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Posted: January 9 - February 28, 2014  
Effective Date: \_\_\_\_\_

**CITY OF MOUNT RAINIER, MARYLAND**

**ORDINANCE 4-2013**

(Drafted by City Attorney)

Introduced by Jesse Christopherson

**An Ordinance amending the City of Mount Rainier Personnel Policy and Procedures Manual to revise the leave, workers compensation and general conduct provisions for employees.**

**WHEREAS**, by Ordinance 7-2004, the Council adopted the City of Mount Rainier Personnel Policy and Procedures Manual; and

**WHEREAS**, the City wishes to streamline, modernize, and clarify its personnel policies and procedures; and

**WHEREAS**, the City's policies regarding compensation of employees during injury leave have undermined the City's ability to maintain an adequate work force and provide public services within budget; and

**WHEREAS**, the primary substantive changes to leave, workers compensation and general conduct provisions were presented to the FOP, and the FOP approved the changes on March 12, 2013; and

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MOUNT RAINIER as follows:**

The City of Mount Rainier Personnel Policy and Procedures Manual is amended as set forth in the document attached to this Ordinance.

**THIS ORDINANCE IS ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF MOUNT RAINIER THIS 7<sup>th</sup> DAY OF January, 2013.**

Attest:

Jeannelle B. Wallace  
Jeannelle B. Wallace, City Manager

\_\_\_\_\_  
Malinda Miles, Mayor

Jesse Christopherson  
Jesse Christopherson, Councilmember  
Ward 1

**PERSONNEL POLICY AND PROCEDURES  
MANUAL**

**Personnel Policy and Procedures Manual**

**Last Revised** \_\_\_\_\_

**Adopted by Mayor and City Council** \_\_\_\_\_

## 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.

~~**Anti-Semitism** – a prejudicial, discriminatory attitude toward Jews based on negative perceptions about their religious beliefs, and is a form of stereotyping. Anti-Semitism can also be a form of racism.~~

**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.

~~**Classified employee** – all employees employed in a classified position.~~

~~**COBRA** – Consolidated Omnibus Budget Reconciliation Act, which is a Federal Law requiring that most States and local governments sponsoring group health plans offer employees and their families the opportunity for a temporary extension of health coverage, (Continuation Coverage), at group rates in certain instances where coverage under the plan would otherwise terminate.~~

~~**Compensation** – the amount of money, compensatory time, etc., that may be given to an employee as payment for employment services. Wages and other financial benefits earned by an employee for employment services or labor.~~

**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 failure to adhere to the established rules, regulations, policies, orders, procedures and laws established by the City Manager, department head or supervisor poor performance or misconduct, except that actions taken against sworn law enforcement officers based solely on performance shall not constitute disciplinary action.

~~**Involuntary Termination**— termination of employment with the City for cause. Also see Dismissal.~~

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

~~**Mayor and City Council**— persons elected by the citizens of Mount Rainier to hold the positions of mayor and council member. May also be referred to as Mayor and Council. See also Elected Officials.~~

**Municipal**— Refers to the City of Mount Rainier unless otherwise specified.

**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 Salary Premium Pay** – compensation paid at a rate of one and one-half times ~~over~~ the regular hourly wage for work performed in excess of 40 hours in one week. ~~Compensation paid at a rate of two times the regular hourly wage for work performed on a holiday.~~

**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, ~~in public view.~~

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

~~**Property and Equipment**— any material of value, i.e., land, equipment (found, donated or purchased), owned, leased, rented, or otherwise acquired by the City, including but not limited to unclaimed items recovered by Mount Rainier’s Police Department and/or Public Works Department.~~

~~**Racism**— the incorrect assumption that one’s ethnicity determines specific cultural and psychological traits, and the belief that one ethnic group or race is superior to another or all other ethnic groups or races.~~

**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.

**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 ~~municipal~~City payroll are considered to be employees for purposes of this Personnel Policy and Procedures Manual, except elected officials ~~of the municipality~~, 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 ~~Maryland Law Enforcement Officers’ Bill of Rights~~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.

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 reviewing/evaluating the performance of the City Manager.

**B. — 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.

**C. — 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

## 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 orderly/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 Use of the Telephone Calls, Emails, and Electronic Messages**

The City of Mount Rainier recognizes that there is a need for flexibility in handling situations that may arise, therefore, the City allows Employees are allowed up to three (3) non-emergency telephonenonemergency calls not to exceedor 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 in length each during the workday. Personal toll calls are at the expense of the employee and may not be charged to the City's telephone account. 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 performanceaccomplishment of assigned job responsibilities or to distract other workers fromfrom the accomplishment of their job responsibilities arewill 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.

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 ~~order to comply~~ 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 ~~Injured Worker Insurance Fund (IWIF)~~ 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 ~~as approved by IWIF~~.

#### **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 1D, Ethics, 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.

**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 carpiece. Employees must pull over, out of traffic, before making or receiving a call, and must remain stopped until completing the call.~~
- 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.~~

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### **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 ~~municipal~~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 ~~required~~ of the position ~~and are bona fide occupational qualifications which cannot be accommodated~~ without ~~undue~~imposing an unreasonable hardship upon the City. The goals and objectives of this policy are to: (1) ensure fair treatment and ~~non-discrimination~~nondiscrimination in ~~municipal~~City hiring and promotional opportunities, employee benefits, and appointments to and service on ~~municipal~~City boards, committees and commissions; and (2) provide compliance with local, state and federal equal employment opportunity requirements and regulationslaws.

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 Substance Abuse Drugs and Alcohol**

Employees are subject to the City's Alcohol and Drug Policy ~~as, 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 ~~will close if the Federal Government~~Manager will be responsible for declaring changes to the City's regular attendance policy when he or ~~Prince George's County Government declares closure due to inclement weather~~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 ~~non-essential~~specific nonessential employees are ~~to~~must report to ~~work~~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 ~~the~~their immediate

**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 2-78. 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.

## 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 ~~in order to assure~~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.

Council. The notification shall contain ~~the~~ position description and any other information that may be pertinent to filling the vacancy ~~and~~.

B. Position Announcements.

~~A.C. Department heads shall indicate whether prepare position announcements for vacancies in their departments. The City Manager intends to limit the applicant pool to current City employees or conduct a public search. must approve all position announcements.~~

~~B. Prior to publishing any vacancy announcement, the position description and the vacancy announcement shall be approved by the City Manager.~~

D. Each vacancy announcement shall include all pertinent information, including the position title, salary range, position classification, scope of the applicant pool, required education, experience, training, licenses, certification, knowledge, skills, and abilities.

C.E. Employment opportunities must be announced and a summary of minimum qualifications advertised at least 10 working days prior to the closing date in

D. Publication of vacancy announcements.

~~1. Vacancy announcements for positions to be filled by current employees shall only be posted on City property where employee notices are normally posted. See §4-301.~~

~~1. Vacancy announcements for positions open to the public shall be published in the City's the City Newsletter, the Message, and;~~

~~2. a newspaper of general circulation in the City, at least 10 working days prior to the closing date. In addition, such vacancy announcements shall be posted on City property where employee notices are normally posted, and;~~

~~3. the City's web site; and~~

~~2.4. 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 ~~applications~~ application forms that ~~are to may~~ be used by applicants to ~~formally~~ 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.

- 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 ~~90 days~~six months (excluding the required probationary period for police personnel).
- C. On recommendations from ~~department heads~~Department Head, the City Manager or his/ or her designee may extend ~~thean employee's six-month~~ probationary period for up to ~~a maximum of~~ six additional months ~~in order~~ 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**

~~The City may terminate a probationary employee at any time for any reason except as may be provided under a collective bargaining agreement or a written employment contract between the City and the employee. When a collective bargaining agreement or written employment contract applies to a probationary employee, the City shall follow the terms and conditions of the collective bargaining agreement or employment contract.~~

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

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. ~~Definitions. For the purposes of this section, the following definitions shall apply.~~

- ~~1. "Non-exempt employee" shall mean an employee entitled to overtime compensation for work performed in excess of 40 hours per week under the Federal Fair Labor Standards Act ("FLSA").~~
- ~~2. "Exempt employee" shall mean an employee who is not entitled to overtime pay for work performed in excess of 40 hours per week under the FLSA.~~

B.A. The City of Mount Rainier City's overtime compensation policy ~~shall~~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 ~~non-exempt~~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.~~

##### Non-exempt

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. ~~—(See also Section 6-4-B. Paid Holidays).~~
3. Upon the request of a ~~non-exempt~~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.

~~C. Except as provided in Subsections I and J, the City shall compensate 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.~~

4. Compensatory time for ~~non-exempt~~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 ~~provide~~ compensatory time off in lieu of overtime premium pay prior to the employee's performance of the overtime work.

#### C. FLSA Exempt Employees ~~must request~~

| Revenue Service for business use of a personal vehicles. The employee shall be reimbursed for parking and bridge/road tolls.

### **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 ~~and~~ at the rate of one (1) day per month, or twelve (12) days per year.
- B. Employees are ineligible to use paid sick leave is available to an employee after 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 ~~may~~ 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 ~~obtaining~~ 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 ~~non-paynonpay~~ status.
- H. Employees that have exhausted their FML may be subject to termination even if they have unused sick leave.

### **Section 6-4. Paid Holidays**

All ~~regular~~ 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:

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 40~~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.

**Section 6-10. Work Related Temporary Disability:**

A. ~~The absence from duty for a temporary disability caused by an accident or occupational disease entitling an employee to workers' compensation benefits shall not be charged to sick leave.~~

B. ~~The City shall pay disability pay to an employee who is temporarily disabled by an accidental injury or illness resulting directly from the performance of the employee's work and who is receiving workers' compensation benefits. Disability pay shall be an amount equal to the difference between the employee's normal salary and the employee's workers' compensation benefits. The City will continue to pay employees their full~~

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.

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

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 ~~upon exhaustion of their FML~~ if they remain disabled for more than 270 days or at any time after the

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 ~~12 weeks~~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.

## CHAPTER 7

### HEALTH, RETIREMENT AND OTHER BENEFITS

#### **Section 7-1. Employee Health Benefits**

- A. All ~~regular-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 regular full-time and part-time employees of the City shall be enrolled in the Maryland State Retirement System. 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 ~~in order~~ 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 the each employee's anniversary date ~~and assess the performance of their assigned employees.~~

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

#### **Section 8-3. Performance Appraisal Appeal Procedures**

~~Employees may appeal an unsatisfactory annual performance appraisal through the standard grievance procedure as described in Chapter 10 of this personnel policy manual.~~

#### **Section 8-4. Probationary Period and Evaluation**

~~An unsatisfactory evaluation of an employee on probation shall be sufficient cause for dismissal.~~

#### **Section 8-5. Other Performance Evaluations**

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

Immediate supervisors shall ~~be given~~ 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 ~~and written on an annual basis.~~

#### **Section 8-6.3. Performance Probation 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.

## 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 ~~the~~County, State, or Federal laws, ~~polices, rules or~~ procedures;
- D. Theft ~~or~~, 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 ~~non-~~prescribed 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 1D, Ethics, of the Mount Rainier City Code;

- 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 ~~conduct~~ 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 ~~with a return receipt~~. 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**

employee may respond to the City Manager within 48 hours, ~~after which.~~ 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.

The 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.

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 ~~shall have ten days to submit a written~~ may appeal ~~of the City Manager's written~~ of the City Manager's written decision ~~of the City Manager~~ 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.

~~The employee may, within 10 working days of receiving the City Manager's written decision, submit to~~ 2. The employee must file with the City Manager a written

## 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 (~~5~~)-members, who ~~are~~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 1<sup>st</sup> and end on September 30<sup>th</sup>. 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.

## 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 ~~non-supervisory~~ 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

## 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. **Drugs** 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.

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 ~~which that~~ could adversely affect performance, such as drugs ~~which that~~ should not be used when operating machinery, motor vehicles, etc., must report this treatment to their ~~supervisors~~supervisor or Department ~~heads~~.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 ~~which might be adversely affected by to protect~~ the ~~uses~~safety of ~~such drug~~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/or behavior problems shall result in~~

\_\_\_\_\_  
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 an articulable 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.

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 in order 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 ~~grievance procedures in the City Code, Personnel Policies and Procedure~~this Manual, or an applicable collective bargaining contract agreement.