



## *City of Prairie du Chien*

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214 East Blackhawk Avenue • P. O. Box 324 • Prairie du Chien, WI 53821  
Phone: 608-326-6406 • FAX: 608-326-8182

# **PERSONNEL HANDBOOK**

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## **INTRODUCTION**

This Employee Handbook (“Handbook”) sets forth important employment guidelines for all employees. Please read it carefully. The contents of this Handbook apply to all City of Prairie du Chien (“City”) employees unless it is noted that a provision affects only certain employees. Many provisions also apply to elected and appointed officials.

The statements or policies outlined in this Handbook are not a guarantee of City employment. This Handbook is not, nor is it intended to be construed as, an employment contract.

The City reserves the right to revise the Handbook at any time. Final interpretation and implementation of any of the policies in the Handbook is vested solely with the Mayor, Common Council, and City employees charged with implementing these policies.

Thank you.

Mayor and the Common Council  
City of Prairie du Chien

## SECTION 1 GENERAL POLICIES AND PROCEDURES

### 1.01 Application

In the event any provision in this Employee Handbook (“Handbook”) conflicts with any individual contract, collective bargaining agreement, City ordinance, state or federal law, or administrative rule, those terms and conditions prevail. In all other cases, the provisions in this Handbook shall apply.

Some provisions of the Handbook also apply to elected officials and appointed non-employees.

In the event of the amendment of any law, ordinance or rule incorporated in this document or upon which these provisions rely, these rules shall be deemed amended in conformance with those changes.

### 1.02 Definitions

**Appointing authority** - The officer or governmental body having lawful authority to appoint or remove a City employee.

- The appointing authority for appointed positions is set forth in the Prairie du Chien Municipal Code § 1.03.
- The appointing authority for all other positions shall be the Common Council based upon the recommendation of the Personnel Committee.
- The term may also mean the Police and Fire Commission (“PFC”), Police Chief, and Fire Chief in the exercise of their statutory authority under Wis. Stat. § 62.13. The Police and Fire Commission shall initiate and complete the recruitment process for any Police Department or Fire Department subordinate position.
- The Library Board shall initiate and complete the recruitment process for appointment of a Library Administrator under Wis. Stat. § 43.58(4) and the Library Administrator has the power pursuant to Wis. Stat. § 43.58(4) to appoint other library employees.
- The Common Council may elect to fulfill the roles and responsibilities for certain appointed officials by contracting with an individual or agency who is not an employee.

**City** - The City of Prairie du Chien functioning in its capacity as a municipal corporation and unit of government under Chapter 62 of the Wisconsin Statutes.

**Common Council** - The City of Prairie du Chien Common Council.

**Department Head** - An individual, normally reporting to the City Administrator who is responsible for a significant portion of the City’s business and has the highest level of supervisory authority over the Department or work unit’s employees and their activities.

**Employee** - Any full-time, part-time, limited-term (seasonal or temporary), or special status employee of the City. This Handbook applies to all classifications of employees.

- A full-time employee is a person regularly scheduled to work forty (40) hours per week or such other hours as may be defined for employees in the Police Department. Authority to hire an individual as a full-time employee is vested in the appointing authority, acting on the recommendation of the Department Head.
- A part-time employee is a person regularly scheduled to work less than forty (40) hours per week. Authority to hire an individual as a part-time employee is vested in the Department Head, with prior approval of the City Administrator.
- A limited-term employee (also referred to as seasonal or temporary) is a person hired to work, either on a full-time or part-time basis, for a limited period of time. A limited-term employee does not become a full-time or part-time employee by virtue of being employed longer than the agreed upon specified period.

### **1.03 Equal Employment Opportunity**

The City will not discriminate against any employee or applicant for employment in any manner in violation of federal or state law, including, but not limited to, an employee's or applicant's race, color, creed or religion, sex or sexual orientation, marital status, unfavorable discharge from the military (except dishonorable discharge), national origin, age, physical or mental handicap or disability, Veteran status, membership in the National Guard of Reserves, arrest or conviction record, except as allowed by law, use or nonuse of lawful products off City property during non-working hours, or any other status protected by law.

### **1.04 Equal Employment Opportunity Complaints**

The City Administrator serves as the City's Equal Opportunity Officer, advising and aiding the Common Council, other appointing authorities, Department Heads, and employees in matters related to City compliance with federal and state laws, rules and regulations.

The following steps will be taken in the event a complaint arises out of efforts to ensure equal employment opportunity in the City's employment practices. Employees covered by a labor agreement must use the procedure specified in that agreement. Employees not covered by a labor agreement may bring their complaint to their immediate supervisor, who will attempt to resolve this issue. Either party may request that the Equal Opportunity Officer review the issue and recommend appropriate action. If the matter is not resolved to the party's satisfaction by the Equal Opportunity Officer, either party may submit the issue to the Personnel Committee which will review the issue and forward its recommendation to the Common Council.

### **1.05 Affirmative Action**

The City is committed to principles of affirmative action in its employment practices with a goal of a diverse work force and implementing these policies without regard to protected status.

### **1.06 Employees with Disabilities**

The City complies with the provisions of the Americans with Disabilities Act (ADA) and the disability provisions of the Wisconsin Fair Employment Act (WFEA). Employees with a disability under those laws who need a reasonable accommodation related to their employment should provide the City with such request in writing to the City Administrator.

### **1.07 Light Duty**

The City provides light duty assignments only for conditions which are governed under Wisconsin's Worker's Compensation law and then on a case-by-case basis taking into account the nature of the condition and the availability of work.

To be considered for light duty, an employee must have the potential to return to the employee's original job at some point in the future. Light duty jobs are not permanent and will be limited in duration.

### **1.08 Family and Medical Leave**

See Appendix A.

### **1.09 Unlawful Harassment**

The City is committed to providing a work environment in which employees are treated with courtesy, respect, and dignity. The City will not tolerate any form of unlawful harassment with regard to an individual's race, color, religion, age, sex, national origin, disability, ancestry, sexual orientation, marital status, veteran status, arrest or conviction record or any other protected characteristic by any employee, elected official, or third-party.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment can take many forms, including inappropriate jokes, innuendoes,

comments, conversations, cartoons, pictures, pranks, teasing, intimidation, inappropriate touching and similar behavior. It may even include derogatory statements not directed to the targeted individual.

Any behavior is considered unlawful harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/or
3. 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.

Any employee who becomes aware of an incident of unlawful harassment whether as a victim, witness, or as someone with knowledge must report the incident to a Department Head, the City Administrator or the Mayor.

If an employee is the victim of unlawful harassment, the City encourages the employee to first communicate directly with the alleged harasser to let that person know his or her behavior is unacceptable, offensive, or inappropriate. However, it is not required that an employee do so.

1. Upon receipt of an allegation of unlawful harassment, the City will investigate the matter and take appropriate remedial action. Any employee who violates this policy may be subject to disciplinary action, up to and including discharge. Any elected official or third-party who violates this policy will be addressed as appropriate.
2. The City will conduct its investigations in a discreet manner and proceed with due regard for the privacy of the individuals involved; however, the City cannot guarantee confidentiality. The City will not retaliate against an employee who reports a violation of this policy or participates in the investigation of such violation. It is the City's policy to encourage discussion of such matters to help protect others from being subjected to similar unlawful behavior. If, after investigating any complaint of harassment or unlawful discrimination, the City determines that the complaint is not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave the false information.

Employees may also file a charge alleging unlawful harassment with the Equal Employment Opportunity Commission (EEOC) or the Equal Rights Division of the Wisconsin Department of Workforce Development within three hundred (300) days of the last act of unlawful harassment.

#### **1.10 Electronic Communications Policy**

See Appendix B.

#### **1.11 Drug Free Workplace Policy**

See Appendix C.

#### **1.12 Confidential Information**

With the exception of information available to the public in accordance with the Wisconsin Public Records Law, Wis. Stats. §§ 19.31-19.39, employees are prohibited from disclosing or using any confidential City information.

#### **1.13 Use of City-owned Vehicles**

City-owned vehicles will be used only for official business. The term "vehicles" shall include motor vehicles or equipment of any kind owned by the City. With the following exceptions, City vehicles will be used only to transport City officials and employees:

- Individuals needing medical treatment as the result of an accident or illness may be transported in a City vehicle;
- Individuals involved in incidents to which City law enforcement officers respond or investigate may be transported in a City vehicle;
- Individuals needing to be conveyed in conjunction with City business may be transported in a City vehicle; and

- Family members accompanying a City official or employee to a business meeting or official function may be transported in a City vehicle;

With the exception of certain employees of the Police and Fire Departments, City vehicles will not be taken home overnight or used for travel at mealtime, unless an official or employee is in a location where driving a City vehicle for such reasons results in less cost and/or fuel than use of his or her personal car or as approved by the City Administrator.

City vehicles will be legally operated and parked at all times. Citations issued to the driver of a City vehicle will be the responsibility of the driver and not the City.

Seat belts will be used by drivers of City vehicles, unless an exemption is granted by the Department Head for medical or physical reasons. It is each driver's responsibility to ensure passengers use seat belts.

Department Heads may establish supplemental policies for the use of vehicles used by their employees.

The use of laptops, hand-held cell phones and similar devices while driving for work-related purposes is prohibited except in emergency situations and with respect to authorized police and fire department practice. Hands-free headphones for cell phone use are acceptable.

Personal vehicles may be used for City business with the approval of an employee's Department Head. Employees using their own vehicles may be reimbursed at the most current Internal Revenue Service reimbursement rate based upon the shorter of the distance to the destination from home or employee's City work site.

All officials and employees whose duties require operation of a City vehicle, or who operate a privately-owned vehicle while conducting City business, must possess a valid motor vehicle operator's license issued by the State of Wisconsin.

The City may prohibit an employee from operating a vehicle while performing City work based upon that employee's driving record.

An employee performing work that requires operation of a motor vehicle must inform the employee's Department Head if the employee's operator's license has expired, been suspended or revoked.

If an employee's operator's license has been revoked and the employee's position requires the operation of a motor vehicle, or the City's insurer denies coverage for that employee, the employee may be terminated from City employment.

If an employee drives unsafely, a Department Head may deny authorization to operate a vehicle while performing City work. If the employee's position requires the operation of a motor vehicle, the employee may be terminated from City employment.

Officials or employees who operate privately-owned vehicles while conducting official business for the City must have motor vehicle liability insurance providing coverage for bodily injury or death, destruction of or damage to property that meets or exceeds the minimum requirements established by Wisconsin law.

#### **1.14 Workplace Violence**

The City is committed to providing a safe, healthful workplace that is free from violence or threats of violence. The City does not tolerate behavior that:

- Is violent;
- Threatens violence;
- Harasses or intimidates others;
- Interferes with an individual's legal rights of movement or expression; or,
- Disrupts the workplace or the City's ability to provide service to the public.

Violent or threatening behavior can include: physical acts, oral or written statements, harassing email messages, harassing telephone calls, gestures and expressions, or behaviors such as stalking.

Individuals who engage in violent behavior may be removed from the premises, and may be subject to discipline, up to and including termination. Violence in the workplace includes relationship violence that intrudes into the workplace, endangering a person in the relationship or others in the workplace. Relationship violence is physically, sexually,

and/or psychologically abusive behavior that a household member or dating partner uses to establish and maintain control over another person.

Preventing violence is a responsibility all employees and elected officials share. In situations involving violent behavior, or where it appears that violent behavior is likely to take place, employees should immediately notify their supervisor.

## **ARTICLE 2    EMPLOYMENT POLICIES**

### **2.01    Vacancies**

When the Common Council determines that a vacancy should be filled or a new position created within the City, the City agrees to post a notice of such vacancy. The vacancy will not be filled until the notice has been posted for at least ten (10) working days. This posting period may be waived by the City Administrator. The selection of any applicant to fill a job vacancy shall be made on the basis of relative ability, experience, and qualification. The Common Council must approve the hiring of any new full-time employee after considering the recommendation of the Personnel Committee. Common Council approval is not required for the transfer of an employee to another position. The City reserves all rights to establish job requirements, to determine an applicant's qualifications, and to select an applicant based on who the City determines to be the best qualified applicant for employment. The Department Head with City Administrator approval may temporarily fill a position while processing the permanent vacancy or publicly soliciting employment applications from non-employees. The hiring process for Police and Fire Department employees will be governed by the PFC Bylaws. The hiring process for the Library employees will be governed by the Library Board Bylaws.

The Personnel Committee shall identify and prepare the screening methods to determine the qualifications of the applicants. The Personnel Committee shall establish prior to the screening of any applicant the method or methods to be used and the relative weights to be assigned to each method. The screening (examination) methods may consist of one or more of the following:

- A written test;
- A performance test;
- An evaluation of education and experience as shown on the application;
- An oral examination;
- An interview designed to determine general fitness for the position;
- Physical tests of strength, stamina, or dexterity;
- A pre-employment health examination; or
- Any other appropriate measure of qualifications.

Every new employee of the City shall have a background check made by the Police Department. This will be done before appointment and such report shall become a part of the individual's personnel file. The personal background and criminal and/or civil action data will be evaluated in relation to the applicant's ability to perform the duties and responsibilities of the specific position for which he/she applied.

In the event that a Department Head resigns, with the exception of the Police Chief, Fire Chief and the Library Director, the Personnel Committee and City Administrator shall recommend to the Common Council the successor for that position. The City Administrator and Personnel Committee shall be responsible for posting the vacancy and narrowing the list of final candidates between three and five individuals. The Personnel Committee shall have the power to interview the final candidates for filling the vacancy, and make a recommendation to the Common Council. A two thirds (2/3) vote of the Common Council is required to confirm the appointee.

In the event that the City Administrator resigns or is terminated, the Personnel Committee shall, with the aid of Department Heads and citizen members, recommend to the Common Council the successor for the position. The Common Council may appoint an Acting City Administrator under the definition of an appointment to a limited position, as defined in this chapter.

The Personnel Committee will recommend to the Common Council the specific areas of expertise that will be necessary to best assist the Personnel Committee in their selection process. The Common Council will then appoint qualified citizens to participate with the Personnel Committee in the interviewing process. However, all final recommendations to the Common Council will be made exclusively by the Personnel Committee. The Mayor and Chairperson of the Personnel Committee shall be responsible for posting the vacancy and narrowing the list of final candidates, to not exceed five individuals, but no fewer than three, if more than that number has applied, for final interviews. The Personnel Committee shall have the power to interview the final candidates for filling the vacancy, and make a recommendation to the Common Council. A two thirds (2/3) vote of the Common Council is required to confirm the appointee. The Council shall reserve the right to retain an outside employment service for the purpose of filling the position of City Administrator, with said retention being approved by a two-third (2/3) vote.

Department heads shall be charged with hiring part-time, emergency, limited term, military leave replacement, seasonal and temporary appointments and positions, with prior approval of the City Administrator.

## **2.02 Position Descriptions**

The City shall have a position description for each position which shall include:

- Job title;
- To whom the position reports;
- FLSA status;
- A brief description of the position, including the level and type of supervision required;
- Minimum qualifications an individual must have to be considered for employment in the position;
- Knowledge, skills, and abilities considered essential to perform functions and duties assigned to the position;
- The position's essential functions and duties;
- Other functions or duties that, while not necessarily essential, may be performed by an individual in the position;
- The physical and other requirements of the position; and
- The physical environment in which a person in the position usually works, as well as special environmental or physical conditions the person may encounter.

Department Heads will annually review and modify position descriptions as necessary and at the time of the filling of the position. The City Administrator shall approve any revisions to the job descriptions.

Copies of the current position description will be given to the employee, the City Administrator and the Department Head.

## **2.03 Nepotism**

Members of an employee's immediate family will be considered for employment solely on the basis of qualifications and pursuant to the hiring processes applicable to all potential applicants for a City job. Immediate family members of current employees may not be hired if that employment would:

1. Create a supervisor/subordinate relationship with a family member;
2. Create the potential for an adverse impact on work performance; or,
3. Create either an actual conflict of interest or the appearance of a conflict of interest.

This policy also applies to assigning, transferring, or promoting an employee.

No employee may use the employee's position to bring about the employment or promotion of a member of the employee's family.

No employee may participate in any final decision in any employment matter involving an employee who is a family member.

For purposes of this policy, family members are defined as: spouse; child by blood or adoption; spouse's child; sibling; parent or parent-in-law; brother- or sister-in-law; uncle, aunt, niece, nephew, or spouse thereof; grandparent or grandparent-in-law; and fiancé or fiancée.

This policy does not apply to the hiring of temporary or seasonal employees.

#### **2.04 Residence**

Residence within the City limits is preferred. Full-time law enforcement, all fire, and all emergency personnel shall reside within fifteen (15) miles of the City's boundaries.

#### **2.05 Outside Employment**

Employees may engage in outside employment or work so long as the outside work or employment would not affect the quality or quantity of the employee's work for the City, prevent the employee from the accomplishment of the employee's work for the City, or tend to create a conflict, or the appearance of a conflict, between the private interest of the employee and the employee's official responsibility to the City. Employees are prohibited from entering into any arrangement which involves the performance of services while on City time or while using City equipment. All employees must obtain approval from the Department Head, and the City Administrator.

No employee shall receive compensation other than from the City for the performance of services while on City time, except if the employee is using approved vacation or compensatory time.

#### **2.07 Employee Information**

All employees must provide the Clerk/Treasurer with the employee's place of residence, mailing address, telephone number, electronic mail address, family composition, beneficiary status, and emergency contact information. Changes in any of the aforementioned information must be reported to the employee's supervisor and the Clerk/Treasurer within five (5) working days of the change.

#### **2.08 Personnel Records**

Each employee's personnel file will contain only such information as is needed by the City in conducting its business or as required by law. This information normally will include, but is not limited to, an employee's:

- A. Application;
- B. Payroll information;
- C. Performance appraisals;
- D. Medical information; and
- E. Disciplinary records.

The City Clerk/Treasurer and City Administrator will maintain the City's personnel files. The personnel records will be maintained in a secure location. The City shall maintain a separate employee medical record file for each employee (e.g., reports of medical examinations, psychological profiles, and physician certifications) that will be in a locked location and with access that will be limited to the City Clerk/Treasurer and City Administrator with information provided to the Mayor, employee's supervisor and/or Department Head on a "need to know" basis. The City shall also maintain a separate payroll file for each employee, which will contain only information needed for payroll.

Internal access to employee personnel files is on a "need-to-know" basis. External access to employee personnel records is based upon state and federal law.

Each employee may inspect and retain copies of the employee's personnel records pursuant to Wis. Stat. § 103.13. A written request to do so should be directed to the City Clerk, or the Police Chief if the employee is employed in the Police Department, who will schedule a time for inspection. A reasonable charge may be made for any copies of records.

If, after inspecting the personnel records, an employee believes that certain material is irrelevant, inaccurate, or obsolete, the employee may submit a written request to the City Clerk or Police Chief to remove the material from the file. If the employee is not satisfied with the response, the employee may place a written statement explaining the employee's position in the file.

All requests for employment references with respect to employees and former employees shall be directed to the City Administrator for the appropriate response. Requests for references for Police and Fire Department employees shall be directed to the respective Chief or designee. Department Heads may release, without first obtaining City consent, dates of employment, title of position, wage and salary information and the location of the job, provided that the person receiving this information has provided the City with a written authorization from the employee or former employee allowing release of this information.

## **2.09 Employee Orientation**

Department Heads will conduct an orientation for a newly hired employee in their Department.

At an additional orientation session with the City Clerk/Treasurer, the employee will be given a copy of the current position description and access to the Handbook, and will complete applicable City documents related to employment.

## **2.10 Orientation Period**

Police Department employees, with the exception of the Chief, shall serve a probationary period of one year. A probationary employee may be discharged by the PFC and/or Chief without recourse to any appeal procedure.

## **2.11 Years of Service**

The Clerk/Treasurer shall determine and record the date an individual begins service as a City employee. Years-of-service will be calculated as of an employee's anniversary date and will be used to determine longevity and vacation benefits. The date of entry into service as a City employee for a former employee who is rehired or reinstated will be adjusted to reflect a break in service.

## **2.12 Performance Evaluations**

Employees, other than seasonal or temporary employees, shall be evaluated annually.

In evaluating employees, Department Heads and the City Administrator should consider such factors as the experience and training of the employee, the job description, and the employee's attainment of previously set objectives and goals. Other factors that normally should be considered include, but are not limited to, knowledge of the job, quantity and quality of work, promptness in completing assignments, cooperation, initiative, reliability, attendance, judgment, conduct, and acceptance of responsibility.

Information derived from the performance appraisal may be considered when making decisions affecting an employee, including but not limited to, decisions concerning training needs and opportunities, pay, promotion, transfer, or continued employment.

## **2.13 Reassignment**

The City may assign employees at its discretion upon the terms and conditions determined by the City.

## **2.14 Separation from Employment**

All separations from City service shall be designated as one of the following: resignation, retirement, layoff, disability, or dismissal. The termination date is recognized as the employee's last day on the payroll. Employees leaving City employment shall return City-owned keys, tools, equipment, and property before their last day of work. Employees shall also provide to their supervisor all passwords related to any City business.

### **A. Resignation/Retirement**

Resignations or retirements are voluntary, permanent separations initiated by employees. It is expected that employees will give as much notice as possible in order to facilitate recruitment and orientation of new staff members. Employees are asked to submit their resignation in writing at least two (2) weeks in advance of their planned departure to their Department Head, unless the situation does not permit such notice. Department Heads should give at least thirty (30) days written notice of resignation to the City Administrator. The City Administrator should give at least sixty (60) days written notice to the Mayor. No employee who has submitted a letter of resignation shall be allowed to use vacation, sick or compensatory time after that submittal, unless approved by the City Administrator. Employees who provide the required notice shall be entitled to a payout of accrued longevity, sick days, compensatory time, and vacation pay earned to the last complete month worked prior to resignation.

Employees contemplating retirement and receipt of an annuity from the Wisconsin Retirement System, the Social Security Administration, or another source should notify the City Clerk of their intent a minimum of three (3) months before the month during which they wish to retire.

#### B. Layoff

A layoff is the termination of employment due to a shortage or stoppage of work or funds, functional reorganization, abolishment of a position, or other reasons. When the City determines that a layoff will occur, the City will determine who to layoff, giving consideration to legal standards, ability, experience, operational needs, and qualifications. Re-hiring employees that have been laid off shall be accomplished by the City under the same considerations.

#### C. Disability

An employee may be separated from City service if the employee is unable to perform required duties due to physical or mental condition, with or without a reasonable accommodation, if such accommodation provides an undue hardship, or if the employee poses a direct threat to the employee or others.

#### D. Termination

City employees are at-will employees and may be dismissed for any reason at any time, including violation of any of the provisions of this Handbook. Any employee absent from work for five (5) consecutive workdays without written or documented notice or satisfactory explanation to the employee's supervisor shall be deemed as having abandoned the employee's job.

### **2.15 Commercial Driver's License (CDL)**

If a City employee is required to possess a Commercial Driver's License (CDL) and that CDL is revoked or suspended, the employee may be terminated by the City. The City may, on a case-by-case basis, place the employee in a vacant position within the City, put the employee on a paid or unpaid leave of absence, or re-structure the employee's job duties during the period during which an employee's CDL license is suspended, revoked or cancelled. The City is not obligated to do so, however. If the employee's job duties are re-structured, the City may reduce the employee's compensation to reflect the loss of job responsibilities.

If the City reviews alternatives other than termination for an employee whose CDL has been suspended, revoked or cancelled, the City may consider, among other things, the following factors:

- The position held by the employee;
- Available City vacancies and the employee's qualifications for those positions;
- The City's operational needs;
- Staffing issues;
- The anticipated length of time of the CDL's suspension, revocation or cancellation;
- The employee's length of service in City employment;
- The employee's work record;
- Whether the employee's conduct which resulted in the suspension, revocation or cancellation of the CDL was caused by a disability and the availability of reasonable accommodations for such disability;
- The employee's paid leave status; and
- The nature of the offense giving rise to the suspension, revocation or cancellation.

The City may condition continued employment, including reassignment, leave, or job restructuring, on future compliance with all terms and conditions of City employment and upon restoration of CDL licensure within a particular period of time. An employee may not be returned to the employee's previous position until such time as the employee's CDL license has been restored and the employee has been determined to be insurable by the City's automobile liability insurer.

## **2.16 Light Duty**

The City will attempt on a case-by-case basis to assist employees to return to work if they have medical restrictions which preclude them on a temporary basis from performing the duties of their position. Light duty is a temporary, modified work assignment within the employee's physical and/or mental capabilities, knowledge, and skills. Factors relevant in the City's consideration include, but are not limited to, the length of the temporary restrictions, the nature of the restrictions, the availability of work in the department in which the employee works, the qualification of the employee to do work in other departments, the availability of work in those departments, and the time of year. The City does not guarantee the availability of light duty work and is under no obligation to offer or create light duty work. If light duty work is provided to an employee, it shall be restricted to a limited number of weeks and reassessed based upon updated medical information. Any modifications to an employee's job to provide light duty are not intended by purpose or practice to be permanent. If light duty is provided to the employee, it may be at a rate of pay lower than the rate of pay for the employee's regular position to be determined at the City's discretion.

## **2.17. Employee Assistance Program**

The City provides access by its employees to an Employee Assistance Program (EAP) to provide information, support, and referrals to community resources to them and/or their family members. This program is strictly confidential, and only an EAP coordinator, through written permission of the employee, can give out information obtained by reason of an EAP referral or contact.

EAP coordinators are not social workers or counselors. Their role is to provide support, discuss options about the employee's/family member's concerns, and help to make referrals to resources in the local community.

An employee or family member(s) may seek assistance on their own or a Department Head or supervisor may encourage the employee to contact an EAP coordinator and/or offer to make arrangements for an appointment with an EAP coordinator of the employee's choice. It is the employee's prerogative as to whether to accept a referral and treatment.

Information regarding the EAP program can be obtained from the City Administrator.

## **ARTICLE 3 CODE OF CONDUCT**

### **3.01 Code of Ethics**

The City has adopted a Code of Ethics which is attached as Appendix D. That Code governs the conduct of employees and all employees are required to comply with it. It includes the following provisions:

- An employee may not use or attempt to use the employee's position to obtain financial gain, anything of value or any advantage, privilege or treatment for the employee or member of the employee's immediate family's private benefit or for an organization with which the employee is associated other than which the employee is entitled arising from City employment.
- No employee or member of the employee's immediate family may, directly or indirectly, solicit or accept from any person or entity, directly or indirectly, anything of value if it could reasonably be expected to influence the employee's job performance or could reasonably be considered as a reward for the employee's action or inaction.
- No employee may:

- Take any employment action affecting, directly or indirectly, a matter in which the employee, a member of the employee's immediate family, or an organization with which the employee is associated has a financial or personal interest;
- Use the employee's position in a way that produces or assists in the production of a benefit, direct or indirect, for the employee, a member of the employee's immediate family either separately or together, or an organization with which the employee or the employee's immediate family member is associated. This does not prohibit an employee from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses; or
- Grant any privilege, anything of value, special consideration, treatment or advantage to any person beyond that which is available to every other person except as may be specifically provided for by law.

### **3.02 Political Activities**

City officials and employees may not, either directly or indirectly, solicit or receive money, property, favors, services, or anything of value on behalf of a candidate for elective office, on behalf of a political party or a committee attempting to influence the outcome of an election during working hours or while on City property.

City officials and employees may not engage in political activity on City property while engaged in work as a City official or employee. Candidates seeking any elective office may not engage in electioneering while on City property.

An employee intending to seek political office will be expected to use vacation time, or request an unpaid leave of absence, when the amount of time and effort to conduct a campaign for public office interferes with the performance of duties as a City employee.

An employee elected to a City political office will terminate employment with the City.

An employee elected to a political office, other than elective office in the City, may continue to work for the City, but may not conduct business related to the employee's elective position while on City property or while engaged in activities as a City employee.

An employee may seek nomination and appointment as a polling place official, or serve as an appointed observer at a polling place in any election; but, to avoid what may appear to some voters as a possible conflict of interest, the practice is discouraged. City employees serving as polling place officials or observers will not receive compensation from the City for scheduled hours not worked as a City employee.

### **3.03 Lobbying**

City officials and employees, acting as representatives of the City, may appear before a legislative body to give testimony on a matter before the body.

City officials and employees may appear before a legislative body as a private citizen, as a member of an organization not affiliated with the City, or as a representative of an association seeking to influence the outcome of a matter before the body. In this case, however, City officials and employees are expected to use vacation or unpaid time for the purpose.

### **3.04 Whistleblowing and Retaliation**

Elected and appointed officials may give information about possible wrongdoing by another employee or City official to their attorney, the City Attorney, Mayor, or if appropriate, a law enforcement agency. Except in cases where a statute or civil law sets forth a longer maximum prescriptive period, reports of wrongdoing must be reported within three (3) years of the last incident. The City shall not retaliate against an employee because that employee discloses information concerning possible wrongdoing by another employee or City official.

### **3.05 City Property**

The City does not permit:

- Unauthorized or inappropriate use of City property for personal purposes, including the use of vehicles, offices, telephones, cellular phones, radios, computers, photocopiers, and other office and communications equipment;
- Unauthorized possession, removal or sale of City property or the property of a City official or employee;
- Unauthorized use, lending, borrowing or duplication of any key providing access to City property and equipment;
- Unauthorized entry to City property, including entry outside of assigned work hours or entry into areas where an official, employee or the public is not permitted to be without authorization; or
- Unauthorized removal of notices or signs from City property, equipment or bulletin boards.

### **3.06 Possession of Weapons**

No City official or employee may possess a weapon or ammunition while on duty, on City property, at a City job site, or within a City vehicle. This policy does not apply to City Police Officers or Law Enforcement Standards Board certified law enforcement officers.

### **3.07 Smoking/Vaping**

State law and City policy prohibit smoking on City property, and in City buildings and vehicles. Smoking is defined as carrying a lighted cigar, cigarette or pipe or the use of smokeless tobacco. In addition, the City prohibits vaping, which is the use of electronic nicotine delivery systems or electronic smoking devices (e.g., e-cigarettes, e-pipes, e-hookahs, and e-cigars) on City property or in City's buildings and vehicles. All above will be allowed at designated areas approved by the City Administrator.

### **3.08 Personal Appearance**

City employees should be groomed and dressed in a manner suitable for the workplace and that reflects well on the City as an employer. Department Heads will discuss personal appearance with employees if it is felt appearance is not appropriate.

### **3.09 Absenteeism**

City employees are responsible for reporting to work on time as scheduled. In the event of non-work-related sickness or injury, an employee must contact the employee's supervisor prior to the start of the employee's scheduled shift. With the exception of emergency situations, the employee (not the employee's spouse or another relation) must communicate with the supervisor directly.

Absences from scheduled work may be cause for disciplinary action.

The City may request that an employee provide medical or other documentation verifying the reasonableness of any absence.

### **3.10 Safety and Accident Prevention**

The City recognizes the need for safe work practices and workplace safety. While supervisors and Department Heads must lead the City's accident prevention initiatives, safety is everyone's responsibility. City employees must abide by the following rules:

1. Observe safe practices at all times;
2. Promptly report all work-related injuries or illnesses whether the employee is directly involved or a witness, regardless of the situation's severity;
3. Correct and immediately report to the employee's supervisor or Department Head any hazard or potentially unsafe condition;

4. Cooperate with a supervisor or Department Head that is investigating any accident of which an employee has knowledge;
5. Ask the supervisor or Department Head if the employee is not sure of the safe procedure;
6. Keep all work areas clean and free from debris, and tools and equipment in clean and good repair;
7. Ensure that only employees properly trained and qualified may use, adjust, and repair certain machines and equipment;
8. Refrain from operating, modifying, adjusting, or using equipment in an unauthorized manner or for an unauthorized purpose;
9. Use protective equipment as required in designated areas and while using machinery or tools;
10. Refrain from removing guards or other protective devices from machinery and equipment;
11. Request help when lifting or pushing heavy objects;
12. Know the locations, contents and use of first aid and fire-fighting equipment;
13. Attend safety training programs as requested; and
14. Comply with OSHA standards as instructed.

### **3.11 Prohibited Conduct**

The following conduct is prohibited while on City time and may subject an employee to disciplinary action, up to and including termination. The following examples are illustrative of the type of conduct that is prohibited, but this list is not all-inclusive:

1. Filling out another employee's time record or having one's time record filled out by another. Punching in or out another employee's time card or having one's own time card punched in or out by another employee;
2. Unlawful harassment of fellow employees, the public, vendors or anyone else;
3. Physical or verbal abuse of the public including but not limited to, threats, extortion, coercion, derogatory, profane or obscene language, assault, battery or offensive touching;
4. Absence from work for three (3) consecutive workdays without proper notification to the City, unless it was beyond the control of the employee to notify the City;
5. Absence from work due to other employment without authorization from the City;
6. Refusal to work overtime;
7. Inviting or allowing any non-employee to enter into restricted City premises and/or job site at any time without proper authorization;
8. Insubordination, i.e., the refusal to perform duties assigned by the employee's Department Head and/or supervisor, or offensive and abusive attitude toward the employee's Department Head and/or supervisor, or refusal to obey any reasonable order of those in charge of the employee's work;
9. Misusing, destroying or damaging any City property or the property of any employee through reckless or willful conduct, or through carelessness resulting in serious loss;
10. Sleeping while on duty and/or inattention to job duties;
11. Health or safety violations and horseplay that does or could cause serious loss or injury;

12. Falsifying any City reports or records, including patient, employment, absentee, sickness, and production records, or making false statements in connection with City reports or records, or omitting facts or information from an employment application;
13. Fighting or provoking or instigating a fight on the City's premises and/or job site or threatening or intimidating any employee on City property;
14. Removal from City premises and/or job site of City property, records or other materials, or the property of other employees for personal or non-work related use, without proper written authorization;
15. Theft or sabotage or attempted theft or sabotage of any property on the City's premises or being an accessory to the same;
16. Bringing onto City property and/or job site or use, consumption or possession on City property and/or job site of alcoholic beverages, drugs or intoxicants not specifically authorized by the City;
17. Reporting to work under the influence of alcohol or drugs not specifically authorized by the City or medical authority;
18. Any violation of the City's Drug Free Workplace Policy attached as Appendix C;
19. Possessing firearms, explosives, switch blades, or weapons on City premises and/or job site, except for City sworn law enforcement officers or Law Enforcement Standards Board certified law enforcement officers;
20. Disclosing confidential records, materials or information;
21. Making false, vicious or malicious statements about any employee, the City, its services or a citizen or lying to a supervisor or Department Head or lying during a personnel related investigation concerning work related activities;
22. Conduct on City premises and/or job site that violate common decency or morality;
23. Violations of the City's Electronic Communications Policy attached as Appendix B;
24. Violations of law which would have a substantial relationship to the employee's City position;
25. Promotion of organized gambling or money lending schemes;
26. Accepting money, loans, tips or financial remuneration of any kind other than wages;
27. Failure to maintain a valid Commercial Driver's License (CDL) or other required license and/or certificate;
28. Failure to report changes in the driving record, if required;
29. Absence from workstation and/or job site without authorization;
30. Stopping work before quitting time, loitering or leaving the work site during the work shifts without permission or job completion;
31. Failure to obtain permission from the City Administrator before accepting employment in addition to the City job;
32. Unauthorized presence on City premises and/or job site when not on duty or scheduled to work;
33. Failure to follow work instructions or fill out required records and reports;

34. Failure to maintain acceptable standards of personal hygiene;
35. Failure to attend mandatory scheduled in-service and staff meetings, unless excused by the City;
36. Failure to maintain acceptable standards of quality and quantity of work output;
37. Carelessness in performing work or abuse or destruction of property not resulting in serious loss;
38. Neglect of job duties or responsibilities;
39. Neglect, waste or mishandling of machinery, or supplies and/or operating, using or possessing machines, tools or equipment to which the employee has not been assigned;
40. Health and safety violations;
41. Smoking, vaping or tobacco use on work time or in or on City buildings, vehicles or property excluding pre-approved designated areas. Working time shall mean that time when employees are scheduled to be performing work, exclusive of rest breaks and lunch periods;
42. Failure to immediately report accidents or personal injuries in the required manner set up for all employees;
43. Participating in practical jokes, pranks or horseplay likely to have serious results;
44. Contributing to unsanitary conditions or poor housekeeping;
45. Incompatibility or inability to work in harmony with fellow workers;
46. Using profane, obscene or abusive language on the City's premises and/or job site;
47. Selling and buying of lottery tickets, raffles, conducting personal business on City premises and/or job site during working time, without City authorization. Working time shall mean that time when employees are scheduled to be performing work, exclusive of rest breaks and lunch periods;
48. Participating in games of chance or gambling on City property and/or job site during working time, unless authorized by the City Administrator;
49. Unauthorized use of City telephones and/or credit cards;
50. The posting or removal of notices, signs or writing in any form on City bulletin boards or property without approval of the City;
51. Multiple absences and/or tardiness;

### **3.12 Discipline**

Depending on the circumstances involved, discipline may involve a written warning, suspension without pay, demotion, or discharge. The City may determine what level of discipline is most appropriate under the circumstances, including immediate termination.

### **3.13 Grievance Policy**

The City has established this Grievance Policy ("Policy") for employees to utilize for matters concerning discipline, termination, or workplace safety. The City prefers that employees and management interact in a reasonable manner for purposes of resolving employment issues prior to engaging this Policy.

This Policy is intended to comply with § 66.0509, Wis. Stats., and does not apply to sworn law enforcement officers whose wages, hours and terms and conditions of employment are governed by a collective bargaining agreement under

the Municipal Employment Relations Act or by Wis. Stat. § 62.13(5). In addition, employment disputes that are covered by state or federal statutes and administrative enforcement mechanisms are not covered by this Policy.

This Policy does not create a contract of employment. City employees are employed at-will and may resign or may be terminated with or without reason, subject to applicable law.

### **Definitions**

“Termination” means a separation from employment by the City for disciplinary or quality of performance reasons. “Termination” does not include layoff, failure to be recalled from layoff, furlough or reduction in workforce, job transfer, non-disciplinary demotion, reduction or position elimination based on failure to meet qualifications, resignation, voluntary quit, abandonment, retirement, nonrenewal of contract, death, separation as a result of physical or mental inability to perform the essential functions of the job, action taken pursuant to an ordinance created under § 19.59(1m), Wis. Stats., or the end or completion of temporary employment, seasonal employment, contract employment, or assignment.

“Employee discipline” means an employment action which results in disciplinary suspension, without pay, disciplinary termination, or disciplinary demotion. “Employee discipline” does not include oral reprimands or warnings, written reprimands or warnings, performance improvement plans, performance evaluations or reviews, documentation of employee acts or omissions, administrative leave or suspension with pay, non-disciplinary wage, benefit or salary adjustments, changes in assignment, action taken pursuant to an ordinance created under § 19.59(1m), Wis. Stats., or other non-material employment actions.

“Employee” shall not include employees subject to a collective bargaining agreement addressing employee discipline, termination and workplace safety, statutorily appointed individuals identified specifically in statute as serving at the pleasure of an appointing authority, elected officials, independent contractors, and those employees or officials whose employment status is regulated by the charter ordinance or individual contract.

“Workplace safety” shall be narrowly construed and not construed to include basic conditions of employment unrelated to physical health and safety. “Workplace Safety” means conditions of employment related to the physical health and safety of employees, as long as such conditions are not enforceable under state or federal law, and includes safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence and accident risk. “Workplace safety” does not include conditions of employment unrelated to physical health and safety matters, including, but not limited to, hours, overtime, sick, family or medical leave, work schedules, breaks, termination, vacation, performance reviews, and compensation.

### **Process**

1. Written Grievance Submission. The employee must file a Grievance within seven (7) calendar days of the termination, employee discipline or actual or reasonable knowledge of the workplace safety issue. The Grievance must be in writing and must be filed with the City Administrator. The Grievance shall contain:

- a. a clear and concise statement of the relevant facts and dates;
- b. the identities of people with material knowledge;
- c. relevant documentation;
- d. steps taken to informally resolve the dispute and the results of those discussions;
- e. rationale supporting the Grievance; and,
- f. the remedy that should be issued.

A Grievance alleging a workplace safety issue shall also identify the workplace rules allegedly violated, if applicable.

If the grievance involves a library employee, the grievance shall be filed with the Library Director who shall replace the City Administrator for purposes of implementation of this policy. If the grievance involves the City Administrator, the Mayor shall replace the City Administrator for purposes of implementing this Policy.

2. Administrative Response. The City Administrator shall review the grievance and provide Grievant with a written response within fourteen (14) calendar days of receipt of the written Grievance. The written response shall contain a statement of the basis for the decision to sustain or deny the Grievance, and, if denied, the deadline for the Grievant to appeal the Grievance to an Impartial Hearing Officer.
3. Impartial Hearing. The City Administrator's decision shall be final unless the Grievant files a written appeal requesting a hearing before an Impartial Hearing Officer. The written appeal shall be filed with the City Administrator within seven (7) calendar days of receipt of the Administrative Response. The hearing shall take place within a reasonable time, but in no case more than twenty-eight (28) calendar days from the filing of the written appeal. The Impartial Hearing Officer shall file a written decision within fourteen (14) calendar days of the close of the hearing.
4. Appeal for Review. The non-prevailing party may file a written request for review by the Common Council within seven (7) calendar days of receipt of the Impartial Hearing Officer's written response. If the appeal involves an employee of the library, the Library Board shall replace the Common Council for purposes of implementation of this Policy.
5. Decision of the Governmental Body. The Common Council shall issue its written decision on the Grievance within twenty-eight (28) calendar days of receipt of the appeal.
6. Time Deadlines. No grievance shall be advanced if not filed or appealed within the System's time deadlines. The parties may mutually agree to extend any time deadline, which extension shall not be precedential.
7. Meetings/Hearings. Any meeting or hearing held under this policy shall be during off-duty hours unless specifically agreed to by the City.

## **Hearing**

1. Selection of Hearing Officer. Following receipt of the Appeal for Review, the City shall select an Impartial Hearing Officer, who shall not be a City employee.
2. Representation. The Grievant shall have the right to representation during the Grievance Procedure at the Grievant's expense. The representative shall not be a material witness to the dispute.
3. Nature of the Hearing. The Impartial Hearing Examiner will determine the scope of the hearing based upon the nature of the Grievance so as to provide the Grievant with an appropriate level of procedural due process. Thus:
  - a. The hearing may consist of testimony (not under oath) from witnesses with the opportunity for questioning by all parties and the Impartial Hearing Examiner, informal presentation by the City and the Grievant, or submission on paper record. The Impartial Hearing Examiner shall advise the parties of the manner in which the hearing will be held within seven (7) calendar days of appointment;
  - b. The Grievant shall have the burden of proof;
  - c. The hearing shall not be subject to the rules of evidence; however, depending on the nature of the hearing, a material fact may not be supported solely by hearsay evidence;
  - d. The parties are not entitled to discovery; and,
  - e. The Impartial Hearing Examiner may compel witnesses as permitted under §788.06(2), Wis. Stats.
4. Record of Proceedings. The Impartial Hearing Officer shall conduct the proceedings and make a record of the proceedings. Following the issuance of the decision, the record shall be provided to the City Administrator for preservation for a period of at least seven (7) years. The record shall consist of the Grievance, the Administrative Response, a recording (written or audio) of any testimony or statements from the parties and witnesses, and any documents received into the record by the Impartial Hearing Examiner.

5. Hearing Costs. Costs involved in the hearing, including any fees charged by the Impartial Hearing Examiner, shall be borne by the City with the exception that the City is not responsible for any costs incurred by the Grievant for representation or consultation and production of evidence at the Impartial Hearing (including fees to compel witnesses and photocopying expenses).
6. Written Decision. After the close of the hearing, the Impartial Hearing Officer shall issue a written decision. The Impartial Hearing Office shall uphold the Administrative Decision unless the Grievant has proven that the Administrative Decision was arbitrary or capricious, which means an action which is so unreasonable as to be without rational basis.
7. Powers of the Hearing Officer. The Impartial Hearing Officer shall have the power to issue a Written Response to the Grievance as set forth on Paragraph 6. The Impartial Hearing Officer shall have no power to issue any remedy, but the Impartial Hearing Officer may recommend a remedy. Remedial authority shall be subject to the determination and approval of the Common Council, and shall be addressed by the Common Council in the event the Grievance is sustained.

## **Appeal**

1. Written Appeal. The Notice of Appeal shall be in writing and contain a statement explaining the reasons for the appeal and a copy of the Grievance, the City's response to the Grievance, the record of the hearing as defined in paragraph 4(4), above, and the Impartial Hearing Officer's Written Decision. The Notice of Appeal may not include information that was not presented at the hearing. The request shall be filed with the City Administrator and with a copy to the prevailing party.
2. Review. The Common Council shall review the materials submitted under paragraph 5(1) and the Impartial Hearing Officer's decision may be reversed or modified if the decision was:
  1. In excess of the City's statutory authority or jurisdiction;
  2. Based upon improper application or interpretation of City policies or handbook provisions;
  3. Unsupported by relevant evidence to support the conclusion or is otherwise erroneous;
  4. Arbitrary and capricious;
  5. The result of an inappropriate application of the standard of review by the Impartial Hearing Officer; or,
  6. In contravention of public policy considerations.

In the event the Common Council sustains the Grievance, the Common Council shall determine an appropriate remedy for the Grievant.

In the event the Common Council does not sustain the Impartial Hearing Officer's decision, the Common Council may render a new decision and remedy, or request the Impartial Hearing Officer to take further evidence and issue a revised decision and recommendation.

Any review by the Common Council shall be subject to Wisconsin's Open Meetings Law, in particular its review and deliberation shall be in closed session pursuant to § 19.85(1)(a), Wis. Stats. The Common Council vote on the grievance shall be in open session.

3. Decision. All decisions of the Common Council involving the Grievance shall be by simple majority vote of those members present and voting, reduced to writing and filed with the City Administrator within seven (7) calendar days of the date of the final decision. A copy of the final decision shall be delivered to the Grievant. The Common Council's decision is final and is not subject to appeal.

## **ARTICLE 4 HOURS OF WORK AND COMPENSATION**

### **4.01 Hours of Work**

The normal work week for full-time City employees, with the exception of certain Police Department positions, is forty (40) hours during the seven (7) day period beginning 12:01 a.m. each Sunday and ending at midnight the following Saturday. City Hall, Parks and Recreation, Police and Fire Administration will be open from 8:00 AM – 4:30 PM weekly. Utilities and Public Works will work 6:30 AM – 3:00 PM.

Normal hours of operation for City departments and offices may be set and, as necessary, changed by the City Administrator. Work hours, including lunch periods, will be established by Department Heads, with approval of City Administrator, to meet the City's needs.

#### **4.02 Rest Periods**

Employees working an eight-hour day will be afforded a one half-hour unpaid lunch. Said lunch shall be taken near the middle of the employee's work day. Full-time employees will have one 30 minute rest period or two (2) fifteen (15) minute rest periods during an eight (8) hour work day. Rest periods are neither guaranteed nor can they be used as time off at the end of the day or as banked hours. Rest periods should be used to spread rest time equally throughout the work day. One break may be taken during the first four hours of the day, and the other may be taken during the second four hours.

Part-time employees are also allowed one (1) or two (2) rest periods not to exceed fifteen (15) minutes each during the work day depending upon the number of consecutive hours worked. A part-time employee working less than six (6) consecutive hours will be entitled to one rest period. A part-time employee working more than six hours will be entitled to two (2) rest breaks. The first break may be taken during the first four hours of work and the other may be taken remainder of the work day.

Rest periods should generally be taken in the immediate area of work. If employees must leave the immediate work area, the break starts from the moment the employee leaves that work area and the employee must have returned to work area by end of break. Employees are free to leave the immediate area of work for their unpaid lunch.

#### **4.03 Reporting Hours**

Employees shall report hours worked and hours charged to various forms of leave as required by the City, including overtime and compensatory time, vacation, and sick leave. It is an employee's and supervisor's responsibility to accurately report the number of regular hours worked, overtime hours worked, and hours charged to vacation, sick leave, or other forms of leave. Employee's should review their paychecks and time records for errors and shall report any mistakes prior to the next payroll period. All employees will be responsible for the completion of their own time sheets, to be reviewed by the Department Head. Any discrepancies will be brought to the City Administrator for a decision.

#### **4.04 Overtime**

##### **4.04.1 Eligibility**

There may be times when it will be necessary for employees to work overtime. At such times, a supervisor will notify employees as early as possible regarding the City's overtime needs. Employees shall work overtime when requested to do so by the City.

There may be times when an employee believes the employee needs to work overtime to complete City work assigned to the employee. In that case, the overtime must be approved in advance by the employee's supervisor. Overtime should be kept to a minimum and shall be utilized to relieve specific, occasional peaks in workloads or emergencies.

Exempt employees under the Fair Labor Standards Act are not eligible for overtime.

##### **4.04.2 Calculation**

The City will compensate non-exempt employees under the Fair Labor Standards Act one and one-half (1.5) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week. Holidays, vacation,

compensatory time and sick leave shall not be considered time worked in computing overtime. For purposes of calculating overtime, employees will be compensated using increments of thirty (30) minutes. <sup>1</sup>

#### **4.04.3 Saturday/Sunday Work**

Any regular hours approved by the Department Head and worked on Saturday or Sunday shall be compensated at one dollar and fifty cents (\$1.50) per hour above the employee's regular rate of pay. Any regular hours worked on Saturday that result in the employee having worked over forty (40) hours in that week shall be compensated at one and a half (1 ½) the employee's rate of pay and shall not be eligible for the additional one dollar and fifty cents (\$1.50) per hour.

#### **4.04.4 Holidays**

Non-exempt employees who work on a designated holiday shall receive compensation at a rate of one-and-a-half times their regular rate of pay in addition to regular pay for all hours worked during such holiday.

#### **4.05 Call-in Pay**

An employee shall respond to an emergency call out outside of the employee's regularly scheduled hours of employment. Failure to do so may give rise to discipline, up to and including termination.

A non-exempt employee shall receive a minimum of one (1) hours at time and one-half (1-1/2) if the employee is directed to report outside the employee's regularly scheduled work hours or who reports to work as scheduled and is sent home, regardless of the time actually spent at work. In order to qualify for call-in time, the employee is required to report physically to the job site. Call-in time shall not apply to telephone contacts from the public or persons having specific business with the City.

#### **4.06 Compensatory Time**

Non-exempt employees under the Fair Labor Standards Act may receive compensatory time off in lieu of overtime pay. Compensatory time allowance is subject to the following:

- a. An employee may elect to accumulate compensatory time rather than be paid overtime. Compensatory time shall be earned at the rate of one and one-half (1.5) hours for every hour of overtime worked. For example, four hours of overtime work will result in six hours of compensatory time.
- b. An employee who elects to accumulate compensatory time rather than be paid overtime must make an election to designate overtime hours as compensatory time on the employee's weekly time sheet. Once the time sheet is submitted, the designation cannot be changed.
- c. Compensatory time shall not be accumulated beyond eighty (80) hours.
- d. All compensatory time not used or scheduled to be used on or before December 31, shall be carried over to the next calendar year.
- e. Use of compensatory time must be scheduled with the prior approval of the supervising Department Head or designee or, if the Department Head, the City Administrator. Compensatory time may be granted by the supervising Department Head or, if the request is from a Department Head, the City Administrator, as requested by the employee, provided the final determination of the number of employees who may use compensatory time at any given time is vested in the Department Head/City Administrator to ensure the orderly and efficient operation of the City. Failure of the employee to secure prior approval shall constitute leaving the work place without permission and may result in discipline, up to and including termination.

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<sup>1</sup> Revised 1/8/2020

- f. When an employee retires or terminates service with the City, the employee shall be paid for any accrued and unused comp time at the employee’s regular rate of pay at the time of separation, provided the employee provides the required notice of separation set forth in Section 2.14.

Exempt employees under the Fair Labor Standards Act are not eligible for compensatory time. In recognition for time worked necessitated by circumstances above and beyond expectation of the job or for time worked which is unusually more than normal, exempt employees may request time off from the City Administrator. This time off is not intended to be accumulated, paid out or used to supplement vacation or sick leave. Department Heads may request time off from the City Administrator and the City Administrator may request time off from the Mayor.

**4.07 Base Compensation**

The Common Council will annually set the level of base compensation for employees.

**4.08 Pay Period**

A pay period consists of two (2) 40-hour weeks, or 80 hours. Paydays shall be every other Wednesday totaling 26 paydays (and pay periods) in a calendar year. Employees are paid on the first Wednesday following the immediately preceding pay period. If the payday falls on a holiday, the employees shall receive the paychecks on the day prior thereto. Paychecks shall provide an itemized statement of rate of pay, overtime, holiday pay, and deductions made.

**4.09 Longevity Pay**

Full-time employees shall receive a minimum longevity pay at the rate of:

<u>After X Years Employment</u>	<u>Additional Pay Per Month</u>
3	\$20.00
5	\$25.00
8	\$27.00
10	\$30.00
13	\$32.00
15	\$35.00
18	\$37.00
20	\$40.00

Longevity pay will be paid annually on November 15<sup>th</sup>. The longevity pay may be increased on an annual basis by the Finance Committee during the budget process and approved by the Common Council.

**4.10 Inclement Weather**

The City Administrator will determine whether weather or other conditions may cause interruption of the normal work schedule. In the event that the City Administrator determines that employees should be sent home or not report to work, those employees will not be paid, but may use accrued vacation, personal holiday or compensatory time or make up the lost hours during the balance of the work week if permitted by the City Administrator.

An employee who chooses to leave work with the Department Head’s permission because of weather or other conditions in situations where the City Administrator has not directed the cessation of work for other employees may use accrued vacation, personal holiday or compensatory time or make up the lost hours during the balance of the work week if permitted by the Department Head.

**4.11 Deferred Compensation**

The City participates in a deferred compensation plan and employees may elect to participate in that Plan. A portion of an employee's gross income, up to a limit set by the Plan, will be deducted each pay period for employees who choose to participate.

#### **4.12 Travel Expenses**

City officials and employees authorized to travel outside the City on official business may claim reimbursement for reasonable expenses actually incurred, except for tips or gratuities. Expenses incurred by spouses or other family members traveling with an official or employee will not be reimbursed.

Receipts are required to accompany all claims for reimbursement.

Travel advances may be requested if a convention, conference or meeting is scheduled to last at least three (3) days. To minimize travel advances, officials and employees may request either prepayment by or direct billing to the City of major expenses such as air travel, lodging, registration fees or tuition costs.

If anticipated expenses cannot be prepaid or billed to the City, the **City Clerk/Treasurer** may be asked to provide a cash travel advance. Advances normally will not be issued earlier than five (5) business days before the date of departure or exceed fifty percent (50%) of the total anticipated expenses. A travel advance does not exempt an individual from keeping accurate records of reimbursable expenses and submitting a detailed claim after completion of travel. Each claim must show all expenses incurred, the amount of travel advance received, and the additional amount claimed from the City.

For travel by City officials and employees:

- A City-owned vehicle may be used for official travel.
- Mileage incurred when using personal vehicles will be reimbursed at the current Internal Revenue Service reimbursement rate. If two (2) or more individuals travel in one (1) vehicle, only the vehicle's owner will be entitled to claim mileage.
- It is expected that, when more than one employee from the same department are attending the same training or conference, all said employees shall carpool in one vehicle whenever reasonably practicable.
- When rental of a car becomes necessary, only the usual and customary costs of renting a compact or subcompact model will be reimbursed, unless non-availability of a car in either class can be documented. Discounts or special rates are often available if proof of employment by a unit of government is presented to the rental agent.
- Air travel will be reimbursed on the basis of the fare actually paid; or, if the individual selects business or first class, the lowest coach class fare available at the time travel arrangements were made. Flight insurance is not a reimbursable expense.
- Lodging should be at or reasonably near the place an individual conducts business or attends a conference so additional transportation costs are not incurred. If lodging is available at a conference site, the employee may first seek to obtain lodging there. When conference site lodging is not available or the business travel does not involve a conference, consideration should be given to hotels and motels offering government rates to public officials and employees. Maximum allowances for lodging, based on single and double occupancy, are set and periodically revised by the Common Council.
- The City will not reimburse lodging associated with attending meetings of one (1) day's duration and conducted within seventy-five (75) miles (one way) of the City unless authorized by the City Administrator.
- Meal expenses will be reimbursed, along with state taxes, and local taxes. Receipts are required for reimbursement of all meals. The maximum rates of reimbursement for meals is set and periodically revised by the Common Council.

- An individual leaving home in the morning and returning the same evening may request reimbursement for a morning meal if departure occurs before 6:30 a.m. and reimbursement for an evening meal if returning home after 6:30 p.m. Additional reimbursement for meal expense while traveling is available upon prior approval of the employee's supervisor.
- If a meal is scheduled as part of an instructional program, conference, convention or professional meeting, and individuals attending are charged an amount exceeding the maximum rate set by the Common Council, the higher amount will be reimbursed if the actual cost is documented.

#### **4.13 Clothing Allowance**

Clothing allowances, if any, will be paid as approved by the Common Council.

### **ARTICLE 5 BENEFITS**

#### **5.01 Eligibility**

No employee, hired after July 1, 2011, who works less than twelve hundred (1200) hours in a rolling twelve-month period shall be eligible to be enrolled in any of the benefits described in this section. Any employee of the City, who is hired prior to July 1, 2011 and works more than six hundred (600) hours in a rolling twelve-month period, shall be eligible to be enrolled in any of the benefits described in this section.

Eligibility for benefits is subject to the terms of this Handbook and the respective Plans.

#### **5.02 Group Health Insurance**

##### **5.02.1 Coverage**

The City may provide health insurance to all eligible full-time employees through a carrier and with a design that it deems appropriate. The City shall annually determine the amount it will pay of the total monthly premium costs and deductibles for single or family health plan coverage as selected by the employee or elected official, and the amount that the employee or elected official shall pay.

##### **5.02.2 Insurance Continuation**

Group insurance coverage for an employee and their eligible dependents may end because of a qualifying event, for example employment termination, a change in employment status, divorce or legal separation, or a child's loss of dependent child status. Employees and their eligible dependents who sustain a qualifying event shall be entitled to continue participation in the City's health and dental insurance plans for a period of time by paying the full monthly premiums in accordance with the Federal Comprehensive Budget Reconciliation Act (COBRA) or Wisconsin law. If a retiree with family coverage in place at the time the employee is no longer eligible for the group plan as outlined above, COBRA coverage shall be offered to the covered spouse and/or dependents.

An employee and their qualified dependents who meet continuation eligibility requirements and sustain a qualifying event must notify the City in writing. The City will continue its premium contribution(s) for the month in which the qualifying event occurs. For continuation of coverage thereafter, the employee and/or his or her qualified dependents are responsible for full payment of monthly premium(s).

##### **5.02.3 Opt Out Payment**

Any City employee shall receive three-thousand (\$3,000) dollars if they are eligible for the City's health insurance plan but elect not to participate in said plan. Said payment shall, be paid in equal monthly installments on each paycheck of the employee.

In the event two City employees are married or otherwise eligible for the same family coverage plan, said employees shall only be entitled to one family health insurance contract between them from the City.

For purposes of Section 5.02.3, “participate” is defined as taking the City health insurance plan either as the enrollee or a dependent.

### **5.03 Wisconsin Retirement System**

The City participates in the Wisconsin Retirement System pursuant to §40.05, Wis. Stats., and the City and employee premium contributions shall be pursuant to State law. Employee eligibility is determined by WRS standards.

**5.04 Dental Insurance** The City may offer a dental insurance plan for employees, which the employees may elect to join at their own expense.

### **5.05 Life Insurance**

All eligible employees, as defined in section 5.01, shall receive group term life insurance coverage as set forth herein. The City shall provide one unit (Basic Plan) of group term life insurance coverage for each employee as a participating local government employer in the Wisconsin Public Employers’ Group (WPEG) Life Insurance Program and pay the full amount of the premium due for such coverage. An employee may elect Supplemental, Additional, and/or Spouse & Dependent coverage under the plan also, and any additional premium for such shall be paid by the employee via payroll deduction.

### **5.06 Income Continuation Insurance**

All eligible employees, as defined in section 5.01, shall receive income continuation insurance. City shall pay the premium for coverage containing a 180 day waiting period. Any employee who wishes to purchase coverage containing a shorter waiting period may do so, but shall pay 100% of that premium.

### **5.07 Social Security**

Social Security contributions are deducted from employees or elected officials pay. The maximum amount of earnings against which the Social Security tax is levied is set by the Congress and usually increases each year. The City matches the amount contributed by each employee or elected official.

### **5.08 Worker’s Compensation**

All elected officials and employees are covered by the Wisconsin Worker's Compensation Act. The Act provides benefits if a worker, while performing work-related duties or travel, becomes temporarily or permanently disabled, or dies as the result of a work-related injury or disease.

An elected official or employee injured or likely to be disabled as the result of a work-related injury or disease should notify the City Administrator as soon as possible. The City Administrator will initiate the administrative actions required by the State of Wisconsin.

### **5.09 Unemployment Compensation**

The City is a participant in the Unemployment Compensation Act Policy of the State of Wisconsin.

### **5.11 Internal Revenue Service Section 125 Plan**

The City has established an IRS Section 125 Plan which permits employees to deduct from their wages on a pre-tax basis amounts to be used to pay qualified health insurance premium costs, medical expenses and dependent care expenses according to the terms and conditions specified by the plan.

## **ARTICLE 6 LEAVES AND ABSENCES**

## **6.01 Holidays**

Full-time employees shall be entitled to the following holidays off with pay:

- New Year's Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving
- December 24
- December 25
- New Year's Eve
- Two (2) floating holidays.

Part-time employees are not entitled to holiday pay, unless approved by Finance Committee per Chapter 2.06(2) of the Municipal Code.

Employees must give notice to their supervisor one week in advance of the day selected to be used as the floating holiday. Floating holidays can only be taken as a full day. Floating holidays must be taken prior to the end of the year and cannot be carried over into the following year. Floating holidays will be prorated for employees commencing employment during the calendar year.

Employees shall receive holiday pay based upon the employee's regular hours at their regular rate of pay.

When a holiday falls on a Saturday, the preceding Friday shall be designated as the holiday. When a holiday falls on a Sunday, the following Monday shall be designated as the holiday.

Employees on unpaid leave of absence or Worker's Compensation leave are not eligible for holiday pay.

In order to be eligible for holiday pay, an employee must be in pay status the work day before and after the holiday unless the employee is able to justify the absence to the City Administrator. "In pay status" includes extended sick leave, paid vacation, and compensatory time.

## **6.02 Vacation**

### **6.02.1 Accrual**

Full-time employees earn vacation from their date of hire and may take vacation, with full pay and benefits, after completing one month of service. The amount of vacation to which full-time employees are currently entitled is based on years of service:

- After completion of one full year of service – One (1) vacation week
- After completion of two (2) years of service through completion of the sixth (6th) year of service – Two (2) vacation weeks per year
- After completion of seventh (7th) year of service through completion of the eleventh (11th) year of service – Three (3) vacation weeks per year
- After completion of twelfth (12th) year of service through completion of the fourteenth (14th) year of service – Three-and-one-half (3 ½) vacation weeks per year
- After completion of fifteenth (15th) year of service through completion of the nineteen (19th) year of service – Four (4) vacation weeks per year
- After completion of twentieth (20th) year of service – Five (5) vacation weeks per year

Part-time employees are not entitled to vacation, unless approved by Finance Committee per Chapter 2.06(2) of the Municipal Code.

Vacation pay shall be based upon the employee's rate of pay at the time the vacation is taken.

Employees earn vacation as of their anniversary date as set forth above. On January 1 of each year, employees will be credited with the amount of vacation that the employees will earn that year and may schedule and take that vacation during the year. If an employee separates from employment and has taken vacation prior to the employee's anniversary date, the employee must repay the amount of vacation taken but not earned, either through a deduction from the employee's last paycheck or by a payment arrangement agreed to by the City.

An employee does not earn vacation while on unpaid or Worker's Compensation leave.

#### **6.02.2 Use**

All vacations shall be scheduled at least two (2) weeks in advance with the approval of the employee's immediate supervisor. The City Administrator shall file vacation requests with the Mayor. The selection of vacation time shall be by seniority. Department heads shall have the authority to limit the number of employees, in their respective department, taking vacation at one time.

Employees shall be permitted to carry over forty (40) hours of vacation into the following calendar year, and any unused vacation from the previous year that is carried over must be used within six (6) months of said vacation being carried over or it shall be considered forfeited. There shall be no compounding under this provision. Carryover of vacation hours beyond forty (40) hours may be permitted but only with the written approval from the Personnel Committee, following a written request by the Department Head on behalf of the employee.

Any employee using vacation benefits for less than a full day shall be charged proportionately in amounts not smaller than one-half (1/2) hour for each period of absence.

#### **6.02.3 Payout Upon Separation from Employment**

When an employee retires or terminates service with the City, the employee shall be paid for any accrued and unused vacation at the employee's regular rate of pay at the time of separation, provided the employee provides the required notice of separation set forth in Section 2.14.

Upon the death of an employee, the above benefit shall be paid to the estate or the designee.

### **6.03 Sick Leave**

#### **6.03.1 Accrual**

Full-time City employees earn sick leave from the day they begin work at the rate of one (1) day of sick leave for each month of continuous service. Sick leave accumulation shall be capped at one hundred twenty-five (125) days.

Part-time employees are not entitled to sick leave, unless approved by Finance Committee per Chapter 2.06(2) of the Municipal Code.

Employees on an unpaid or Worker's Compensation leave shall not earn sick leave.

Sick leave shall be paid at the current rate of pay for the employee at the time of use.

#### **6.03.2 Use**

Sick leave cannot be used until earned.

Sick leave credits are primarily intended for use when an employee sees a doctor, dentist, optician or other health care provider or misses work due to illness, injury, or following exposure to a contagious disease. Sick leave credits can also be used for such appointments and work missed due to the illnesses and doctor appointments of an employee's child, spouse, or parent.

Sick leave may also be used for absences related to a death to a spouse, child, or parent.

Employees should make every attempt to schedule medical, optical, and dental appointments outside of normal working hours. However, if this is not possible and they must be scheduled during the normal work day, every attempt will be made to schedule the appointment near the beginning or end of the normal work day or near the lunch hour. Any employee claiming sick leave benefits for less than a full day shall be charged proportionately in amounts not smaller than one-half (1/2) hour for each period of absence.

An employee must promptly inform the employee's supervisor that the employee is going to miss work and use sick leave. In the event that the employee is aware in advance that sick leave benefits will be needed or due, it shall be the duty of the employee to notify his immediate supervisor as far in advance as possible, in writing, of the anticipated time and duration of such sick leave and the reason for requesting such sick leave.

Sick leave may not be used when an employee does not have a qualifying use, for example, when employee is on vacation.

The City may request medical documentation supporting the use of sick leave. If the employee uses sick leave for three (3) consecutive work days due to employee illness or injury, the employee shall provide documentation from a treating medical provider substantiating the illness or injury.

Abuse of sick leave is subject to discipline up to and including termination.

### **6.03.3 Sick Leave Conversion**

When an employee retires, is terminated, or leaves the service of the City, seventy-five (75) percent of accumulated sick leave will be paid out. Upon the death of an employee, the above benefit shall be paid to the estate or the designee.

### **6.04 Funeral Leave**

Full-time employees are entitled to three (3) days of paid leave in the event of a death in the immediate family member "Immediate family" shall include the employee's spouse, domestic partner, children, step-child, parents, step-parents, brothers, sisters, mother-in-law, father-in-law, brothers-in-law, sisters-in-law, grandparents, grandchildren, son-in-law, daughter-in-law, step-brother, step-sister, step-grandchildren, or step-grandparents.

Full-time employees are entitled to one (1) working day with pay for the purpose of attending the funeral of the employee's or the employee's spouse's aunt, uncle, niece, nephew, first cousin, or grandparent-in-law. To be eligible for such leave, the employee must attend the funeral.

Employees desiring funeral leave shall, upon knowledge of an eligible death, promptly make application to the immediate supervisor so that work schedules can be appropriately adjusted.

### **6.05 Military Leave**

The City complies with all federal and state laws regarding the rights of employees and elected officials who enter active duty.

The City shall provide limited differential pay to certain employees ordered to service in the United States Armed Forces or National Guard. Full-time employees who have been employed at least three (3) months are eligible for such pay. Individuals employed on a temporary, emergency, and/or limited term basis, are not eligible for differential pay. If the pay received by the eligible employee for the military service is less than the pay the employee would have received from the City during such period, the City shall pay the difference to the employee. Differential pay shall be paid for no more than two weeks of service time per calendar year.

### **6.06 Unpaid Personal Leave**

The City, in its sole discretion, may grant a regular full-time or part-time employee a leave of absence without pay upon a written request outlining the basis for such leave.

Unless specified by law, all unpaid leave for medical reasons shall be granted only after all available accrued sick leave, paid vacation and/or other compensatory time have been utilized. Any leave provided by this policy shall run concurrently with leave provided under the Wisconsin and Federal Family and Medical Leave Acts.

An employee will be required to submit evidence supporting a request for leave provided under this policy to the City Administrator. Upon completion of leave for medical reasons, a certificate from a health care provider may be required to demonstrate that the employee is fit to return to work without physical limitations that prevent the employee from performing the essential functions of the employee's job. The City may require that an employee undergo an appropriate examination to determine fitness to return to work. If the examination cannot be provided under the current group health care plan, the City will assume the cost.

Except as provided by the Wisconsin Family and Medical Leave Act, Section 103.10(3) Wisconsin Statute or the Federal Family and Medical Leave Act, an employee granted medical leave may continue to receive health insurance coverage under the City's existing plan by submitting to the City Clerk/Treasurer, not later than the first day of each month, payment equal to the employee's total monthly premium contribution.

Holidays and other non-work days occurring during an unpaid leave of absence will be considered part of the approved period of absence and the employee will not be entitled to compensation for holidays during the period.

An employee on an unpaid leave of absence will not earn vacation or sick leave credits during the period of absence.

With the appropriate Department Head's approval, an employee may return to work before the time set for an unpaid leave of absence expires.

#### **6.07 Maternity/Paternity/Adoptive Leave**

Maternity, paternity, adoptive and pre-adoptive foster care leaves up to six (6) months shall be granted to eligible employees who submit a written notice to the Department Head at least thirty (30) days prior to the anticipated departure date. The department head shall forward the notice to the City Administrator. All periods of leave related to maternity, paternity, adoptive and pre-adoptive foster leave shall be leave of absence without pay. Employees may use earned sick leave, vacation and/or holiday time, and anticipated vacation leave subject to Wisconsin Administrative Code E.R. 18.02 (6). Employees need not exhaust all reimbursable leave provided the original written notice for leave reserves such leave time. Employees on a maternity, paternity, adoptive and pre-adoptive foster leave of absence shall continue to participate in the group insurance.

All such leave requests will be processed and granted on the same basis as other medical leaves of absence and will be consistent with all statutory requirements. City-provided maternity leave will run concurrently with Family and Medical Leave Act leave.

#### **6.08 Jury Duty and Court Appearances**

If an employee is summoned for jury duty, the employee shall notify the appropriate Department Head and the Department Head will arrange for the employee's absence. An employee will receive the employee's regular pay for the period served as a juror. The employee shall sign over the check the employee receives as jury compensation to the City Clerk/Treasurer upon receipt. If mileage pay is included with the check received from the court system for jury duty compensation, reimbursement for mileage can be requested by submitting an expense report to the City Clerk/Treasurer.

Employees on call for jury duty, but not actually impaneled as jurors, are expected to report for work as City employees.

An employee making a court appearance in conjunction with duties performed as a City employee will be paid for his or her time. The employee shall sign over the check the employee receives for the court appearance to the City

Clerk/Treasurer upon receipt. Expenses for meals, mileage, parking, etc. shall be submitted on an expense report to the City Clerk/Treasurer for reimbursement.

An employee making a court appearance in matters unrelated to the employee's duties as a City employee, including appearance as an expert witness, will be expected to use vacation or compensatory time or request an unpaid leave of absence for the purpose, but may retain any fees and expenses received for such appearance.

Employees summoned to appear in court as a result of charges related to official or personal misconduct on their part will be required to use vacation, compensatory time, or request an unpaid leave of absence for the purpose.

**Acknowledgement**

I acknowledge that I have received a copy of this Handbook and have been advised to review its contents. I understand that I can ask my Department Head or the City Administrator about any questions I have about any of the provisions in the Handbook.

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

## APPENDIX A: FMLA POLICY

The City will comply with all applicable state and federal laws concerning family and medical leave (collectively referred to as “FMLA”). This policy describes the state and federal FMLA laws and addresses certain differences between the two laws. When both laws apply, the leaves under state and federal law will run concurrently and the provisions more beneficial to the employee will apply. Medical leaves that qualify under the FMLA will also run concurrently with leaves under worker's compensation, short term disability and other laws, as applicable and as allowed by law.

To qualify for federal FMLA leave, employees must be employed by the City for a total of at least twelve (12) months and have at least 1,250 actual hours worked in the preceding 12-month period. To qualify for Wisconsin FMLA (“WFMLA”), employees must have been employed for more than 52 consecutive weeks and have worked or been paid at least 1,000 hours in the preceding 52 weeks.

Employees on FMLA leave may not engage in any other employment that is inconsistent with the reason for the employee's FMLA leave.

The City will not use the taking of FMLA leave in compliance with the law as a basis for any adverse employment decision. Employees should direct any questions regarding FMLA leave to the City Clerk/Treasurer.

### **GENERAL LEAVE RIGHTS**

Federal FMLA. Under the federal FMLA, eligible employees are allowed up to 12 work weeks of unpaid leave per 12-month period for the following reasons (see also Military family leave below):

- The employee’s own serious health condition that makes the employee unable to perform the functions of his or her position
- To care for the employee's spouse, child, or parent with a serious health condition
- For the birth of the employee's child, or placement of a child for adoption or foster care with the employee
- For incapacity due to pregnancy, prenatal medical care, or child birth

Wisconsin FMLA. The Wisconsin FMLA permits eligible employees to take unpaid leave for the following reasons:

- 2 weeks for the employee's own serious health condition
- 2 weeks to care for the employee's spouse, child, domestic partner, parent, or parent of a spouse or domestic partner with a serious health condition
- 6 weeks to care for the employee's child after birth or adoption.

The City will calculate the federal FMLA 12-month period on a calendar year basis. Under federal FMLA, leave for birth, adoption, or foster care placement must be concluded within 12 months of the birth or placement for adoption or foster care. If both parents work for the City, the employees will share one 12 week leave for the birth or placement of a child.

The Wisconsin FMLA entitlement will run on a calendar year basis. Any leave for the birth or adoption of a child taken under WFMLA must start within 16 weeks of the birth or adoption of the child.

Military Family Leave. The federal FMLA provides for military family leave. Several provisions of this FMLA policy (including employee notice provisions and certification requirements) apply to military family leave as well.

There are two types of military family leave:

Qualifying Exigency Leave. Eligible employees with a spouse, son, daughter, or parent on covered active duty or called to covered active duty status may use their 12-week FMLA entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare or parental

care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The 12 weeks of leave afforded for a qualifying exigency is not in addition to the general 12 weeks afforded under the federal FMLA. An employee is entitled to no more than 12 total weeks of leave for any combination of personal, family or qualifying exigency military FMLA.

*Service member Care Leave.* Eligible employees may take up to 26 weeks of leave during a single 12-month period to care for an ill or injured service member who is the employee's spouse, parent, child, or "next of kin" who is a covered service member. A covered service member is a current member of the Armed Forces (including National Guard or Reserves) or a covered veteran who is undergoing medical treatment, recuperation, or therapy (or, for current members, is otherwise in outpatient status or on the temporary disability retired list) for a serious injury or illness. In the case of a current member, a "serious injury or illness" means an injury or illness that was incurred in the line of duty on active duty in the Armed forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty and that may render the service member medically unfit to perform his or her duties. In the case of a covered veteran, a "serious injury or illness" is the same as for a current member except that it must also meet any one of the following requirements: it must be (1) an injury that forms the basis for the veteran's enrollment in the VA's program of Comprehensive Assistance for Family Caregivers, (2) a physical or mental condition that substantially impairs the veteran's ability to work because of disability or disabilities related to military service, or would do so absent treatment, (3) a physical or mental condition for which the veteran has received a VASRD of 50 percent or greater, and the need for military caregiver leave is related to that condition; or (4) a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating. The 26 weeks of leave afforded for service member care is not in addition to the general 12 weeks afforded under the federal FMLA.

*Married Employees.* Married employees who both work for the City are limited to no more than an aggregate of 26 weeks of leave between them for military family leave.

#### ***DEFINITIONS OF "CHILD" AND "PARENT"***

Under both state and federal FMLA laws, "child" means a biological, adopted or foster child, step child, or legal ward. Under federal FMLA law, "child" also includes a child for whom the employee provides day-to-day care and financial support. Under both state and federal FMLA laws, a "child" must either be under age 18, or be 18 years or older and unable to care for him/herself because of a mental or physical disability (federal FMLA) or serious health condition (Wisconsin FMLA). Under both state and federal laws, "parent" means biological parent, foster parent, adoptive parent, or step parent. Under federal FMLA law, "parent" includes an individual who was responsible for the day-to-day care and financial support of the employee when the employee was a child, but does not include parents of an employee's spouse or domestic partner. Under state FMLA law, "parent" includes parents of an employee's spouse or domestic partner.

#### ***SERIOUS HEALTH CONDITION***

A serious health condition is an injury, illness, impairment or physical or mental condition that involves:

- Inpatient care in a medical care facility; or
- Continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents a qualified family member from participating in school or other daily activities. Continuing treatment by a health care provider includes:
  - (1) A period of incapacity of more than three (3) consecutive full calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen or continuing treatment under the supervision of a health care provider (time limits apply to health care provider visits) (Under the Wisconsin FMLA, the requirement for more than three (3) consecutive calendar days of incapacity does not apply.);
  - (2) Any period of incapacity due to pregnancy or prenatal care;
  - (3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;

- (4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
- (5) Any period of absence to receive multiple treatments by a health care provider or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

### ***NOTIFICATION AND CERTIFICATION***

Whenever possible, employees must give at least 30 days' written notice of the need for FMLA leave. When 30 days' notice is not possible, employees are expected to give as much written notice as is practical. Please see Human Resources for FMLA request forms. Normal call-in procedures must also be followed for all FMLA absences.

When requesting FMLA, employees must give sufficient information to allow the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must also inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified.

The City may require an employee requesting FMLA leave to provide medical certification for the leave. Employees will have 15 days in which to provide the completed certification, except in extenuating circumstances. If an employee fails to provide adequate certification in a timely manner, the employee's leave request or continuation of leave may be delayed or denied altogether. The City may directly contact the employee's health care provider for authentication or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The City may also require clarification of an incomplete or insufficient certification. Before the City makes direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification as required by law.

The City may require a second medical opinion at its expense regarding a serious health condition from a health care provider of its choice. If the first two opinions differ, the City may obtain a third opinion at its expense from a mutually agreed upon health care provider. The third opinion shall be binding on the parties. The City may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion. Recertification and periodic reports regarding the employee's status and intent to return to work may also be required as allowed by law.

The City will inform employees who have requested leave whether they are eligible for leave, specify any additional information needed, and inform the employee of his/her rights and responsibilities. If the employee is not eligible for leave, the City will provide a reason for the ineligibility. The City will also inform eligible employees whether requested leave will or will not be designated as FMLA leave and the amount of leave that will be counted against the employee's leave entitlement.

Recertification. The City may request recertification for the serious health condition of the employee or the employee's family member as allowed by law. In seeking recertification, the City may provide the employee's health care provider with the employee's attendance records and to confirm whether the employee's absences are consistent with the employee's serious health condition.

### ***INTERMITTENT LEAVE***

An employee may take any leave covered by WFMLA as intermittent leave, provided the employee provides notice as required by the law. The last increment of intermittent leave for the birth or adoption of a child under WFMLA must begin within 16 weeks after the birth or placement for adoption of the child.

For leaves covered only by federal FMLA, an employee may take "intermittent" or "reduced schedule" leave, if medically necessary, for the employee's own serious health condition to care for a spouse, parent, son, or daughter with a serious health condition, and to care for a covered service member with a serious injury or illness. Employees

must make reasonable efforts to schedule leave for planned medical treatment so as to not unduly disrupt the City's operations. To the extent an employee has control, medical appointments and treatments related to a serious health condition should be scheduled outside of working hours or at such times that allow for a minimal amount of time away from work. For medically necessary intermittent or reduced schedule leave that is foreseeable based on planned medical treatment for the employee, a family member, or a covered service member, the City may temporarily transfer an employee taking such leave to a position with equivalent pay and benefits if the new position better accommodates the leave. Military leave due to qualifying exigencies may also be taken on an intermittent basis. Employees may not take intermittent FMLA leave for the birth, adoption, or foster placement of a child during the federal-only portion of their FMLA leave.

### ***SUBSTITUTING PAID TIME OFF***

#### Use of Paid Leave.

FMLA leave is unpaid leave. However, employees have the right or employers may require in certain cases, that the employee use accrued paid leave during FMLA leave. During any portion of leave covered by the WFMLA, the employee may elect to or not to use paid leave. When paid benefits are substituted for the otherwise unpaid time, the employee is using the benefits concurrently with FMLA leave, and those benefits will not be available to the employee later. When paid benefits are substituted, the employee may be required to satisfy any procedural requirements of the City's paid leave policy (for example, advance notice to use paid leave, use of paid leave in established increments, etc.). If an employee does not meet qualifications to use paid leave, that will not affect the employee's ability to use FMLA leave if the leave qualifies as FMLA leave.

During any portion of leave that is covered by the federal FMLA only, the City may restrict the use of paid time as allowed by law.

In cases where substitution of a paid benefit is not possible, the employee will generally receive reduced compensation consistent with the number of hours the person actually works.

### ***BENEFITS DURING LEAVE***

An employee's coverage under group health plans (i.e., group health and dental coverage) will be maintained during the period of an FMLA leave as required by the Wisconsin and federal FMLA laws and in accordance with the applicable terms of the plans.

Employees who normally pay a portion of the premium for insurance coverage must continue to do so during the period of FMLA leave. If paid leave is substituted for unpaid leave, the employee's portion of the premium will be deducted from the employee's paycheck. For those employees on unpaid leave, payment arrangements must be made prior to the start of the leave, or as soon as practicable. Premium payments must be received by the 30th of each month. A 30-day grace period will apply to premium payments. If payment is not made, the employee's group health/dental insurance may be terminated retroactive to the date coverage was last paid for. The City will provide 15 days' notification prior to the employee's loss of coverage.

If the City maintains an employee's insurance during an FMLA leave, and the employee does not return from FMLA leave, under certain circumstances the City will have the right to recover the total cost of the insurance premiums paid during the employee's leave, as allowed by law.

#### Benefit Accruals.

If an employee substitutes accrued paid leave for unpaid FMLA leave in order to remain fully compensated, the employee will continue to accrue paid time off at the rate at which the employee accrued such time prior to leave. If the leave is partially paid, the employee will accrue paid time off at a prorated rate. Once the employee stops receiving pay, the employee will no longer accrue paid time off during an FMLA leave. Use of FMLA will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave. Other benefit accruals may be suspended during the period of the leave and will resume upon return to active employment. Check with Human Resources regarding other benefit continuation provisions.

### Worker's Compensation Absences.

When an employee is absent due to a work-related illness or injury which meets the definition of a serious health condition, the absence will be counted against the employee's allotment of FMLA leave under federal law. In other words, the employee is using federal FMLA leave concurrently with the worker's compensation absence.

### Early Return from Leave.

An employee who wishes to return to work earlier than originally anticipated should provide at least two days' notice of such request. A fitness for duty certification may be required.

### ***RETURNING TO WORK AT THE END OF LEAVE***

Employees who return to work from FMLA leave within the timeframes protected by the FMLA laws will be returned to their former position or, if that position is no longer available, then to an equivalent position with equivalent pay, benefits and other employment terms. If an employee wishes to return to work before his/her leave is to end, and work is available, the employee must notify Human Resources at least 2 days prior to the desired return date. If an employee took FMLA leave for his/her own serious health condition, a fitness for duty certification will be required before the employee may return to work. In such cases, an employee's return will be delayed until such a certification is received.

### ***FAILURE TO RETURN TO WORK AT END OF FMLA-PROTECTED LEAVE***

If an employee fails to return to work after the expiration of an FMLA-protected leave, the employee's rights under state and federal FMLA laws will no longer be in effect and the employee will be subject to immediate termination. If the employee's inability to return to work is due to the continuation, recurrence or onset of the employee's own serious health condition, or of the serious health condition of the employee's spouse, child or parent, the City will consider a request for a further unpaid leave. However, the employee must submit a written request for consideration of a further leave as soon as the employee realizes that he/she will not be able to return at the expiration of the FMLA-protected leave period. The City will consider each such request on a case by case basis. There is no guarantee that a further leave will be granted.

### ***FAILURE TO MEET POLICY REQUIREMENTS***

If the employee fails to meet the requirements of this policy for family or medical leave, the request for leave will be denied until the requirements are met.

### **Extension of Leave**

You may submit requests for additional unpaid extensions of leave to Human Resources. The City reserves the right to accept or deny these requests as well as the right to request a doctor's certificate prior to granting any extension.

### **“Key Employees”**

Certain “key employees” as defined by law may not be eligible for reinstatement to their jobs or equivalent positions following a leave if reinstatement would cause the City hardship.

## APPENDIX B: ELECTRONIC COMMUNICATIONS POLICY

This policy governs the use of the City's computers and information systems ("computer networks") by its employees and elected officials.

### 1. Privacy.

Any use of the City's computer networks by an employee constitutes a waiver of any right to privacy concerning such use. This includes personal communications. The City reserves the right and may exercise the right to review, audit, intercept, and disclose all communications on City networks at any time without prior notice to employees.

### 2. Software.

The City has the exclusive right to install all software used on the City computer networks. The installation of any software on the City's computer networks and workstations during work time or personal time without the City's express approval is prohibited. The City will remove all unauthorized software from its servers or workstations. The City will monitor software use by City employees for licensing purposes and to protect against viruses and unauthorized use of the City servers or workstations by third parties. All software downloaded must be registered to and become City property. Any software or files downloaded via the Internet into the City network becomes City property.

### 3. Data.

All data, whether on a server or on a workstation, is City property. Employees shall not purposefully delete or modify the work product of another City employee or customer without the City's consent.

Some data in the City computer networks is confidential, including, but not limited to, the City's voter records, certain police records, the City's customers' information and the City's electric consumption data of the City's members' retail customers and related analyses. The release of such City data to third parties shall be governed by applicable law and City policies concerning the release of retail customer electric consumption data and related analyses, and the release of data from its data base.

### 4. Security and Remote Access.

The City will provide each employee with a unique password to gain access to the City computer networks. City employees will be responsible for maintaining their passwords. City employees shall change their passwords as directed and notify the City if they believe that unauthorized users have obtained password information to gain access to their user area or the City's networks.

The City shall revoke an employee's password to the City computer networks upon termination of City employment or at any time based on information indicating the employee has engaged in conduct that could disrupt, interfere, or expose the networks to damage or to unauthorized use.

### 5. Monitoring Communications and Software Use.

All communications and data on the City computer networks may be public records subject to disclosure under the state open records law, with certain exceptions. All communications on and uses of the City's networks or applications of any licensed software program installed in a workstation or server during work or personal time may be monitored from time-to-time. City employees should be aware that any such communications and other uses of the networks are not private and that the City reserves the right and may exercise the right to access and disclose all messages on the City's networks at any time with or without prior notice to the employee.

### 6. E-Mail.

The content and maintenance of the City's electronic mail and shared file storage areas are the user's responsibility. Authorized users should follow standard business etiquette in using this medium.

Like all other communications on the City computer networks, City employees should be aware that electronic mail messages sent within the City networks or on the Internet using the City's computer equipment are not private communications and that all e-mail messages are the property of the City. The City reserves the right to access, review, and disclose all e-mail messages. City employees should regard all e-mail messages as non-private communications that may be viewed by others.

Any employee assigned a City-mail address must use that address when receiving or sending any electronic communication dealing with City business.

#### 7. Internet Access.

The Internet provides access to a wide variety of resources that can assist City employees in the performance of their jobs. The City may monitor Internet usage at workstations and remote sites and maintain a record of employee time on the Internet and sites accessed.

The services available on the Internet are provided on a fee basis or free of charge. Each system has its own rules and limitations. City employees must be aware of computer security and privacy concerns associated with the use of various systems on the Internet. Employees must also guard against computer viruses to the degree possible. Finally, employees must be aware of the costs involved in conducting research or communications on the Internet and must not incur charges for Internet usage without the City's express consent.

Only those City employees or officials who are authorized to speak to the media, to analysts or in public gatherings on behalf of the City may communicate representing the City to others using Internet or e-mail facilities. When using City equipment or networks, other employees may participate in newsgroups or other electronic forums in the course of business when relevant to their duties, but they do so as individuals speaking only for themselves. Where an individual participant is identified as a City employee or agent using City equipment or networks, or is acting in the scope of the employee's City duties, the employee must refrain from any unauthorized political advocacy and must refrain from the unauthorized endorsement or appearance of endorsement by the City. Only those employees and City officials who are authorized to speak to the media, to analysts, or in public gatherings on behalf of the City, may grant such authority to newsgroup participants.

Employees shall not reveal confidential City information, customer data, or any other materials covered by existing City confidentiality policies and procedures in internet public forums. Employees releasing protected information via the Internet or e-mail, whether or not the release is inadvertent, may be subject to disciplinary action.

#### 8. Personal Use of Networks and Computers.

Personal use of computers during non-working hours is permitted in order to enhance those skills so long as such use does not interfere with the employee's job responsibilities, the work of other City employees or members, or is used to the benefit of third parties.

At no time, however, shall the City's computer networks, workstations, or laptops be used by employees for non-City business related purposes by an employee or on behalf of a third-party. The City also reserves the right to limit personal use on a case-by-case basis, where more than incidental personal use or abuse becomes apparent to the City.

Personal use of Internet access and e-mail services is permitted during personal time provided that the accessed sites are at no cost to the City and as long as the employee agrees that any messages received or sent may be accessed, reviewed, and disclosed by the City at its discretion. An employee using City equipment on personal time must follow all guidelines set forth in this policy.

Personal time includes breaks, lunchtime, and time outside of established work hours. Employees using the resources to fulfill job responsibilities always shall have a priority over those desiring access for personal use.

All costs associated with personal use of the City's computer networks for printing information must be paid for by the employee. Employees shall reimburse the City for such costs by submitting a Personal Use form to the City Clerk/Treasurer.

The use of storage space on servers for personal data is prohibited. Personal data may be stored on an employee's hard drive at individual workstations provided that space is available.

## 9. Social Networking

The City recognizes that employees may access and use internet or other social media sites.

The City recognizes that there may be legitimate business reasons to access and use social networks for work purposes. If an employee has a legitimate business need to use social networks during working time, the employee should obtain advanced approval from the employee's supervisor. Whether or not such usage is approved by the City, the following standards apply to employees' use of social networks:

- A. The City reserves the right to monitor social network use whether during work time, and outside of work hours if such use negatively impacts the City;
- B. Any social networking performed on City property or using City networks is City property and employees do not have any expectation of privacy with respect to any communications utilizing them. The City reserves the right to access and review such usage at any time;
- C. Employees shall not use social networks to disclose trade secrets and the City's confidential information or engage in unauthorized disclosure of City activities through such usage;
- D. Use of social networks during working time is prohibited except with supervisor approval. Social networks may be used for personal purposes during non-working time (breaks or lunch) and then only in such a fashion as to not impact any employee's performance of City duties and in a manner not prohibited by this policy;
- E. Employees shall not use City's email address for registration on social networking sites;
- F. Employees shall not post false or defamatory information regarding the City or any of its employees on social networks;
- G. Employees shall not use social networking sites in a manner which violates the City's harassment policy or other portions of this Electronic Communications policy;
- H. If an employee participates in social networking activities in such a manner that the employee's affiliation with the City is evident, the employee shall designate that the views expressed by the employee are the employee's private views and not the City's;
- I. An employee shall not represent, either expressly or implicitly, that the employee is a spokesperson for the City, unless authorized to do so by the City;
- K. If an employee expresses an opinion about the City's product or services or those of a City's client, the employee shall disclose that the employee is employed by the City; and
- L. Non-exempt employees may not use social networking sites for approved work-related tasks during non-working hours.

Any violations of these provisions may be grounds for discipline, up to and including termination.

## 10. Prohibited Activities.

City employees shall not interfere with or disrupt the City's computer networks, other networks users, services, programs, software, or equipment. Interference or disruption with the City networks, other network users, services, software, or equipment may include, but are not limited to, the following:

- A. the use of the City system and/or networks to gain unauthorized access to remote systems;
- B. the use of the City system to copy unauthorized system files or copyrighted material, such as third-party software;
- C. intentional attempts to "crash" the City network systems or programs;
- D. attempting to secure unauthorized higher level privileges on the networked systems;
- E. attempting to disable, defeat or circumvent any City firewalls, proxies, Internet address screening programs or other security systems used by the City to assure the safety and security of the City's networks;

- F. the willful or negligent introduction of computer viruses or destructive programs that could adversely affect the City networks;
- G. sharing password and password information with any other person. If a City employee does share the employee's password with another person, the employee shall be solely responsible for the actions that other person has appropriated;
- H. deleting, examining, or modifying files or work product belonging to other users without their prior consent; and,
- I. using the network or any of its authorized software for personal gain or solicitation, to harass or threaten others, to send junk mail or "for-profit" messages.

It is also against City policy for an employee to engage in the following conduct on the City networks:

- A. to access sites or display items that may be regarded as offensive, indecent, or obscene by other employees or visitors. If an employee is unintentionally connected to a site that contains sexually explicit or other offensive material, the employee must disconnect from that site immediately and report the incident to the employee's supervisor;
  - B. to use abusive or obscene language in any messages transmitted on the networks, including any internal or external e-mail messages and Internet communications;
  - C. to engage in behavior on the networks that is prohibited by the City's policy on harassment;
  - D. to engage in any other conduct that could cause congestion and disruption of the City's networks and systems;
  - E. to disseminate political advocacy information;
  - F. to engage in use that interferes with the employee's or another employee's performance of the employee's duties or which otherwise disrupts the City's operations;
  - G. to post commercial notices or other solicitations;
  - H. to engage in use which is illegal, including the violation of copyright, gambling and pornography laws; or
  - I. to engage in unauthorized accessing or attempting to access confidential information, including personnel records, medical records and financial information pertaining to the City or any of its employees.
11. Compliance with Laws.

City employees will be responsible for adhering to local, state, and federal laws in conducting their work on the City's computer networks. Any attempt to break those laws through the use of the networks may result in litigation against the offender by the proper authorities. If such an event should occur, the City will fully cooperate with the appropriate authorities to provide any information necessary to assist the relevant law enforcement authorities during the investigation process.

Copyrighted materials belonging to entities other than the City may not be transmitted by employees on the City's Internet or e-mail system. All employees obtaining access to other companies or individuals' materials must respect all copyrights and license agreements and may not copy, retrieve, modify or forward copyrighted materials, except with permission, or as a single copy for reference only. The City retains the copyright to any material created by employees in the course of their official duties, including materials posted to any forum, newsgroup or World Wide Web page by any employee in the course of the employee's duties.

## APPENDIX C: DRUG FREE WORKPLACE POLICY

### Version 1

#### I. STATEMENT OF POLICY

- A. The City recognizes that the use/and or abuse of alcohol or controlled substances by employees of the City presents a serious threat to the safety and health of the employee, the employee's family, and the general public. It is the City's policy that its employees are free of drugs and alcohol in the workplace, on City time, or while representing the City.

To further this purpose and to come into compliance with the Omnibus Transportation Employee Testing Act of 1991, the City has joined the Drug Free Workplace (DFWP) Network. A drug and alcohol testing program has been implemented:

- To help reduce and avoid accidents and injuries to our employees and the public;
  - To discourage substance abuse; and
  - To reduce absenteeism, health care costs, and other drug and alcohol related problems.
- B. The Department of Transportation (DOT) requires alcohol and controlled substance testing of drivers who are required to have a commercial driver's license ("CDL"). These regulations include detailed procedures for using drug testing and breath alcohol testing of employees in safety-sensitive positions (employees with CDL licenses).
- C. The purpose of this policy is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by employees of the City. Therefore, the City has established the following alcohol misuse prevention program and anti-drug program as well as the subsequent enforcement of violations for its employees conducting safety-sensitive job functions and for all other employees as well.
- D. For the purposes of this policy, the City and the DOT strictly prohibit the use, or residual effects, or presence in one's system of alcohol and/or controlled substances in the workplace by its employees, including those who are regularly or occasionally operating a commercial motor vehicle, including mechanics and supervisors who are required to have a CDL license.

#### II. PROHIBITED CONDUCT

- A. The City prohibits:
1. The use of alcoholic beverages or illegal controlled substances on City property, except at events covered by the appropriate permits or licenses;
  2. Using, possessing, dispensing, distributing, selling, receiving or being under the influence of alcohol and/or illegal controlled substances while on duty, except for sworn law enforcement officers within the scope of their authorized duties. For purposes of this policy, "under the influence" is defined as prohibited substances in one's system as determined positive by a certified laboratory and/or the DOT's alcohol level;
  3. Reporting for work or remaining at work while being under the influence of alcohol and/or illegal controlled substances;
  4. Deliberately misusing this policy in regard to subordinates; or,
  5. Providing false information in connection with a test or falsifying test results through tampering, contamination, adulteration, or substitution.

- B. Federal law prohibits employees whose work duties require a CDL from engaging in the following conduct:
1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater;
  2. Being on duty or operating a commercial motor vehicle while possessing alcohol, or using alcohol while performing safety-sensitive functions;  

Federal Regulations include non-prescription and prescription medications containing alcohol in the substances banned from use or possession in the workplace. Employees should not report for duty while using or possessing prescription medication if such medication contains any measurable amount of alcohol.
  3. Performing safety-sensitive functions within four (4) hours after using alcohol;
  4. Using alcohol within eight (8) hours following an accident, if the employee was required to be tested, unless an earlier test results in a reading of less than 0.02;
  5. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when using any controlled substance, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
  6. Reporting for duty, remaining on duty or performing a safety-sensitive function if the employee tests positive for controlled substances; or
  7. Refusing to submit to any alcohol or drug testing required by this Policy.
- C. "Safety-sensitive function" means any of the following on-duty functions:
1. All time waiting to be dispatched;
  2. All time inspecting, servicing or conditioning any commercial motor vehicle;
  3. All driving time, i.e., all time spent at the driving controls of a commercial motor vehicle in operation;
  4. All time, other than driving time, in or upon any commercial motor vehicle;
  5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; or
  6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### **III. EMPLOYEE ASSISTANCE AND REHABILITATION**

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. The City provides access to drug and alcohol counseling and rehabilitation for all full time employees through programs offered by their various insurance carriers, if the employee chooses to be enrolled in the insurance program. The City will not be responsible for payment of any recommended counseling or rehabilitation other than through its insurance carriers. The City treats drug and alcohol addiction the same as other illnesses and provides for a leave of absence if required by law for treatment of drug-related or alcohol-related illnesses.

The City recognizes drug and alcohol abuse as a potential health and safety problem. Employees are encouraged to seek help in dealing with these problems. Conscientious efforts to seek help will not jeopardize any employee's job. Employees seeking help may work through their Department Head or the City Administrator.

**IV. SCOPE**

1. For the purposes of this Policy, individuals subject to the Policy shall be those City employees who are covered under the City's Workers Compensation Insurance.
2. Prohibited substances are any unlawful controlled substances. A five-panel screen will be used by the City to test for the most common drugs: marijuana, cocaine, opiates (heroin, codeine, morphine, etc.), amphetamines and phencyclidine (PCP).
3. Alcohol will be tested for post-accident and for reasonable cause circumstances. Employees may submit to a Breathalyzer test or be judged solely on the basis of the subjective observations of their Department Head and at least one other witness.

**V. TESTING CIRCUMSTANCES**

TESTING REQUIRED	CDL EMPLOYEES	NON CDL EMPL
A. Pre-Employment	Yes	Yes
B. Reasonable Suspicion	Yes	Yes
C. Post-Accident/Injury	Yes	Yes
D. Random Testing	Yes	No
E. Return to Work	Yes	Yes

Refusal to take a required test will result in removal of that employee from the employee's assignment(s), which, in turn, may result in discipline up to and including discharge.

Testing may be conducted in the following situations:

- A. Pre-employment - Any individual not currently employed by the City may be required to undergo drug and alcohol testing after a conditional offer of employment has been made. A positive test or refusal to undergo the testing will result in disqualification from further consideration for employment.
- B. Reasonable Suspicion Testing - Required when a supervisor or other trained City representative has reasonable cause to believe that the actions, appearance, or conduct of an employee maybe indicative of the use of a controlled substance. These observations are only valid if made immediately before, immediately after, or during working hours. The following applies to reasonable suspicion testing:
  1. Whenever reasonably possible, the supervisor should seek a corroborating opinion from another trained supervisor or manager prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.
  2. As soon as practicable, the employee will be escorted to the collection site for drug and/or alcohol testing. The supervisor will wait at the clinic or law enforcement center with the employee until the breath test has been completed or the urine or blood test has been taken. After the Reasonable Suspicion Determination is made, the alcohol test must be completed within eight (8) hours and the drug test must be conducted within twenty-four (24) hours or the supervisor must complete a report explaining why.
  3. Once the alcohol testing has been completed and a positive test result has been achieved (0.02 percent or above), the employee will not be permitted to drive his/her own vehicle home. The

employee must make alternative transportation arrangements in order to leave the collection site or employment site. The supervisor may, but is neither required nor encouraged to drive the employee home under this policy.

4. If a blood alcohol or urine test has been administered, the employee will be placed on administrative leave without pay pending receipt of the test results. The employee may use accumulated vacation or sick days in place of the administrative leave. In the event of a negative test, the employee will be credited with the amount of vacation or sick days used. Police Officers will be placed on administrative leave with pay pending a hearing. To process these tests usually takes twenty-four (24) to forty-eight (48) hours. The City Administrator (or Mayor in case of the City Administrator) will contact the employee or employer once the results are known.
5. Once the test has been completed and the employee has been sent home, the supervisor must submit a written report to the City Administrator outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be completed within twenty-four (24) hours of the testing. This report will assist the Department Head and the City Administrator in assessing the appropriate discipline to be considered.
6. The test results will be sent directly to the City Administrator. The City Administrator will then meet with the employee's Department Head to determine the appropriate course of action to be taken in accordance with the progressive discipline outlined in this policy. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or discipline action with anyone who does not need to know.

In the event that the employee undergoing the testing is the City Administrator, all reports and test results will be submitted to the Mayor.

- C. Post-Accident/Injury - Employees subject to post-accident testing shall remain readily available for such testing or may be deemed by the City as having refused to submit to testing. The alcohol breath test must be administered as soon as possible, but no later than eight (8) hours following the accident. The drug test must be administered within thirty-two (32) hours of the accident. If these criteria are not met, the supervisor will complete a report explaining why and submit it to the City Administrator.

As soon as practicable following an accident involving a City vehicle, the City shall test the employee driver for alcohol and controlled substances in the following situations:

1. The accident involved the loss of human life; or
2. The employee received a citation for a moving traffic violation, and
  - (a) Bodily injury is incurred requiring a person to immediately receive medical attention away from the scene of the accident; or
  - (b) One or more motor vehicles incur disabling damage as a result of the accident and have to be towed away from the scene.

As soon as practicable following any accident involving lost time from work or requiring medical treatment away from the scene of the accident, the City shall test the employee for alcohol and/or controlled substances.

- D. Random Testing – This is required by DOT of any employee holding a CDL license. Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of safety sensitive duties. The employee will be randomly selected for testing from the "pool" of employees

subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year.

Fifty percent (50%) of the average number of safety sensitive positions shall be tested on an annual basis. The City reserves the right to increase or decrease the minimum annual percentage for random testing based on the Federal Regulations implementing drug and alcohol testing in the transportation industry.

The random selection of employees shall be arranged by the Drug Free Workplace Network. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

- E. Return to Work/Follow-up Testing - Employees who have tested positive and have been placed on administrative leave will undergo Return to Work alcohol and/or controlled substance testing. The result must be an alcohol concentration of less than 0.02 and a verified negative result for controlled substance use. The employee will also be required to be evaluated by the City's Employee Assistance Program provided through the Drug Free Workplace Network to determine the Employee's fitness for duty.

Following a determination by a substance abuse professional that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the employee will be given at least six (6) unannounced random tests during the twelve (12) month period after returning to duty. There will also be the possibility of follow-up testing for up to sixty (60) months after the employee returns to duty.

## **VI. TESTING PROCEDURES**

- A. Alcohol Testing - Employees will be required to submit to breath testing using an approved evidential breath testing (EBT) device. A state-certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City will take action based only upon the positive results of the confirmation test, 0.02 percent or greater. All procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the federal law and federal regulations.
- B. Testing for Controlled Substances - The City has established its anti-drug program through its Drug Free Workplace Policy which strictly prohibits the unlawful manufacture, distribution, dispensing, possession, unauthorized use or being under the influence of a controlled substance in the workplace. Any abnormal conduct that may create a reasonable suspicion that an employee is under the influence of a controlled substance is addressed in the "Reasonable Suspicion Testing" section described previously in this Policy.
  - 1. For purposes of this Policy and the Federal Regulations, the City will utilize a 5-panel drug screen consisting of the following drugs:
    - Tetrahydrocannabinol (Marijuana Drug)
    - Cocaine
    - Amphetamines
    - Opiates (including Heroin)
    - Phencyclidine

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, the City reserves the right to test for additional drugs under the City's own authority using standard laboratory testing protocols.

2. Results of a Positive Test - Any employee who tests positive for controlled substances is subject to discipline, up to and including discharge. As with an alcohol misuse violation, the City is required to act upon a positive drug test result in the following manner:
  - a) Remove the employee from the workplace. This removal will only take place after the employee has been allowed to meet or speak with a Medical Review Officer (when necessary) in order to determine that the positive drug test did not result from the authorized use of a controlled substance;
  - b) Refer the employee for assessment of a drug problem and a determination of whether participation in a treatment program is necessary;
  - c) Obtain verification from a substance abuse professional or a Medical Review Officer that the employee has complied with any required rehabilitation or treatment program and is fit to return to work; and
  - d) The Employee must have a negative result on a return-to-work drug test. Follow-up periodic, unannounced testing to monitor the employee's continued abstinence from drug use will be required if the employee is determined as needing rehabilitation as specified by a substance abuse professional. The employee will subsequently be given at least six (6) periodic, unannounced tests during the next year with the possibility of follow-up testing for up to sixty (60) months.

## **VII. PRESCRIPTION DRUGS**

Before performing work-related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug.

It is the responsibility of the employee to inform the employee's physician of the type of work the employee performs in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of the employee's duties or operation of City equipment. The employee must provide the City with documentation from a physician pursuant to the above indicating that the employee can safely perform the job duties while taking the prescribed medication.

As required by the Federal law, any employee who uses or possesses medication containing alcohol while on duty or who tests positive for alcohol while on duty will be removed from the employee's position and will be subject to the provisions of this policy even though the reason for the positive alcohol test is the fact that the employee's prescription medication contains alcohol.

A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

## **VIII. CONFIDENTIALITY OF RECORDS**

The City respects the confidentiality and privacy rights of all of its employees. The results of any test administered under this policy and the identity of any employee participating in the City's Employee Assistance Program through the Drug Free Workplace Network or other assessment or treatment program will not be revealed to anyone except as required by law and within the organization only on a need-to-know basis. The City will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City will advise any lab or agency used to conduct testing under this Policy to maintain the confidentiality of employee test records, except that:

- The Medical Review Officer will disclose information related to a positive drug or alcohol test of an employee to the City;
- The City may disclose this information to the employee or to the decision-maker in a lawsuit, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test;
- The City may disclose the information as required by law including court orders and subpoenas and Wisconsin open records procedure; or
- The City may disclose the information upon the written consent and authorization of the tested employee.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a file in a locked City cabinet. Access will only be allowed to those City employees on a need-to-know basis.

Any employee having questions with respect to the scope of this policy and its contents may contact the City Administrator.

#### **IX. DRUG FREE WORKPLACE ACT OF 1988 COMPLIANCE**

It is the City's policy to provide a drug-free workplace for all of its employees. The City requires that employees neither use, nor be under the influence of, drugs, intoxicants, alcohol, narcotics or any other controlled substance(s) and that a zero tolerance standard shall prevail in the workplace. The City recognizes the importance of maintaining a safe, efficient and healthful workplace, as well as the social responsibility to provide assistance to its employees to the extent possible. Therefore, employees are expected to report to work free from any alcohol or controlled substances that could inhibit their ability to perform their duties.

#### **X. REPORTING OF DRUG CONVICTION**

As required by the Drug Free Workplace Act, Public Law 100-690, Title V, Subtitle D, all City employees are put on notice that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, alcohol or drug paraphernalia is strictly prohibited in the workplace. Furthermore, this law makes it a condition of employment that all City employees abide by the Drug and Alcohol Free Workplace Policy and notify the City (the immediate supervisor or the City Administrator) of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Within ten (10) days of receiving such notice of conviction, the City will notify any appropriate federal contracting or granting agency as required by law. Within thirty (30) days of notice of a workplace drug conviction, the City will, at its discretion, take the following action: (1) require the employee to satisfactorily participate in a Drug of Alcohol Assistance or Rehabilitation Program that is approved by the City; or (2) take appropriate personnel action.

An employee's failure to abide by the terms of the above paragraph will result in disciplinary action up to and including termination of employment. The actual action taken will be based upon the seriousness of the offense, the employee's past employment record, and the employee's willingness to participate in drug or alcohol abuse assistance or rehabilitation.

#### **XI. PREVENTION AND REHABILITATION**

Employees needing assistance with alcohol or drug issues are encouraged to use the Employee Assistance Program and health insurance plans as appropriate. Employees may contact the City Administrator for additional information. Conscientious efforts to seek such help will not jeopardize any employee's employment and contacts with the EAP initiated only by the employee will not be known nor noted in any personnel record as long as commenced prior to a drug test.

## **XII. LEAVE OF ABSENCE PRIOR TO TESTING**

An employee may be permitted to take a leave of absence for the purpose of undergoing treatment pursuant to a Drug and Alcohol Assistance or Rehabilitation Program approved by the City for drug and alcohol addiction. The leave of absence must be requested prior to the commission of any act subject to disciplinary action.

## APPENDIX D: CODE OF ETHICS

### DECLARATION OF POLICY

The proper operation of a democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for all City officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees, and commissions of the City. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City and by directing disclosure by such officials and employees of private, financial, or other interests in matters affecting the City. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the City.

### RESPONSIBILITY OF PUBLIC OFFICE

Public officials and employees are agents of the public and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the constitution of this State and carry out impartially the laws of the Nation, State, and City. They are to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern. Their conduct in both their official and private affairs should be above reproach so as to foster respect for all government.

### DEDICATED SERVICE

All officials and employees of the City should be loyal to the objectives expressed by the electorate and the programs developed to attain these objectives. Appointive officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority. Officials and employees should not exceed their authority or breach of law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

### FAIR AND EQUAL TREATMENT

No official or employee shall request or permit the unauthorized use of City-owned vehicles, equipment, materials, or property for personal convenience or profit. No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

### CONFLICT OF INTEREST

Financial and Personal Interest Prohibited. - No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, or accept anything of value, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest contrary to the provisions of this section or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

### Definitions

- Financial Interest - Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.
- Personal Interest - Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
- Person - Any person, corporation, partnership, or joint venture.
- Anything of Value. Any gift, favor, service, or promise from any individual, firm, or corporation in any one calendar year which has a fair market value in excess of \$10. The foregoing does not include reasonable fees

and honorariums; actual and necessary expenses authorized under § 19.56, Wis. Stats.; or the exchange of customary gifts among relatives.

#### Specific Conflict Enumerated

- Incompatible Employment - No official or employee shall engage in or accept private employment or render service, for private interests, when such employment or service is incompatible with the proper discharge of his/her official duties or would tend to impair his/her independence of judgment or action in the performance of his/her official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter provided.
- Disclosure of Confidential Information - No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City, nor shall he/she use such information to advance the financial or other private interest of himself/herself or others.
- Gifts and Favors - No official or employee shall accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which, to his/her knowledge, is interested, directly or indirectly, in any manner whatsoever in business dealings with the City; nor shall any such official or employee accept any gift, favor, thing, or promise, from any person, firm, or corporation which, to his/her knowledge, is interested, directly or indirectly, in any manner whatsoever in business dealings with the City; nor shall any such official or employee accept any gift, favor, or thing of value that may tend to influence him/her in the discharge of his/her duties or grant in the discharge of his/her duties any improper favor, service, or thing of value. Gifts received under unusual circumstances should be referred to the Ethics Board within ten (10) days for recommended disposition.
- Representing Private Interest Before City Agencies or Courts - No officer or employee shall appear on behalf of any private person other than himself/herself, his/her spouse, or minor children before any City agency. However, a member of the Council may appear before City agencies on behalf of his/her constituents in the course of his/her duties as a representative of the electorate or in the performance of public or civic obligations.

Contracts With the City - No City officer or employee who, in his/her capacity as such officer or employee, participates in the making of a contract in which he/she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his/her part shall enter into any contract with the City unless, within the confines of § 946.13, Wis. Stats., the contract is awarded through a process of public notice and competitive bidding, or the Ethics Board, hereinafter created, waives the requirement of this section after determining that it is in the best interest of the City to do so.

Disclosure of Interest in Legislation - Any member of the Council who has a financial interest or personal interest in any proposed legislation before the Council shall disclose on the records of the Council, or the Ethics Board created by this section, the nature and extent of such interest. Any other official or employee who has a financial or personal interest in any proposed legislative action of the Council and who participates in discussion with or gives an official opinion or recommendation to the Council shall hereby disclose on the record of the Council the nature and extent of such interest.

#### ETHICS BOARD

The Personnel, License, and Insurance Committee shall serve as the Ethics Board. The City Attorney shall furnish the Board with whatever assistance is necessary to carry out its functions. The Ethics Board may make recommendations with respect to amendments to this Code. Upon the sworn complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this section, the Board shall conduct a public hearing in accordance with all common law requirements of due process and, in written findings of fact and conclusions based thereon make a determination concerning the propriety of the conduct of the subject official or employee and, if appropriate, refer the matter to the Council or other proper authority.

#### APPLICABILITY OF CODE

When an official or employee has doubt as to the applicability of a provision of this code to a particular situation or definition of terms used in the code, he/she should apply to the Ethics Board for an advisory opinion and will be guided

by that opinion, when given. The official or employee shall have the opportunity to present his/her interpretation of the facts at issue and of the applicable provisions of the code before such advisory decision is made. This code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory provision and statutory action is mandatory, or when the application of a statutory provision is discretionary, but determined by the Ethics Board to be more appropriate or desirable.

#### PENALTY AND SANCTIONS

Violation of any provision of this section may constitute a just cause for suspension, removal from office or employment, or other disciplinary action.