

PERSONNEL POLICY AND PROCEDURES
MANUAL

Personnel Policy and Procedures Manual

Last Revised January 7, 2014

Adopted by Mayor and City Council January 7, 2014

EOE STATEMENT

The City of Mount Rainier is an Equal Employment Opportunity Employer (EOE). The City employs, retains, promotes, terminates, and treats all employees and Job Applicants on the basis of merit, qualifications, and competence. This policy is applied without regards to an individual's race, sex, religion, national origin, age, marital status, disability, sexual orientation or other non merit or non job-related factors.

GLOSSARY

Acting Capacity – any employee temporarily assuming duties and responsibilities of a higher or lower level position.

Anniversary Date – the starting date of employment with the City.

City - the City of Mount Rainier.

City Premises – the area defined in the Charter of the City of Mount Rainier.

Classified employee – all employees employed in a classified position.

Classified position – all permanent full and permanent part-time positions except the City Manager, Assistant City Manager, and Department Heads.

Contractual Employee – an employee hired under a written contract signed by the City Manager or Mayor and City Council that establishes the terms and conditions of employment.

Department Head – the person authorized to direct the work of employees of a department or agency of the City of Mount Rainier.

Dependent – An individual designated by an employee as his or her dependent pursuant to Section 1-5 of this Manual.

Disciplinary Action – action taken against an employee for poor performance or misconduct, except that actions taken against sworn law enforcement officers based solely on performance shall not constitute disciplinary action.

Discrimination – unfair, unequal, or illegal treatment of a person on the basis of race, color, religion, creed, ancestry, national origin, age, marital status, sexual orientation, or physical and/or mental disability. Such discrimination can occur overtly, covertly, intentionally, or unintentionally, by an act or by an omission.

Dismissal – involuntary discharge from employment.

Domestic partner –An individual designated by an employee as his or her domestic partner pursuant to Section 1-5 of this Manual.

Elected Officials – persons elected by the citizens of Mount Rainier to hold the positions of mayor and council member. Also see Mayor and City Council.

Employee – a person who is hired to provide services to the City in exchange for compensation and who does not provide these services as part of an independent business.

Emergency Employee – an employee who is hired for temporary service (not to exceed six (6) months) under conditions that require the employee’s immediate employment and for which, because of the existing emergency conditions, allow for the relaxation of certain rules pertaining to recruitment and hiring.

Full-time Employee – an employee whose weekly work hours for the City equals or exceeds 40 hours a week.

FLSA Exempt Employee – An employee that is not entitled to overtime premium pay or compensatory time under the Fair Labor Standards Act, including salaried executive, administrative, professional employees, and certain skilled workers in the computer field.

FLSA Nonexempt Employee - An employee that is entitled to overtime premium pay or compensatory time off under the Fair Labor Standards Act.

FML – Family and medical leave authorized pursuant to Section 6-11 of this Manual.

Grievance – a formal written complaint filed pursuant to Chapter 10 of this Manual.

Harassment – the deliberate taunting or inflicting of annoyances or distractions. Connotes purposeful action and conduct motivated by a malicious and/or discriminatory purpose and includes a racial or sexual harassment as further defined herein.

Insubordination – defiance of authority as evidenced by negligence or refusal of an employee to follow a directive and/or perform assigned tasks of a supervisor, Department Head or City Manager.

LEOBR – Law Enforcement Officers’ Bill of Rights, which governs the rights of sworn law enforcement officers.

Light Duty – Work assigned, at the discretion of management, to an employee that is unable to perform his or her regular duties because of a documented medical condition.

Overtime Premium Pay – compensation paid at a rate of one and one-half times the regular hourly wage for work performed in excess of 40 hours in one week.

Part-time Employee – an employee who regularly is scheduled to work less than 40 hours each week.

Personal Conduct – the manner in which an employee acts, either on or off-duty.

Probationary Employee – an employee who is serving a probationary period.

Regular Employee – an employee who is not a Contractual Employee, an Emergency Employee, a Probationary Employee or a Temporary Employee.

Sexual Harassment – unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact and other verbal or physical conduct, or visual forms of harassment of a sexual nature when submission to such conduct is either explicitly or implicitly made a term or condition of employment or is used as the basis for employment decisions or when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Suspension – involuntary leave of absence with or without compensation.

Temporary Employee – an employee who is hired to work for an hourly wage or salary for a specified time period.

Unexcused Absence – absence from prescribed duties without prior notice to a supervisor or Department Head without justification. Unexcused absences can result in leave without pay for the period of absence and/or disciplinary action.

Unexcused Late Arrival – tardiness for prescribed duties without prior notice to a supervisor or without justification. Unexcused late arrival can result in suspension and or disciplinary action being imposed against the employee.

CHAPTER I

PERSONNEL SYSTEM

Section 1-1. General Provisions

A. Purpose

The purpose of this Personnel Policy and Procedures Manual (“Manual”) is to establish policies and procedures for addressing personnel matters in the City of Mount Rainier. It is intended to foster excellence in public service, high individual competence among employees, and effective delivery of services to residents. Employees are responsible for acquainting themselves with this Manual and any other personnel policies in effect. Employees should contact the City Manager with any questions regarding the interpretation of these policies and procedures.

B. Management’s Rights

The Mayor and City Council specifically reserve the right to repeal, modify or amend these policies and procedures by Ordinance at any time.

C. Employees Covered

The provisions of these policies and procedures shall apply to all employees of the City of Mount Rainier. All persons on the City payroll are considered to be employees for purposes of this Personnel Policy and Procedures Manual, except elected officials, persons appointed to the various boards, committees, commissions, and the City Attorney.

D. Conflicting Policies

1. Except as provided in this subsection, the provisions of this Manual apply to all employees of the City unless the provisions conflict with or are inconsistent with state or federal legislation or a written contract of employment.
2. The Police Department’s policies and procedures manual, the LEOBR, and the City of Mount Rainier Police Department General Orders, when applicable to an employee, shall be controlling when discrepancies exist between this Manual and such police specific policies and procedures.
3. When the policies and procedures of this Manual conflict with the policies and procedures of a collective bargaining agreement, the collective bargaining agreement shall supersede this Manual with respect to collective bargaining unit employees.

Section 1-2 Severability

If any provision, section, or chapter of these policies and procedures is invalid, all other provisions, sections, and chapters that are not held invalid shall continue in full force and effect.

Section 1-3 Personnel Director

The City Manager or his or her designee shall serve as the personnel director for the purpose of administering these personnel policies and procedures for the City. The personnel director shall periodically review these policies and procedures and incorporate policies and procedures that may be adopted by the Mayor and City Council.

Section 1-4. Personnel Records and Actions

Access to official personnel records of City employees and the circumstances under which information from official personnel records may be released shall be limited as described herein.

A. Employee Review

Employees may inspect their own official personnel records upon presentation of photo identification. Requests may be made to the department of human resources during normal business hours.

B. Administrative Access

Authorized external auditors, legal counsel, employees of the Finance Department, an employee's supervisor, and other persons authorized by the City Manager shall be permitted access to employee personnel records. Unauthorized access, release, or use of personnel records constitutes misconduct and employees who access, release, or use personnel records for a purpose not authorized by this policy may be subject to disciplinary action.

C. Other Access or Disclosure of Information

1. The following information contained in personnel records may be released without the employee's prior consent: name, title or position, department, office telephone number, dates of employment, facts of past or present employment, and verification of rate of pay.
2. Other information contained in the personnel record may be disclosed to a third party upon presentation of the written consent of the employee for mortgage and bank loan applications, student loan deferments, government agency background inquiries, and job references.
3. The City Manager may authorize access to and disclosure of personnel records when necessary to the resolution of a dispute regarding personnel matters.

4. Disclosure of certain personnel records or information may be made in response to the Maryland Public Information Act or a lawfully issued administrative summons or judicial order, including a search warrant or subpoena.
5. Access to or disclosure of personnel records or information may be provided in compelling circumstances affecting the immediate health or safety of the employee or others, as determined by the City Manager.
6. The Mayor and Council may review personnel records upon determining, as a body, that the review of personnel records is necessary to evaluate the performance of the City Manager. The elected officials shall review personnel records in the City's administrative office and shall maintain the confidentiality of the records. The Council may not use the information contained in personnel records for any purpose other than evaluating the performance of the City Manager.

D. Meetings and Hearings

Disciplinary hearings, grievance hearings, meetings to review employment applicants, or other meetings involving information considered personal to the employee or applicant shall not be open to the public except as may be provided in these policies and procedures or state and /or federal laws.

E. Official Personnel File

There is only one official personnel file; however, Department Heads may keep notes and information on employees' performance for conducting performance evaluations. Pertinent information on employees, including disciplinary actions at the level of written reprimand or above must be placed in the employees' official personnel file. Failure to do so may result in the information not being admissible in a dispute or grievance.

Section 1-5. Domestic Partners and Dependents

A. Domestic Partners.

1. A domestic partner means an unmarried individual over 18 years of age who resides with an unmarried employee, with whom the employee maintains an exclusive committed relationship, and whom the employee has identified as his or her domestic partner by executing a declaration of domestic partnership filed with the City Manager.
2. The declaration of domestic partnership shall be signed by the employee and his or her domestic partner and shall affirm under oath or affirmation that each domestic partner:
 - a. Is at least 18 years old and competent to contract;
 - b. Is the sole domestic partner of the other person; and

- c. Is not married.
 - 3. An employee or his or her domestic partner may terminate a domestic partnership for purposes of this Manual by filing a termination statement with the City Manager.
- B. Dependents.
 - 1. A dependent shall include an individual who resides with an unmarried employee, receives more than one half of his or her financial support from an employee, and whom the employee has designated as his or her dependent in a declaration filed with the City Manager.
 - 2. The declaration designating a dependent shall be signed by the employee and shall affirm under oath or affirmation that the dependent:
 - a. Receives at least one half of his or her financial support from the employee; and
 - b. Resides exclusively with the employee.
 - 3. Employees may revoke a designation of a dependent by filing a revocation statement with the City Manager.
- C. Domestic partners and dependents shall be deemed to be family members for the purposes of Chapter 6, Leave, and Chapter 7, Employee Health Benefits.
- D. Unmarried employees may have only one domestic partner or one dependent registered with the City Manager at any time.

CHAPTER 2

WORK RULES

Section 2-1. General Employee Conduct

A. Personal Appearance

Discretion in style of dress and behavior is essential to the efficient operation of the City. Employees who are not required to wear uniforms to work are required to dress in appropriate attire. Employees are required to use good judgment in choosing work attire. Employees are required to maintain high standards of personal hygiene and cleanliness and to keep their work areas clean and organized. This includes City vehicles when assigned as part of work responsibilities. Employees failing to adhere to these standards are subject to disciplinary action.

B. Telephone Courtesy

Each telephone call to the City of Mount Rainier may be the caller's first contact with the City government. Therefore, it is essential that all callers be treated courteously and politely with a greeting, announcement of the title of the office and the employee's name. Information obtained from callers must be as thorough as possible and must if possible include, name, title, address, agency, a return phone number and a brief message regarding the nature of the call. The employee should be efficient, but should refrain from speculating on the provision of service or the content of the call, if the call is not in his or her area of expertise or job function. Calls should be promptly directed to the appropriate staff, and/or department for a response.

C. Personal Telephone Calls, Emails, and Electronic Messages

Employees are allowed up to three (3) nonemergency calls or outgoing texts, emails, or other electronic messages during working hours, each of which must not interrupt an employee's work for more than five (5) minutes during the workday. Employees are responsible for notifying their friends and relatives of the City's policy. This policy does not prohibit employees from making additional calls or sending or receiving electronic messages during authorized breaks, and employees are encouraged to address personal matters during their breaks whenever possible. Notwithstanding the foregoing, an employee who allows personal phone calls, emails, and electronic messages to distract from the accomplishment of job responsibilities or to distract other workers from the accomplishment of their job responsibilities will be subject to disciplinary action and may be prohibited from making, sending, or receiving personal phone calls, emails, or electronic messages during work hours. Personal toll calls will be at the expense of the employee and must not be charged to the City's telephone account.

D. Personal Visits

Nonemergency personal visits from friends and relatives shall be limited to five (5) minutes in durations and should not be encouraged by the employee. Employees will be held accountable

for the conduct of their friends or relatives visiting. Visits shall not distract from the performance assigned job responsibilities of the employee or co-workers.

E. Excessive Absenteeism and Lateness

For the City to function effectively, it is important that each employee be present when assigned to begin work and to remain at work during prescribed work hours.

The City recognizes, however, that illnesses and injuries may occur and has established sick leave to allow employees to deal with health issues.

Should an employee be unable to work due to illness, the supervisor must be notified prior to the start of the employee's work schedule. Failure to notify a supervisor will result in an unexcused absence. If an employee is absent for more than three (3) consecutive days because of an illness, a statement from a practicing physician may be required before the employee will be permitted to return to work. In such instances, the City reserves the right to require employees to submit to a physical examination by the City's medical group. The City may also require employees to submit statements from physicians and or submit to physical examinations when abuse of sick leave is suspected. Excessive absenteeism may result in disciplinary action up to and including dismissal.

F. Hours of Work

Employees work schedules may vary depending upon the needs of the various departments. A standard workweek consists of 40 hours, including a one-hour daily lunch break.

Failure to observe this policy will result in disciplinary action, up to and including dismissal. In addition, employees violating this policy may be charged criminally.

G. Safety Habits

Safety of employees is paramount and departments are encouraged to conduct periodic training that relates to safe work habits. In addition, the City may from time-to-time sponsor meetings that relate to a variety of safety issues and topics for all employees. Department Heads and all employees will be notified, in advance, of mandatory training sessions to enhance proper scheduling. Department Heads are accountable for the scheduling of subordinates' attendance at these training sessions.

All employees are required to sign off on any safety meetings attended and/or instructions given. Employees shall immediately contact a supervisor when they believe unsafe conditions or violations of safety rules exist.

In accordance with the *Occupational Safety and Health Act of 1970*, P.L. 91-596, (OSHA), employees are required to immediately notify their immediate supervisor, Department Head or City Manager of any injury occurring on the job. An incident report must be completed and submitted immediately, if possible.

Employees have the right to notify their immediate supervisor, Department Head, City Manager or OSHA about workplace hazards. Employees have the right to request an OSHA inspection if they believe that there are unsafe and unhealthful conditions in their workplace. Employees and/or their representative may participate in OSHA inspections. Employees may file a complaint with OSHA within 30 days of any incident of discrimination by the City for making safety and health complaints or for exercising rights under the OSHA. Employees have a right to see OSHA citations issued to the City.

In accordance with OSHA, citations received by the City from OSHA are posted at or near the place of the alleged violation. The City must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated. Employees have the right to copies of their medical records or records of their exposure to toxic and harmful substances or conditions.

If an on-the-job injury occurs, the injured employee must report the injury to his or her supervisor and the supervisor of the injured employee must report the injury immediately to the City's workers' compensation insurance carrier or no later than the end of the work shift. See also Appendix C for a complete text of the City of Mount Rainier Safety Policy.

H. Political Activities

Participation in politics or political campaigns and the free expression of political opinion by employees shall not be prohibited. All employees retain the rights provided to them by the Constitution of the United States of America and the Constitution and laws of the State of Maryland, however no employee shall:

1. engage in political activity while on the job during working hours; or
2. advocate the overthrow of the government by unconstitutional or violent means.

I. Ethics

City employees are subject to the Ethics Chapter of the Mount Rainier City Code, which governs matters such as conflicts of interest, use of City property, use and disclosure of confidential City information, and acceptance of gifts.

1. **Outside Employment**

Employees must notify their Department Head in writing and obtain written authorization before accepting outside employment or starting a business. Outside employment must not impinge upon the employee's work day. Any injury sustained during outside employment shall be immediately reported, in writing, to the employee's immediate supervisor and Department Head.

In addition, employees must adhere to the requirements of the Ethics Chapter of the Mount Rainier City Code. The Ethics Chapter requires that employees disclose actual and potential conflicts of interest arising between their non City employment or business interests and their official City duties. A conflict of interest exists when the performance of your City duties may have an impact on your employer. Employees that are unsure whether potential outside employment or business interest create a conflict of interest should request an Advisory Opinion from the Ethics Commission, as a Department Head's authorization does not constitute a determination of the applicability of the Ethics Chapter to the proposed employment or business interest.

2. Gifts.

The Ethics Chapter of Mount Rainier Code sets forth the law regarding the solicitation and acceptance of gifts. In addition to the restrictions imposed by the Ethics Chapter the acceptance of gifts, rewards, or other valuable consideration by an employee under circumstances indicating the hope or expectation of receiving a special favor or better treatment is prohibited. Supervisors may impose greater gift restrictions for employees.

J. Dual Employment

In addition to primary positions, employees may be permitted to accept part-time employment, in another position with the City's government. Employee compensation for the part-time position shall be at its stated rate. If an employee's total work week, both in the full and part-time positions, exceed 40 hours, the employee will be entitled to receive overtime pay at a rate equal to one and one-half (1 ½) times the rate for the part-time position. Before an employee will be permitted to work in the secondary position, the employee must agree in writing that he or she that he or she will be paid during overtime hours at a rate not less than one and one-half time the hourly rate established for the type of work he or she is performing during the overtime hours.

K. Use of Cell Phones and Electronic Devices While Driving.

1. Except as provided in paragraph 2, the following restrictions apply to City employees while driving a City owned vehicle or driving a personal vehicle while on City business:
 - A. Employees must not send or receive emails or text messages, surf the internet, check voicemails, or use cell phones, smart phones, tablets, laptops, or any other electronic devices to engage in activity that may distract the employee while driving. Employees must pull over, out of traffic, before engaging in such activity.

- B. Employees must not make or receive phone calls while driving unless using a hands-free speaker or earpiece.
2. The restrictions of paragraphs (1)(A) and (B) do not apply to law enforcement officers utilizing electronic devices in the performance of their official duties.

L. Employee Use of City Computers and Internet Access.

1. City computers are intended for City business. They are not to be used for personal use or non City business while an employee is on duty.
2. Some incidental personal use of City computers is permissible on employees' personal time. However, in no event is any City computer to be used in any way to
 - a. access or download material from any site where the principal content of the material is sexually oriented, or where employees have reason to believe the information being accessed may be defamatory or irresponsible; or
 - b. upload or download video or audio files, watch videos, stream music, or engage in any other personal use of the City's computers or internet connection that utilizes significant bandwidth.
3. All employees are cautioned that downloading material from an Internet source might be considered making a copy of it under the copyright laws and, therefore, if the material is copyrighted, that would be an infringement. All employees should be sensitive to this concern and, if there is any doubt as to whether or not something can be downloaded, you should consult with your department head, who will determine whether to seek legal advice.
4. No employee should ever transmit any information on the Internet that could be considered defamatory.
5. Internet access may be monitored or audited from time to time. Therefore, all employees agree that the City has a right to do this, and that there is no expectation of privacy with respect to their use of City computers and internet service.
6. Questions regarding the application of this policy to any given situation should be addressed to the City Manager or his or her designee.
7. Any employee aware of violations of this policy is encouraged to report such violations to his or her supervisor, Department Head, or the City Manager.
8. This policy also relates to the City's policy against sexual harassment. Use of City computers or internet service in any way that is sexually offensive or harassing is prohibited.

Section 2-2 Equal Employment Opportunity

It is the policy of the City of Mount Rainier to ensure equal employment opportunity for all employees. This commitment includes a mandate to promote and afford fair and equal treatment and services to all City residents, representatives and employees, and to assure to all persons equal employment opportunities based on ability and fitness regardless of race, religion, color, creed, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental or physical disability unless such disability effectively prevents the performance of the bona fide essential duties of the position without imposing an unreasonable hardship upon the City. The goals and objectives of this policy are to: (1) ensure fair treatment and nondiscrimination in City hiring and promotional opportunities, employee benefits, and appointments to and service on City boards, committees and commissions; and (2) provide compliance with local, state and federal equal employment opportunity laws.

As an equal employment employer, all advertisements for jobs will carry an EOE tagline.

Section 2-3 Sexual Harassment

The City of Mount Rainier is committed to maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere which promotes equal opportunities and prohibits discriminatory practices, including sexual harassment. (Please refer to Appendix A for the complete text of the Sexual Harassment Policy).

Section 2-4 Drugs and Alcohol

Employees are subject to the City's Alcohol and Drug Policy, which is set forth in Appendix B to this Manual. The Policy addresses alcohol use and abuse, illegal drug use, drug testing, substance abuse treatment, and the use of prescription drugs that may affect an employee's ability safely to perform their duties.

Section 2-5 Emergency Closing and Inclement Weather

The City Manager will be responsible for declaring changes to the City's regular attendance policy when he or she determines that changes are necessary for the safety or convenience of City employees. The City Manager will notify the Channel 5 and Channel 9 television news departments of any change to the City's regular attendance policy as soon as practicable.

The City Manager, in consultation with department heads, will determine whether specific nonessential employees must report for duty during an emergency, and such employees will be notified individually. Essential employees (police officers and public works personnel) are to report to work for shifts as designated by their immediate supervisor, department head, or the City Manager. (See also the City Emergency Operations Plan.)

Section 2-6 Compensation during Emergency Closure

- A. Employees who are not required to work during a City closure will be paid at their regular rate for any hours they normally would have been scheduled to work.
- B. Essential service employees who are required to work during a declared emergency will be paid at their regular rate for their regular hours actually worked during the emergency and shall receive compensatory time off equivalent to their regular hours actually worked during the emergency. Essential service employees shall be entitled to overtime premium pay or compensatory time off for overtime in accordance with Section 5-6 of this Manual.
- C. Employees who had previously requested to use sick leave or annual leave for a time in which a declared emergency occurs will be charged with the requested sick or annual leave during the emergency.
- D. Employees who previously were to be on injury leave or leave without pay for a time in which a declared emergency occurs will not receive compensation from the City relating to the emergency.

Section 2-7. Additional Work Rules

- A. The City Manager shall have the authority to adopt additional work rules to promote the efficient operation of the City.
- B. Department Heads shall have the authority, subject to approval by the City Manager, to adopt additional work rules applicable to employees within their department to promote the efficient operation of their department.

Section 2-8. Background Checks.

- A. All applicants for employment shall be required to undergo a criminal background check prior to appointment. The City shall not employ applicants who refuse to execute a release form authorizing the City to conduct a criminal background check.
- B. Applicants for employment may be required to undergo a credit check when the City Manager determines that a credit check would be in the best interest of the City. A credit check will be presumed to be required for any position where the employee handles money or manages the City's finances. The City shall not employ applicants who refuse a request to execute a release authorizing the City to conduct a credit check.
- C. Employees of the City may be required to undergo a criminal background check or credit check when the City Manager, in his or her discretion, determines that a criminal background check or credit check would be in the best interest of the City. Employees refusing to execute a release authorizing the City to conduct a criminal background check or credit check shall be subject to termination.

- D. The City Manager may determine, on the basis of a criminal background check or credit check conducted pursuant to this section, that an individual is not suitable for employment with the City and may thereby decline to employ an applicant or terminate, transfer, or demote an employee.

- E. Before rejecting a job applicant or taking an adverse employment action against an employee based on information in a credit report, the City will provide to the applicant or employee:
 - 1. a notice that includes a copy of the report relied upon to make the decision; and
 - 2. a copy of A Summary of Your Rights Under the Fair Credit Reporting Act provided by the company that issued the report.

CHAPTER 3

POSITION DESCRIPTIONS

Section 3-1. General Policy

It is the City of Mount Rainier's policy to describe positions on the basis of assigned duties, responsibilities, and the minimum qualifications for positions to ensure that equal pay is provided for work of substantially equal value performed under essentially similar conditions.

Section 3-2. Position Descriptions

Position descriptions shall be prepared for all work positions. Each position description shall include the following: job title; examples of work; type and level of knowledge, skills (machines and equipment) and abilities (physical, mental and emotional) required to do the work; required licenses and certificates; education, training and experience required to do the work; and type of supervision exercised or received.

Section 3-3. Maintenance of Position Descriptions

The City Manager shall be responsible for the maintenance of position descriptions; periodically, the position descriptions shall be reviewed and revised, as needed. Copies of position descriptions shall be placed in the employee's personnel file, and in a locked file to ensure confidentiality of employee information.

CHAPTER 4

RECRUITMENT, SELECTION AND APPOINTMENT OF EMPLOYEES

Article 1. Employment Appointments

Section 4-101. Types of Employment Appointments

Appointments may be permanent, temporary, or contractual.

- A. A regular appointment is an appointment made from an eligibility list that may result in a full or part-time regular employment service.
- B. A temporary appointment is an appointment of an emergency employee and, as such, need not comply with the procedures outlined in this chapter.
- C. A contractual appointment is an appointment in which the employee works under a contractual agreement made by and with the Mayor and City Council or City Manager.

Section 4-102. Appointment Procedures

- A. The Mayor and Council must authorize a position through budget appropriation before the City may fill the position.
- B. A written letter of appointment shall be offered before any person may be considered appointed. Oral offers of employment are invalid.
- C. In the event a candidate who is offered a regular full-time, temporary or contractual position with the City of Mount Rainier refuses the appointment, an offer may be made to the next most highly qualified applicant without re-advertising the position.
- D. If the position remains vacant, the employment opportunity may be re-advertised.

Article 2. Recruitment and Selection

Section 4-201. Vacancies

This policy applies to all permanent appointments not filled through an internal search. The City Manager may use this policy to make contractual and temporary appointments but is not required to follow this policy.

- A. When new position is authorized in the annual budget or an existing position becomes vacant, the City Manager shall notify the Mayor and City Council. The notification shall contain a position description and any other information that may be pertinent to filling the vacancy.

- B. Position Announcements.
- C. Department heads shall prepare position announcements for vacancies in their departments. The City Manager must approve all position announcements.
- D. Each announcement shall include all pertinent information, including the position title, salary range, required education, experience, training, licenses, certification, knowledge, skills, and abilities.
- E. Employment opportunities must be announced and advertised at least 10 working days prior to the closing date in
 - 1. the City Newsletter, the *Message*;
 - 2. a newspaper of general circulation in the City;
 - 3. the City's web site; and
 - 4. on an official bulletin board (the front door) at City Hall.
- F. Employment opportunities may also be posted on internet job posting sites and local list serves.

Section 4-202. Employment Applications

- A. The City Manager shall create and maintain employment application forms that may be used by applicants to submit their credentials.
- B. The City Manager shall establish reasonable deadlines for the receipt of employment applications, provided that the closing date for receiving applications shall be no sooner than 10 working days after the vacancy announcement is published.
- C. The City Manager shall send a written acknowledgment of receipt to each job applicant and shall retain all employment applications for a period of at least six months.

Section 4-203. Selection Process for Permanent Appointments

- A. The City Manager shall develop criteria to evaluate and rank the qualifications and ability of applicants to perform the duties of the position. All applicants who possess the minimum qualifications for the position will be placed on the eligibility list for further consideration.
- B. Applications from City employees seeking promotion who have substantially the same qualifications as other applicants on the eligibility list shall be given preference in the selection process.

- C. The City Manager shall interview all applicants on the eligibility list. In the event the City receives applications from more than three eligible applicants, the City Manager may interview only the three highest ranked applicants on the eligibility list.
- D. A letter of appointment shall be issued before any person may be considered appointed. Oral offers of employment are invalid.
- E. The eligibility list shall expire six months after a position is filled.

Article 3. Promotion

Section 4-301. Internal Searches and Promotion Policy

When a vacancy occurs for a permanent position, the City may conduct an internal search and promote from within. Every employee who meets the minimum qualifications for a promotion may apply for the promotion. Internal searches are not advertised to the general public. The promotion opportunity, including the position description and procedures for applying, shall be posted on the front door at City Hall at least 5 work days before the selection process begins. The City Manager shall interview all applicants who meet the minimum requirements. In the event the City receives applications from more than three qualified candidates, the City Manager may interview only the three highest ranked candidates.

Article 4. Probation

Section 4-401. Probationary Period

- A. Each classified employee receiving a regular appointment to a position not previously held shall serve a probationary period of six months.
- B. Unless otherwise specified by State or federal law, new classified employees shall serve a probationary period of six months (excluding the required probationary period for police personnel).
- C. On recommendations from a Department Head, the City Manager or his or her designee may extend an employee's six-month probationary period for up to six additional months to allow the probationary employee the opportunity to improve his or her performance.

Section 4-402. Purpose of Probation

The Purpose of the probationary period shall be to closely observe the new employee's work, to assist the employee in adjusting to the position, and to separate any new employee from service whose performance does not meet the required performance standards of the position in a timely manner.

Section 4-403. Evaluation During Probation

- A. Probationary employees shall be evaluated at least once prior to the expiration of the probationary period. Additional evaluations may occur at the supervisor's discretion.
- B. The results of the performance evaluation shall state, at a minimum, whether the work of the probationary employee has been satisfactory or unsatisfactory. An unsatisfactory rating shall result in either extension of the probationary period or termination.

Section 4-404. Termination During Probation

Probationary employees are at-will employees and may be terminated without cause during their probationary period.

CHAPTER 5
COMPENSATION

Section 5-1 Annual Adoption of Compensation Plan

The City Manager shall develop an annual compensation plan. The plan is subject to adoption by the Mayor and City Council.

Section 5-2. Administration of the Compensation Plan

The City Manager or his or her designee shall be responsible for administering the compensation plan.

Section 5-3. Pay Period and Time Sheets

- A. Commencing on July 1, 2014, the fiscal year shall be divided into 24 semi-monthly pay periods, and paydays are the 1st and 15th day of each month.
- B. Time sheets must be completed and signed by all employees and submitted to the Finance Department by 10:00 am each Monday. The Finance Department shall maintain all time sheets and records as required by state and federal law.
- C. Unless on a holiday, paychecks will be issued on the 1st and 15th after 10:00 am and before 12:00 noon. If a scheduled payday is a weekend or holiday, paychecks will be issued on the preceding business day before 3:00 pm.

Section 5-4. Salary of New Employees

When a position is filled, the City Manager may review the pay level for similar positions in Maryland and recommend to the Mayor and City Council a salary for the new employee. If the salary of the new employee exceeds the salary level of an existing employee in a similar position, the City Manager may recommend to the Mayor and City Council that an adjustment in the salary level of the existing employee be made at the time of the annual budget review. The Mayor and the City Council shall authorize all salaries.

Section 5.5 Pay of Contractual and Emergency Employees

Contractual and Emergency employees shall be compensated at an hourly rate commensurate with their responsibilities and the City's ability to pay. The City Manager may, when time permits, review the hourly rate for similar positions in Maryland and recommend to the Mayor and City Council an hourly rate for the emergency or contractual employee.

Section 5-6 Overtime and Holiday Compensation

A. The City's overtime compensation policy will comply with the applicable provisions of the FLSA except to the extent that this Manual expressly provides greater overtime compensation benefits than required by the FLSA.

B. FLSA Nonexempt Employees

1. The City shall compensate FLSA nonexempt employees for overtime work at the rate of one and one-half times the rate of the hourly pay for hours worked in excess of the standard workweek of 40 hours or in accordance any applicable collective bargaining agreement or Police Department General Order.
2. FLSA nonexempt employees required to work on a holiday shall be compensated at the rate of two times the hourly rate for hours worked during the holiday.
3. Upon the request of a FLSA nonexempt employee, the City Manager or his or her designee may, at their discretion, grant compensatory time off in lieu of overtime pay. For all hours worked in excess of the standard workweek, compensatory time off shall be accrued at the rate of time and one-half.
4. Compensatory time for FLSA nonexempt employees shall be provided in lieu of overtime pay only in the event that the employee and both the employee's immediate supervisor and Department Head agree to compensatory time off in lieu of overtime premium pay prior to the employee's performance of the overtime work.

C. FLSA Exempt Employees

1. Except for the City Manager, Assistant City Manager, and Department Heads, the City shall compensate FLSA exempt employees for overtime work at a pay rate equal to their normal hourly rate or by granting compensatory time off equal to the amount of overtime worked. The City Manager shall decide whether to pay exempt employees for overtime or grant compensatory time off.
2. The City Manager is not entitled to overtime pay or compensatory time off but may, at the approval of the Mayor and City Council, receive compensatory time off not to exceed the amount of overtime worked.
3. Department Heads and the Assistant City Manager are not entitled to overtime pay or compensatory time off but may, at the approval of the City Manager, receive compensatory time off not to exceed the amount of overtime worked.
4. Compensatory time for FLSA exempt employees may be accumulated to a maximum of 40 hours and shall be used within three months of accrual unless otherwise approved by the Department Head or City Manager.

D. Use of Compensatory Time

Employees must request to use accrued compensatory time off at least one week in advance. The City will grant requested compensatory time off unless the use of compensatory time off will unduly disrupt City operations.

Section 5-7. Cost of Living Allowances

Any cost of living allowance (COLA) shall be approved by the Mayor and City Council as part of the annual budget and shall be applied to permanent employees. .

Section 5-8. Merit Increases

Any merit increase shall be approved by the Mayor and City Council as part of the annual budget and shall be applied to regular employees. This shall not apply to the City Manager..

Section 5-9. Travel Expense Reimbursement

Employees required to travel in a privately owned car on approved official business shall be reimbursed for mileage at the prevailing rate established by the Internal Revenue Service for business use of a personal vehicles. The employee shall be reimbursed for parking and bridge/road tolls.

CHAPTER 6

HOLIDAYS, LEAVE AND WORKERS' COMPENSATION

Section 6-1. Leave Records

The Director of Finance shall be responsible for establishing procedures to maintain accurate records of leave earned and taken by employees, and shall be responsible for maintaining those records.

Section 6-2. Annual Leave

- A. Permanent employees and the City Manager shall accrue annual leave. Annual leave begins to accumulate from the date of employment, but no paid annual leave can be taken until the employee has completed three (3) months of employment.
- B. Employees shall receive approval from their Department Head to take annual leave at least two (2) business days prior to the leave commencing for unscheduled annual leave. When annual leave has been requested 30 days or more prior to the scheduled leave, the employee shall receive approval from their Department Head at least two weeks prior to the leave commencing.
- C. Regular full-time employees shall accrue annual leave as follows:

<u>Length of Employment</u>	<u>Accrual Per Pay Period</u>
0-5 years	4.62 hours per pay period (15 days per year)
6-15 years	6.16 hours per pay period (20 days per year)
16 or more	8 hours per pay period (26 days per year)

- D. Permanent part-time employees that work at least 20 hours per week shall accrue annual leave proportionate to the number of hours worked.
- E. Compensation in lieu of taking leave shall not be allowed prior to the separation from employment.
- F. Maximum accumulation shall be no more than 288 hours for all employees as of July 1 of each year, except with the written approval of the City manager. Annual leave earned, accumulated, and still outstanding at time of separation from service will be paid to the employee at time of separation, not to exceed the maximum allowable limits imposed by Ordinance.

Section 6-3. Sick Leave

Employees may use sick leave during periods of illness, injury, or incapacity due to pregnancy or child birth, for prenatal care, to prepare for the adoption of a child, to care for a sick or injured son, daughter, spouse, domestic partner, or dependent, to care for a spouse or domestic partner incapacitated due to pregnancy or childbirth, or to care for a newborn or newly placed son or daughter (within 12 months of the date of birth or placement).

All full-time employees shall receive sick leave according to the following rules and regulations, and all part-time employees that work at least 20 hours per week will accrue sick leave proportionate to the number of hours worked :

- A. Sick leave begins to accumulate from the date of employment at the rate of one (1) day per month, or twelve (12) days per year.
- B. Employees are ineligible to use paid sick leave during the first six (6) months of employment. During the first six months of employment, employees that are unable to work for a reason that would otherwise entitle them to utilize sick leave shall be placed on unpaid leave.
- C. Sick leave is cumulative indefinitely. Any unused sick leave shall be added to years of service for retirement purposes upon separation from the City. Employees shall not be entitled to compensation for unused sick leave.
- D. Sick leave taken in excess of three (3) consecutive workdays requires a valid doctor's certificate.
- E. Employees appearing to abuse their sick leave privileges may be required to provide a valid doctor's certificate for each day of sick leave taken.
- F. Any employee fraudulently using sick leave shall be subject to disciplinary action, and/or deduction in pay for the leave in question.
- G. Sick leave will not be granted if an employee has exhausted his or her sick leave, or if the employee is in a nonpay status.
- H. Employees that have exhausted their FMLA may be subject to termination even if they have unused sick leave.

Section 6-4. Paid Holidays

All full-time and part-time employees that work at least 20 hours per week shall be paid for holidays observed by the City of Mount Rainier. The City may provide paid holidays for contractual employees if specified in their employment agreement.

The City shall observe the following holidays:

New Year's Day
Martin Luther King, Jr. Birthday
President's Day
Memorial Day
Independence Day (4th of July)
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving (Employee Appreciation Day)
Christmas Day

Section 6-5. Funeral Leave

Funeral leave will be granted to any employee employed full-time by the City of Mount Rainier when there is a death in the employee's immediate family. "Immediate family" includes a spouse, domestic partner, dependent, son, daughter, stepson, stepdaughter, father, mother, brother, sister, father-in-law, mother-in-law, grandmother or grandfather, and the son, daughter, father, mother, brother, sister grandmother, or grandfather of the employee's domestic partner.

Funeral leave will be granted for a maximum of three (3) days. This will include one (1) day of administrative leave, and at the request of the employee, up to two (2) days of annual or sick leave (or any combination of these two (2) leave categories) that the employee may request and be eligible to receive. Administrative leave will be granted to the employee with no charge to the employee's current annual or sick leave.

Any employee asking for funeral leave will be paid at his or her basic salary rate without the benefit of any premium pay or night differential or any other special pay that the employee would have earned had he or she been on actual duty.

Section 6-6. Jury Duty Leave

Employees called upon for jury duty shall be granted administrative leave upon proof of service in this capacity. An employee on jury duty shall only be paid for the difference between payments received from jury duty during such period and the employee's regular salary during such period. Reimbursement for travel to and from court is to be retained by the employee.

Section 6-7. Leave Without Pay

The Department Head may grant employees leave without pay for a period not to exceed 30 days unless required by state or Federal law. The employee's position may be filled by limited-term appointment, temporary promotion or temporary reassignment of another employee. Leave without pay shall not constitute a break in service and will not affect seniority and pension rights. Annual and sick leave shall not be accrued during the leave.

Section 6-8. Military Leave

Employees who temporarily leave City employment for military service shall be entitled to such leave and reemployment rights provided under the Uniformed Services Employment and Reemployment Rights Act and Md. Code Ann., Public Safety Art., § 13-705.

Section 6-9. Donation of Leave

- A. In the event of a serious and prolonged medical condition of an eligible City employee, any other eligible employee of the City may voluntarily and anonymously donate to him or her up to 100 hours of accrued annual or sick leave per fiscal year, subject to the restrictions below:
1. Before receiving a donation from another employee, the employee receiving the donation must exhaust all forms of accrued leave available to him or her;
 2. All leave donations are on an hour-for hour basis; that is one hour of leave donated becomes one hour of leave received regardless of the monetary value of the leave to either the donor or the recipient.
 3. All leave donated for this purpose, regardless of the originating type of leave, is converted to sick leave, and is subject to the restraints and conditions imposed upon the use of sick leave; and
 4. The employee requesting a transfer of leave must complete a Transfer of Leave form and the employee donating leave must complete a Donation of Accrued Leave form prior to a transfer of leave approval.
- B. Employees may not use donated leave pending a Workers' Compensation determination.

6-10. Personal Leave

Employees shall be given one (1) personal leave day with pay that can be used for religious observance, one's birthday, or in emergency situations. One (1) additional personal leave day may also be granted without pay to employees by a Department Head with a minimum of one (1) hour prior notice to the immediate supervisor. There will be no carryover of personal leave.

Section 6-11. Family and Medical Leave

The City is committed to providing Family and Medical Leave (FML) to eligible employees in accordance with the rights provided to employees of private employers under the federal Family and Medical Leave Act of 1993 (FMLA). Eligible employees are entitled to a total of up to twelve workweeks of FML during each "FML Leave Year," as defined in paragraph (E) of this section. Except as provided in Section 6-12, Temporary Disability, for any FML absence, an eligible employee may elect to use accrued sick leave, and annual leave to maintain his or her income.

A. No City official or employee may

1. interfere with, restrain, or deny the exercise of any right provided under the FMLA; or
2. discharge or discriminate against any employee for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

B. Eligibility

All employees who meet the following eligibility requirements shall be provided FML. Eligible employees are those who

1. have at least twelve months of cumulative service and have worked at least 1,250 hours at the City during the twelve-month period preceding the date their FML is to begin; and
2. have a qualifying reason for taking FML (see "Qualifying Reasons" below); and
3. have a remaining balance of FML (see "Determining Remaining Balance" below).

C. Qualifying Reasons

An eligible employee may take FML for one or more of the following qualifying reasons:

1. the birth of the employee's child and the care of such newborn child;
2. the placement of a child with the employee for adoption or foster care;
3. the care of the employee's spouse, child, domestic partner, dependent, or parent who has a serious health condition; or
4. the employee's own serious health condition that prevents him or her from performing the essential functions of his or her position.

D. Serious Health Condition

A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital Care: Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

2. **Absence Plus Treatment:** A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - a. treatment two or more times by a health care provider; or
 - b. treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider.
3. **Pregnancy:** Any period of incapacity due to pregnancy, or for prenatal care.
4. **Chronic Conditions Requiring Treatments:** A condition that requires periodic visits for treatment by a health care provider; continues over an extended period of time (including recurring episodes of a single underlying condition); and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
5. **Permanent/Long-Term Conditions Requiring Supervision:** A period of incapacity that is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
6. **Multiple Treatments (nonchronic conditions):** Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider either for restorative surgery after an accident or other injury, 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, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(Note: Unless complications arise, colds and flues are not typically serious health conditions.)

E. Determining Remaining Balance of Family and Medical Leave

An eligible employee may take up to twelve workweeks of FML during a FML Leave Year. The FML Leave Year is defined as a period of twelve months measured backward from the date the proposed leave is to begin. For example, if the employee's proposed leave begins October 15, the twelve-month FML Leave Year begins October 16 of the prior year. If the employee used any FML time during the FML Leave Year period, the twelve-week maximum is reduced by that amount. Future requests for FML move the date for calculating the twelve-month FML Leave Year up to the date the subsequent leave is proposed to begin. A FML Leave Year always starts twelve months prior to the date the current leave request begins.

F. Requests For Leave

Requests for FML must be made to the employee's Department Head, providing as much notice as practicable in cases of medical emergency or other unforeseen events. When the leave is foreseeable, such as for planned medical treatment or birth of a child, the request is to be submitted in writing at least thirty calendar days in advance. The request must include enough information for the Department Head to conclude a FML qualifying reason exists and a proposed schedule of leave dates, including when accrued paid leave will be used and when unpaid leave will be used. For each request, a Family and Medical Leave Request Form must be completed. For requests due to serious health conditions, the employee may be required to provide certification (see Certification Requirements below).

The proposed schedule of leave for serious health conditions may be continuous, intermittent (periodic) or a reduced work schedule of partial days or weeks whereby only the absence may be covered by FML. FML for adoption, foster care, birth and the care of such newborn child must be completed within twelve months of the birth, adoption, or foster care placement and must be taken in continuous workweeks unless the employee and his or her Department Head mutually agree to a different schedule. When a husband and wife both employed by the City are eligible for FML, the total number of workweeks of leave for birth, adoption, and foster care placement to which both are entitled is limited to twelve workweeks.

G. Designation of FML

Upon receipt of an employee's leave request, the Department Head shall promptly (within two business days absent extenuating circumstances) determine the employee's eligibility for FML and notify the employee whether the leave will be considered as FML. In the absence of an employee expressly requesting FML, the Department Head must designate any eligible employee's FML qualifying absences as part of an employee's twelve workweek entitlement of FML. This designation shall only occur within two business days following the receipt of sufficient information demonstrating that the leave requested is for a reason that qualifies under this FML policy. Notification to the employee of FML request approval or designation may be verbal, but must also be given in writing. Department Heads must notify the Finance Department when FML is approved or designated

The Finance Department shall keep an accurate record of FML taken, including when accrued paid leave and unpaid leave is used.

H. Certification Requirements

1. For requests due to the serious health condition of the employee's spouse, parent, dependent, domestic partner, or child, or the employee's own serious health condition, written certification from a health care provider must be supplied by

the employee as soon as possible but no later than fifteen calendar days following a request for certification by the Department Head. A FML Certification of Physician or Practitioner form may be used. The certification must include enough information for the Department Head to confirm that a serious health condition exists, the probable duration of the condition, and the specific period(s) of incapacity. In the case of an employee's need to care for a child, spouse, domestic partner, dependent, or parent with a serious health condition, the certification must also include a description of the care and an estimate of the time that such employee needs to care for the family member.

2. An employee may be required to submit subsequent certifications no more frequently than every thirty calendar days unless an extension or modification of leave is requested, changed circumstances occur regarding the serious health condition, or information arises that questions the validity of the earlier certification.
3. In cases of the employee's own serious health condition, the employee may be required, on or before the date he or she returns to work, to provide a certification from a health care provider confirming that the employee is able to return to work and perform the essential functions of his or her position.

I. Return from Family and Medical Leave

1. When an employee returns to work on or before the expiration of the FML, the City will reinstate the employee to his or her position or to a comparable position at a pay rate not less than the former rate. If, however, an employee on FML is identified for layoff to be effective prior to the expiration of leave, the employee would not be entitled to reinstatement.
2. Employees who require additional leave from work beyond the established twelve workweeks provided within this policy may request the use of any remaining accrued paid leave (e.g., sick leave) or unpaid leave, subject to the approval by the City Manager
3. An employee on FML will be considered to have voluntarily terminated employment if he or she
 - a. advises the City of his or her intention not to return to work; or
 - b. fails to return to work upon the expiration of FML, except in instances where the employee has requested and been granted the use of any remaining accrued paid leave or unpaid leave.
4. An employee on FML who voluntarily terminates employment for reasons other than the continuation, recurrence, or onset of the employee's own or covered family members' serious health condition will be required to return to the City the

full health insurance premiums paid by the City on behalf of the employee during the period of unpaid FML.

J. Effect on Benefits

1. Continuation of Group Health Insurance: The City will continue to pay the employer's portion of the group health insurance premiums for the duration of the FML. During the weeks of unpaid leave, the employee will be required to pay his or her portion of the premium by the first of the month each month the premiums would otherwise have been deducted or paid. If the employee's portion of premium payment is more than thirty days overdue, the City will cease to maintain the employee's health benefits.
2. Years of service: Employee's years of service shall accrue during the period of FML.

Section 6-12. Temporary Disability

- A. The City shall maintain Workers' Compensation insurance for all employees at no cost to the employees.
- B. Employees that are temporarily disabled as a result of an accidental personal injury arising out of and in the course of City employment shall be entitled to benefits in accordance with the Workers' Compensation Title of the Labor and Employment Article of the *Maryland Code*.
- C. The employee must notify their supervisor as soon as possible and within 24 hours of an accident. Supervisors must complete the Employer's First Report of Injury. Any witnesses to the injury must complete a Witness Report. The Supervisor shall deliver the reports to the City Manager, who shall submit them to the City's Workers' Compensation insurance carrier.
- D. Leave.
 1. Employees receiving Workers' Compensation benefits for a temporary disability who are eligible for Family and Medical Leave pursuant to Section 6-12 shall be entitled to utilize, and shall be charged with, FML for absences during their period of disability.
 2. Employees receiving Workers' Compensation benefits for a temporary disability may be subject to termination during their disability if they remain disabled for more than 270 days or at any time after the exhaustion of their FML if a physician determines that they will not be able to return to work for more than 270 days after the date of injury.

3. Except as provided in paragraph (E)(2) of this section, employees receiving Workers' Compensation benefits for a temporary disability will not be charged with, and shall not be eligible to utilize, accrued paid leave.

E. Compensation.

1. Except as provided in paragraph 2, below, employees receiving Workers' Compensation benefits shall not receive compensation from the City during their temporary disability. Benefits will be provided by the City's Workers' Compensation insurer in accordance with Maryland law.
2. Use of accrued paid leave while awaiting Workers' Compensation determination.
 - a. An employee who is injured on the job and who submits a Workers' Compensation claim will be offered the opportunity by the City to continue to utilize accrued paid leave and receive their full salary and benefits until such time as he or she starts to receive Workers' Compensation payments or exhausts his or her accrued paid leave.
 - b. An employee utilizing accrued paid leave while awaiting potential Workers' Compensation payments must endorse any Workers' Compensation check covering any portion of the period or periods for which accrued paid leave has been used and submitted to the City Treasurer within fourteen calendar days of the employee's receipt of each check. The City Treasurer will deduct the sick, vacation or compensatory leave payments made by the City from the amount received and will reimburse the employee for any balance. The City Treasurer will credit back to the employee paid leave, as used, with a value equal to the amount of the Workers' Compensation check. Any difference between the amount of the Workers' Compensation check and leave paid by the City will remain charged to the employee as used leave. In the event an employee fails to make restitution to the City, the employee will be subject to disciplinary action up to and including termination.
 - c. Before the City will allow an employee that has applied for Workers' Compensation benefits to utilize accrued paid leave, the employee must first sign a written statement that includes the following provisions:
 - i. Acknowledgement of the employee's obligation to endorse and submit to the City Treasurer the Worker's Compensation checks in accordance with the requirements of Subsection (E)(2)(b), above; and
 - ii. Authorization for the City to deduct from future wages or payouts of accrued leave an amount not to exceed the amount of the

Workers' Compensation checks required to be submitted to the City Treasurer.

- iii. Acknowledgment that failure to comply with Subsection (E)(2)(b) will be grounds for termination.

- 3. The City will continue to pay the group health insurance premiums for employees receiving Workers' Compensation benefits for up to 270 days or the termination of their employment, whichever is first to occur.

F. Light Duty. The City may, at its discretion, offer light duty to employees eligible for Workers' Compensation benefits.

G. False Claims.

- 1. If any employee receives evidence that supports an inference that the injury of another employee that has sought Workers' Compensation benefits was not work-related, the employee receiving the evidence shall immediately notify the City Manager, who shall immediately notify the Workers' Compensation insurance adjuster assigned to City and share all available evidence with the adjuster.
- 2. An employee that makes a false claim for Workers' Compensation benefits is subject to termination.

H. Responsibilities of Employees.

Employees receiving Workers' Compensation benefits or performing light duty are responsible for:

- 1. following all physician's orders, including any treatment plans prescribed during their recovery, and adhering to all activity restrictions;
- 2. providing the City with all physician reports regarding your condition, estimated recovery, and work restrictions;
- 3. being available to the City at all times unless alternate leave has been approved for personal business; and
- 4. following all policies, procedures, and directions concerning Workers' Compensation and light duty.
- 5. reporting to the City's occupational medical provider for evaluation as directed by the City.

I. Recordkeeping and Oversight

- 1. The employee's supervisor will record the employees' absences related to a temporary disability.

2. The City Manager or his or her designee will assure through receipt and processing of attendance records and physician's evaluations, that
 - a. no employee remains absent upon exhaustion of FML without issuing a written determination that the employee should not be terminated; and
 - b. and that all benefit accruals and insurance payments are proper.
 3. The City Manager or his or her designee will require employees to undergo evaluations by the City's occupational medical provider as often as is necessary to ensure that the employees remain temporarily disabled, and, in any event, no less frequently than every sixty days.
- J. In determining whether and how to retain an employee that has exhausted their FML, the City Manager, in consultation with the City Attorney, shall consider the hardship to the City caused by the continued vacancy of the employee's position, the availability of light duty and the hardship to the City of paying the employee for the performance of light duty, the estimated duration of the employee's disability, and the interest of the City in retaining the specific employee because of the employee's skill, experience, or work performance, whether the employee, with reasonable accommodations, is able to perform his or her duties, and any factors pertinent under local, state or federal law.

CHAPTER 7

HEALTH, RETIREMENT AND OTHER BENEFITS

Section 7-1. Employee Health Benefits

- A. All permanent employees shall be eligible to participate in a group health plan or health maintenance organization plan and a drug prescription plan, which shall be established and/or approved by the City Manager.
- B. The City shall pay an amount equal to the premium for health benefits for individual coverage in an HMO plan.
- C. Employees may elect to provide, at their sole expense, coverage for their spouses, children, and, if available through the City's chosen group health benefits provider, either a domestic partner or a dependent.

Section 7-2. Retirement Plan

All permanent (part/full time) employees budgeted to work at least 500 hours, not including overtime, in a fiscal year shall be enrolled in the Maryland State Retirement System and shall be subject to its regulations as defined by the Maryland Code. The plan provides that the City annually contributes an amount equal to a specified percentage of the employee's salary into their retirement fund.

Section 7-3. Life Insurance Policy

After three (3) months of employment, the City shall provide term life insurance coverage of \$10,000 for each employee, whether full-time or part-time. The City may provide life insurance coverage for contractual employees if specified in their employment agreement.

CHAPTER 8

EMPLOYEE PERFORMANCE APPRAISAL

Section 8-1. Purpose of Performance Appraisal

Employee performance appraisal is the process of observing and reviewing work performance, recognizing its quality, identifying needs for improvement, and working with the employee to improve effectiveness to maximize the use of their knowledge, skills, and abilities in carrying out duties as described in an employee's job description. Employees who perform satisfactorily are eligible for merit increases if funding is available.

Annually, the City Manager shall meet with the Department Heads to assess their performance and determine if the Department Head is eligible for a merit increase.

Department Heads and supervisors shall prepare a written performance appraisal and meet with their assigned employees within seven (7) days of each employee's anniversary date.

The City Manager shall develop and revise, as necessary, the Performance Review Instrument that shall be used by all City departments to determine its adequacy and proper application.

At the discretion of the supervisor, Department Head, or City Manager, additional performance appraisals may be conducted at any time.

Immediate supervisors shall provide their employees periodic feedback on their performance and constructive criticism in deficient areas with opportunities for improvement and growth at least orally on a quarterly basis.

Section 8-3. Performance Appraisal Appeal Procedures

Eligible employees may appeal an unsatisfactory written performance appraisal through the standard grievance procedure as described in Chapter 10 of this Manual.

Section 8-5. Performance Improvement Plans

An employee may be placed on a performance improvement plan after receiving an unsatisfactory performance appraisal. Failure to satisfy the conditions of a performance improvement plan shall be grounds for termination.

CHAPTER 9

PROGRESSIVE DISCIPLINARY ACTIONS

Section 9-1. Policy

- A. A disciplinary action against an employee shall be initiated promptly when the action is necessary to maintain an orderly and productive work environment. Except for serious violations of a criminal nature or violations affecting the safety and security of the work environment, disciplinary actions shall be progressive in severity. The severity of the action shall be determined after consideration of the nature of the offense, its relationship to the employee's assigned duties and responsibilities, the employee's work records, and other relevant factors.
- B. Failure to apply disciplinary action in a particular instance shall not be construed as a waiver or precedent with respect to the same or a similar situation arising in the future.

Section 9-2. Causes for Disciplinary Actions

Causes for disciplinary action include, but are not limited to, the following:

- A. Failure to perform duties in a competent or acceptable manner, including negligent performance of duties and insubordinate behavior;
- B. Violation of any provision of department rules, this Manual, or City law.
- C. Violation of any provision of County, State, or Federal laws;
- D. Theft, misappropriation, or misuse of City funds or property;
- E. Unauthorized absence or chronic tardiness;
- F. Working or reporting to work under the influence of alcohol or any nonprescribed, controlled, or dangerous substance;
- G. Material falsification or omission of information provided on an employment application or concerning a promotion or leave of absence;
- H. Knowingly making false statements on reports in the course of employment;
- I. Engaging in a private business or in a trade or occupation during official working hours;
- J. Violating the Ethics Chapter of the Mount Rainier City Code;
- K. Making a threat of force or disclosure of personal affairs, releasing confidential information, defaming or spreading misinformation about residents, staff, elected

officials and candidates for City office in a manner that could bring liability on the City, blackmail or extortion to exert pressure on any person in the performance of official duties or directing an employee to perform any service outside of official duties;

- L. Soliciting endorsement for employment or promotions from persons who are or may be doing business with the City;
- M. Refusal to take a medical examinations or to provide medical records when requested;
- N. Refusal to adhere to drug policies or take a drug screening examination when requested;
- O. Absence from work without permission or without providing required medical certification after being absent from work for three consecutive workdays.
- P. Dishonesty.

Section 9-3. Types of Disciplinary Actions

- A. **Oral Admonishment:** A spoken warning or indication of disapproval concerning a specific act, infraction or violation of a policy or procedure that is generally noted for the record but does not become part of an employee's personnel record.
- B. **Written Reprimand:** A written statement concerning a specific act, infraction or violation of a policy or procedure that is made a part of the employee's personnel record.
- C. **Performance Improvement Plan:** Nonprobationary employees that have demonstrated unsatisfactory performance may be placed on a performance improvement plan, which may remain in place for up to 12 months. Employees that fail to satisfy the conditions of the performance improvement plan may be terminated for cause at any time during the pendency of the plan.
- D. **Suspension Pending Investigation of Charges:** The placing of an employee on leave with or without pay status for an indefinite period of time pending investigation of charges for job-related offenses. Employees shall not accrue sick or annual leave during a suspension without pay. Employees found innocent of charges at the conclusion of the investigation shall be reinstated with all rights and benefits that would have been received had he or she not been suspended pending investigation of charges.
- E. **Suspension Without Pay:** The placing of an employee on leave without pay for disciplinary reasons. Employees shall not accrue sick or annual leave during a suspension without pay.
- F. **Demotion:** The demotion of an employee for disciplinary reasons.
- G. **Dismissal:** The removal of an employee from the City's services for cause.

Section 9-4. Authority

- A. At their own discretion, the City Manager and supervisors may counsel employees and give oral and written reprimands.
- B. The City Manager has the authority to impose any disciplinary action upon any employee. The City Manager shall notify the Mayor and Council before terminating a Department Head.
- C. Department Heads must obtain the approval of the City Manager before imposing the following disciplinary actions upon employees: probation based on unsatisfactory performance, suspension, suspension pending investigation, demotion and dismissal.

Section 9-5. Appeal of Disciplinary Actions

Eligible Employees may appeal a disciplinary action in accordance with Chapter 10, Grievance Procedures.

Section 9-6. Procedures for Suspension

- A. An employee may be suspended without pay for reasons of misconduct, negligence, inefficiency, insubordination, repeated unauthorized absence or other offenses when, given the nature of the offense, lesser disciplinary actions would be inappropriate.
- B. A written statement of the suspension shall be given to the employee in person or sent to the employee via certified mail. A copy of the written statement shall be filed with the City Manager. The employee shall have 48 hours to respond to the City Manager before the City will suspend the employee's pay.
- C. An employee who has been suspended and who incurs another offense during the ensuing 12-month period may be required by the City Manager to show cause as to why his or her employment should not be terminated.

Section 9-7. Procedures for Suspension Pending Investigation

- A. Purpose of suspension pending investigation of charges or trial. A Department Head may suspend an employee without pay for an indefinite period while the employee is:
 - 1. being investigated by the City or a law enforcement agency for an offense that is related to the employee's City employment or calls into doubt the employee's suitability for continued employment; or

2. waiting to be tried for an offense that is related to the employee's City employment or calls into doubt the employee's suitability for continued employment.
- B. A Department Head will notify the employee in writing of the proposed action, and the reasons therefore, and the employee has the right to respond to the City Manager within 48 hours. The City Manager will issue a decision promptly.
- C. Employee's return to work after suspension.
1. The City Manager must allow the employee to return to work unless the City dismisses the employee or the employee is convicted by a court.
 2. The City Manager must give the employee back pay and benefits, subject to subparagraph C below, except as provided in a separate disciplinary action imposed by the City.
 3. The City Manager's approval of back pay is subject to the following:
 - (i) the employee must provide documentation of other earnings or income during the period of suspension and must obey all City regulations on secondary employment; and
 - (ii) back pay must equal the amount the employee would have earned during all or part of the period of suspension less the amount the employee earned in other employment during the period.

Section 9-8. Procedures for Dismissal of Classified Employees

Classified employees are subject to dismissal for continued unsatisfactory performance on the job or for violation of City policies.

- A. Before dismissing a classified employee, a Department Head shall have utilized one or more lesser forms of discipline. This requirement shall not apply if, at the Department Head's discretion, the severity of the situation justifies immediate dismissal.
- B. When a Department Head has concluded that a particular situation is irreconcilable, he or she shall promptly submit a written recommendation to the City Manager outlining the particulars of the situation and requesting the employee's dismissal.
- C. If the City Manager concurs in the recommendation, a letter of particulars will be provided to the employee outlining the reasons and justifications for the dismissal. The employee may respond to the City Manager within 48 hours. If the employee timely files a response, the termination shall be effective unless withdrawn by the City Manager within five work days from the issuance of the letter of particulars.
- D. A classified employee that has timely submitted a written response to the City Manager shall have the right to a hearing before the Personnel Appeals Board, by submitting a written grievance to the City Manager within 20 calendar days of the issuance of the

letter of particulars. Employees that fail timely to respond to the City Manager's letter of particulars waive their right to a hearing before the Personnel Appeals Board.

CHAPTER 10

GRIEVANCE PROCEDURES

Article 1. Filing a Grievance

Section 10-101. Policy

Legitimate problems and differences of opinion may arise between the City and its employees. Employees are encouraged to attempt to resolve problems informally through discussions with co-workers and supervisors. However, a formal written grievance procedure is necessary to ensure the proper administration of personnel matters. It shall be the responsibility of the City Manager to establish and maintain a work climate within which an employee's grievance may be identified, presented, discussed and given fair and prompt consideration. In presenting a grievance, an employee shall be assured freedom from restraint, interference, coercion, discrimination and reprisal. Employees have the right to representation of their own choosing and expense, at any level of review.

Section 10-102. Employees Eligible to File a Grievance

- A. Only nonprobationary classified employees may file a grievance.
- B. Nonprobationary classified bargaining unit employees may file a grievance over a matter unless the employee is required to or has elected to pursue the matter under procedures provided in the applicable collective bargaining agreement. Bargaining unit employees who file a grievance pursuant to this Chapter may not grieve the same matter pursuant to the procedures established in the collective bargaining agreement.

Section 10-103. Filing a Grievance

- A. In the event a problem cannot be settled informally through oral discussions with an employee's supervisor, a grievance may be filed if an employee is adversely affected by an alleged:
 - 1. Violation, misinterpretation or improper application of established statutes, regulations, procedures or policies;
 - 2. Improper or unfair act by a supervisor or other employee, which may include coercion, restraint, reprisal, harassment or intimidation;
 - 3. Improper, inequitable or unfair act in the administration of employees which may include promotional opportunities, selection of or training, duty assignments, work schedules, transfers and reductions in force;
 - 4. Improper, inequitable or unfair application of compensation policies and employee benefits, which may include salary, pay differentials, awards, overtime pay, leave, insurance, retirement and holidays; or
 - 5. Improper or unfair application of a disciplinary action described in Chapter 9, Progressive Disciplinary Actions.

- B. The following issues, however, shall not be grievable:
1. Position descriptions, classifications, or pay grade;
 2. Performance evaluations rating an employee's performance as satisfactory or higher, unless the performance evaluation violates the City's policies or procedures;
 3. Termination of probationary employees;
 4. Termination of contract employee at the end of term of employment or the completion of work the employee was hired to perform;
 5. An employee award or bonus;
 6. Any counseling or oral admonishment;
 7. Lateral transfers, work assignments, and schedules;
 8. Any other matter clearly identified as not grievable by ordinance, regulation or court or administrative decision.

Section 10-104. Grievance Procedure

A. Step 1. An employee may, within ten working days of the cause of the grievance, present the grievance in writing to the employee's department head. The department head shall, within three working days of receiving the grievance, meet with the employee and discuss the grievance. The department head shall, within five working days of the meeting, provide the employee with a written decision regarding the grievance explaining the reasons for the decision. The employee shall have ten calendar days to submit a written appeal of the decision of the department head to the City Manager.

B. Step 2. The City Manager shall, within five working days of receiving an employee's written appeal, meet with the employee to discuss the grievance. The City Manager shall, within 10 working days of the meeting, provide the employee with a written decision regarding the grievance that explains the reasons for the decision.

C. Step 3 Personnel Appeals Board.

1. The employee may appeal the City Manager's written decision to the Personnel Appeals Board if the employee's grievance involves one or more of the following actions:
 - a. Performance evaluations rating an employee's performance as unsatisfactory.
 - b. Performance evaluations that violate the City's policies and procedures.
 - c. Suspension without pay of 14 days or more.
 - d. Demotion.
 - e. Dismissal.

2. The employee must file with the City Manager a written request for a hearing before the City of Mount Rainier Personnel Appeals Board within 15 calendar days of the date of issuance of the City Manager's written decision.
 3. The City Manager shall promptly collect any pertinent data or other written material concerning the matter and promptly present the employee's written request and all other pertinent written material to the Personnel Appeals Board.
- E. The Personnel Appeals Board shall consider the evidence presented by the employee and the City and, following a hearing on the matter, affirm, reverse or modify the decision of the City Manager in a written Opinion and Order that includes findings of fact and conclusions of law.

Section 10-105. Personnel Appeals Board Hearing

- A. **Impartial Panel.** In the event a hearing is granted, any member of the Personnel Appeals Board who is not impartial with respect to the grievance or who has had direct input or contact concerning the pending grievance shall not participate in the consideration of the matter.
- B. **Dates and Notification of the Hearing.** The hearing shall take place within 30 days of receipt of the request for the hearing. All parties to the grievance shall receive written notification of the time and place of the hearing at least 10 working days before the hearing.
- C. **Legal Counsel.** The City and the employee may have legal representation of their choice present at the hearing. Legal counsel and other related costs that the employee may incur will be the expense of the employee.

CHAPTER 11

PERSONNEL APPEALS BOARD

Section 11-1. Establishment and composition.

- A. There shall be a Personnel Appeals Board (“Board”) composed of at least three and no more than five members, who must be residents of the City.
- B. Except for the initial appointments, the Mayor and Council shall appoint the members for terms of three years. Initially, the Mayor and Council shall appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years. The terms shall begin on October 1st and end on September 30th. Any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the remainder of the term.

Section 11-2. Meetings.

The Board shall meet in October or as soon as possible thereafter for the purpose of electing a Chairperson and Vice Chairperson for the ensuing year. A quorum of the Board is three members. Meetings for the purpose of hearing employee appeals shall be called by the Chairperson or the Chairperson’s designee upon receipt of notification of a request for review of a grievance decision. The Board may also hold meetings regarding the adoption of rules and procedures or any other matters related to its authorized functions.

Section 11-3. Hearings.

- A. Three member panels. The Chairperson or the Chairperson’s designee is hereby authorized to designate three members of the Board to sit as a panel to conduct a hearing on any complaint pending before the Board. The Chairperson shall designate one panel member to preside at the hearing.
- B. Three panel members must be present at a hearing, and all official action by the panel shall be taken by the vote of at least two panel members.

Section 11-4. Authority.

- A. The Board shall have the authority to adopt rules of procedure.
- B. The Board shall be the final arbiter in all cases brought before it.
- C. The Board shall only have the authority to hear grievance appeals authorized in this Manual.

APPENDIX A

CITY OF MOUNT RAINIER SEXUAL HARASSMENT POLICY

It is the policy of the City of Mount Rainier that all employees have a right to work in an environment free of discrimination, free from sexual harassment and free from homophobia and ridicule. The City of Mount Rainier strongly disapproves of sexual harassment of its employees in any form, and states that all employees at all levels of the City must avoid offensive or inappropriate sexual and/or sexually harassing behavior including posting inappropriate posters at work and each City employee will be held responsible for ensuring that the workplace is free from sexual harassment.

Specifically, the City of Mount Rainier prohibits the following:

- I. Unwelcome sexual advances.
- II. Requests for sexual favors, whether or not accompanied by promises or threats with regard to the employer/employee employment relationship.
- III. Other verbal or physical conduct of a sexual nature made to any employee that may threaten or insinuate either explicitly or implicitly that any employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that person's employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development.
- IV. Any verbal or physical conduct that has the purpose or effect of substantially interfering with the employee's ability to do his or her job.
- V. Any unwelcome verbal or physical conduct or any gesture which is sexual in nature.

Such conduct may result in disciplinary action up to and including dismissal.

Other sexually harassing conduct in the workplace, whether physical or verbal, committed by supervisors or nonsupervisory personnel is also prohibited. This behavior includes but is not limited to: commentary about an individual's body, sexually degrading words to describe an individual, offensive comments, off-color language or jokes, innuendoes, and sexually suggestive objects, books, magazines, photography, cartoons or pictures.

Employees who have complaints of sexual harassment by anyone at work, including any supervisors, co-employees, Mayor, Council Member, residents or visitors are urged to immediately report such conduct to their supervisor, Department Head, or City Manager so that the appropriate representatives of the City of Mount Rainier may investigate and resolve the problem. Employees may bring such matters to the direct attention of their immediate supervisors, to the Department Head or to the City Manager.

Employees have the right to reject such conduct, and to make an oral and written report describing the conduct. If the employee feels that he or she cannot report the inappropriate behavior to his or her supervisor, Department Head or City Manager, he or she may exercise

the option of submitting his or her written report to the City's Ethics Committee or City Attorney for immediate and proper handling.

The City of Mount Rainier will endeavor to investigate all complaints as expeditiously and as professionally as possible.

There will be no retaliation against employees for reporting sexual harassment or assisting the City in the investigation of a complaint. However, if after investigating any complaint of harassment or unlawful discrimination the City learns that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who provided the false information.

APPENDIX B

ALCOHOL AND DRUG POLICY

§B-101. Purpose

§B-102. Definition

§B-103. Substance Abuse Policy

§B-104. Screening for Drugs/Alcohol

Section B-101. Purpose

The purpose of this Policy is to prescribe alcohol and drug policies relating to city employees as defined herein, and to provide policy and procedures for conducting drug and alcohol screening when there is reasonable suspicion that an employee is under the influence or intoxicated during working hours.

Section B-102. Definitions.

In this Policy, the following terms have the meanings indicated:

A. **Abuse** means:

1. Any use of any illegal drug;
2. Intentional misuse of any over-the-counter drug, in cases where such misuse impairs job performance;
3. Use of any prescription drug in a manner inconsistent with its medically prescribed, intended use or under circumstances where use is not permitted;
4. Use of alcohol during the workday or where such use impairs job performance; and
5. Intentional and inappropriate use of any substance, legal or illegal, which impairs job performance.

B. **Alcohol** means ethyl alcohol or ethanol.

C. **Drug** means any substance, including controlled dangerous substances, taken into the body, other than alcohol, which may impair one's mental faculties or which changes one's mood and/or physical performance.

D. **Employee** means any person serving in a full-time, part-time or on-call position.

E. **Sensitive positions** are those in which the City Manager has determined that any of the following conditions exist:

1. A substantially significant degree of responsibility for the safety of others.

2. A potential that impaired performance of the employee could result in death of or injury to the employee or others.
 3. Lack of close monitoring of the employee's behavior which reduces the possibility of intervention or assistance by another when necessary.
- F. **Substance** means alcohol or drugs.
- G. **Under the influence** is drinking alcohol or using drugs to the extent of probably affecting one's judgment and discretion or probably affecting one's nervous system to the extent that there is a failure of normal coordination, although not amounting to intoxication.
- H. **Workplace** means city-owned or utilized premises for official city business.
- I. **Volunteer** means any person who provides services to the City on a voluntary basis, without remuneration, by carrying out a duty whose fulfillment is prescribed by the Mount Rainier Code or which is ordinarily accomplished by a full-status city employee. It does not include individuals who act in a purely advisory capacity, such as members of citizen task forces that supply recommendations to the Mayor and City Council on impending legislative matters.

Section B-103. Substance Abuse Policy.

- A. Employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in the workplace.
- B. Where justified by reliable information and/or observation, criminal violations shall be referred to the appropriate law enforcement authority for further investigation and prosecution.
- C. The City will not hire anyone who is known to currently abuse drugs or alcohol.
- D. All employees must report to work and return to work in a fit condition to perform their duties. Reporting to work under the influence of drugs or alcohol is a violation of this policy and shall subject the employee to disciplinary action.
- E. All employees are prohibited from purchasing, transferring, using or possessing illegal drugs while on duty or while on official City business. Violations of this policy is proper cause for administrative or disciplinary action up to and including termination of employment.
- F. Employees who are under the influence of alcohol, purchase, transfer, or possess alcohol or consume alcohol while on duty or on official City business, are in violation of this policy, except as permitted in the Police Department procedures regarding undercover

work, and may be subject to administrative or disciplinary action up to and including termination of employment.

- G. Employees undergoing medical treatment involving prescribed medications that could adversely affect performance, such as drugs that should not be used when operating machinery, motor vehicles, etc., must report this treatment to their supervisor or Department Head. Even though the use of such drugs as prescribed by a physician is legal, it may be necessary to modify an employee's duties to protect the safety of the employee and others.
- H. All employees must notify the City in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace within five (5) calendar days of that conviction.
 - 1. The City is required to notify the appropriate County, State or Federal Agency in writing within ten (10) calendar days after receiving notice under Sec. B-103(H) from an employee or otherwise receiving actual notice of such conviction. The City must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal Agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) and CDBG Program Years of such affected grants.
 - 2. Within thirty (30) calendar days of receiving notice under this provision with respect to any employee who is so convicted, one of the following actions will be taken:
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- I. Employees convicted of an off-the-job drug or alcohol offense will be in violation of this policy if the violation interferes with the regular performance of their jobs.
- J. All employees must cooperate fully with appropriate law enforcement authorities in the investigation and prosecution of illegal drug or alcohol use in the workplace.
- K. Employees will not be disciplined for voluntarily seeking assistance for a substance abuse problem. However, employees seeking such assistance may be disciplined for unacceptable job performance, poor attendance, and misconduct resulting from the substance abuse.

- L. When appropriate, the City may require an employee to successfully complete a substance abuse treatment program approved by the City as a condition of continued employment. The employee shall be required to authorize the release of information to the City to facilitate monitoring of the employee’s compliance with the program and shall be subject to the further drug or alcohol testing.
- M. Employees who are assigned to sensitive positions will be terminated if they are in violation of this policy.
- N. Any employee found to be in violation of any of the provisions of this policy shall be subject to disciplinary action including penalties up to and including termination.
- O. All Department Heads and supervisors are responsible for adherence, implementation and monitoring of this policy.
- P. Volunteers and hourly contract employees of the city are forbidden to use or be under the influence of alcohol or drugs while acting in their capacity as volunteers or contract employees. Violation of this policy is sufficient cause for termination of volunteer or contract employee status.
- Q. All employees will be provided a copy of this policy and are required to acknowledge receipt by returning a signed copy of the following affirmation to their supervisors for insertion in their personnel files:

**SUBSTANCE ABUSE POLICY
ACKNOWLEDGMENT OF RECEIPT**

As an employee of the City of Mount Rainier, I, _____, hereby certify that I have received a copy of the City's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession or use of, or being under the influence of, alcohol or a controlled substance is prohibited on the City's owned or utilized premises or while on duty and violation of this policy can subject me to discipline up to and including termination. As a condition of employment, I must abide by the terms of this policy and will notify my supervisor of any criminal drug conviction no later than five (5) calendar days after such conviction. I further realize that federal law mandates that the employer communicate this conviction to the appropriate county, state, or federal agency, and I hereby waive any and all claims that may arise from conveying this information to the appropriate agency.

Employee’s Signature

Date

Supervisor's Signature

Date

Section B-104. Screening for drugs and/or alcohol.

- A. The City may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs and/or alcohol or if the employee is involved in a motor vehicle accident during work hours. Testing of police officers must conform to the provisions of the LEOBR. The City may develop regulations governing random drug and alcohol testing in the event such testing is required by any County, State or Federal agency.
- B. "Reasonable suspicion" means a belief based on specific objective facts and reasonable inference drawn from those facts. Reasonable suspicion may include, but is not limited to:
1. A pattern of abnormal or erratic behavior;
 2. Information of recent drug and/or alcohol use provided by a reliable and credible source;
 3. Direct observation of evidence of drug and/or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).
- C. Employees and applicants for employment in sensitive positions shall be subject to pre-employment and random drug and alcohol testing.
- D. Consent. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the testing and permitting release of test results to City officials with a need to know. The consent form shall provide space for employees to acknowledge that they have been notified of the city's drug testing policy. Employees and applicants may at this time provide a list of medications that they have recently used. The list of medications, if provided, shall be sealed and held as confidential until there has been a positive test result. In the event of a confirmed positive test result, the list of medications shall only be disclosed to the medical officer who will determine whether the positive result was due to lawful use of any of the listed medications. Employees may choose to provide such a list after being notified of a confirmed positive result. The consent form shall also include:
1. The procedure for confirming an initial positive test result.
 2. The consequences of a confirmed positive test result.
 3. The right to explain a confirmed positive test result and the appeal process available.
 4. The consequences of refusing to undergo a drug and alcohol test.

- E. Procedure. When, in the supervisor's judgment, there is reasonable suspicion to believe that an employee is under the influence of drugs or alcohol, the supervisor will immediately contact the Department Head, deputy, acting Department Head, or City Manager, who will evaluate the supervisor's recommendation and, if appropriate, authorize the supervisor to request the employee to consent to testing. The employee and a representative of the employee's union, if any, will be notified that the city representatives suspect the employee is under the influence of drugs and/or alcohol and will list the reasons which document their suspicion. The employee, in the presence of his or her union representative, if any, will be questioned about his or her behavior or other reasons that have caused the supervisor and city officer to suspect that the employee is under the influence of drugs and/or alcohol. If, after the employee's explanation, the supervisor and city officer may request that the employee submit to a drug/alcohol detection test. Provided that the employee consents, the supervisor will escort the individual to the designated testing facility.
- F. Documentation of reasonable suspicion. Supervisors and city officers shall detail in writing the specific facts, symptoms or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate Department Head or designee and a copy shall be furnished to the employee. The facts underlying the determination of reasonable suspicion shall be disclosed to the employee at the time the demand is made.
- G. Drugs to be tested for. When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of any of the following drugs, as appropriate:
1. Alcohol (ethyl).
 2. Amphetamines (e.g., speed).
 3. Barbiturates (amobarbital, butobarbital, phenobarbital, secobarbital).
 4. Cocaine.
 5. Methaqualone (e.g., quaalude).
 6. Opiates (e.g., codeine, heroin, morphine, hydromorphone, hydrocodone).
 7. Phencyclidine (PCP).
 8. THC (marijuana).
 9. All drugs specified in the State of Maryland Schedule of Controlled Dangerous Substances.
- H. Refusal to consent to a drug and/or alcohol test when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination.
- I. Laboratory testing requirements.

1. All drug and alcohol testing of employees shall be conducted at medical facilities or laboratories selected by the city. To be considered as a testing site, a medical facility or lab must submit, in writing, a description of the procedure that will be used to maintain test samples. The city shall not select a test facility that does not employ:
 - a. Testing procedures that ensure privacy to employees consistent with the prevention of tampering.
 - b. Methods of analysis that ensure reliable test results, which may include the use of gas chromatography/mass spectrometry to confirm positive test results.
 - c. Chain of custody procedures that ensure proper identification, labeling and handling of test samples.
 - d. Retention and storage procedures that ensure reliable results on confirmatory tests of original samples.
 2. All drug and alcohol testing will be performed by a laboratory which meets the standards recommended by the National Institute on Drug Abuse (NIDA).
- J. Confidentiality of test results. All information from an employee's drug and alcohol test is confidential, and only those officials with a need to know are to be informed of test results. Disclosure of test results to any other person, agency or organization is prohibited unless written authorization is obtained from the employee. The results of a positive test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory.
- K. Privacy in drug testing. Urine samples shall be provided in a private restroom stall or similar enclosure so that employees may not be viewed while providing the sample. Employees will be given hospital gowns to wear while they are providing test samples to ensure that there is no tampering. Street clothes, bags, briefcases, purses and other containers may not be carried into the test area. The water in the commode shall be colored with blue dye to protect against dilution of test samples.
- L. Grievances and appeals. All appeals and grievances for actions under this policy will be in accord with the City Code, this Manual, or an applicable collective bargaining agreement.