified, the employee will be required to notify his/her immediate supervisor at least **five (5) working days** before the employee intends to return to work and the employee will be required to present the "fitness for duty" certificate to his/her supervisor before returning to work. The certification should only apply to the condition for which the employee took leave.

If you return to work on or before the expiration of available FMLA leave, the City shall return the employee to an available position that the employee is qualified to hold with equivalent pay, benefits and other terms and conditions of employment. If, however, you do not return prior to the expiration of FMLA leave, there is no guarantee of reinstatement. An absence for FMLA leave is not an "occurrence" for purposes of our attendance policy. If you are medically released to return to work and fail to either report to work or call in with a satisfactory explanation, the City will treat this as a voluntary resignation. The right to reinstatement ceases and the employment relationship between the employee and the City will be deemed terminated if the employee unequivocally informs the City of his or her intent not to return to employment at the end of the leave period.

The Federal Family and Medical Leave Act of 1993 regulations shall be applied to all FMLA leave requests.

(Ord. No. 08-30; 08-25-08)

12-1-7 OTHER BENEFITS.

(A) **Illinois Municipal Retirement Fund.** The City will participate in contributions for all eligible employees to the Illinois Municipal Retirement Fund. The City shall follow all guidelines of IMRF in order to protect the benefits of the employees.

(1) **Other Types of Insurance.** All classifications of employees will be covered by the provisions of Social Security legislation, and salary deductions will be made in accordance with the law.

Employees are covered by the Workers' Compensation Act, **Illinois Compiled Statutes, Chapter 820, Section 305/1 et seq.** Any work-related injury must be reported to the Elected Official/Department Head.

All employees are covered by unemployment insurance. All costs shall be paid by the City.

(B) **Training.** For meetings and seminars, employees may be granted leave with pay to attend meetings, seminars and conventions of professional and technical organizations, when such attendance would benefit the employee's ability to perform the job, and is approved in advance by the Elected Official/Department Head.

For any training programs conducted after regular working hours, such training shall be voluntary unless arrangements for such training includes the granting of overtime.

All employees shall be reimbursed for mileage expenses incurred while attending assigned schools outside the County. Upon receipt of a notice to attend the training school, the employee will request the use of a departmental vehicle to transport those attending to and from school. If a departmental vehicle is not available, reimbursement shall be made for the employee's use of their personal vehicle. When **two (2)** or more persons attend the same school at the same time the Elected Official/Department Head may require that only **one (1) person** will be eligible to receive reimbursement for travel. The rate of reimbursement shall be established by the City Council.

12-1-8 REGULATIONS AND RESTRICTIONS.

(A) **Accidents/Injuries.** Anytime an employee is involved in an automobile accident with a City automobile or in a personal automobile while on City business, the employee shall notify his or her Elected Official/Department Head immediately with all pertinent information including whether personal injury is involved and whether any traffic citations were issued. All Elected Officials/Department Heads shall within **twenty-four (24) hours** notify the City Attorney's Office if any traffic citations were issued to a City employee and shall provide the City Attorney with a copy of the citations. An employee is obligated to cooperate with the City and any of the City's legal representatives regarding the accident and any citations that may have been issued.

(B) **Appearances.** Neatness and good taste in dress, as well as care toward personal hygiene, are expected of all employees. For safety and hygienic purposes, employees may be required to comply with any appropriate dress code that is set forth by the Elected Official/Department Head during the performance of their duties.

Employees may be requested to change inappropriate dress, and work lost while doing so will not be compensated by the department. Employees may be evaluated on their dress and appearance. The Elected Official/Department Head is the only individual of each department who may make exceptions to the dress code.

(C) **Use of Department Property.** All department property and equipment entrusted to any employee will be used in accordance with the property's prescribed function. All damage through recklessness, gross negligence, intentional act, deliberate misuse, or theft shall be replaced and paid for by the employee committing the violation. Such replacement of property by the employee shall not be considered the exclusive remedy against the employee, and the employee may still be subject to discipline. All department property, personal lockers, and personal offices are subject to search and seizure. All department property shall be inspected by the employee's immediate supervisor prior to issuance of the property.

No department property shall be used for private and unauthorized purposes. All employees are required to return all department property or equipment in their possession upon separation, promotion, and/or transfer.

(D) **Smoking.** Smoking by City employees will only be allowed in designated areas, including smokeless tobacco.

(E) **Relations with Creditors.** The City will charge employees any authorized costs when making wage deduction pursuant to court order or State or Federal statutes.

(F) **Ethics.** Employees will not recommend or promote the sale of any specific brand name product or equipment.

Many employees in the course of their work have access to medical information about patients, clients, employees, or other individuals. This may be medical, legal or job related information. Such information is not to be repeated or discussed outside the department or with other personnel unless such information is a necessary part of the employee's assigned duty.

Employees shall inform the Elected Official/Department Head of any possible conflict of interest situations they may have.

Employees are prohibited from accepting gifts, gratuities, or any item of value for work performed on behalf of the department.

(G) **Physical Examinations.** Each applicant for employment may be required to successfully complete a post-offer physical examination by a doctor of the employer's choice, including a drug screen upon the request of the City. At any time, employees may be required to submit to a physical examination. As a condition of their employment, the employees of the department must authorize the release of medical testing information including drug screens to the City for departmental use only.

Drug screens can be conducted on a random basis for any security personnel employed by the City, except those under police personnel contract, for any employee authorized to carry and use a gun while performing work related activities for the City and for any employee that is required to hold other than a Class A driver's license for work related purposes. For all other employees, drug screens shall be conducted upon probable cause.

The term "drug screens", as used throughout and disclose to the Elected Official/Department Head, any drug or alcohol problem that the employee may currently have.

(H) **Reimbursement of Cost of Training.** If an employee voluntarily leaves the Department's employment before the completion of **three (3) years** from the initial date of employment, that employee will be liable for all costs incurred in the employee's selection, background investigation, equipment issue and training. The incurred costs will be deducted from any remaining paycheck(s). If the remaining paycheck(s) does not cover all incurred costs, the employee shall pay any outstanding balance within **thirty (30) days** of being notified of the outstanding balance. This Section shall not apply if contrary to any Department's Collective Bargaining Agreement. **(Ord. No. 12-02; 02-27-12)**

(I) **Prescription Drug Use.** Any employee who is taking prescription or over-the-counter drugs or medication which may impact on abilities to perform work shall report the use of the

drugs or medications to the immediate supervisor, along with the name and address of any medical doctors prescribing the medication.

(J) **Drug Free Workplace.** All employees, as a condition of employment, will comply with the City's Drug Free Workplace Policy, attached to this Code as Appendix A.

(K) **Accounts with Financial Institutions.** No Employee, Elected Official/Department Head, or any agent of the City shall open, be the administrator of, or close a bank, savings and loan, or any other type of financial institution account without a vote of approval by the City Council, applying all herein enumerated quorum and procedure rules. **(Ord. No. 13-22; 06-10-13)**

12-1-9 RIGHTS OF EMPLOYEES.

(A) **Personnel File.** Employees are allowed to look at their own personnel file during normal business hours. Persons wishing to view their own file shall file a written request with the Elected Official/Department Head or designated representative. A copy of said request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Elected Official/Department Head. Records of prior grievances and discipline action shall be maintained in the employee's personnel file. The final decision to remove items lies within the discretion of the Elected Official/Department Head.

(B) **References.** Employees or former employees have the right to obtain references or recommendations. Such references shall provide the applicable date of hire and the last date employed, and a general description of the applicable job duties. Additional comments concerning the employee or former employee's job performance dependabilities lies within the sound discretion of the Elected Official/Department Head.

(C) **Safety.** The Elected Official/Department Head shall implement any safety procedures adopted by the City, and employees shall comply with any of the safety procedures.

All department employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Staff members are advised to keep their wallets, purses, etc. in their possession at all times. The department cannot be responsible for losses due to theft.

(D) **Alcohol and Drug Problems.** The demands of the modern world are being felt by everyone. Our daily lives are more complicated and more hectic than ever before. The majority of families have two breadwinners. Children often have jobs of their own. In addition, everyone is involved in outside activities of all types. The modern world can be a two-edged sword: rewarding and enriching on one side and extremely sharp and stressful on the other.

Unfortunately, occasionally the stress of our world sometimes leads to abuse of alcohol and/or drugs. The City wants to assure its employees that, if there comes a time when you are experiencing or worried about an alcohol and/or drug problem, every reasonable effort will be made to help you while working for a permanent solution to the problem.

12-1-10 RIGHTS OF EMPLOYER. The employee recognizes that the City possesses the exclusive right to operate and direct the employees of the City in all aspects, including, but not limited to, all rights and authority granted by law.

The employee further recognizes that this Code is not a binding contract between the City and the employee. Nothing contained in this Code shall be construed as creating an employment agreement between the City and its employees from time to time.

The City has the right to unilaterally create new employment policies and regulations not mentioned in this Code, and to change provisions of this Code without prior notice, approval or consent of the employees of the City.

The employer has the ultimate responsibility for proper management including but not limited to responsibilities and the right for the following:

(A) To maintain executive management and administrative control of the department and its property, facilities and staff.

(B) To hire all employees and to determine their qualifications and the conditions for their continued employment or their dismissal or demotion.

(C) To direct, supervise, promote, suspend, discipline, terminate, assign and schedule employees.

(D) To relieve employees from duties because of a lack of work or funds, or under conditions where continued work would be inefficient or nonproductive or under conditions as may be deemed necessary or advisable by the department.

(E) To determine services to be rendered, operations to be performed, utilization of technology and budgetary matters.

(F) To determine the methods, processes, means, job classifications and personnel by which the operations of the department are to be conducted.

It is recognized that the employer normally exercises most of the powers, rights, authorities, duties and responsibilities, through and with the cooperation of the administrative staff.

(G) Allows employers to deduct wages without the employee's consent in order to collect a debt owed to the Municipality, or to recoup excess money that was paid by the Municipality in error as a result of one of the following events:

- (1) an excess payment made due to, but not limited to, a typographical or mathematical error made by Municipality, or
- (2) to collect a debt owed to a Municipality after a notice to the employee and an opportunity to be heard.

The amount deducted from any one salary or wage payment shall not exceed **fifteen percent (15%)** of the net amount of the payment. Before the Municipality deducts any amount from any salary or wage of an employee to pay a debt owed to the Municipality, the Municipality shall certify that (i) the employee has been afforded an opportunity for a hearing, conducted by the Municipality, to dispute the debt that is due and owing the Municipality, and (ii) the employee has received notice of a wage deduction order and has been afforded an opportunity for a hearing, conducted by the Municipality, to object to the order. For purposes of this Section, "net amount" means that part of the salary or wage payment remaining after the deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed to the Municipality for services, work, or goods, after the period granted for payment has expired, or (ii) a specified sum of money owed to the Municipality pursuant to a court order or order of an administrative hearing officer after the exhaustion of, or the failure to exhaust, judicial review. Where the legitimacy of any deduction from wages is in dispute, the amount in question may be withheld if the employer notifies the Department of Labor on the date the payment is due in writing of the amount that is being withheld and stating the reasons for which the payment is withheld. Upon such notification the Department of Labor shall conduct an investigation and render a judgment as promptly as possible, and shall complete such investigation within **thirty (30) days** of receipt of the notification by the employer that wages have been withheld. The employer shall pay the wages due upon order of the Department of Labor within **fifteen (15) calendar days** of issuance of a judgment on the dispute. **(Ord. No. 12-01; 01-23-12)**

12-1-11 **LENGTH OF SERVICE.** Length of service is defined as the length of continuous service of an employee since the employee's last date of hire with the City within the employee's department. In the event an employee is transferred from or to another department of the City, the employee's total continuous employment with the City will be used as the basis for vacation and sick leave only.

An employee's continuous service record shall be broken by voluntary resignation or discharge. If such continuous service is broken due to curtailment of operation, said employee shall be considered on layoff.

12-1-12 **DISCIPLINE.** The formal disciplinary process is a five step procedure, but dismissal may occur at any step in the process. Elected Officials/Department Heads may use the Discipline Form attached as **Appendix C** for documentation purposes. Under normal circumstances, these steps would be as follows:

(A) **Verbal Reprimand.** A verbal reprimand informs an employee of unsatisfactory conduct, attitude or performance, and acknowledges that continued such actions will result in more severe disciplinary actions. The reprimand should be done in private, and should be documented with the date and nature of the problem and placed in the employee's personnel file.

(B) **Written Reprimand.** A written reprimand informs an employee of unsatisfactory conduct, attitude or performance. Written reprimand is more severe than a verbal reprimand, but serves the same purpose to acknowledge further unsatisfactory conduct, attitude, or performance will result in more severe disciplinary action. A copy of the written reprimand will be sent to the employee, the Elected Official/Department Head and employee's personnel file.

(C) **Probation.** Employee may be placed on probation by the Elected Official/Department Head if the employee's performance is substandard and/or the employee's conduct and behavior are inappropriate and not condoned by management. Employee may be placed on probation not to exceed **six (6) months**. At the end of **three (3) months**, an informal evaluation of the employee's performance will be conducted. At the end of the probationary period, the employee's performance will be formally evaluated. Evaluations will determine if the employee should be retained. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of the probationary period, recommendation from the employee's immediate supervisor, and approval of the Elected Official/Department Head.

(D) **Suspension.** Suspension of an employee would be at the discretion of the Elected Official/Department Head. The suspension will result in a loss of salary for the period of the suspension. Upon return to work the suspended employee will be placed on probationary status for a period not to exceed **six (6) months**. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of a probationary period, a recommendation from the employee's immediate supervisor, and the approval of an Elected Official/Department Head. The period of suspension may be up to but not exceeding **thirty (30) days** off without pay in **one (1) calendar year**. The suspension may include demotion, and is within the discretion of the Elected Official/Department Head.

(E) **Dismissal.** Dismissal should be used as a disciplinary action of last resort at the discretion of the Elected Official/Department Head. All employees are subject to discharge by the Elected Official/Department Head during any of the disciplinary steps.

(F) **Code of Conduct.** Disciplinary action may be brought against an employee for the following, including but not limited to:

- (1) Violating any provisions of this Personnel Code.
- (2) Knowingly falsifying a report.
- (3) Being insubordinate to or showing disrespect towards superiors.
- (4) Neglecting to perform the job or performing the job inefficiently.
- (5) Engaging in any conduct unbecoming of a City employee or that discredits the City.
- (6) Leaving the assigned job without permission.
- (7) Absence from work without leave or permission.
- (8) Willfully destroying or damaging any property of the City.
- (9) Taking or giving bribes.
- (10) Being under the influence of intoxicating beverages while at work.
- (11) Using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substances or failing to report to the employee's Elected Official/Department Head any arrest or conviction for using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substance.
- (12) Failure of any employee to notify their Elected Official/Department Head within **five (5) days** after an arrest or conviction of a violation of any local, state, or federal criminal drug statute.
- (13) Using a City vehicle without the knowledge of the immediate supervisor.

- (14) Improperly operating a City vehicle or permitting an unauthorized person to operate a City vehicle.
- (15) Excessive unexcused absence from work or tardiness.
- (16) Possession of explosives, firearms or other dangerous weapons on City premises, unless otherwise permitted.
- (17) Use of overtime for other than work purposes.
- (18) Failure to follow any safety rules, regulations, or manuals.
- (19) Gambling during working hours around City premises.
- (20) Sleeping on the job.
- (21) Being discourteous to the public.
- (22) Engaging in or instigating or causing an interruption or impeding work.
- (23) Substantial misrepresentation of facts in obtaining employment with the City.
- (24) The use or consumption of City property for personal or private purposes, or the use of City employees during working hours for such purposes.
- (25) Disorderly conduct during working time or on City premises, including fighting, interfering with work of another, or threatening or abusing any person by word or act.
- (26) Unauthorized use of City property such as City owned vehicles, equipment and materials.
- (27) Abuse of sick leave by misrepresentation of the leave request.
- (28) Violation of a written order of an Elected Official/Department Head.
- (29) Failure to pay legitimate debts, thus exposing the City to harassment by creditors.
- (30) Using profanity on the job.
- (31) Releasing confidential information.
- (32) Using or attempting to use an official position to secure special privileges, exemptions, or personal gain except as may be otherwise provided by law.
- (33) Engaging in disreputable acts and not conducting themselves with "good moral character".
- (34) Abuse of telephone usage.
- (35) Theft of any City or employee property.
- (36) Discriminating against any person, individual, entity, co-employee, on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, sex harassment or any other prohibited form of discrimination under federal or state law or government contract or grantee regulations.

(G) **Political Activities.** No form of discipline can occur because of any employee's political activity or political beliefs. This prohibition on discipline does not apply to individuals in policy making or confidential positions or where an overriding interest or vital importance exists which requires that an employee's political beliefs and activities conform to those of the City's Elected Official/Department Head.

The City also recognizes that false accusations can have serious affects on innocent men and women. We trust that all employees will continue to act in a responsible and professional manner to establish a pleasant working environment free of discrimination.

(Ord. No. 97-12; 04-28-97)

ARTICLE II – ANTI-BULLYING POLICY

12-2-1 APPLICATION OF POLICY. The City finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The City considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A) **"Employee"** is defined as an individual working for the City for remuneration;
- (B) **"Volunteer"** is defined as an individual who volunteers services to the City without remuneration;
- (C) **"Contractor"** is defined as an individual who contracts with the City to provide services, or an individual who works for a contractor of the City.

12-2-2 DEFINITION. Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) placing the person in reasonable fear of harm to the person or the person's property;
- (B) causing a substantially detrimental effect on the person's physical or mental health;
- (C) substantially interfering with the person's productivity; or
- (D) substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The City considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

12-2-3 BULLYING PROHIBITED. Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A) No person shall be subjected to bullying:
 - (1) during any period of employment activity;
 - (2) while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
 - (3) through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.
- (B) Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

12-2-4 DISCIPLINARY ACTION. Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.

(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The City shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

12-2-5 REPORTING AND COMPLAINT PROCEDURE. The City encourages all employees, volunteers or contractors to promptly report any instance of bullying behavior. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of bullying. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken. The City shall make every effort to stop alleged workplace bullying before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Reports of bullying will be treated seriously, and investigated promptly and impartially. The City further encourages all individuals to whom this policy applies to formally report any concerns of assault, battery, or other bullying behavior of a criminal nature to the City Attorney's office. The City Council requires any supervisor who witnesses bullying, irrespective of reporting relationship or his/her responsibility to address it, to promptly report this conduct to the Police Chief or the Mayor.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matter, should report their complaints or concerns verbally or in writing to his or her supervisor, or the City Attorney, before the conduct becomes severe or pervasive. If a verbal report is made, it shall be documented in writing by the official to whom it is reported. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to bullying conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that such behavior immediately stop.

ARTICLE III – DOMESTIC AND SEXUAL VIOLENCE POLICY

12-3-1 **PURPOSE OF POLICY.** Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The City will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

12-3-2 **DEFINITION.** For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A) **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B) **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C) **"Employee":** A person working for the City for remuneration for services.

(D) **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E) **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F) **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

12-3-3 **VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA).** The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

12-3-4 **POLICY.**

(A) **Employee Awareness.** The City shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the City that information on domestic violence and available resources shall be available to employees through the City Council and by this written policy, which shall be disseminated to employees.

(B) **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the City shall ensure that personnel policies and procedures do not

discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
 - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
 - (b) obtaining services from a victim services organization for the victim;
 - (c) obtaining psychological or other counseling for the victim;
 - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
 - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 12-3-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.
- (5) During a leave taken pursuant to this policy, the City shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such leave. If the employee fails to return from leave, however, the City may recover any premium costs it paid for such coverage if the reason

for the employee not returning is other than the continuation, recurrence, or onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.

- (6) The City, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the City Council (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The City requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 12-3-4(B)** of this Section. Certification shall be provided to the employer within a time period set by the employer.
- (8) The City understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required certification to justify absences without compromising their safety. Therefore, the Mayor or his designee shall consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- (9) All information provided to the employer pursuant to notification and certification requirements of this policy, and the purposes for which leave may be requested pursuant to this policy, shall be retained in strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or State law. Reported information shall be kept private to the greatest extent possible by Federal law, State law, and City policy; however, information may have to be disclosed pursuant to a subpoena, Illinois Supreme Court Rules, a court of law, or where otherwise required by law. Where medical information is received by the City from an employee who is the victim of domestic violence, such medical information shall be kept confidential.
- (10) Employees who are victims of domestic violence and who are legally separated from a covered spouse or civil-union partner, shall be allowed to make reasonable changes in benefits at any time during the calendar year, provided the change is requested within **thirty (30) days** of the separation and is in accordance with the City policies, rules, and regulations.
- (11) The City will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

(C) **Accountability for Employees Who are Abusers.** The City will hold employees, individuals who volunteer services to the City without remuneration (hereafter "volunteers"), and individuals who contract with the City or work for contractors of the City (hereafter "contractors"), accountable for engaging in the following behavior: (i) using City resources to commit an act of domestic violence; (ii) committing an act of domestic violence from or at the workplace or from any other location while on official City business; or (iii) using their job-related authority and/or City resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

Any physical assault or threat made by an employee, volunteer, or contractor, while on City premises, during working hours, while representing the City, or at a City-sponsored event, is a serious violation of this policy. This policy applies not only to acts against employees, but to acts against all other persons. Those found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

- (1) In cases in which the City has found that an employee, volunteer, or contractor, has threatened, harassed, or abused an intimate partner at the workplace using City resources such as work time, workplace telephones, facsimile machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action.
- (2) In cases in which the City has verification that an employee, volunteer, or contractor is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee, volunteer or contractor has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the Mayor shall determine if corrective action is warranted.
- (3) In cases in which any employee, volunteer, or contractor intentionally uses his/her job-related authority and/or intentionally uses City resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his/her behavior, said individual may be subject to corrective or disciplinary action.

ARTICLE IV – SOCIAL MEDIA POLICY

12-4-1 **MISSION STATEMENT.** It shall be the mission of the City to ensure its employees maintain professional conduct in their on and off work lives. This shall include the image an employee portrays of themselves on the internet and computer related media.

12-4-2 **PURPOSE.** The purpose of this policy is to outline the expectations of employees with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of the City.

12-4-3 **POLICY.** Employees shall not use any form of social media or social networking, including but limited to: Facebook, Twitter, MySpace, LinkedIn, Tumblr, YouTube, Google+, Pinterest, Instagram, Foursquare, The Squad Room, usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the City's reputation. Employees of the City are embodiments of our mission. It is vital that each employee accept their role as ambassadors of the department, striving to maintain public trust and confidence, in not only their professional actions but also in their personal and online actions. Any online activity that has the effect of diminishing the public's trust and/or confidence in the City will hinder the efforts of the City to fulfill its mission. Any online actions taken that detract from the mission of the City, or reflects negatively on the position of the City will be viewed as a direct violation of this policy. For police officers: by virtue of the position of peace officer, they are held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.

12-4-4 **RULES AND REGULATIONS.**

(A) Employees are prohibited from using City computers or cell phones/devices for any unauthorized purpose, including the participating in social media or social networking.

(B) Employees are prohibited from using any social media or social networking platform while at work. Police officers may seek permission from the Mayor to use social media or networking for investigative or for public information purposes.

(C) Unless granted explicit permission, employees including police officers of the City are prohibited from posting any of the following in any social networking platform, either on their own sites, the sites of others known to them, the sites of others unknown to them, news media pages, or other information exchange forums:

- (1) Any text, photograph, audio, video, or any other multimedia file related to any investigation of the police department, both current and past.
- (2) Any text, photograph, audio, video, or any other multimedia file related to any past or current action of the City police department, either in homage or critique.
- (3) Any text, photograph, audio, video, or any other multimedia file that is related to any City department business or event.

(D) Employees who choose to maintain or participate in social media or social networking platforms while off work shall conduct themselves professionally and in such a manner that will not reflect negatively upon the City or its mission. In the course of operating or participating in such venues, the following rules shall apply:

- (1) Employees will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflects negatively upon the City.
- (2) Sexually graphic or explicit material, of any kind, shall not be posted by the employee on any form of social media or social networking sites.

- (3) Sexually graphic or explicit material posted by others to the employee's social media or social networking sites shall be immediately removed.
- (4) Weaponry, owned by the City, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites.
- (5) Weaponry, privately owned by any police officer, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote a disparaging image to the City.
- (6) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the public shall not be detrimental to the City's mission now shall it, in any way, undermine the public's trust or confidence of the City departments.
- (7) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the legal, judicial or criminal systems shall not, in any way, undermine the public's trust and confidence of the City departments.
- (8) Any posting that detracts from the City department's mission will be considered a direct violation of this policy.

(E) Employees who are brought under administrative or internal investigation related to their performance, functionality or duties may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(F) Employees who are brought under administrative or internal investigation related to the City's operation, productivity, efficiency, morale or reputation, may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(G) If requested, any employee shall complete an affidavit attesting to all the social media and social networking platforms in which they mail or participate.

(H) Any candidate seeking employment with the City shall complete an affidavit attesting to all the social media and social networking platforms in which they maintain or participate.

ARTICLE V – SEXUAL HARASSMENT POLICY

12-5-1 STATEMENT OF ORGANIZATION POLICY. This organization is committed to providing a workplace that is free from all forms of discrimination, including sexual harassment. Any employee's behavior that fits the definition of sexual harassment is a form of misconduct which may result in disciplinary action up to and including dismissal. Sexual harassment could also subject this organization and, in some cases, an individual to substantial civil penalties.

The organization's policy on sexual harassment is part of its overall affirmative action efforts pursuant to state and federal laws prohibiting discrimination based on age, race, color, religion, national origin, citizenship status, unfavorable discharge from the military, marital status, disability, and gender. Specifically, sexual harassment is prohibited by the Civil Rights Act of 1964, as amended in 1991, and the Illinois Human Rights Act.

Each employee of this organization bears the responsibility to refrain from sexual harassment in the workplace. No employee – male or female – should be subjected to unsolicited or unwelcome sexual overtures or conduct in the workplace. Furthermore, it is the responsibility of all supervisors to make sure that the work environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive or disruptive, or which create a hostile or offensive environment must be eliminated. Instances of sexual harassment must be investigated in a prompt and effective manner.

All employees of this organization, particularly those in a supervisory or management capacity, are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes.

12-5-2 DEFINITION OF SEXUAL HARASSMENT. According to the Illinois Human Rights Act, sexual harassment is defined as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (A) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991.

One example of sexual harassment is where a qualified individual is denied employment opportunities and benefits that are, instead, awarded to an individual who submits (voluntarily or under coercion) to sexual advances or sexual favors. Another example is where an individual must submit to unwelcome sexual conduct in order to receive an employment opportunity.

Other conduct commonly considered to be sexual harassment includes:

- Verbal: Sexual innuendoes, suggestive comments, insults, humor and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.
- Non-Verbal: Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- Visual: Posters, signs, pin-ups or slogans of a sexual nature.
- Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual intercourse, or actual assault.

Sexual harassment most frequently involves a man harassing a woman. However, it can also involve a woman harassing a man or harassment between members of the same gender.

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends to some extent on individual perception and interpretation. The trend in the courts is to assess sexual harassment by a standard of

what would offend a "reasonable woman" or "reasonable man", depending on the gender of the alleged victim.

An example of the most subtle form of sexual harassment is the use of endearments. The use of terms such as "honey", "darling", and "sweetheart" is objectionable to any women who believe that these terms undermine their authority and their ability to deal with men on an equal and professional level.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a woman in the workplace.

"That's an attractive dress you have on."

"That's an attractive dress. It really looks good on you."

"That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment depending on the perceptions and values of the person to whom it is directed. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution.

12-5-3 RESPONSIBILITY OF INDIVIDUAL EMPLOYEES. Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

An individual employee who sexually harasses a fellow worker is, of course, liable for his or her individual conduct.

The harassing employee will be subject to disciplinary action up to and including discharge in accordance with the organization's disciplinary policy and the terms of any applicable collective bargaining agreement.

The organization has designated Tom Malkovich, City Attorney to coordinate the organization's sexual harassment policy compliance. He can be reached at 500 N. Market St., Marion, Illinois, 997-6473. He is available to consult with employees regarding their obligations under this policy.

12-5-4 RESPONSIBILITY OF SUPERVISORY PERSONNEL. Each supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of employee misconduct.

The courts have found that the organizations as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a customer, contractor, sales representative or repair person).

Liability is either based on an organization's responsibility to maintain a certain level of order and discipline, or on the supervisor acting as an agent of the organization. As such supervisors must act quickly and responsibly not only to minimize their own liability but also that of the organization.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint, with seriousness, take prompt action to investigate it, report it, and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

Supervisors in need of information regarding their obligations under this policy or procedures to follow upon receipt of a complaint of sexual harassment should contact Tom Malkovich, City Attorney at 500 N. Market St., Marion, Illinois, 997-6473.

12-5-5 PROCEDURES FOR FILING A COMPLAINT OF SEXUAL HARASSMENT.

(A) **Internal.** An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the supervisor, EEO Officer*, and to the offending employee. It is not necessary for the sexual harassment to be directed at the person making the complaint. Each incident of sexual harassment should be documented or recorded. A note should be made of the date, time, place, what was said or done, and by whom. The documentation may be augmented by written records such as letters, notes, memos, and telephone messages. No one making a complaint of sexual harassment will be retaliated against even if a complaint made in good faith is not substantiated. Any witness to an incident of sexual harassment is also protected from retaliation.

The process for making a complaint about sexual harassment falls into several stages.

- (1) **Direct Communication.** If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or the EEO Officer. If the harasser is the immediate supervisor, the problem should be reported to the next level of supervision of the EEO Officer.
- (3) **Formal Written Complaint.** An employee may also report incidents of sexual harassment directly to the EEO Officer. The EEO Officer will counsel the reporting employee and be available to assist with filing a formal complaint. The Organization will fully investigate the complaint, and will advise the complainant and the alleged harasser of the results of the investigation.

(B) **External.** The Organization hopes that any incident of sexual harassment can be resolved through the internal process outlined above. All employees, however, have the right to file formal charges with the Illinois Department of Human Rights (IDHR) and/or the United States Equal Employment Opportunity Commission (EEOC). A charge with IDHR must be filed within **one hundred eighty (180) days** of the incident of sexual harassment. A charge with EEOC must be filed within **three hundred (300) days** of the incident.

The Illinois Department of Human Rights may be contacted as follows:

Chicago	(312) 814-6200
Chicago TDD	(312) 263-1579
Springfield	(217) 785-5100
Springfield TDD	(217) 785-5125
Marion	(618) 993-7463

The United States Equal Employment Opportunity Commission can be contacted as follows:

Chicago	(312) 353-2713
	(800) 669-3362
TDD	(800) 800-3302

An employee who is suddenly transferred to a lower paying job or passed over for promotion after filing a complaint with IDHR or EEOC may file a retaliation charge with either of these agencies. The charges must be filed within **one hundred eighty (180) days (IDHR)** or **three hundred (300) days (EEOC)** of the retaliation. An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges of assault and battery.

[NOTE: Each organization should adapt the provisions of this Section to the requirements of their existing disciplinary policy and/or terms of any existing collective bargaining agreement. The name of the organization's Human Resources Administrator, Personnel Officer, or other appropriate person should be used if the organization has no EEO Officer.]

12-5-6 **FALSE AND FRIVOLOUS COMPLAINTS.** False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.