

**APPENDIX E**

**PERSONNEL RULES AND REGULATIONS**

**CITY OF KIRKWOOD, MISSOURI**

**July 16, 2010**

**TABLE OF CONTENTS**

	<u>PAGE</u>
ARTICLE I - INTRODUCTORY PROVISIONS .....	E-1
SECTION 1. Authority .....	E-1
SECTION 2. Purpose.....	E-1
SECTION 3. Intent .....	E-1
ARTICLE II - DEFINITIONS.....	E-2
ARTICLE III - ADMINISTRATION OF RULES .....	E-3
SECTION 1. Responsibility.....	E-3
SECTION 2. Departmental Rules and Regulations .....	E-3
SECTION 3. Civil Service Commission.....	E-3
SECTION 4. Applicability of Exclusion .....	E-4
SECTION 5. Management.....	E-4
SECTION 6. Administrative Rules and Regulations .....	E-4
ARTICLE IV - CLASSIFICATION.....	E-5
SECTION 1. Job Description .....	E-5
SECTION 2. Classification of Positions - Purpose.....	E-5
SECTION 3. Development and Allocation of New Positions .....	E-6
SECTION 4. Maintenance of the Plan.....	E-6
SECTION 5. Interpretation of Job Description .....	E-6
SECTION 6. Official Copy of the Classification and Pay Plan.....	E-6
ARTICLE V - PAY PLAN ADMINISTRATION.....	E-7
SECTION 1. Establishment of Plan.....	E-7
SECTION 2. Administration of Plan.....	E-7
SECTION 3. Pay Policy .....	E-8
ARTICLE VI - SPECIAL COMPENSATION.....	E-8
SECTION 1. Overtime Provisions.....	E-8
SECTION 2. Fire Department .....	E-9
SECTION 3. Police Department.....	E-10
SECTION 4. Trading Time for Fire and Police Personnel.....	E-10
ARTICLE VII - APPOINTMENTS AND VACANCIES .....	E-11
SECTION 1. Acting Appointments .....	E-11
SECTION 2. Filling of Positions .....	E-11
SECTION 3. Publicity .....	E-11
SECTION 4. Applicant Screening Process.....	E-12
SECTION 5. Transfer of a Present City Employee .....	E-12
SECTION 6. Re-employment of a Former City Employee .....	E-12
SECTION 7. Laid-Off/Demoted Employees .....	E-12
SECTION 8. Part-Time Appointments.....	E-13
SECTION 9. General Examination Provisions.....	E-13
SECTION 10. Probationary Period.....	E-14
SECTION 11. Dismissal During Probation .....	E-14

ARTICLE VIII - SEPARATION FROM EMPLOYMENT.....	E-14
SECTION 1. Termination Date .....	E-14
SECTION 2. Resignation.....	E-15
SECTION 3. Retirement.....	E-15
SECTION 4. Disability.....	E-15
SECTION 5. Dismissal.....	E-15
SECTION 6. Return of City Property.....	E-15
SECTION 7. Lay Off - Reduction of Work.....	E-15
SECTION 8. Order of Lay-Off and Recall.....	E-15
 ARTICLE IX - CORRECTIVE PERFORMANCE IMPROVEMENT, DISCIPLINARY	
ACTIONS.....	E-16
SECTION 1. Duties .....	E-16
SECTION 2. Attitudes.....	E-16
SECTION 3. Warnings.....	E-16
SECTION 4. Appropriate Corrective Action.....	E-16
SECTION 5. Explanation of Action; Appeal.....	E-16
SECTION 6. Suspension or Termination .....	E-17
 ARTICLE X - LEAVES OF ABSENCE.....	E-19
SECTION 1. Holidays.....	E-19
SECTION 2. Vacation.....	E-20
SECTION 3. Personal Sick Leave.....	E-22
SECTION 4. Occupational Injury or Illness.....	E-23
SECTION 5. Emergency Leave.....	E-24
SECTION 6. Funeral Leave.....	E-24
SECTION 7. Leave of Absence-without Pay .....	E-24
SECTION 8. Absence without Pay.....	E-25
SECTION 9. Military Leave of Absence.....	E-25
SECTION 10. Annual Military Training Leave .....	E-25
SECTION 11. Voting Time .....	E-25
SECTION 12. Other Leaves of Absence with Pay .....	E-26
SECTION 13. Procedure for Requesting Leave .....	E-26
SECTION 14. Family and Medical Leave Policy.....	E-26
 ARTICLE XI - OTHER EMPLOYEE BENEFITS .....	E-30
SECTION 1. Professional Dues Payment.....	E-30
SECTION 2. Tuition Reimbursement Program.....	E-30
SECTION 3. Uniforms and Clothing Allowances.....	E-30
SECTION 4. Treatment of Insurance Premiums .....	E-31
SECTION 5. Deferred Compensation Program.....	E-31
 ARTICLE XII - EMPLOYMENT RESTRICTIONS .....	E-31
 ARTICLE XIII - GRIEVANCES, COMPLAINTS, AND APPEALS.....	E-32
SECTION 1. Grievances and Complaints.....	E-32
SECTION 2. Procedures for Handling Grievances and Complaints .....	E-32

ARTICLE XIV - EMPLOYMENT OF RELATIVES.....	E-33
ARTICLE XV - NO SMOKING POLICY.....	E-34
ARTICLE XVI - EQUAL EMPLOYMENT OPPORTUNITY, ANTI-HARASSMENT, AND NON-DISCRIMINATION POLICY.....	E-34
ARTICLE XVII - POLICY REGARDING REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH A DISABILITY.....	E-36
ARTICLE XVIII - SAFETY POLICY .....	E-37
SECTION 1. STATEMENT OF POLICY AND OBJECTIVE.....	E-37
SECTION 2. RESPONSIBILITIES.....	E-37
SECTION 3. ENVIRONMENTAL CONTROL .....	E-38
SECTION 4. FLEET SAFETY.....	E-39
ARTICLE XIX - WORKPLACE VIOLENCE POLICY .....	E-39
ARTICLE XX - POLICY AGAINST SUBSTANCE ABUSE .....	E-41
ARTICLE XXI - TRAVEL POLICY .....	E-52
ARTICLE XXII - PERSONAL VEHICLE USE POLICY .....	E-55
ARTICLE XXIII - PERSONAL APPEARANCE AND BUSINESS CASUAL DRESS CODE .....	E-55
ARTICLE XXIV - EMPLOYEE PRIVATE PURCHASING.....	E-56
ARTICLE XXV - INCLEMENT WEATHER .....	E-56
ARTICLE XXVI - WIRELESS TELECOMMUNICATIONS USAGE POLICY .....	E-56
ARTICLE XXVII - COMPUTER/INTERNET/E-MAIL POLICY .....	E-58
ARTICLE XXVIII - CONFLICT OF INTEREST .....	E-60
ARTICLE XXIX - UNAUTHORIZED ALIEN POLICY.....	E-60
ACKNOWLEDGMENT OF RECEIPT OF THE PERSONNEL RULES AND REGULATIONS OF THE CITY OF KIRKWOOD .....	E-61

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### **ARTICLE I - INTRODUCTORY PROVISIONS**

#### SECTION 1. Authority

These policies, procedures, rules, and regulations are established by the authority of Ordinance enacted by the City Council on May 20, 2010.

#### SECTION 2. Purpose

The purpose of these rules is the formulation of sound personnel policies designed to promote efficiency and economy, reward meritorious service, provide for the settlement of grievances, develop and maintain morale, and establish non-discriminatory standards for the classification and compensation of City employees.

#### SECTION 3. Intent

These Personnel Rules and Regulations only outline the major employment policies of the City of Kirkwood. The rules and regulations are not intended to be and shall not be considered all inclusive. The rules and regulations are not intended to be a substitute for the good judgment, common sense, and discretion of City personnel. The rules and regulations supersede and replace all previous rules and regulations.

Classified, permanent, full-time employees who are not serving a probationary period of any kind are subject to the Disciplinary Action provisions of Article IX and the Grievance, Complaint and Appeal procedure set forth in Article XIII. All other employees are employed "at will" and the City expressly reserves the legal right to discharge or terminate such employees at any time and for any reason, with or without prior notice. Likewise employees have the legal right to terminate their employment at any time and for any reason. The Personnel Rules and Regulations are not a contract and are not intended to create any contractual obligations on the part of the City to employ any individual for any definite duration.

As circumstances arise in which the City may determine that changes to these policies are necessary, the City reserves the right to change these policies at any time and reserves the unilateral right to do so at any time without prior notice to its employees. Accordingly, no statement in these rules and regulations is intended as a contractual commitment or obligation of the City to any employee.

Likewise, no City employee has the right to enter into any employment agreement with any employee contrary to the provisions of this section of the Personnel Rules and Regulations without City Council approval.

These policies and procedures shall not be inconsistent with but complementary to related state and federal laws and regulations. If any provision becomes invalid due to subsequent passage or interpretations of related legislation or court rulings, the remaining provisions shall not be invalidated. In addition, specific provisions of any employee benefit plan documents shall be controlling with respect to any such benefits.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### ARTICLE II - DEFINITIONS

City means the City of Kirkwood, Missouri.

Classification means the assignment of an individual position to an appropriate job title given to all City positions possessing the same general type of work with relatively the same duties and level of responsibilities.

Commission means the Civil Service Commission of the City of Kirkwood.

Continuous service means employment with the City of Kirkwood which is not interrupted by absence without pay in excess of three days, unless such absence is covered by an approved leave of absence.

Council is the elected governing body of the City of Kirkwood.

Demotion means a change in the position of an employee from one classification to a position in another classification having a lower maximum salary rate.

Department Head is the employee as designated by the Chief Administrative Officer as being administratively in charge of a department of the City and includes any employee serving as an acting or interim Department Head.

Employees in law enforcement and fire protection activities. The term “employees in law enforcement and fire protection activities” does not include those “civilian” employees who are engaged in support activities such as those performed by dispatchers, clerks and secretaries.

Full-time employee is one who is employed and actively works an average of at least 39 hours per week on a regular basis.

Gender. Wherever employees are referred to in the male gender, it shall be recognized as referring to both male and female employees.

Part-time employee is one who is employed on a continuous basis but who works an average of less than 39 hours per week.

Pay Period. All employees shall be paid on a bi-weekly basis.

Permanent employee is a permanent appointment or assignment to a position created without intent of limitation, and intended to exist for at least one budget year. A permanent position may be for a full-time or part-time position. Any reference to a “permanent” employee does not indicate that employment is guaranteed for any specific duration.

Personnel officer is the Assistant Chief Administrative Officer.

Probationary period means a work test period during which an employee is required to demonstrate fitness for the duties to which that employee is assigned by actual performance of the duties of the position and can include a period of initial employment in any position or a period of evaluation for disciplinary or performance reasons.

Promotion means a non-temporary change in the position of an employee from one classification to a position in another classification which has a higher maximum salary rate.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

Temporary employee is an individual employed for an anticipated limited period of time, typically (but not necessarily for) less than one year. Unless specifically stated herein or in applicable benefit plan documents, temporary employees are not entitled to employee benefits.

Transfer means a change of an employee from one position to another position in the same classification or another classification having essentially the same maximum salary rate, involving the performance of similar duties, and requiring substantially the same basic qualifications.

Unclassified employees shall include the Chief Administrative Officer, City Clerk, Police Chief, Fire Chief, Director of Public Works, Director of Finance, Director of Purchasing, Director of Parks and Recreation, Director of the Water Department, Director of the Electric Department, Assistant Chief Administrative Officer, Director of Management Information Systems or any other Director or comparable position. These employees may also be referred to in this document as "Department Heads".

Work Period. The work period for employees exclusive of those employees in law enforcement and fire protection activities shall be defined as beginning at 12:01 a.m. Monday morning and proceeding for seven full continuous days until midnight of the following Sunday night. The work period for those employees engaged in fire protection activities and law enforcement activities shall be that designated by the applicable Department Head with approval of the Chief Administrative Officer, which may change based upon the operational or business needs of the City.

### **ARTICLE III - ADMINISTRATION OF RULES**

#### SECTION 1. Responsibility

Administration of these rules and regulations shall be vested with the Chief Administrative Officer or his designee. It shall be the responsibility of the Chief Administrative Officer or his designee to administer, interpret, and from time to time recommend to the City Council appropriate amendments in order to maintain these rules and regulations.

#### SECTION 2. Departmental Rules and Regulations

Individual Department Heads may formulate written departmental or divisional work rules or policies for efficient and effective administration of the department. Said rules shall not be in conflict with the provisions of these rules and regulations. A copy of any departmental work rules should be placed on file with the Chief Administrative Officer.

#### SECTION 3. Civil Service Commission

There shall be a Civil Service Commission which shall, consistent with state statute:

- a. Advise the City Council and the Chief Administrative Officer, upon its or his request, on its findings, conclusions, and recommendations on the status of the City's personnel system;
- b. Review, comment, and advise the Chief Administrative Officer, upon his request, concerning specific changes in the personnel policies;
- c. Review and recommend to the City Council, upon its request, the approval of job descriptions, classification and pay plans for the City;

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- d. Advise the Chief Administrative Officer, upon his request, on appropriate interpretation of provisions of these rules;
- e. Hear grievance appeals in accordance with Article XIII; and
- f. Perform such other duties with reference to personnel policies as may be directed by the City Council or Chief Administrative Officer.

### SECTION 4. Applicability of Exclusion

These rules and regulations shall be applicable only to those employees in the classified service of the City. Specifically excluded from the provisions of these rules shall be: the Chief Administrative Officer and the City Clerk, who shall serve at the pleasure of the City Council; Police Chief, Fire Chief, Director of Public Works, Director of Finance, Director of Purchasing, Director of Parks and Recreation, Director of the Water Department, Director of the Electric Department, Assistant Chief Administrative Officer, Director of Management Information Systems or any other Director or comparable position, all of whom shall serve at the pleasure of the Chief Administrative Officer. Employees of the Park Board, Library Board, Housing Authority and Special Business District are excluded from these provisions, as well as employees represented by any organized labor union.

### SECTION 5. Management

Specific areas of responsibility shall be reserved to management. Such management rights shall not be diminished by action of labor organizations and any related working agreements. The management of the City shall:

- a. Determine the nature, scope, and definition of the City organization including: classification, selection, number, retention, promotion, reorganization, transfer, deployment, assignment, layoff, recall, and scheduling of employees.
- b. Determine the methods, means, tools, equipment, and personnel by which operations are to be conducted, including the right to contract and subcontract existing and future work.
- c. Direct and supervise employees.
- d. Discipline, suspend, demote and/or discharge employees.
- e. Require as a part of normal employee development that the employee fulfill the responsibility of the position and attain or maintain minimal skills of the classification.
- f. Take the necessary measures to maintain optimum productivity in operations.
- g. Determine the necessity for and assignment of overtime in compliance with appropriate related legislation and/or court rulings.
- h. Determine the scope, priority, and amount of budget allocations.

### SECTION 6. Administrative Rules and Regulations

The City Council may promulgate and establish administrative personnel policies and procedures not inconsistent with or limited to these rules, such as:

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- a. Hours of work/work schedules.
- b. Pay periods.
- c. Performance Appraisal Systems.
- d. Personnel records and reports.
- e. Temporary work assignments and transfers.
- f. Use of City vehicles and mileage reimbursement.
- g. Outside employment.
- h. Seniority and impact of seniority.
- i. Conflict of Interest/Code of Ethics.
- j. Safety procedures.
- k. Job related injury procedures.
- l. Other related internal administrative personnel matters.

### **ARTICLE IV - CLASSIFICATION**

#### SECTION 1. Job Description

The Chief Administrative Officer or the Assistant Chief Administrative Officer, with the assistance of the Department Head shall, for each classification, prepare and maintain a job description which shall include a job title, description of duties, desirable knowledge, skills, and abilities, any special requirements, examples of work, and related information.

#### SECTION 2. Classification of Positions - Purpose

The Classification and Pay Plan provides an inventory of all positions in the City's service which are sufficiently alike in duties and responsibilities to be called by the same job title, to be accorded the same pay scale, and to require substantially the same qualifications on the part of the incumbent.

No City employee shall be classified or paid at a salary rate which is not established and recognized in the City's classification and pay plan. All permanent classifications shall be established by the City Council.

If, upon the evaluation of a job, it is determined that a job is still within the same salary grade, no salary adjustment will be made. In the instance where an employee's job is reassigned to a lower salary grade, the employee's salary will not be changed; however, future increases and opportunity will be limited by the grade resulting from the reclassification. In the instance where an employee's job is reassigned to a higher salary grade, the employee's pay shall be adjusted at least 5 percent for each salary grade shift, not to exceed the greater of 20 percent or the minimum of the new salary grade.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### SECTION 3. Development and Allocation of New Positions

When in the opinion of the Department Head there arises a need to establish a new position classification, the Department Head shall prepare a recommended job description and submit same to the Assistant Chief Administrative Officer for review. The Assistant Chief Administrative Officer shall study the duties and responsibilities of the new position and determine a recommended allocation to the appropriate classification and so advise the Department Head. If there is any disagreement between the Department Head and the Assistant Chief Administrative Officer, an appeal may be made to the Chief Administrative Officer regarding a position assessment. The Chief Administrative Officer's decision shall be administratively binding.

The Chief Administrative Officer shall make his recommendation to the City Council.

### SECTION 4. Maintenance of the Plan

- a. When a vacancy occurs, the Chief Administrative Officer or his Assistant shall review the allocation of the position in cases where the need for changes in the duties and responsibilities of a position appears likely.
- b. Each time a department or division is recognized initially, preliminary position descriptions for all affected employees shall be submitted by the Department Head to the Chief Administrative Officer or his Assistant for review and recommendation.
- c. The Chief Administrative Officer or his Assistant may require any or all Department Heads to submit recommended position descriptions on a periodic basis, or any time that there is reason to believe there has been a change in the duties and responsibilities of one or more positions.
- d. Before a new class is established by the City Council and before such a position is filled, a formal job description shall be written by the Chief Administrative Officer or his Assistant as provided for in these rules and incorporated in the existing plan. The classification title shall be added to the schematic list of titles. Likewise, an abolished classification shall be deleted from the position classification plan by removing the class specification and eliminating the classification title from the schematic list of titles.
- e. The Chief Administrative Officer shall take the necessary steps to maintain the Classification and Pay Plan in a current state on a continuous basis.
- f. Nothing contained herein shall be deemed to conflict with or supersede the compensation policies of the City adopted by Ordinance.

### SECTION 5. Interpretation of Job Description

The job descriptions are descriptive and not restrictive. They are intended to indicate generally the kinds of activities performed by the established classification.

### SECTION 6. Official Copy of the Classification and Pay Plan

The Chief Administrative Officer or his designee shall be responsible for maintaining an official copy of the Classification and Pay Plan. The official copy shall include the regulations for administration, schematic list of job descriptions plus all amendments thereto.

APPENDIX E - PERSONNEL RULES AND REGULATIONS

**ARTICLE V - PAY PLAN ADMINISTRATION**

SECTION 1. Establishment of Plan

The Chief Administrative Officer shall be responsible for presenting to the City Council a uniform and equitable pay plan which shall consist of minimum and maximum rates of pay. The salary rates recommended shall reflect an equitable relationship, as determined by the Chief Administrative Officer, among the job classifications and shall be made after review of prevailing rates for comparable work in other public and private businesses, the current cost of living, responsibilities of the position, and the policy of the City Council.

SECTION 2. Administration of Plan

- a. New Employees - Generally all new employees shall be hired at the minimum rate unless their qualifications are such that it is to the City's advantage to hire at an advanced rate. Hiring at an advanced rate shall be upon approval by the Chief Administrative Officer and only upon appropriate documentation by the Department Head that such action is to the benefit of the City.
- b. Promotions, Transfers and Demotions - When an employee is promoted to a position in a higher class, the employee's salary shall be increased to at least the minimum rate for the higher classification. Employees promoted or transferred will immediately begin a probationary period for the new position. In the event that the employee does not satisfactorily complete the probationary period, the employee shall, unless the qualifying period is extended, revert to his previous position at his prior rate of pay for the position, provided a position is available. An employee who requests and accepts an assignment in a lower pay classification shall have his salary reduced by the percentage differential between the two relevant pay classifications.

The Department Head will determine the promotional increase percentage according to the pay adjustment guidelines. The employee's pay shall be adjusted at least 5 percent for each salary grade shift not to exceed the greater of 20 percent or the minimum of the new salary grade.

In the case of a demotion resulting from poor performance, the employee's current salary is reduced by 10 percent and then compared to the new salary grade maximum. If the employee's adjusted salary is greater than the new salary grade maximum, his or her pay will be reduced to the new salary grade maximum.

In the case of a demotion resulting from an organizational change or development assignment, reasonable attempts will be made to keep the individual at the current salary.

In the case of a voluntary demotion unrelated to job performance deficiencies, the employee's rate of pay in the lower classification shall be reduced by the same percentage as such employee's pay was increased upon acceptance of the promotion to the position the employee subsequently leaves voluntarily.

- c. Merit Increases - A merit increase is a payment granted to an employee as a result of overall performance. The merit increase may be an increase to salary base or a combination of an increase to salary base and a singular lump-sum payment. Once an employee reaches the maximum of the salary range, the merit increase will be in the form of a singular lump-sum payment for future service but shall not increase the salary base. Merit increases shall be based upon performance evaluations with the amount of merit increases, if any, fluctuating from year to year. Performance evaluations will result in performance ratings which shall serve as the basis

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

for the amount of the merit increase. Merit increases may be granted once per year, unless otherwise provided by ordinance.

- d. Dates of Performance Evaluations - Performance evaluations shall be conducted at least annually; however, they may be conducted more frequently at the discretion of the Department Head. In no case shall a merit increase be granted if a performance evaluation has not taken place within 90 days prior to the effective date of the merit pay increase.
- e. Pay Ordinance - The City Council may from time to time change the pay ordinance increasing the minimum and maximum rates of pay. The Council may, by ordinance, establish special pay provisions necessary for the effective administration of the pay plan and to promote the concept of merit or performance pay.
- f. Compensation Policies Ordinance - Nothing contained in these Rules and Regulations is intended to or shall supersede the compensation policies of the City adopted by Ordinance.

### SECTION 3. Pay Policy

- a. Purpose - The City's goal is to pay everyone properly under the law. To that end, the City seeks to clearly communicate that policy and to make sure that all employees are aware of the City's complaint procedure in the event that the City inadvertently makes an improper deduction from any employee's pay.
- b. Complaint Procedure - Any employee who believes that the City has made an improper deduction from the employee's pay, as soon as it is discovered, at the latest, within thirty (30) days of becoming aware of the improper deduction, should file a written complaint with the Director of Finance identifying the improper deduction. The complaint should include a copy of the pay stub from the relevant pay period, with an explanation of the reason(s) the deduction is believed to have been improper.
- a. Resolution - Upon the receipt of the written complaint, the Director of Finance will promptly review and investigate the disputed deduction to determine whether the deduction was improper and, as soon as practicable, the Director of Finance will provide a written decision outlining whether the deduction was improper and the reasons therefore. If the Director of Finance, in response to proper notification of the problem through the above-outlined complaint procedure, concludes that the City has made an improper deduction, then the City will promptly reimburse the employee for the improper deduction.

## **ARTICLE VI - SPECIAL COMPENSATION**

SECTION 1. Overtime Provisions. (All City employees except Fire and Police Department Personnel, unless otherwise indicated)

- a. Applicability. Unless exempt under wage and hour laws, all employees will be compensated at the rate of 1½ times the number of hours actually worked in excess of 40 per week. Approved and paid sick leave, vacation leave, holiday leave and funeral leave will be considered hours worked for purposes of overtime compensation. Other hours worked beyond those regularly scheduled may be paid at an overtime rate as determined by City policy as recommended by the Chief Administrative Officer and approved by the City Council. Any such overtime payments in excess of those required by law may be discontinued at any time at the discretion of the City Council.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- b. Overtime on Sunday. Overtime worked on a Sunday, unless the Sunday is part of the employee's scheduled work week, shall be paid at the rate of two times the employee's hourly rate.
- c. Overtime on Designated Holidays. Employees scheduled to work on a designated holiday shall be paid at straight time for all hours worked during their regularly scheduled shift on that holiday and shall also receive holiday pay which is equivalent to the standard rate of pay for one single shift of work.

Work beyond the normally scheduled shift on a holiday shall be compensated at the rate of 1½ times the employee's hourly rate. Employees who are not scheduled to work a designated City holiday and are called to work on that holiday, shall be paid at the rate of 1½ times the employee's hourly rate for all hours worked. Such overtime compensation shall be in addition to regular pay received for the holiday.

- d. Call-Outs. If an employee is called to work outside of a normally scheduled workday, or is called back to work after having completed a regularly scheduled work day, the minimum time for which compensation will be made will be two hours.
- f. Compensatory Time (Applicable to all City employees, including Fire and Police Department Personnel). At the discretion of the Department Head, compensatory time ("comp time") may be earned and used in lieu of overtime pay. In such circumstances, comp time shall be earned at the rate of 1½ hours for each hour of overtime worked, except that for overtime worked on a Sunday it shall be earned at the rate of two times. The Department Head shall have authority to limit the maximum accrual of comp time; provided, however, no employee shall be permitted to accrue more than forty (40) hours of comp time, except that law enforcement and fire protection personnel shall not be permitted to accrue more than one hundred twenty (120) hours of comp time.

### SECTION 2. Fire Department

- a. Work Week. Unless otherwise designated in writing, the work week of the Fire Department for ranks below Assistant Chief and Fire Marshall shall be 56 hours per week averaged over a 28-day work cycle. Hourly rates of pay shall be calculated based upon a 56-hour week.
- b. Holiday Pay. Fire personnel shall be paid for each City holiday occurring during the course of their employment. Holiday pay shall be equal to 12.0 hours at the regular hourly rate of pay. This pay shall be in addition to regular pay.
- c. Call-In. The calculation of rate of pay for those employees working the call-in period shall be determined in accordance with actual hours worked during the work period. Those employees whose actual hours worked do not exceed the regularly scheduled hours shall be entitled to straight time pay. For those hours actually worked in excess of the regularly scheduled hours, the employees shall be entitled to 1½ times their hourly rate of pay.
- d. Hours worked in excess of Regular Tour of Duty. All continuous hours worked in excess of the normal 24-hour tour of duty shall be paid at the rate of 1½ times the regular hourly rate.
- e. Sick Leave/Vacation Bonus. Fire personnel scheduled in accordance with the 28-day work cycle shall accrue and use sick leave in accordance with City policy and practice. Provided, however, an employee that does not utilize sick leave during the calendar year will be given one additional

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

24 hour shift of vacation time the following January 1<sup>st</sup>. This bonus vacation day is earned annually and must be re-earned each calendar year.

### SECTION 3. Police Department

The work period (or work cycle) for law enforcement personnel shall be established by the Chief of Police within the parameters and limits allowed under the federal Fair Labor Standards Act and any applicable Missouri statutory provisions governing work cycles for law enforcement personnel. The current work period for commissioned law enforcement personnel subject to a fluctuating or rotating work schedule shall be fifteen (15) days. The Chief of Police shall review any work period modifications with the Chief Administrative Officer or delegated representative of the Chief Administrative Officer prior to implementing any work period changes for commissioned law enforcement personnel subject to such a fluctuating or rotating work schedule. Other employees of the Police Department shall be subject to the standard seven (7) day work week of the City.

Commissioned law enforcement personnel subject to a fluctuating or rotating work schedule shall be compensated on the basis of an annual fixed salary for fluctuating work week, payable in equal installments on the scheduled payroll dates of the City for such employees. Such fixed salary for fluctuating work week shall compensate commissioned law enforcement personnel, subject to a fluctuating or rotating work schedule, for all straight time hours for purposes of the Fair Labor Standards Act. Nonetheless, commissioned law enforcement personnel subject to a fluctuating or rotating work schedule shall be entitled to overtime compensation for all hours worked in excess of eighty-five (85) hours during their fifteen (15) day work period. For overtime calculation purposes, the hourly rate or “regular rate” shall be premised upon such employees working between thirty-nine (39) and forty (40) hours, on the average, during a week and shall be calculated by dividing each such commissioned law enforcement officer’s annual salary by 2063 hours.

Approved paid sick leave, vacation leave, funeral leave, authorized City holidays and any paid leave days in lieu of holiday leave shall be considered “hours worked” for purposes of any overtime calculation. Hours worked on a Sunday, unless the Sunday is part of the employee’s scheduled work week or work period, shall be paid at the rate of two (2) times the employee’s regular or hourly rate. Employees scheduled to work on a designated or authorized City holiday, other than commissioned law enforcement officers subject to a fluctuating or rotating work schedule, shall be paid at straight time for hours worked during their regularly scheduled shift on that holiday and shall also receive holiday pay which is equivalent to the regular rate of pay for eight (8) hours of work. Hours of work on a scheduled day off (other than Sunday) or beyond the normally scheduled shift on a holiday shall be compensated at the rate of one and a half (1 1/2) times the employee’s regular, hourly rate. Employees who are not scheduled to work on a designated or authorized City holiday and are called to work on that holiday, shall be paid at the rate of one and a half (1 1/2) times the employee’s regular, hourly rate for all hours worked. Such overtime compensation shall be in addition to regular pay received for that holiday. If an employee is called to work outside of a normally scheduled work day, or is called back to work after having completed a regularly scheduled work day, the minimum time for which compensation will be made will be two (2) hours.

### SECTION 4. Trading Time for Fire and Police Personnel.

In the event police or fire personnel substitute with another employee, the “traded time” will be deemed to have no effect on hours of work of the substituting employee and shall be credited to the employee who was originally scheduled to work, if the following criteria is met:

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- (i) The trading of time is done voluntarily by the employees participating in the program and not at the behest of the employer, and
- (ii) The reason for trading time is due, not to the employer's business operations, but to the employee's desire or need to attend to personal matters, and
- (iii) A record is maintained by the employer of all time traded by his employees, and
- (iv) The period during which the time is traded and paid back does not exceed 12 months.

### SECTION 5. Temporary Pay Differential.

For any temporary assignment of job duties or job position within a Department, an employee may be compensated at a rate of pay other than the employee's regular rate of pay while performing such a temporary assignment. Any such pay differential shall be consistent with the temporary job duties performed and shall be paid at the discretion of the Department Head, subject to written approval by the Chief Administrative Officer or Assistant Chief Administrative Officer of the City.

## **ARTICLE VII - APPOINTMENTS AND VACANCIES**

### SECTION 1. Acting Appointments

When a vacancy occurs in a position which is necessary to carry out City business without interruption, the Department Head may appoint an employee in an acting capacity. The duration of the appointment shall not exceed six months unless an appointment has not yet been made through normal established procedures.

### SECTION 2. Filling of Positions

The recruitment and selection process for all classified positions in the City's service shall be coordinated by the Personnel Department. Applicants will be given equal consideration based on their total qualifications and background, regardless of age, race, color, national origin, ancestry, political affiliation, religion, sex, or disability status. Department Heads will notify the Personnel Department as far in advance as reasonably possible of any requirements for new personnel, setting forth such information as requested by the Personnel Department.

### SECTION 3. Publicity

The Chief Administrative Officer or designee shall determine the nature and extent of publicity required to obtain a reasonable number of qualified applicants for each vacancy. All positions open to general competition shall be announced to the public through standard announcement form, and/or other mass media at least seven calendar days in advance of the last date for filing applications. Vacancies which can be filled through promotion, when requested by a Department Head, shall be announced to eligible current City employees on City bulletin boards for at least seven calendar days prior to the application closing date. Job announcements with open, application submission dates must remain open at least seven calendar days, and may be closed by the Chief Administrative Officer when sufficient applicant response has been achieved. Provided, however, any position may be filled without strict compliance with this publicity provision.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### SECTION 4. Applicant Screening Process

The screening process of applicants shall include but not be limited to one or any combination of the following as determined by the Chief Administrative Officer in consultation with the Department Head:

- Oral interviews
- Evaluation of experience
- Education and training
- Reference checks
- Written examinations
- Performance evaluations
- Psychological evaluations
- Background investigations
- Physical agility/dexterity tests
- or other measures as need arises.
- Computer Voice Stress Analyzer
- Substance Abuse Tests

Reasonable measures shall be taken by the Chief Administrative Officer to establish the reliability and validity of the various screening processes. The City's policies and procedures with respect to the screening of applicants shall be conducted in accordance with all applicable federal and state employment discrimination statutes and regulations.

### SECTION 5. Transfer of a Present City Employee

For each vacancy, a Department Head may have his choice of any present City employee who meets the following considerations:

1. Meets at least the minimum qualifications for the classification of the vacancy; and
2. The employee's present Department Head has agreed to the arrangements for the transfer, but in no event shall the present Department Head deny such transfer.

An employee may be required to transfer to another position by the Department Head or the Chief Administrative Officer if such a move is in the best interest of departmental operations, or the City generally.

### SECTION 6. Re-employment of a Former City Employee

Former employees of the City of Kirkwood, regardless of time since separation, shall be required to compete for a position with any other qualified individuals. No retroactive reinstatement of former benefits shall be given in the event a former employee is re-hired; and eligibility for advanced accruals of leave, based on longevity, shall begin with the last date of hire and not total time with the City. Any former employee may be considered ineligible for rehire based upon the circumstances of the prior employment separation.

### SECTION 7. Laid-Off/Demoted Employees

Present full-time permanent employees laid off or reduced to a lower classification solely due to a reduction in force or reassignment of priorities, duties and/or projects, without regard to performance, shall be placed ahead of non-City employed individuals competing for the same position.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### SECTION 8. Part-Time Appointments

If a position in the classified service is to be filled for a limited time only, appointments may be made from the list of eligibles interested in full time work except that their temporary or seasonal appointment shall not affect their eligibility for full-time positions.

Former part-time employees may be re-hired without certification by the Personnel Office provided the Personnel Office is notified accordingly. All part-time, temporary, and/or seasonal appointments shall be coordinated through the Personnel Office.

### SECTION 9. General Examination Provisions

1. The Chief Administrative Officer or delegated representative may refuse to examine an applicant or, after examination, may disqualify such applicant and remove the name from employment eligibility if:
  - a. The applicant is found to be lacking in any of the preliminary requirements established for the position.
  - b. The applicant has been found to have conflicting interests which may impair or somehow compromise total effectiveness in a given classification (including criminal background, narcotic or alcoholic addictions, business interests, and/or related areas).
  - c. The applicant has made a false statement of material facts on the application.
  - d. The applicant has used or attempted to use political pressure or bribery to secure an advantage in the screening or appointment procedure.
  - e. The applicant has previously been discharged or has had an unsatisfactory service record with the City.
  - f. The applicant has presented an application beyond the formal deadline or has failed to sign the application form.
  - g. The applicant requests such an action.
  - h. An ample number of better qualified candidates are available for the immediate or similar position.
2. An individual's application and examination records shall not be open to public inspection.
3. The examination records of all persons who are appointed to positions in a classified service shall be retained throughout their employment and for at least five years subsequent to their separation.
4. All new appointees may be required to pass a physical examination after an employment offer and must be certified by the City's physician as physically qualified to perform the duties of the position they seek before their appointment may be finalized. A substance abuse test may also be required.
5. The Chief Administrative Officer may, as applicable and needed, utilize an applicant's merit examination results established and administered by other merit system agencies through cooperative, reciprocal arrangements for expediting recruitment and screening of applicants.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### SECTION 10. Probationary Period

#### a. Objective

The probationary period shall be regarded as an integral part of the screening process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new, transferred, or promoted employee to the position, and for replacing any employee whose performance does not meet the required work standards.

#### b. Duration

Every person transferred, promoted, appointed, or reappointed to a permanent position with the City shall be subject to the following requirements:

1. All employees must complete at least 12 continuous months of a probationary period.
2. The probationary or qualifying period shall begin immediately upon appointment to a permanent position. The probationary or qualifying time period may be extended or reinstated if deemed necessary by the Department Head. Any period of absence during the probationary period may cause the probationary period to be extended.
3. Time spent in an "acting" capacity prior to receiving a permanent appointment to the same classification and department shall be considered as time spent as a probationary or qualifying employee in this position.
4. An employee who is promoted or transferred prior to completing a probationary period shall begin a new probationary period in the new position and shall have no grievance/appeal privileges until a probationary period is successfully completed in one classification. The employee shall, however, be eligible for benefits specified in these policies following the completion of twelve months continuous service, except that sick leave benefits may be used as earned during the probationary period.

### SECTION 11. Dismissal During Probation

At any time during any probationary period, the Department Head may remove an employee for any lawful reason. An employee removed during any probationary period cannot appeal such removal through the grievance procedures.

Employees promoted into a position who do not successfully complete a qualifying period may be demoted into their previous or similar classification, provided such position is vacant and is authorized in the budget. If such a position is not available, the employee may be considered for any vacant position for which the employee is qualified.

## **ARTICLE VIII - SEPARATION FROM EMPLOYMENT**

### SECTION 1. Termination Date

The official termination date of employment with the City shall be the date of the employee's last day in attendance at work unless specified otherwise, and all eligible accrued leave payable shall be paid through the date of termination. Payment shall be made on the next pay date of the pay period next following the

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

date of termination; however, the Director of Finance may make payment sooner in extenuating circumstances.

### SECTION 2. Resignation

All permanent employees are expected to give at least 10 working days notice prior to the effective date of their resignation in order to leave the City employ in good standing unless other arrangements are approved by the Department Head. Paid or unpaid leave may not be substituted for such notice. Failure to leave the City in good standing shall be considered cause for denial of future re-employment with the City.

### SECTION 3. Retirement

Retirement shall be in accord with the provisions of the Civilian Employees' Retirement Plan or the Policemen's & Firemen's Retirement Plan; however, no person receiving retirement benefits shall be employed as a full-time permanent employee of the City.

### SECTION 4. Disability

If an employee is unable to perform the essential functions of his position, with or without a reasonable accommodation, because of a disability, the City may separate, transfer, or otherwise dismiss an employee. The City reserves the right to require any employee to undergo a physical or mental examination if the City determines that there is an issue with respect to the employee's ability to perform the essential functions of their job or whether a reasonable accommodation is necessary to enable the employee to perform the essential functions of their position.

### SECTION 5. Dismissal

Employees who are dismissed shall be removed from the position as promptly as possible.

### SECTION 6. Return of City Property

An employee leaving the City's service for any reason and who has City-owned equipment or property in his possession shall return such equipment or property to his Department Head prior to receiving his last pay check. Subject to applicable law, failure to return said property may result in an amount being withheld from the employee's pay check equal to the value of the property.

### SECTION 7. Lay Off - Reduction of Work

A Department Head may lay off an employee when it is deemed necessary by reason of shortage of work, funding, abolition of the position, or change of duties or organizational structure, or other reasons which are outside of the employee's control and which do not reflect discredit on the employee's performance. The duties performed by an employee laid off may be re-assigned to other employees currently working who hold positions in appropriate classes. No regular employee shall be laid off while another person is employed on a probationary or temporary basis in the same class in the department.

### SECTION 8. Order of Lay-Off and Recall

Lay-off and recall of employees shall be made in inverse order of current performance ratings of employees in the class and department involved. In the event current performance ratings are not available or the ratings of employees shall be equal, the order of lay-off and recall shall be on seniority.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

Employees laid off shall be placed on a priority recall list for a maximum of 180 calendar days. Employees separated because of lay-off shall be given at least two weeks prior notice of such lay-off or pay in lieu thereof.

### **ARTICLE IX - CORRECTIVE PERFORMANCE IMPROVEMENT, DISCIPLINARY ACTIONS**

#### SECTION 1. Duties

It shall be the duty of all employees to maintain high standards of conduct, cooperation, efficiency, and economy in their work for the City. Department Heads and Supervisors shall organize and direct the work of their units in a manner calculated to achieve these objectives.

#### SECTION 2. Attitudes

Whenever work habits, attitude, production, or personal conduct of an employee falls below a desirable standard, Supervisors shall point out the deficiencies at the time they are observed or as soon as practicable.

#### SECTION 3. Warnings

Oral and written warnings with reasonable time for improvement and subsequent review shall precede formal discipline whenever, in the judgment of the Department Head, an infraction is minor and readily correctable.

When an oral warning is given, the Supervisor shall explain the infraction to the employee and indicate corrective measures. The Supervisor will inform the employee that his conduct must improve or face more severe disciplinary action. The employee is required to sign an acknowledgment that the oral warning took place. Failure to sign the warning to acknowledge receipt shall be grounds for additional disciplinary action. A record of this warning will be placed in the employee's personnel file, and the employee will receive a copy.

A written warning may be used for more serious infractions or in cases where the same rule has been broken. The Supervisor should state, in writing, the nature of the infraction leading to the disciplinary action. The warning may also include what improvement is expected, the time limit for this improvement to occur, and consequences if the improvement goal is not met. The employee must read the reprimand and sign the warning. Failure to sign the warning to acknowledge receipt shall be grounds for additional disciplinary action. One copy of the warning will be placed in the employee's personnel file and one copy will be given to the employee.

#### SECTION 4. Appropriate Corrective Action

Corrective actions shall at all times be promptly administered, documented, appropriate to the infraction committed, as determined by management, and shall never be on account of political considerations, personal bias, or prejudice.

#### SECTION 5. Explanation of Action; Appeal

Any disciplinary action shall be documented. Permanent, full-time non-probationary employees who shall be discharged or reduced in rank or compensation shall be presented with written reason for such

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

discharge or reduction. Eligible employees may appeal disciplinary actions against them pursuant to the City's grievance procedure.

### SECTION 6. Suspension or Termination

A Department Head, including interim or acting Department Head, or the Chief Administrative Officer or his authorized administrative officer has the authority to suspend, demote, reinstate probation, or terminate the services of any employee because of:

1. A reduction in force due to the lack of funds or curtailment of work.
2. For misconduct, poor performance, lack of ability to safely perform essential functions, violation of established regulations, procedures or expectations (written or otherwise), including but not limited to:
  - a. Obtaining materials or leave time based on misrepresentation; dishonesty; stealing; and other criminal acts.
  - b. Conviction of a felony or of a misdemeanor involving moral turpitude.
  - c. Abusive, harassing or improper treatment of a citizen, prisoner, or other individual in the community or on the City payroll.
  - d. Violation of any lawful and reasonable departmental or City rule, regulation, or directive.
  - e. Destruction or loss of City property.
  - f. Absence from duty without permission, proper notice, or satisfactory reason.
  - g. Falsifying reports or records.
  - h. Insubordination, non-compliance with rules, policies, assignments or procedures.
  - i. Possessing, using or being under the influence of narcotics, other mind influencing substances, or alcohol on the job or otherwise violating the City's Substance Abuse Policy.
  - j. Incompetence, ineffectiveness, poor performance, inefficiency or wastefulness in the performance of assigned duties.
  - k. Disregard for safety policies or procedures.
  - l. Engaging in personal business/other employment while on duty, using City vehicles or equipment for personal use except as such use may be specifically authorized by City Council.
  - m. An unsatisfactory attendance record.
  - n. Gambling on City property.
  - o. Theft or unauthorized use or removal of City or employee property.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- p. Unauthorized possession or use of a dangerous weapon. Unauthorized possession or use of a dangerous weapon. A dangerous weapon shall include, but not be limited to, handguns, firearms, explosives, knives, simulated firearms operated by gas or compressed air, slingshots, sand clubs, metal knuckles, dangerous chemicals and other weapons further defined by Missouri statute and/or City Ordinance. Unauthorized possession or use of a dangerous weapon shall include specifically the wearing, transporting, storing, using, brandishing or carrying of a dangerous weapon of any type, concealed or unconcealed, upon the property of the City, regardless of whether the employee is licensed to carry the dangerous weapon. Unauthorized possession or use also includes carrying a dangerous weapon of any type outside of the City's property while acting within the course of employment, regardless of whether the employee is licensed to carry the weapon. Employees may not carry any dangerous weapon while performing any task on behalf of the City or while attending any function on behalf of the City. No dangerous weapon shall be allowed on or within any City owned vehicle or personal vehicle being used to conduct any business on behalf of the City. This prohibition against unauthorized possession or use of dangerous weapons is not applicable to the use or possession of weapons by law enforcement personnel in accordance with the policies, procedures and directives of the City's Police Department or the use or possession of an object which may be a dangerous weapon, such as a knife or dangerous chemical, incident to performance of duties in the course and scope of an employee's employment with the City.
- q. Threatening or coercing employees or Supervisors.
- r. Reasonable suspicion of the commission of a criminal act occurring on or off the job which relates to job performance or of such a nature that continuation of employment in the assigned position could affect job performance or could constitute negligence in regard to the City's duty to the public.
- s. Using public employment for private gain.
- t. Reasonable suspicion of engaging in dishonest or immoral conduct on or off the job that undermines the effectiveness of the City's activities or affects relations with other City employees or residents.
- u. Failure or refusal to perform an assigned task.
- v. Any conduct which involves harassment or discrimination under any state or federal law or which constitutes inappropriate conduct under the City's Equal Employment Opportunity, Anti-Harassment and Non-Discrimination Policy.
- w. Inability to perform all essential job functions, with or without reasonable accommodation, or inability to safely perform all essential job functions, consistent with all federal and state requirements under applicable disability discrimination laws.
- x. Unauthorized disclosure of confidential information or protected health information.

The above are examples only of grounds for severe disciplinary action and are not intended to be all inclusive. In addition, such provisions apply only to classified, permanent, full-time employees who are not serving any type of probationary period. All other employees are employed at will and may be terminated at any time for any reason, with or without prior notice.

APPENDIX E - PERSONNEL RULES AND REGULATIONS

A Department Head shall not discharge any employee without first having suspended the employee, without pay. In such event, the Department Head should notify the employee that the employee is being suspended with intent to discharge following a review period. Upon such notice, the employee must return all City property in the employee's possession to his supervisor or Department Head.

**ARTICLE X - LEAVES OF ABSENCE**

SECTION 1. Holidays.

All permanent, full-time employees shall be entitled to 10 holidays per year for which they shall receive full pay at their standard rate. In order for an employee to receive pay for a holiday, that employee must have been present at work on the work day immediately preceding and following the holiday, or have been on an approved leave of absence with pay for the day or days absent. Paid holiday leave shall count as eight (8) hours worked for overtime calculation purposes, unless the employee is subject to a regular work day or shift of ten hours or more, in which case the employee shall receive credit for hours worked consistent with the employee's regularly scheduled work shift for purposes of any overtime calculation.

Part-time employees who work at least 20 hours per week and have been employed by the City for at least six months shall be entitled to 10 holidays per year for which they shall receive partial compensation at their standard rate. The employee must have been present at work on the work day immediately preceding and following the holiday, assuming these days are regularly scheduled work days, or have been on an approved leave of absence with pay for the day or days absent. Part-time employees who meet the above criterion and who are not otherwise employed by the City on a full-time basis shall be compensated according to the average number of hours worked per week divided by five (for example, an employee working 20 hours per week would receive four hours of pay for a holiday). Part-time employees shall be entitled to holiday pay which is calculated by taking the average number of hours worked for the 13 pay periods immediately preceding January 1 of the current calendar year. For new hire employees who work part-time, holiday pay (after six months of employment) will be calculated by taking the average number of hours worked for the 13 pay periods immediately preceding each holiday until the employee has worked for 13 pay periods before January 1.

Authorized holidays shall include:

- |                                  |                           |
|----------------------------------|---------------------------|
| 1. New Year's Day                | 6. Labor Day              |
| 2. Martin Luther King's Birthday | 7. Thanksgiving Day       |
| 3. Presidents Day                | 8. Day after Thanksgiving |
| 4. Memorial Day                  | 9. Christmas Eve Day      |
| 5. Independence Day              | 10. Christmas Day         |

The City will attempt to accommodate the religious observances and practices of its employees. Requests for time off for religious observances, except as provided on the City's holiday schedule, will be treated on an individual basis, and accommodation will be afforded so long as such can be accomplished without undue hardship to the City's operations.

Notwithstanding the above provisions regarding holidays for City employees, law enforcement personnel who work on a fluctuating or rotating work schedule shall be allotted ten (10) days of "paid time off" in lieu of "holidays" each calendar year, effective January 1, 2009. Such law enforcement personnel shall not participate in City holidays but shall be permitted to use ten (10) days of paid leave, in lieu of holidays, during each calendar year. Such paid leave days shall be considered "hours worked" for purposes of any overtime calculation. Such paid leave days shall be used in full day increments only. For recordkeeping purposes, any such paid leave may be designated as "holiday leave." No such paid leave

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

shall be carried over from one calendar year to the next. To the extent that any such paid leave has not been exhausted by December 31 of each calendar year, law enforcement personnel shall be compensated for eight (8) hours of pay for each unused paid leave day at his then current rate of pay. Payment for such unused paid leave days shall not count toward "hours worked" for overtime purposes. The accrual of such paid leave by law enforcement personnel shall be at the rate of 5/6 of a paid leave day per calendar month. New hires within the Police Department subject to this Policy shall accrue such paid leave at 5/6 of a paid leave day per month, starting with the first full month of employment with the City. If, during any calendar year, an employee of the Police Department is assigned to a position which results in a change from or to a fluctuating or rotating work schedule (such as from patrol officer to detective or vice versa), the City shall take appropriate measures to assure that such employee receives a combination of ten (10) paid "days off in lieu of holidays" and City authorized holidays during the calendar year. Such measures may include, but not necessarily be limited to: allowing the employee to use vacation or earned compensatory time as a paid day on one (1) or more authorized City holidays; requiring that time off during one (1) or more authorized City holidays be unpaid; or altering the monthly accrual rate of "paid time off in lieu of holidays". In no event shall any Police Department employee receive more or less than a total of ten (10) paid leave days, during the calendar year under such circumstances.

In the event that any law enforcement employee utilizes such paid leave (in lieu of holiday pay) during a calendar year in excess of that which has accrued and thereafter dies, terminates, retires or is discharged, or otherwise separates employment with the City of Kirkwood prior to the accrual of such paid leave, the City shall be entitled to assess and recoup the value of such utilized paid leave in excess of the accrued paid leave. Any such amount due shall be withheld from any final compensation due the employee and will be collected through appropriate legal action, if necessary. If legal action is necessary to recoup such amount, the employee will be responsible for the City's costs and expenses, including attorneys fees. In the event that the law enforcement employee dies, terminates, retires, is discharged or otherwise separates employment with the City without utilizing accrued paid leave in lieu of holiday pay, such employee shall be compensated for such paid leave accrued up to the maximum allowed accrual to the date of separation, unless such employee is discharged for misconduct connected with his work or fails to provide at least ten (10) business days notice of resignation. No leave time may be substituted for such notice. No "paid leave in lieu of holiday pay" may be used during any disciplinary suspension.

### SECTION 2. Vacation.

Vacation leave shall accrue to all permanent, full-time employees based upon their years of continuous service with the City and part-time employees who work at least 20 hours per week and have been employed by the City for at least six months. Accrual of vacation shall commence on January 1 for that calendar year and shall be fully realized on December 31 of that calendar year, except during the first calendar year in which accrual of vacation shall commence on the first day of the first month following the date of employment.

During the first calendar year of service, all full-time employees shall accrue vacation leave through such calendar year and may take vacation leave through such first calendar year, provided that the employee has completed six months of continuous employment. The employee may also accrue the vacation leave and utilize such accrued vacation time during the following calendar year. In the event an employee has not completed six months of continuous, full-time employment during the first calendar year, then such employee is entitled to take the vacation leave accrued during the calendar year in which such employee has completed the six months of continuous, full-time employment. The rate of accrual of vacation leave for full-time employees shall be in accordance with Section (a) as follows:

APPENDIX E - PERSONNEL RULES AND REGULATIONS

<u>Employment Period</u>	<u>All Employees Other than Fire Shift Personnel</u>	<u>Fire Shift Personnel</u>
Less than 12 months	5/6 day per month	3 Shifts
1-4 years	2 weeks	6 Shifts
5-9 years	3 weeks	8 Shifts
10-16 years	4 weeks	10 Shifts
17 and thereafter	5 weeks	12 Shifts

Notwithstanding any other provision herein, the Chief Administrative officer may set or modify the rate of accrual of vacation leave for any Department Head or management employee who is a direct report to a Department Head, subject to the maximum annual accrual rate of five (5) weeks. The Chief Administrative Officer shall also have discretion to award additional vacation leave to any employee as a supplement to or in lieu of a merit increase.

Part-time employees who work at least 20 hours per week and have been employed by the City for at least six months shall accrue one week of vacation leave. A part-time employee eligible for vacation pay shall be entitled to one week of vacation pay which is calculated by taking the average number of hours worked during the 13 pay periods immediately preceding January 1 of the current calendar year and multiplying that number by the part-time employee's regular rate of pay. For example, an eligible part-time employee paid \$8.00 per hour, who averages 20 hours per week, would be entitled to one week off with vacation pay in the amount of \$160. For new hire employees who work part-time, vacation pay (after six months of employment) will be calculated by taking the average number of hours worked during the first 13 pay periods of employment for the calculation of such employee's initial vacation pay.

Full-time employees who also work part-time and meet the above criterion will not receive additional vacation leave.

All employees shall be entitled to utilize vacation leave which could accrue during the calendar year. In the event that an employee utilized vacation leave during a calendar year in excess of that which has accrued and thereafter dies, terminates, retires, is discharged, or otherwise separates employment with the City of Kirkwood prior to the accrual of such vacation time, the City shall be entitled to assess and recoup the value of such utilized vacation leave which is in excess of the accrued vacation leave. Any such amount due shall be withheld from any final compensation due the employee and collected through appropriate legal action, if necessary. If legal action is necessary to recoup such amount, the employee will be responsible for the City's costs and expenses, including attorneys' fees. In the event that an employee dies, terminates, retires, is discharged, or otherwise separates employment with the City without utilizing accrued vacation leave, such employee shall be compensated for vacation leave accrued up to the maximum allowed accrual to the date of separation, unless such employee is discharged for misconduct connected with his work or fails to provide at least ten business days' notice of resignation. No leave time may be substituted for such notice.

Full-time and part-time employees may carry over into the following year accrued vacation provided that it is not in excess of one-half of the vacation earned during the current calendar year. The maximum carry-over is one-half of the current year's vacation accrual. Vacation carry-over is not cumulative. In special situations, the carry-over limitation may be waived upon the review and written approval of the Assistant Chief Administrative Officer.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

Vacation leaves normally shall be granted at such time as is deemed by the Department Head to be in the public interest and may be used in accordance with the rates set forth above, provided approval is given by the Department Head. Department Heads shall schedule vacation leaves with particular regard to the operating requirements, order of requests, and seniority of employees.

Vacation may not be used during any disciplinary suspension or during the first six months of any probationary period associated with initial employment with the city.

### SECTION 3. Personal Sick Leave

Each full-time employee, with the exception of fire shift personnel, shall accrue one day, or eight hours, of personal sick leave for each full month of continuous service rendered. Fire shift personnel shall accrue 12.0 hours of personal sick leave for each full month of continuous service.

Holidays, vacation, personal sick leave, occupational illness, emergency leave, and funeral leave (all as provided for in Article X herein) shall not be deemed to be an interruption to the full month of continuous service as used herein.

Further, in no event shall any employee accrue more than 130 days of sick leave and at no time shall sick leave be considered a benefit convertible to compensation during employment or at the time of employment separation.

In addition, an employee may use up to a maximum of three (3) earned sick leave days (except that fire shift personnel may use up to a maximum of two earned sick leave days, defined as 24-hour shift days) per calendar year to care for an ill or injured immediate family member, which shall include only the employee's spouse, child, mother, father or other relative permanently residing in the employee's residence.

At any time, a physician's certificate may be required to verify the employee's sickness or injury or to verify a family member's sickness or injury if personal sick leave is taken. Subsequent to an absence of any duration due to sickness or injury, a physician's certificate may be required to verify the employee's ability to return to work prior to assumption of duties by that employee. In addition, any employee may be required to complete a Work Steps Program before returning to work.

It is understood that an employee utilizing sick leave benefits pursuant to this section agrees that he will not accept or perform any work for any other employer or engage in any self-employment work activity during his leave of absence; if an employee does so, he acknowledges that in such circumstances his conduct will be deemed to be a violation of the terms of the leave of absence, and that his employment with the City will be considered to have been terminated voluntarily on his part as of the first day of such a violation.

All employees of the Fire Department in the positions of captain, fire engineer, firefighter/EMT, and firefighter/paramedic shall be eligible for sick leave buy back and a vacation bonus day. Such employees shall accrue and use sick leave in accordance with City policy and practice. Provided, however, an employee that has not accrued the maximum sick leave (1456 hours) and does not utilize any sick leave during the calendar year will be given one additional 24 hours shift of vacation time following January 1<sup>st</sup>. This bonus vacation day is earned annually and must be re-earned each calendar year. Employee that have accrued the maximum sick leave and have not utilized any sick leave during the calendar year may sell back up to six (6) days of sick leave at 50% of their value. This Buy Back is earned annually and must be re-earned each calendar year. An employee may utilize a vacation day in lieu of a sick leave day if all other department vacation rules apply. Employees must request to use the Buy Back provision in writing

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

by January 15. The city shall pay out the appropriate amount within 30 days of receiving the written request.

When an employee has advance notice of an impending physical disability, such as elective surgery or pregnancy, the employee shall notify the Personnel Department so that it can be determined whether an absence will qualify under the Family Medical Leave Act. Such employee shall, before commencing such leave, submit a statement from the attending physician which shall include:

1. The condition requiring the leave; and
2. The anticipated date that the leave should begin, and
3. The date on which the physician anticipates the employee will be able to return to work; and
4. Whether the physician anticipates the employee to be under any physical restrictions as a result of the illness or injury upon return to work.

Upon return to work, such employee shall obtain a physician's release prior to returning to work, and such release shall indicate whether or not the employee is under any physical restriction and the nature of such restriction.

Sick leave may not be used during any disciplinary suspension. Sick leave may be used as earned during any probationary period.

Nothing contained in this sick leave policy is to be construed as guaranteeing employment status throughout the availability or use of sick leave benefits or upon conclusion of any period of such leave. An employee who is medically unavailable for work for any extended duration may be separated from employment, consistent with applicable federal and state laws, regardless of whether the employee has exhausted all earned, unused sick leave. Earned, unused sick leave is not payable upon separation of employment.

### SECTION 4. Occupational Injury or Illness

In cases of occupational injury or illness incurred in the performance of such employee's City job, such employee may be granted "occupational injury pay" effective immediately. Such "occupational injury pay" shall be the regular salary of such employee. To receive such "occupational injury" pay, an employee must elect to voluntarily endorse and sign over his worker's compensation check, if any, to the City. If the employee chooses not to accept such occupational injury pay, the City will endorse any such worker's compensation check (made payable to both the employee and the City) and sign over such check upon request to the employee, which will be considered an election by the employee to decline such occupational injury pay available to the employee. Such occupational injury pay shall continue until the happening of the earliest of these events:

- a. The date such employee shall be determined to be permanently disabled pursuant to the City's pension plans.
- b. The date such employee is determined to be able to return to work by the City's appointed physician.
- c. The date of any resolution or settlement of any workers' compensation claim.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- d. The elapse of 15 calendar weeks after the date of the occurrence of the disabling event.

In the event such employee remains unable to return to work after the 15 calendar weeks, such employee may use any accrued personal sick leave or vacation time while still employed. Upon the exhaustion of such paid leave time, such employee shall only receive worker's compensation payments, if any. Nothing contained in this occupational injury or illness policy is to be construed as guaranteeing employment status throughout the use of occupational injury or illness leave or upon conclusion of any period of such leave.

The Return to Work Program can assist with minimizing the cost of injuries by allowing injured employees to return to work as soon as possible. Every employee injured on the job and released to perform light duty work shall be considered for this program. However, light duty will not apply to any situation generally which would require the employee to perform duties that are not part of the employee's regular job assignment. Light duty, if provided, is also intended to be temporary.

In addition, any employee may be required to complete a Work Steps Program before returning to work.

It is understood that any employee receiving workers' compensation benefits pursuant to this section agrees not to accept or perform any work for any other employer or engage in any self-employment work activity during the leave of absence; if an employee does so, the employee acknowledges that in such circumstances the employee's conduct will be deemed to be a violation of the terms of the leave of absence, and that employment with the City will be considered to have been terminated voluntarily on the employee's part as of the first day of such a violation.

### SECTION 5. Emergency Leave

Employees may, with the written approval of their Department Head, be given three (3) scheduled work shifts per calendar year with pay and without loss of other leave due to extreme extenuating circumstances which may threaten the health and/or family welfare of the immediate family, such as: household fire, storm damage, flooding, etc. This provision does not allow use for situations such as transportation problems, auto repairs, babysitting, or similar non-critical obligations of the employee.

Determination of eligibility shall be made by the Assistant Chief Administrative Officer based on strict interpretation of these rules.

### SECTION 6. Funeral Leave

In the event of the death of an immediate family member, a full-time employee may be granted paid leave to attend the funeral of that family member. The purpose of this leave is for funeral attendance and related memorial services and is not to be used for attending to matters pertaining to settlement of the estate or business affairs of the deceased. In the event of the death of a spouse, child or parent, paid leave may be granted for up to four work days upon the recommendation of the Department Head. Other immediate family for the purpose of this section is defined as brother, sister, aunt, uncle, father-in-law, mother-in-law, sister-in-law, brother-in-law, grandparent, grandparent-in-law, grandchild, stepparent, stepbrother, stepsister, or relative permanently living in the same house and paid leave for the death of any of these family members shall be for no more than two days.

### SECTION 7. Leave of Absence-without Pay

A Department Head, with the approval of the Chief Administrative Officer, may grant a permanent full-time employee an extended leave of absence without pay not to exceed 180 calendar days. Leave of

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

absence may be granted for medical reasons. Such leave may be granted only after all of the employee's accrued sick leave and vacation leave has expired. If leave hereunder is granted because of an employee's medical condition, an employee must, before being considered for leave, submit a statement from his attending physician which shall include those items described in the Personal Sick Leave section, Article X, Section 3. Leaves under this section will only be granted when leave will not burden the Department affected and will not require that the employee be replaced during said leave. This section does not apply to the extent a leave is governed by the City's Family and Medical Leave Policy.

### SECTION 8. Absence without Pay

An absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized by a specific grant of leave of absence under the provisions of these rules shall be deemed to be an absence without leave. Any such absence shall be without pay and, in addition, may be subject to disciplinary action. An employee may not utilize a leave of absence without pay if they have available vacation leave, or if applicable, available sick leave. An absence of three working days which is not explained satisfactorily to the Department Head may be deemed cause for immediate discharge.

### SECTION 9. Military Leave of Absence

Any employee who is to perform active duty or training or inactive duty or training in the armed forces of the United States, including but not limited to the military reserves, shall be granted a leave of absence, as permitted by law. Further, an employee who leaves the City for such military service may be paid accrued vacation for which the employee is eligible from the City at the time of the leave of absence at the employee's option.

Any employee who leaves his job to serve in the armed forces is entitled to all rights provided for under state and federal law during the performance of military duty and, upon completion of the military duty, to reinstatement as provided by law. Reinstatement rights are conditioned upon the employee fulfilling the basic requirements for reinstatement under state and federal law.

Any employee who is reinstated following completion of military service shall be eligible to take accrued vacation 30 days after reinstatement.

### SECTION 10. Annual Military Training Leave

In addition to a leave of absence otherwise authorized in these rules, employees who are required to take annual periods of training as members in organized units of the Reserve Corps of the Army, Navy, Air Force, Marine Corps, Coast Guard or the National Guard and who are ordered to active duty, will be granted a leave of absence without loss of time, pay, regular leave, impairment of efficiency rating, or any other benefits to which they may otherwise be entitled, upon proper application through the department to the Personnel Director for the duration of said period of annual training not to exceed 15 working days in any federal fiscal year.

### SECTION 11. Voting Time

Any employee eligible and registered to vote in any election held within this state, or any primary election held in preparation for such election shall, on the day of such election, be entitled to leave from duty (if on duty) which would allow three hours of voting time between the time of opening and the time of closing the polls. This section shall not apply to a voter on the day of election if there are three successive hours while the polls are open in which the employee is not on duty. The authorized Supervisor may specify any three hours between the time of opening and closing of the polls during which an employee

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

may be granted voting leave. Employees may be required to show current eligible voter registration cards to their Supervisor prior to release for voting purposes; and no employee shall be granted time off with pay for voting who is not eligible to participate in a given election.

### SECTION 12. Other Leaves of Absence with Pay

Employees may be granted leaves of absence for required jury duty or for any other required appearances before a court as a witness. Such employees shall receive that portion of their regular salary which will, together with their jury duty pay or fees, equal their total salary for the same period, subject to a maximum of 10 working days per calendar year. Witness leave with pay is not available to any employee who appears in court in connection with a case to which he is a party.

### SECTION 13. Procedure for Requesting Leave

Employees requesting leave of absence for any reason must fill out a request form. In order to receive consideration, the requested leave shall be approved by the employee's Department Head.

### SECTION 14. Family and Medical Leave Policy

1. Except for the provisions of this Policy regarding "Servicemember Family Leave," an eligible employee is entitled to take up to 12 weeks of unpaid leave under this Policy in a 12-month period. Leave may be taken for any of the following reasons.
  - (a) to care for an adopted, foster care, or newborn child;
  - (b) to care for the employee's spouse, son, daughter, or parent with a serious health condition;
  - (c) because of an employee's own serious health condition that makes the employee unable to work at all or perform the essential functions of the employee's job; or
  - (d) a qualifying exigency arising out of the fact that the spouse, or a son, daughter or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
2. An "eligible" employee is an employee who:
  - (a) has been employed by the City of Kirkwood for at least 12 months, and
  - (b) has worked for at least 1,250 hours during the 12-month period immediately preceding the commencement of the requested leave.
3. For purposes of this Policy, "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
  - (a) any period of incapacity or treatment in connection with or consequent to in-patient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility;
  - (b) any period of incapacity requiring absence from work, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- (c) continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for prenatal care.
- 4. The 12-month period during which an eligible employee is entitled to a total of 12 weeks leave under this Policy begins on January 1st of each year. Except for the provisions of this Policy regarding Servicemember Family Leave, an eligible employee is only entitled to a total of 12 weeks leave in any given 12- month period regardless of the number of qualifying conditions that may arise in any 12-month period.
- 5. For any leave taken in accordance with this Policy that would otherwise be unpaid, each employee is required to substitute accrued paid vacation and accrued paid sick leave to the extent available in the following manner:
  - (a) for any leave taken under this Policy as Servicemember Family Leave or any leave relating to the placement of a child for adoption or foster care, to care for a family member with a serious health condition, the employee is required to substitute all of his available accrued paid sick leave first (maximum of three (3) paid days annually, except for fire shift personnel who have a maximum of two 24-hour work shifts annually) and then substitute all of his accrued paid vacation while on leave; and
  - (b) for any leave taken under this Policy because of the employee's own serious health condition, the employee is required to substitute all of his accrued paid sick leave first and then substitute all of his accrued paid vacation leave while on leave.
- 6. If the leave taken in accordance with this Policy is compensated at all, such as under the temporary total disability provisions of workers' compensation law, then no use of accrued paid vacation or accrued paid sick leave will be required.
- 7. An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember shall be entitled to a total of twenty-six (26) work weeks of leave during a twelve (12) month period to care for the servicemember ("Servicemember Family Leave"). The leave described in this paragraph shall only be available during a single twelve (12) month period. During such a single twelve (12) month period, an eligible employee shall be entitled to a combined total of twenty-six (26) work weeks of FMLA leave, regardless of the reason or reasons for taking FMLA leave. A "covered servicemember" means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term "outpatient status," with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to:
  - (a) a military medical treatment facility as an outpatient; or
  - (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

The term "serious injury or illness," in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. For purposes of this Policy, the

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

term “next of kin,” used with respect to an individual, means the nearest blood relative of that individual.

8. For any leave taken under this Policy, an eligible employee may also take paid vacation leave which has not yet been earned but could accrue during the calendar year. The use of unearned vacation shall follow the use of earned sick leave and earned vacation leave as required in paragraph 5 of this Policy. If an employee chooses to use unearned vacation leave during an FMLA leave of absence, the request to use such leave must be made in writing and submitted to the Personnel Manager prior to the exhaustion of all paid sick leave and paid earned vacation. In the event that an employee utilized vacation leave during a calendar year in excess of that which has accrued and thereafter dies, terminates, retires, is discharged, or otherwise separates employment with the City of Kirkwood prior to the accrual of such vacation time, the City shall be entitled to assess and recoup the value of such utilized vacation leave which is in excess of the accrued vacation leave. Any such amount due shall be withheld from any final compensation due employee or through appropriate legal action if necessary. If legal action is necessary to recoup such amount, the employee will be responsible for the City’s costs and expenses, including attorney’s fees.
9. An employee on leave in accordance with this Policy during any of the holidays designated in Article X, Section 1 of the Personnel Rules and Regulations for the City of Kirkwood, will receive pay as set forth in Article X, Section 1.
10. A husband and wife who are both employed by the City of Kirkwood are permitted to take only a combined total of 12 weeks leave during a 12 month period if the leave is taken: for the birth of a child or to care for the child after birth; for placement of a child for adoption or foster care, or to care for the child after placement; or to care for a parent with a serious health condition. Each spouse is entitled to his own 12 weeks of leave during a 12-month period if the leave is for his serious health condition, or the serious health condition of the other spouse or a child.
11. An employee’s entitlement of leave to care for an adopted, foster care, or newborn child expires at the end of the 12-month period beginning on the date of the birth or placement.
12. Employees seeking to use leave under this Policy are required to provide 30 days advance notice of the need to take leave if the need for the leave is foreseeable based on an expected birth or placement of a child, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable under the circumstances, such as because of the lack of knowledge of when leave will begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. The notice under this section must set forth the reason(s) for the requested leave, the anticipated duration of the leave and the anticipated start of the leave.

When planning medical treatment, the employee must consult with his Department Head and make a reasonable effort to schedule the leave so as not to disrupt unduly the Department’s operations, consistent with the health care provider’s medical judgment.

13. When leave is taken because of the birth or placement of a child or adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only upon approval of the employee’s Department Head. When leave is taken to care for an employee’s own serious health condition or for a sick family member, leave may be taken intermittently or on a reduced leave schedule when medically necessary at the employee’s request.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

14. An employee that takes leave under this Policy for a spouse, child, or parent with a serious health condition, or because of the employee's own serious health condition, must provide written certification of the serious health condition issued by the health care provider for the employee or the employee's ill family member. The certification is due 15 days after the City's written request for certification directed to the employee. The City will provide a form certification to the employee requesting leave at the time the certification is requested by the City. The certification of a serious health condition must include the following:
- (a) the date the serious health condition began;
  - (b) the health care provider's judgment concerning the probable duration of the condition;
  - (c) the diagnosis of the serious health condition;
  - (d) a statement of the course of treatment;
  - (e) an indication of whether in-patient hospitalization is necessary;
  - (f) a statement that the employee either cannot perform any type of work or cannot perform the essential functions of the employee's job (only when the leave is for the employee's own serious health condition); and
  - (g) a statement that the family member needs assistance or that the employee's presence would be beneficial or desirable for the care of the family member (only when leave is for the purpose of caring for a family member with a serious health condition).

While on leave, the employee may be asked to periodically report on his status or the status of the family member and when the employee intends to return to work.

It is understood that any employee taking Family and Medical Leave pursuant to this section agrees that he will not accept or perform any work for any other employer or engage in any self-employment work activity during his leave of absence; if an employee does so, he acknowledges that in such circumstances his conduct will be deemed to be a violation of the terms of the leave of absence, and that his employment with the City will be considered to have been terminated voluntarily on his part as of the first day of such a violation.

15. Prior to being returned to work following a leave taken under this Policy, an employee whose leave was occasioned by his own serious health condition must obtain and present certification from the health care provider that the employee is able to return to work.
16. For the duration of any leave taken under this Policy, the City of Kirkwood will maintain the employee's health care coverage on the same basis as coverage would have been provided if the employee had not taken leave. If an employee fails to return to work for the City for at least 30 days upon conclusion of leave taken under this policy, the employee shall owe the City the cost of health insurance premiums provided by the City during such absence, except as otherwise limited by law.
17. When an employee takes leave, which would otherwise qualify as leave under this Policy except that the employee has not specifically requested Family and Medical Leave, the time spent on

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

such a leave will be designated as Family and Medical Leave and be counted towards an employee's total number of weeks to which the employee is entitled as Family and Medical leave.

18. Extended leaves of absence without pay that are not governed by this Policy, (i.e. those for a reason other than those provided herein, or if of the type otherwise covered but which extends beyond the number of weeks allowed hereunder), will be governed by Article X, Section 7 (leave of absence without pay) of the Personnel Rules and Regulations for the City of Kirkwood.
19. Any interpretation of this Policy and of the benefits and obligations under the Family and Medical Leave Act of 1993 ("FMLA") shall be governed by appropriate federal law and regulations issued under the FMLA.

### **ARTICLE XI - OTHER EMPLOYEE BENEFITS**

#### SECTION 1. Professional Dues Payment

Employees may, with the approval of their Department Head, have professional organization dues payment made by the City provided that the membership benefits the employee in completing assigned duties and responsibilities.

#### SECTION 2. Tuition Reimbursement Program

- a. Only permanent full-time employees shall be eligible to participate in the program.
- b. The maximum amount of reimbursement for tuition during any one calendar year shall not exceed \$1,800.
- c. The course of study must be job related and in the field of employment.
- d. All courses must be approved in advance by the appropriate Department Head and the Chief Administrative Officer.
- e. If letter grades are used by the educational institution, then a grade of "C" or better must be attained in order to qualify for reimbursement by the City. If a pass/fail or satisfactory/unsatisfactory system is used, "pass" or "satisfactory" will qualify for reimbursement.
- f. The City will pay the employee up to \$1,800 for the cost of tuition reimbursement and required fees during any one calendar year; however, the employee will be responsible for any cost not covered by the tuition or required fees, such as books and parking.
- g. Notwithstanding the above provisions, tuition reimbursement is also available for academic courses which are not job related when such courses are taken at local community colleges approved by the Chief Administrative Officer or his designee.

#### SECTION 3. Uniforms and Clothing Allowances

Employees required to wear uniform clothing, specifically those individuals readily visible to the general public, will be provided with such clothing allocations as deemed appropriate by the Department Head. If allocations are provided, the employee shall be required to wear the uniform clothing and to return the full allocation of garments upon separation from City service. The City shall replace uniform clothing

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

damaged through natural wear on the job, but not due to negligence by the employee. The employee shall wear uniform clothing only in route to and from work and while on duty.

The City Council may establish clothing allowances where deemed appropriate in lieu of providing uniforms. In such instances, the employee shall be fully responsible for all maintenance and replacement of uniforms or clothing.

### SECTION 4. Treatment of Insurance Premiums

The City at its discretion may offer such benefits as health, dental, and vision insurance and share the cost of insurance premiums with employees. Premiums deducted from employee paychecks to pay for these benefits will be treated as pre-tax unless an employee specifically directs otherwise in writing to the Personnel Department.

### SECTION 5. Deferred Compensation Program

The City provides a deferred compensation program for City employees, including the matching of employee contributions, subject to any maximum matching amount established by the City. Any deferred compensation program shall be subject to the terms for such program in effect from time to time and may be modified or eliminated at the discretion of the City.

## **ARTICLE XII - EMPLOYMENT RESTRICTIONS**

No person employed by the City, or seeking employment shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of age, race, color, national origin, ancestry, political affiliation, religion, sex, or disability status.

No person seeking employment or promotion shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for, or on account of, or in connection with an employment test, appointment, proposed appointment, promotion, or proposed promotion.

No City employee shall solicit any contribution for the campaign fund of any candidate for Kirkwood City office or take part in the political campaign of any candidate for Kirkwood City office. All employees may exercise their rights as private citizens to express opinions and, if registered voters in Kirkwood, sign a nominating petition for any City candidate and vote in any City election. Political affiliation, participation, or contribution shall not be considered in making any City employment decision. No City officer, employee, or member of a board or commission shall use official authority or official influence for the purpose of interfering with or affecting the result of any election to or nomination for Kirkwood City office. No City officer, employee, or member of a board or commission shall directly or indirectly coerce, attempt to coerce, command, advise, or solicit a City employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political or electoral purposes.

No employee, either full or part-time of the City, while on duty or while in uniform that identifies the individual as an employee of the City shall:

- a. Canvass on behalf of any candidate, political party, or political issue.
- b. Display a political picture, sticker, badge, or button.
- c. Attend a political rally, fund raising function, or other political gathering.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- d. Circulate or sign a political petition, or
- e. Serve as an election judge or clerk.

No employee shall place, or allow to remain, upon a City vehicle used by the employee in the course of employment any political picture, sticker, badge, or button.

No employee of the City shall be appointed to any City Board or Commission.

Nothing in this article shall be construed to restrict an employee's freedom to express an opinion or exercise the right to vote.

No employee of the City shall use City equipment, personnel, facilities, or resources to promote or help promote any civic, social, business, or political candidate, or any non-City of Kirkwood purpose without the express written consent of the Chief Administrative Officer.

### **ARTICLE XIII - GRIEVANCES, COMPLAINTS, AND APPEALS**

#### SECTION 1. Grievances and Complaints

All classified employees shall have the right, except as specified herein, to utilize the grievance and complaint procedures of this article. The grievance and complaint procedures of this article will be available only to classified, permanent, full-time employees who are not serving a probationary period, whether imposed due to a new position or for disciplinary or performance reasons.

The City follows an "open door" policy. Employees are encouraged by the City to raise any work-related concerns with their immediate Supervisors or with any member of management.

In addition, it is the policy of the City that all employees be treated in a nondiscriminatory fashion. Accordingly, the City requires that all Supervisors discipline similarly situated employees in the same fashion. At the same time, inasmuch as no two conduct violations are identical in every detail, no exact pattern of corrective discipline is required and the City may deviate from its imposition of discipline whenever it determines that such action is warranted under the circumstances.

#### SECTION 2. Procedures for Handling Grievances and Complaints

- STEP A. A grievance or complaint must be taken to the immediate Supervisor within seven calendar days following knowledge of the occurrence: Where possible, the grievance should be settled at this level. If informal discussions do not resolve the issue, the matter shall be reduced to writing by the employee and be submitted to the immediate Supervisor within three working days. The immediate Supervisor shall have five working days to respond in writing. In departments such as Police, Fire, and others where a more involved hierarchy chain of command system is utilized, the Department Head shall, through written, published departmental rules and regulations, establish which immediate supervisory level shall successively respond to a grievance.
- STEP B. In the event that Step A does not resolve the situation, the employee may forward the grievance or complaint in writing to the Department Head within three working days following receipt of the Supervisor's response. The written documentation must include specific circumstances and state the remedial action requested. Such appeal must be signed personally by the employee, with the original delivered to the Department Head.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

Any other form of appeal, such as a facsimile transmission, email communication or an appeal unsigned by the employee, will not be considered by the Department Head. The Department Head or his designee shall investigate and document the matter and render a decision within 10 working days of receipt of the request.

STEP C. In the event that Step B does not resolve the problem and the grievance involves a suspension, demotion or termination, the employee may forward all written documentation and appeal to the Chief Administrative Officer within three working days of receipt of the Department Head's decision. The Chief Administrative Officer will consider only an appeal involving a suspension, demotion or termination of employment, which results in economic loss to the employee. Such appeal must be signed personally by the employee, with the original delivered to the Chief Administrative Officer. Any other form of appeal, such as a facsimile transmission, email communication or an appeal unsigned by the employee, will not be considered by the Chief Administrative Officer. The Chief Administrative Officer will provide a decision to the employee within 10 working days of receipt of the request. For grievances that are not eligible to be appealed to the Civil Service Commission, the Chief Administrative Officer may delegate to the Assistant Chief Administrative Officer the responsibility for reviewing and responding to the appeal.

STEP D. If the grievance involves suspension for more than five working days, dismissal, or disciplinary demotion, the employee may request a hearing before the Civil Service Commission. A written request for a formal hearing shall be filed with the City's liaison to the Civil Service Commission (Assistant Chief Administrative Officer) within seven days from the date of the decision of the Chief Administrative Officer. The Civil Service Commission shall convene as soon as reasonably possible after receipt of the request for appeal. If requested by either party, the Civil Service Commission shall conduct a closed hearing in accordance with procedures and rules established by the Civil Service Commission. Each party shall have the right to be heard in person and call witnesses. All parties, including the Civil Service Commission, may engage counsel. Technical rules of evidence shall not apply. After hearing and consideration of the evidence, the Commission shall render its decision in writing. The Commission's decision shall be final and binding. Grievances which are not specifically resolved and not continued by the employee with the aforementioned time sequences shall be considered as satisfied and not subject to further consideration. Grievance responses by duly authorized management representatives which are contrary to the established time sequences shall automatically proceed to the next higher authority step in the grievance procedure.

### **ARTICLE XIV - EMPLOYMENT OF RELATIVES**

The City will not hire on a full-time, part-time, or temporary basis a member of the immediate family of a City Council member, the Chief Administrative Officer, or a Department Head. In addition, no person who is a member of the immediate family of an employee in the same work unit will be hired; a work unit is defined as a work grouping where the possibility of one relative directly supervising another may occur. "Immediate family" for the purpose of this section is defined as spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent, stepmother, stepfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent or grandchildren.

**ARTICLE XV - NO SMOKING POLICY**

To maintain a safe and comfortable working environment and to ensure compliance with applicable laws, smoking or use of any other tobacco products within City offices, facilities and vehicles is strictly prohibited.

**ARTICLE XVI - EQUAL EMPLOYMENT OPPORTUNITY, ANTI-HARASSMENT, AND NON-DISCRIMINATION POLICY**

It is the policy and practice of the City of Kirkwood (“City”) to provide and promote equal employment opportunities for all applicants and employees. It is the responsibility of all employees to ensure that the concepts of equal employment opportunity and nondiscrimination are understood, abided by, and carried out by everyone.

It is the policy of the City to hire, train, promote, compensate, and administer all employment practices without regard to age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex or disability unrelated to the ability to perform a job. In short, sexual harassment or harassment on any of the grounds stated above is strictly forbidden and will not be tolerated. The City will take appropriate measures in response to any such incidents which are known by or reported to management or the Personnel Department.

The City believes that every employee has the right to work in an environment free of sexual or other prohibited harassment. Such conduct does not advance the purposes of the City; it is also morally wrong, and may subject the City to legal exposure. Consequently, any employee who engages in this prohibited conduct will be subject to disciplinary action, up to and including termination.

**Conduct Constituting Prohibited Sexual Harassment**

Under guidelines published by the Equal Employment Opportunity Commission, “unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature” constitute unlawful harassment in the following instances:

- a. when submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- b. when submission to or rejection of such conduct by an individual is used as a basis for any employment decision (e.g. promotion, wage increase, termination) affecting such individual; or
- c. when such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile or offensive working environment.

For example, and without compiling an exhaustive list, the following are illustrative of conduct that the City condemns and prohibits under this policy:

- (a) Conditioning a benefit such as a certain salary or promotion on the granting of sexual favors or the establishment or continuance of a personal relationship, or to imply to an employee that an award of such a benefit is conditioned upon the granting of sexual favors or the establishment or continuance of a personal relationship.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

(b) Stating or implying that another employee's performance is attributable in whole or in part to the sex of that employee.

(c) Stating or implying that a fellow employee's promotion in the City hierarchy has resulted from the granting of a sexual favor or relationship.

Sexual harassment may involve such matters as crude sexual jokes or sexual names; sexually suggestive, profane language; offensive sexual flirtations and innuendos; a display of obscene or pornographic material; sexual advances; grabbing or touching another individual; or other, similar demeaning and insulting behavior based on sex. Employees of the City should be aware that the issue of whether conduct constitutes sexual harassment or discriminatory conduct may depend on how that conduct is viewed by the employee who is subjected to the conduct. Any employee who initiates or persists in this prohibited conduct assumes the risk of violating this policy in the event that the person who is the object of the conduct views it as offensive; accordingly, such an employee may be subject to discipline even if the conduct might not have been intended as offensive.

### **Prohibited Discriminatory Joking or Epithets Based on Race, Ethnicity, Sex, Religion, Age or Disability**

As examples, and without compiling an exhaustive list, the following are illustrative of conduct the City condemns and prohibits under this policy:

(a) It is prohibited for any employee to bring any item to the work premises for purposes of a racial, ethnic, sexual, religious, age-related or disability-related joke or epithet.

(b) It is also prohibited for any employee to use City property, bulletin boards, e-mail or voice mail systems, or documents for purposes of a racial, ethnic, sexual, religious, age-related or disability-related joke or epithet.

(c) It is also prohibited for any employee to deface City property or the personal property of anyone else for purposes of a racial, ethnic, sexual, religious, age-related or disability-related joke or epithet.

(d) It is also prohibited for any employee to utter or use any racial, ethnic, sexual, religious, age-related or disability-related jokes or epithets at work, or when referring to or about any other person, be they an employee or a non-employee.

### **Procedure Upon Occurrence of Prohibited Conduct**

Any employee who believes they have been subjected or exposed to any harassment or other conduct prohibited by this Policy has the right to have such activity terminated immediately. Complaints must be made either to the employee's immediate Supervisor, Department Head, or to the City's Chief Administrative Officer, Assistant Chief Administrative Officer or Personnel Manager. Complaints shall be treated in a confidential manner to the extent reasonable. Retaliation of any form against anyone who complains pursuant to this Policy is strictly prohibited. An investigation shall be made immediately concerning any complaint. If the investigation leads to a determination that the charges are true or there has been any improper conduct, corrective action will be taken immediately. Such action may include termination of employment for anyone violating this Policy. Any complaint against the Chief Administrative Officer or City Clerk should be made to the Personnel Manager or Assistant Chief Administrative Officer, who shall do a prompt and thorough investigation. A report of such investigation

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

shall be forwarded to the Mayor and City Council for their review and determination of appropriate action to be taken against the Chief Administrative Officer or City Clerk.

### **ARTICLE XVII - POLICY REGARDING REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH A DISABILITY**

The City stands committed to fulfilling its obligations under the Americans With Disabilities Act and all other applicable state and federal statutes governing the workplace. It is the policy of the City to hire, train, promote, compensate, and administer all employment practices without regard to a disability unrelated to the ability to perform a job with or without reasonable accommodation. Discrimination against job applicants or employees because they are disabled is prohibited and will not be tolerated.

#### **GUIDELINES**

When dealing with situations involving job applicants or employees with a disability, the City will endeavor to follow these guidelines:

1. It is against the policy of the City to discriminate against qualified individuals with disabilities who, with or without reasonable accommodation, can perform the essential functions of a job.

2. The City is committed to ensuring that qualified individuals with a disability are not discriminated against in applying for employment and once such individuals have been employed in the workplace. It is the policy of the City, where possible and readily achievable, to make existing facilities used by employees readily accessible to and usable by individuals with disabilities. However, there may be instances where the City is not aware that an employee has a disability which might impact on an aspect of his employment or whether an existing facility is accessible to and usable by individuals with disabilities. It is incumbent upon any job applicant or employee to alert the City or his Supervisor as to the existence of a disability which the job applicant or employee believes needs to be accommodated so that he will enjoy and be afforded equal employment opportunity in the workplace.

3. An individual may be considered disabled if he has a physical or mental impairment and the impairment substantially limits one or more of the individual's major activities in life, has a record or history of such an impairment, or is perceived as having such an impairment. The City is committed to making reasonable accommodations in job duties, the work environment, and the application process to enable a qualified person with a disability to enjoy equal employment opportunities, so long as such accommodations do not constitute an undue hardship.

4. At the same time, the City also has an obligation to provide a safe work environment for all employees and customers. Reasonable precautions will be taken to ensure that an employee's disability, or any attempted reasonable accommodations thereto, do not present a direct threat to the health and/or safety of the individual employee with a disability or to others.

#### **PROCEDURAL CHANNELS**

The employee should advise his Supervisor of the existence of a disability which the employee believes needs to be accommodated so that he will have equal employment opportunities in the workplace. The City will attempt to work with the employee to determine if the employee's disability can be reasonably accommodated. Employees also should advise their Department Head, the Chief Administrative Officer, or Assistant Chief Administrative Officer of any facilities which they believe need to be made accessible and usable by individuals with disabilities. In addition, the employee may contact his Supervisor, Department Head, Chief Administrative Officer, or Assistant Chief Administrative Officer if he believes

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

that he has been discriminated against by reason of a disability. Any complaint of disability discrimination shall be investigated and treated in a confidential manner to the extent reasonable. If the investigation leads to a determination that the charges are true, corrective action will be taken immediately.

### **ARTICLE XVIII - SAFETY POLICY**

#### **SECTION 1. STATEMENT OF POLICY AND OBJECTIVE**

It is the policy of the City of Kirkwood to vigorously support an all-encompassing safety and property protection program. The City of Kirkwood maintains that its residents and employees are its most important asset. Therefore, their safety is our greatest concern and responsibility. In all assignments, the health and safety of all shall have the utmost consideration. Department heads and supervisory personnel at all levels of the municipal work force are directed to make safety a matter of continuing concern, equal in importance with all other operational considerations. Effective loss prevention is an integral part of management procedures designed to fully utilize municipal capital and personnel.

The Safety Procedures Manual is a supplement and extension of the City Safety Policy. It is a working document that provides the means of implementing the goal of a safe workplace and is to be used in conjunction with applicable codes and regulations.

Every employee is charged with the responsibility of supporting and cooperating with the City's Safety Manager and safety and property protection procedures. All employees are expected, as a condition of employment, to adopt the concept that the safe way to perform a task is the most efficient and the only acceptable way to perform it. Safety adherence and performance will be considered as an important measure of supervisory and employee performance evaluation.

#### **SECTION 2. RESPONSIBILITIES**

##### **Chief Administrative Officer**

The Chief Administrative Officer has the overall responsibility for formulating, implementing, and administrating the safety and property protection program of the City of Kirkwood.

##### **Assistant Chief Administrative Officer**

The Assistant Chief Administrative Officer will provide direction and guidance to the Safety Manager and advise the Chief Administrative Officer on the processes put in place and any barriers to success.

##### **Safety Manager**

The Safety Manager's responsibility is that of providing and following a well balanced safety and property protection program to guide the City in its safety and property protection efforts. He will serve as the Assistant Chief Administrative Officer's consultant, analyst, organizer and coordinator, and report on the adequacy of the total safety and property protection program.

##### **City of Kirkwood Safety Committee**

The City of Kirkwood Safety Committee will function as an administrative body to develop recommendations on matters of policy and procedure affecting the administration of the City's safety and property protection program. Membership shall consist of an employee from each department or division. These employees serve as a direct link between the Safety Committee and their own departments. Their responsibilities are provided in detail in the Safety Manual.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### **Department Heads**

Each Department Head has the authority and responsibility for maintaining a safe and healthful working condition within his jurisdiction. Each department is responsible for: providing the type of work environment, work procedures, and service to the public that will promote, to the highest extent possible, the safety of all employees and the general public; communicating information about safety in a manner readily understandable by all workers; and encouraging workers to inform managers of workplace hazards without fear of reprisal.

### **Supervisory Personnel**

Each Supervisor has the responsibility for the safe actions of his employees and the safe performance of machines and equipment within his operating area. The full potential of a safety and property protection program can only be realized when Supervisors accept and carry out their responsibilities on a day-to-day basis in all phases of the program.

### **Employees**

Every employee is required, as a condition of employment, to develop and exercise safe work practices in the course of his work to prevent injuries to themselves, fellow workers, and damage to property and to report any incidents or injuries to their supervisor immediately.

### **Safety Discipline**

When violations of policies occur, corrective action shall be immediate. Investigations into incidents or injuries shall be conducted immediately, or as soon as possible, by authorized personnel and disciplinary action shall be taken when an employee: causes injury to himself or others; destroys or damages equipment by willful violation of safe work rules; traffic regulations are violated; or by demonstration of an attitude of indifference regarding safety.

### **SECTION 3. ENVIRONMENTAL CONTROL**

Supervisors shall determine the designation and use of appropriate personal protective equipment through consideration of environmental factors, the task, and the individual employee. In order that safety devices or safeguards be acceptable as to proper type, design, strength and quality, they shall be at least equivalent to those complying with The American National Standards Institute (ANSI), Bureau of Standards, or other recognized authorities, where applicable. Detailed specifications for the design, purpose, and purchase of all protective equipment shall be the responsibility of the authorized department in conjunction with the Safety Manager.

The employee shall be responsible for the proper use of specialized equipment provided by the City for his safety. In addition, any employee-owned personal protective equipment must also comply with the standards and be maintained in a safe, sanitary condition at all times and available for inspection by the Supervisor.

When the use of personal protective equipment has been specified for hazardous work, its use shall be mandatory. Seat belts must be in use at all times. Supervisors shall be held accountable for training their employees in the proper use and wearing of the equipment when required, and the appropriate documentation of all training.

### **Proper Dress**

Each employee shall wear clothing suitable for the job he is performing at all times. Suitable clothing means clothing that will minimize the possibility of damage from moving machinery, hot or injurious

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

substances, or other harmful agents. Proper dress standards shall be governed by the discretion of the Department Head or Supervisor.

### SECTION 4. FLEET SAFETY

#### **Driver Training**

All drivers shall receive training on good driving practices, proper care and adherence to maintenance schedules, good maintenance records, and prompt repair – all of which will aid in the safety of both driver and pedestrians. Each Department Head, in conjunction with the Safety Manager, shall determine the exact nature of the training, which may include the use of safety meetings, seminars, and defensive driving courses, with refresher courses as needed.

### **ARTICLE XIX - WORKPLACE VIOLENCE POLICY**

#### **Overview:**

The City of Kirkwood is concerned about the increased violence in society, which has also filtered into many workplaces throughout the United States, and has taken steps to help prevent incidents of violence from occurring at the City. In this connection, it is the policy of the City to expressly prohibit any acts or threats of violence by any City employee against any other employee in or about the City's facilities or elsewhere at any time. The City also will not condone any acts or threats of violence against the City's employees, customers or visitors on the City's premises at any time or while they are engaged in business with or on behalf of the City, on or off the City's premises.

#### **Objectives:**

In keeping with the spirit and intent of this policy, it is the stated commitment of the City of Kirkwood:

1. To provide a safe and healthful work environment;
2. To take prompt remedial action up to and including immediate termination, against any employee who engages in any threatening behavior or acts of violence or uses any obscene, abusive or threatening language or gestures;
3. To take appropriate action when dealing with customers, former employees or visitors to the City's property who engage in such behavior. Such action may include notifying the police or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law. The City intends to use all reasonable legal, managerial, administrative and disciplinary procedures to secure the workplace from violence and to reasonably protect employees from harm;
4. To prohibit employees, former employees, customers and visitors from bringing unauthorized firearms or other weapons onto the City's premises; and
5. To establish a procedure for reporting a complaint of workplace violence and investigating any complaint of workplace violence.

#### **Description of Workplace Violence:**

Workplace violence in this policy shall include but not be limited to an act or behavior that:

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

1. Is physically assaultive;
2. A reasonable person would perceive as obsessively or irrationally directed and reasonably likely to result in harm or threat to persons or property, such as conduct intensely focused because of a grudge, grievance or romantic interest in another person;
3. Consists of a communicated or reasonably perceived threat to harm another individual or to destroy property;
4. A reasonable person would perceive as menacing or which would be reasonably interpreted as carrying potential for physical harm to an individual; and
5. Involves carrying or displaying weapons, destroying property or throwing objects in a manner reasonably perceived to be threatening.

### **Reporting Workplace Violence:**

Any employee who feels he has been subjected to workplace violence should immediately contact one or more of the persons below with whom the employee feels the most comfortable.

1. The employee's Department Head.
2. The Personnel Manager.
3. The Assistant Chief Administrative Officer.
4. The Chief Administrative Officer.

The employee should be prepared to provide the following information:

1. Your name, department and position title.
2. The name of the person(s) committing the alleged violence (including department, if an employee of the City).
3. The specific nature of the alleged violence and specific date and time of any and all incidents.
4. All witnesses to any incidents.

The City will not condone any form of retaliation against any employee for making a report under this policy.

### **Investigation of Workplace Violence Complaint:**

The Personnel Manager is the person designated by the City to be the investigator of any complaint of workplace violence. The Assistant to the Chief Administrative Officer may also investigate any complaint of workplace violence. If any complaint is directed against the Personnel Manager, the Chief Administrative Officer shall investigate the complaint or determine an appropriate delegate to investigate the complaint.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

All complaints of workplace violence shall be investigated promptly. If it is determined that the complaint is valid, appropriate action shall be taken. If the complaint is against an employee, disciplinary action shall be consistent with the nature and severity of the offense. The disciplinary action may include demotion, suspension, dismissal, warning, placement on probationary status and may also include mandatory referral to the City's EAP program. In the event of any complaint against the Chief Administrative Officer or City Clerk in which the Personnel Director recommends disciplinary action, a recommended disciplinary action and report of the complaint of workplace violence and summary of the investigation of the complaint shall be forwarded to the Mayor and City Council for their review and determination of appropriate action to be taken against the Chief Administrative Officer or City Clerk.

### **Obligations of Employees:**

Employees shall report all instances of workplace violence in a timely manner.

Employees are obligated to cooperate in any investigation of a complaint of workplace violence, including but not necessarily limited to, coming forward with evidence, both favorable and unfavorable to a person accused of violence, and by fully and truthfully making a written report or verbally answering questions when required to do so during an investigation of a workplace violence complaint.

Disciplinary action shall be taken against any employee who fails or refuses to cooperate in an investigation of alleged workplace violence, or who intentionally files a false complaint of workplace violence.

## **ARTICLE XX - POLICY AGAINST SUBSTANCE ABUSE**

### **A. PROVISIONS APPLICABLE TO ALL EMPLOYEES AND APPLICANTS**

#### **Purpose**

It is the policy of the City of Kirkwood, Missouri to maintain a safe, healthy, and productive work environment for all employees and the City's residents. To that end, the City will act to eliminate any use, possession, concealment, sale, or distribution of illegal or unauthorized drugs and alcoholic beverages which increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or tends to undermine public confidence in the City's workforce. Generally, any substance which may affect the employee's senses, motor functions, or alter the individual's perception while working falls within this policy. This prohibition applies during working hours and non-working hours if the off-duty use impacts job performance.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of management and employees. All employees covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination. Applicants in violation of this policy will not be hired.

In recognition of the serious duty entrusted to employees of the City and with the knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, the following policy against drugs and alcohol is hereby adopted by the City of Kirkwood.

#### **Policy**

The use, possession, concealment, sale, or distribution of unauthorized drug or alcohol is absolutely prohibited. It is City policy that employees shall not: report to work with any detectable amount of an

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

unauthorized drug or alcohol or be under the influence of alcohol or drugs; have the odor of alcohol or drugs on their breath during a regularly scheduled shift; possess drugs or alcohol on their person or property under their control, while on duty or on compensated standby time; sell or provide drugs or alcohol to any other employees or to any person while such employee is on duty; test positive for unauthorized drugs or alcohol; or work impaired as a result of the use of alcohol or drugs.

The use of medically prescribed medications and drugs is not per se a violation of this policy. However, failure by the employee to notify his Supervisor, before beginning work, when taking medication or drugs which may interfere with the safe and effective performance of duties or operation of City equipment may result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from a qualified physician will be required.

The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Telephone numbers for the EAP are listed on posters in the workplace, on periodic payroll stuffers, and in the employee newsletter. Medical insurance coverage for drug and alcohol treatment is also included in the medical plan offered by the City. Employees wishing to obtain more information on any of these benefits should contact the Personnel Department, the City's health insurance carrier, or the Employee Assistance Program.

The City reserves the right to search, without employee consent, all areas and property in which the City maintains joint control with the employee or full control. All City vehicles are subject to search by appropriate management personnel. Warrants will be obtained should it become necessary to search areas beyond the City's immediate control.

Violations of this policy will be grounds for disciplinary action, up to and including discharge. Refusal to submit immediately to an alcohol and/or drug analysis when requested by management pursuant to provisions of this substance abuse policy will result in termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work. The employee shall be instructed to wait for a reasonable time until an authorized City representative can transport the employee from the work site.

### Application

- A. Personnel
  - 1. All employees and applicants who are selected for positions with the City of Kirkwood.
- B. Substances
  - 1. Alcohol;
  - 2. Illegal or unauthorized drugs or any other substances which may impair an employee's ability to effectively perform the functions of the job or as otherwise described elsewhere in this substance abuse policy.

### Employee Responsibilities

An employee must:

- A. not report to work or be subject to duty while having any detectable prohibited drug or alcohol in his system or report to work or be subject to duty while his ability to perform any job duties is or has been impaired due to alcohol or drug use, on or off duty;

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- B. not possess or use, or have the odor of alcohol or drugs on his breath during work hours, on breaks, during meal periods, while on City property in an official capacity, or while operating any City vehicle;
- C. not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or “on call”;
- D. consent to and submit immediately to reasonable requests for alcohol and/or drug analysis when requested by a Department Head or his designee;
- E. notify his Supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of job duties or operation of City equipment; and
- F. provide within twenty-four (24) hours of request a current valid prescription for any drug or medication identified when a drug screen/analysis is positive. The prescription must be in the employee’s name.
- G. notify the Assistant Chief Administrative Officer in writing of any criminal drug statute or ordinances conviction or suspended imposition of sentence for a violation occurring in the workplace no later than five (5) calendar days after such conviction or suspended imposition of sentence.

### Management Responsibilities and Guidelines

- A. Managers and Supervisors are responsible for consistent enforcement of this policy. Any Supervisor who knowingly permits a violation of this policy by employees under his direct supervision shall be subject to disciplinary action.
- B. Managers and Supervisors may request that an employee submit to a drug and/or alcohol analysis when a Manager or Supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol or is otherwise in violation of any provision of this Policy. “Reasonable suspicion” is a belief based on objective and articulable facts sufficient to lead a reasonably prudent Supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform his job safely is reduced or that the employee is otherwise in violation of any provision of this Policy. For example, any of the following, alone or in combination, may constitute reasonable suspicion:
  - 1. Slurred speech;
  - 2. Alcohol on breath;
  - 3. Inability to walk a straight line;
  - 4. An accident involving City property;
  - 5. An accident that results in the injury of a person;
  - 6. Physical altercation;
  - 7. Verbal altercation;
  - 8. Behavior which is so unusual that it warrants summoning a Supervisor or anyone else with authority;
  - 9. Use or possession of alcohol or drugs;
  - 10. Information on use or possession of alcohol or drugs provided either by a reliable and credible source or independently corroborated;

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

11. Arrest or conviction for a substance abuse offense or being the subject of a criminal investigation into illegal drug possession, use, or trafficking;
12. Evidence that the employee has previously tampered with a previous drug test.

This list is not intended to be all inclusive of conduct which constitutes reasonable suspicion.

- C. Drug/alcohol tests shall be required for employees whenever there is a pattern of on-duty accidents, an accident resulting in property damage or any on the job injury.
- D. Any Supervisor who has reasonable suspicion that an employee is impaired on the job by alcohol or other substance or is otherwise in violation of any term of this Policy will, with the approval of the Department Head, immediately arrange for a substance screening through the Personnel Department. If a screening is required after normal business hours, the Supervisor will make direct contact with the facility that has been designated to perform screenings for the City. The following procedures shall be followed:
1. The Supervisor should document in writing the facts constituting reasonable suspicion that the employee in question is impaired on the job by alcohol or other substance or is otherwise in violation of any term of this Policy.
  2. Any Supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the City's designated facility where a drug and/or alcohol analysis will be performed.
  3. Any Supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and consequences of this policy. Such continued refusal will constitute grounds for termination.
  4. Supervisors shall not physically search employees.
  5. Supervisors shall notify the Police Department when they have reasonable suspicion to believe that an employee may have illegal drugs in his possession or in an area not jointly or fully controlled by the City.
  6. Supervisors shall not confiscate, without consent, prescription drugs or medications from an employee.
- E. Results of Drug and/or Alcohol Analysis
13. Upon a negative result, the employee shall return to work.
  14. If the test result is positive, the employee will then be given the opportunity, at the employee's expense, to have an additional test performed on the retained specimen. If the additional test shows a negative result, it will be assumed that the individual is not in violation of this Policy, and the employee shall return to work. If negative, the City will reimburse the employee for the expense of the additional screen.
  15. If all tests indicate a positive result, the employee's Department Head shall have the authority to determine appropriate discipline including termination, subject to the review or approval by the City's Chief Administrative Officer or his authorized administrative officer. A single offense may result in immediate termination of employment.

### Pre-Employment Substance Screening and Procedure

- A. Prospective employees will be screened for a range of chemical substances. Any employment offer is conditional on a negative substance screening. Refusal to consent to and participate in such testing will automatically disqualify the applicant from further hiring considerations.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- B. The drug screen may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his job. The type(s) of screening and the levels of substances which constitute a positive screen will be determined administratively after consultation with the City's medical services provider(s).
- C. An applicant whose initial substance screen shows a positive result will be given the opportunity, at the applicant's expense, to have an additional screen performed on the retained specimen. If the additional screen of the same sample shows a negative result, the individual will not be disqualified from City employment on account of the previous substance screen. If the additional screen of the same sample confirms the positive test result, the applicant will be disqualified from consideration for City employment for twelve months.

### Severability

The provisions of this policy are severable and, if any of its provisions shall be held unconstitutional or otherwise invalid by any competent jurisdiction, the decision of such court shall not affect any of the remaining provisions.

### **B. ADDITIONAL PROVISIONS APPLICABLE TO SAFETY SENSITIVE EMPLOYEES**

All City employees who perform job duties requiring a Commercial Driver's License (CDL) are also subject to the rules of the Federal Highway Administration (FHA) adopted pursuant to the Omnibus Transportation Employee Testing Act of 1991. A summary of those rules and the City's program/policy is as follows:

#### Employees Covered

Beginning January 1, 1996, all employees of the City who hold Commercial Driver's Licenses (CDL) and all applicants for positions with assigned duties that require a CDL are covered by the FHA rules and regulations.

#### Prohibited Alcohol and Substance Abuse Related Conduct

Employees required to have a CDL for their position are subject to the following prohibitions in addition to those defined elsewhere in the City's Substance Abuse Policy:

No driver shall report to duty or remain on duty with a blood alcohol concentration of 0.02% or greater.

No driver shall possess or use alcohol, including any medication with an alcohol component, while on duty or while operating a commercial motor vehicle;

No driver shall be allowed to drive within four hours of using alcohol;

A driver involved in an accident that requires an alcohol test may not use any alcohol until after the test is completed or eight hours has elapsed;

No driver shall refuse to submit to any required drug or alcohol test required by post-accident, random, reasonable suspicion or follow-up testing requirements as defined below.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

No driver shall report for duty or remain on duty when using any controlled substances except those a physician has advised that the driver may use which will not adversely affect the driver's performance.

### Drug/Alcohol Tests Required by This Policy

The City is required to administer the following types of tests for persons operating commercial motor vehicles:

**Pre-employment<sup>1</sup> testing for drugs.** Offers of employment are made contingent on successfully passing drug screening tests.

**Post-accident testing.** Drivers will be given drug and alcohol tests within two hours of an accident involving property damage or bodily injury or an accident when the driver is cited for a moving traffic violation. In cases of post-accident testing, the employee will be transported to a medical facility or the City will request and conduct a breath test at the worksite.

**Random testing.** Drivers must participate in random drug and alcohol test pools. The random test rate of the alcohol testing pool shall be at least 25% of the drivers annually and for the drug testing pool at least 50% of the drivers annually. The tests will be spread throughout the calendar year. Random selection means that an individual commercial driver may be selected for alcohol and/or drug testing several times in one calendar year, or not at all.

**Reasonable suspicion testing.** Drivers are subject to drug and/or alcohol testing at any time during, immediately prior to, or immediately after the driver's assigned working hours, when based upon reasonable suspicion as defined in this policy. In cases of reasonable suspicion testing, the employee will be transported to a medical facility or the City will request and conduct a breath test at the worksite.

**Return to duty and follow-up testing.** Before a worker who has violated the prohibited conduct of this policy may return to work, he must take and pass drug and/or alcohol tests. Follow-up tests are to be given at least 6 times within the first year after the employee returns to duty following completion of a rehabilitation program.

### Testing Procedures

Drug and alcohol testing procedures shall conform to those required by federal regulations governing the drug and alcohol testing mandated by the Department of Transportation. All drug tests shall be done by a National Institute on Drug Abuse (NIDA) certified laboratory.

**Specimen Collection.** The Personnel Department will instruct job applicants to report to the testing site. Current employees will be instructed by the Department Head where and when to report for drug and/or alcohol testing. In cases of post-accident or reasonable

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<sup>1</sup> Includes testing when a current employee who is not required to hold a CDL transfers into a position requiring the operation of a commercial motor vehicle.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

suspicion testing, the employee will be transported to a medical facility or the City will request and conduct a breath test at the worksite.

The procedure for collecting urine specimens will be designed to ensure the integrity and identity of the urine specimen that is produced. The procedure will also allow for individual privacy, provided, however, the City and employees shall abide by the DOT Final Rule, effective August 25, 2008, which provides additional safeguards against efforts of employees to cheat on substance abuse testing, including a required collection of urine under direct observation for certain return-to-duty and follow-up tests. Breath alcohol testing will follow federal procedures to ensure accuracy, reliability and confidentiality.

If testing under this policy is ever required of an employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the test specimen. However, such an employee shall promptly, upon request from the City, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.

**Nature of Tests.** Drug testing. Drug testing will be performed on urine samples. The initial test will be done by the Enzyme Immunochemical Assay Method (EMIT) or a similarly approved testing method. All specimens identified as a positive test on the initial test will be confirmed using Gas Chromatography/Mass Spectrometry (GC/MS) techniques. A specimen will be treated as negative if the result of the initial test or the confirmatory test is negative. All urine samples will be split samples so that if the original specimen test is positive the employee may request the retained sample be tested. This request must be received by the MRO in writing within 72 hours of employee's notice of a positive result. The split sample will be tested at the employee's expense. If the second test is negative, the test will be deemed to be negative and the cost of the test for the split sample will be paid for by the City or reimbursed to the employee if already paid by the employee. Job applicants do not have the right to split samples.

**Alcohol Testing.** Alcohol testing will be done by using Evidential Breath Testing Devices (EBT) approved by the National Highway Traffic Safety Administration. Two breath tests are required to determine if a person has a prohibited alcohol concentration. Breath Alcohol testing requires the individual to provide a breath sample. Should the initial breath sample have a result of 0.02% blood alcohol content or greater, a confirmation test will be conducted within twenty (20) minutes using an EBT that prints out the results, date, and time, a sequential number, and the name and serial number of the EBT to ensure reliability of the results. A positive test will be reported to the City of Kirkwood only if the initial and confirmatory tests measure a blood alcohol concentration at or above 0.02% by weight.

**Refusal to Test.** All employees covered by this policy are required to submit to the alcohol or drug tests as provided herein. If an employee refuses to be tested or alters or attempts to alter the test sample, such actions shall be treated as a positive test in addition to being a violation of this policy. Such a refusal is grounds for immediate termination.

### **Test Results**

**Drug Tests.** The Medical Review Officer (MRO) will review positive drug test results with the employee before they are reported to the City to determine if there is a legitimate

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

medical explanation to account for the laboratory results. The Medical Review Officer will report to the City whether an employee's drug test was positive or negative. If positive, the substance(s) for which the test was positive will be identified. The Medical Review Officer may advise the City of a positive test result without having communicated with the tested employee about the test results if the employee expressly declines the opportunity to discuss the results of the test, or if the employee cannot be reached after reasonable effort by the Medical Review Officer.

Following a positive test result, the employee will be removed from his safety sensitive function until, at a minimum, the employee undergoes evaluation and, when necessary, rehabilitation; after a Substance Abuse Professional (SAP) determines that the employee has successfully complied with any required rehabilitation; and after the employee takes a return-to-duty test with a verified negative test result.

If the Medical Review Officer determines there is a legitimate medical explanation for the positive test result, the Medical Review Officer will report the test result to the City as negative.

**Alcohol Tests.** If an alcohol breath test results in a reading of 0.02 - 0.039% blood alcohol content, the individual shall not return to duty but shall be taken off-duty and not returned to work for at least twenty-four (24) hours. If an alcohol breath test results in a reading of 0.04% blood alcohol content or greater, in addition to the above, the employee must meet with a Substance Abuse Professional (SAP). The SAP will determine what assistance, if any, the employee needs in resolving problems associated with alcohol use and when the employee may return to work. Provided, however, nothing contained in this paragraph shall in any way limit the right of the City to take disciplinary action as it deems appropriate for any positive alcohol (or drug) test, including immediate termination of employment.

**Confidentiality.** The results of any positive test shall be kept confidential from the general City work force and public. The results may be known to the employee, test facility, the Medical Review Officer and Substance Abuse Professional and those Department Heads necessary. The City may use the results to determine the appropriate response to employee drug and/or alcohol use and to support its disciplinary or other actions or to defend the City in a Court or Administrative Hearing.

The Medical Review Officer, Substance Abuse Professional and the City shall not release the individual test results of any employee to any unauthorized party without first obtaining written authorization from the tested individual.

### **Actions Taken in Response to Test Results: Refusal to be Tested**

**Refusal/What Constitutes Refusal.** An employee who refuses to be tested will be treated as having had a positive test. Failure to report to a collection site on a timely basis, sign any required consent form or otherwise fail to fully cooperate with the testing procedure shall be treated as a refusal to be tested. Employees refusing to be tested shall be subject to immediate termination.

**Positive Drug Test.** An employee whose drug test result is reported to the City as positive shall be immediately referred to a Substance Abuse Professional for evaluation and may be subject to disciplinary action up to and including dismissal.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

**Alcohol Test.** An employee whose breath test results in a reading of 0.02 - 0.039% blood alcohol content shall be removed from duty and not returned to work for at least twenty-four (24) hours, and all hours not worked shall be recorded as lost time. An employee who has a continuing pattern of breath test results between 0.02 - 0.039% blood alcohol content shall be referred to a Substance Abuse Professional for evaluation and may be subject to disciplinary action up to and including dismissal.

An employee whose breath test results in a reading of 0.04% blood alcohol content or greater shall be removed from duty and not returned to work for at least twenty-four (24) hours, and all hours not worked shall be recorded as lost time. Additionally, the employee shall be referred to a Substance Abuse Professional for evaluation and may be subject to disciplinary action up to and including dismissal.

Provided, however, nothing contained in this paragraph shall in any way limit the right of the City to take disciplinary action as it deems appropriate for any positive alcohol (or drug) test, including immediate termination of employment.

**Subsequent Positive Test(s).** An employee whose drug test result is reported to the City as positive or whose breath test result is 0.04% blood alcohol content or greater and who has previously had positive drug tests or previous breath tests with a result greater than 0.04% blood alcohol content or who has previously been referred to a rehabilitation program under the provisions of this Policy shall be subject to disciplinary action up to and including dismissal.

**Rehabilitation.** Failure to immediately begin an approved rehabilitation program, successfully complete the program and/or participate in required or recommended after-care may result in disciplinary action up to and including dismissal.

**City's Right to Discipline.** Regardless of any provision of this Policy, the City has the right to take immediate disciplinary action for any violation of this Policy, including termination.

**Return To Work -- Conditions.** An employee who tests positive for illegal drug/alcohol use cannot return to work until he meets all of the following conditions:

Successfully completes a City approved rehabilitation program as directed by the Substance Abuse professional or as required by this Policy;

No further use of a controlled substance as indicated by a negative drug/alcohol test result at the time of release;

Obtains a full, written release and recommendation to return to duty from the treatment facility doctor and/or counselor;

Continues to participate in any program of after-care required by the rehabilitation facility doctor and/or counselor;

Agrees to be subject to post-rehabilitation unannounced follow-up testing as determined by the Substance Abuse Professional after consultation with the City, for twelve (12) months after reinstatement.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### **Department Heads (or Supervisors) have the following specific duties.**

Department Heads must produce drivers for post accident drug and alcohol testing within two hours of the accident or explain in writing why the driver was not produced. The driver may be given necessary medical treatment and if such treatment prevents normal drug or alcohol testing, the Supervisor shall immediately inform the City's Personnel Director.

Whenever drug or alcohol tests are required under this policy, Department Heads must produce the driver for those tests, and when current impairment is reasonably suspected, the Department Head shall not allow the employee to drive.

Observations supporting a Department Head's reasonable suspicion of drug or alcohol use must be made just before, during or just after the employee operates a commercial motor vehicle. These observations must be reduced to writing within 24 hours of the observation.

Whenever drug or alcohol tests are required by this policy and the employee is not tested within eight hours of notice of the need to test, the Department Head shall explain in writing why the test or tests were not performed.

**Review of Test Results.** The City will employ a Medical Review Officer (MRO) to review the drug test results. The MRO shall be a licensed physician with knowledge of drug abuse disorders.

**Return to Work; Drug Test.** In order to recommend return to work after a positive drug test, the MRO shall ensure the employee has subsequently tested drug free, been evaluated by a rehabilitation program counselor, and ensure the employee is in compliance with rehabilitation conditions.

The MRO shall determine whether and when a return to duty recommendation shall be made for an employee who has failed a drug test or refused to be tested and shall determine the schedule for return to work drug testing.

Only the Medical Review Officer may review and interpret each positive drug test and after conferring with the employee, report the results to the City.

**Substance Abuse Professional.** The City will also employ a Substance Abuse Professional (SAP). The SAP shall be a licensed physician (M.D. or D.O.) or a licensed psychologist, social worker, employee assistance professional or an addiction counselor (certified by MHADACCC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

**Return to Work; Alcohol Test.** In order to recommend return to work after an alcohol test which indicates a blood alcohol content greater than 0.04%, the SAP must first evaluate the employee to determine whether the employee has an alcohol problem.

If it is determined by the SAP that an employee has an alcohol problem which requires assistance, the employee shall be subject to counseling, treatment and follow-up alcohol testing as directed by the SAP. Follow-up testing shall only occur just before, during or just after the employee operates a commercial motor vehicle.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

Consequences. Besides the penalties set out by the City for violations of this policy, the following consequences are required by FHA rules:

No driver may drive if they have used a listed drug<sup>2</sup>, and no driver may drive within four hours of using alcohol or at any time when an alcohol test indicates an alcohol concentration of 0.04% or greater.

A driver violating these rules may not return to work until evaluated and released by a Substance Abuse Professional, and subsequently tested for alcohol and drugs with negative results.

A driver tested with an alcohol concentration greater than 0.02% and less than 0.04% may not drive or perform other safety sensitive functions for 24 hours after the test.

Federal Civil penalties for breach of the Federal rules range between \$1,000 to \$10,000 for each offense. Federal criminal penalties for violations of the Federal rules range between \$1 and \$25,000 for each offense or up to 1 year imprisonment for each offense.

Prior Testing Histories. All applicants for or seeking a transfer to a safety sensitive position shall be required to provide information on any prior testing as required by applicable federal law.

### **C. EMPLOYEE DRUG/ALCOHOL EDUCATION (All Employees)**

Each employee shall be given educational materials that explain the City policies. CDL drivers will receive this information before the implementation of the drug and alcohol testing program begins. All new employees shall receive this information upon being hired. Employees receiving this information shall sign a statement certifying they have received this information and this receipt shall be retained by the Personnel Department.

Employee Drug and Alcohol Educational materials shall have at least the following content:

- a. The identity of the person(s) designated to answer employee questions about the City's rules and testing programs.
- b. Information explaining the effects of alcohol and drugs on health, work and personal life, the symptoms of alcohol or drug problems and available methods of intervention including confrontation, referral to EAP and discipline.
- c. Information explaining when CDL drivers are subject to Federal Drug and Alcohol testing rules.
- d. Explanations of employee conduct which is prohibited by these rules and the circumstances under which an employee will be tested.
- e. The drug and alcohol test procedures.

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<sup>2</sup> Marijuana (THC metabolite), Cocaine, Amphetamines, Opiates (including heroin) and Phencyclidine (PCP).

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

- f. An explanation of when testing is required by Federal rules.
- g. An explanation of what constitutes a refusal to test.
- h. An explanation of the consequences of violations of these rules.
- i. An explanation of the consequences of having an alcohol concentration greater than 0.02% but less than 0.04%.

Supervisors shall receive, in addition to the general employee information, training in alcohol misuse and training in drug use. The training shall cover physical, behavioral, speech and performance indicators of drug use and alcohol use and may also cover the physiologic and psychological aspects of addiction, how to detect and document early deterioration of job performance, the issues of drug testing and prevention and educational strategies, including how to implement them.

### **ARTICLE XXI - TRAVEL POLICY**

#### **PURPOSE**

To establish a uniform policy for reimbursing City employees for travel and related expenses incurred while conducting City business.

#### **TERMS**

“Expenses” shall refer only to expenses actually and necessarily incurred in the performance of the official business of the City.

“Employee” shall include all persons employed by the City and all elected and appointed officials of the City.

#### **RESPONSIBILITIES**

The Assistant Chief Administrative Officer shall be responsible for promulgating any further rules and regulations regarding the Travel Policy. Further, the Assistant Chief Administrative Officer shall provide all departments with uniform travel and expense forms.

Any employee incurring any expense as defined herein and seeking reimbursement of same shall submit to the Director of Finance a voucher of such expenses which has been certified as being true and accurate. The Director of Finance shall then review such expense vouchers and shall reimburse the employee only for those expenses which have been properly incurred.

Each Department Head is also responsible for ensuring that expenses incurred for travel and other activities by employees under his supervision are essential to their functions and expenses are reasonable and justified. In order to maintain cost control, the Department Head shall:

1. Approve in advance each proposed trip or activity.
2. Obtain the approval of the Chief Administrative Officer for all out-of-town travel and training.
3. Review and approve all expenses reported for reimbursement in accordance with the specific provisions outlined below.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

4. Review and evaluate these expenses as a guide for future authorization.

The City reserves the right to perform an in-depth audit of any expenses submitted by an employee for reimbursement. The Finance Department has the responsibility for performing such audits from time to time. Any findings of misrepresentation will be forwarded to the Department Head for appropriate action. It is the responsibility of the Director of Finance or his designee to:

1. Ensure full compliance by all departments with the procedures set forth in this policy.
2. Have all expense reports reviewed for mathematical accuracy, required receipts, and authorized approval.
3. Review reported expenses for reasonableness and to make inquiries as deemed appropriate.
4. Return all expense reports that are not in compliance with this policy or that require additional substantiation to the responsible Department Head for appropriate action/response.

Employees are required to submit expense reports within ten (10) days of the completion of any business trip or activity.

### TRANSPORTATION

Selection of the mode of transportation should be based on the distance, costs, time involved, and the purpose of the trip. Whenever the airfare (coach or economy) would be less than the mileage reimbursement for use of a personal vehicle, air transportation must be used. Air transportation expenses must be supported by documentation which reflects the destination, dates of travel, and cost.

In rare instances, the employee may use his personal vehicle in lieu of air transportation. The employee will only receive the "cash equivalent" for use of his personal vehicle; the "cash equivalent" will be based on the lowest airfare in effect 30 days prior to the employee's departure date. If the employee elects to use his personal vehicle when air transportation is more cost effective, driving time will be the responsibility of the employee (i.e. vacation time).

The use of buses, limousines, or taxis should be governed by the local ground transportation available between the airport and the hotel/motel and the most economical cost and/or availability; receipts should be obtained for these charges. Tips for taxi drivers, baggage handlers, etc. should be reported separately.

### LODGING

It is expected that all employees will endeavor to return to their permanent residence as soon as possible after the conclusion of the conference, business meeting, or other purposes of the trip. On one-day trips or at the conclusion of an extended trip, lodging will be reimbursed only in connection with travel which would preclude the employee from arriving home before 10 p.m.

The City expects its employees to stay in a hotel/motel which is reasonably close and convenient to the place where the conference, business meeting, or seminar is held and that such accommodations will be modestly priced for the local market. To the extent possible, lodging costs should be paid directly to the vendor by having the Finance Department issue a check prior to the employee's departure or by using a City procurement card. Lodging costs will be based at the "one person, one bed" rate. Receipts for lodging costs must be submitted to substantiate the cost.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### MEALS

The cost of all meals while away on City business will be reimbursed. In most situations, the maximum daily cost should not exceed \$50. It is expected that employees will exercise good judgment when dining and such meals should generally meet the same standards as if the employee were bearing the cost. All meal costs must be supported by receipts.

On all travel beyond the local area (i.e., greater than a 50-mile radius from Kirkwood) reimbursement will be made on meals on the following basis:

1. When travel commences before 7:00 a.m., breakfast will be reimbursed.
2. When travel extends over the period 12 noon to 1:30 p.m., lunch will be reimbursed.
3. When travel extends after 6:00 p.m., dinner will be reimbursed.

No reimbursement will be made for meals which are provided in conjunction with air transportation or which are included in the conference/meeting cost.

The cost of snacks, beverages, etc. are not eligible for reimbursement.

As deemed appropriate by the Department Head, meal costs for local training may be eligible for reimbursement. The appropriateness and reasonableness of the expense will be reviewed by the Director of Finance.

### REGISTRATION COSTS

Conference registration costs will be paid directly to the sponsoring institution; the request for payment submitted to the Finance Department should include a copy of the completed registration form.

### TRAVEL ADVANCES

Travel advances should be limited to those items which cannot be pre-paid, such as meal costs and transportation costs, and for projected expenses which would pose a financial burden on the employee. Requests for travel advances must be submitted to the Finance Department at least two weeks prior to the employee's departure date. The Director of Finance may then advance payment of projected expenses if the projected expenses to be incurred by particular employees would pose a financial burden on such employees. If such advance is authorized, then the voucher for the expenses actually and necessarily incurred and the balance of the advance remaining after the expenditures shall be submitted to the Director of Finance within ten (10) days after such expenses are actually incurred.

### COMMUNICATION CHARGES

All telephone, internet and postage costs incurred during the travel which are necessary for City purposes are reimbursable. The employee should use the most economical means of communication. One personal long distance telephone call per day to home will be allowed; however, such calls should be made when lower evening rates are in effect and should be reasonable in length unless an unusual circumstance justifies an exception. These charges should be so noted on the lodging bill if made from the hotel. If the call is made using a personal calling card, the employee should submit a copy of his personal telephone bill as documentation.

APPENDIX E - PERSONNEL RULES AND REGULATIONS

PERSONAL ITEMS

No reimbursement will be made for miscellaneous reading material, shoe shines, or items relating to personal hygiene. The cost of handling any clothes or equipment carried by an employee for personal enjoyment or activities are not reimbursable. Repairs to personal briefcases and luggage will not be reimbursed unless damaged when being used on City business and when the employee is not repaid by the carrier responsible for the damage. A copy of the damage claim and a copy of the refusal to reimburse for such claim must be submitted.

**ARTICLE XXII - PERSONAL VEHICLE USE POLICY**

Unless agreed to as a condition of employment, employees will not be required to use their personal vehicles to conduct City business. However, employees may voluntarily use their own personal vehicles for City business. In such instances, employees should keep track of mileage and apply for mileage reimbursement in an amount set by the Finance Director. Use of a personal vehicle for trips out of the Metropolitan St. Louis area or overnight will be governed by the City’s Travel Policy.

It is the employee’s responsibility to pay for gas, insurance and maintenance of his personal vehicle. It is further the employee’s responsibility to disclose to his insurer the uses to which he chooses to put his vehicle which may affect his coverage. Except as may be provided specifically within any insurance policy maintained by the City, should an accident occur while on City business, the employee’s own vehicle insurance policy shall provide applicable coverage and the City will not be responsible for any insurance deductible or damages.

**ARTICLE XXIII - PERSONAL APPEARANCE AND BUSINESS CASUAL DRESS CODE**

Business casual dress attire may be permitted at the discretion of the Chief Administrative Officer. When business casual dress is permitted, the following shall apply:

***MEN***

***WOMEN***

**Acceptable Dress**

**Acceptable Dress**

Shirts – Polo or dress (shirts must have collar)  
Pants – Cotton slacks (Dockers, etc.), dress or polyester slacks  
Shoes – Closed type (loafers, deck shoes, etc.)  
Socks must be worn

Shirts – Polo, knit collarless  
Pants – Cotton slacks, culottes (no higher than knee length)  
Dresses – Denim dresses and jumpers  
Shoes – Loafers or similar shoes, sandals

***MEN***

***WOMEN***

**Unacceptable Dress**

**Unacceptable Dress**

Shirts – T-shirts or v-neck, tank tops  
Pants – Shorts, jeans  
Shoes – Athletic shoes, sandals (nothing open)

Shirts – Halter, tube tops, T-shirts, tank tops  
Pants – Shorts, jeans  
Skirts – Short skirts  
Dresses – Sun dresses, short dresses  
Shoes – Athletic, thongs

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

Casual dress does not apply to employees who typically wear uniforms or those who work in an outdoor environment necessitating non-office attire.

Clothing should not be excessively tight or loose fitting, but shall fit the individual reasonably well. Clothing shall not be revealing or suggestive. Clothing must appear neat, shall not have excessive wrinkles, wear, fading, stains, dirt, etc.

Certain lettering or logos on shirts may be allowed including "City of Kirkwood", manufacturers' logos, or other appropriate lettering of symbols. Inappropriate symbols, lettering, or advertisement of a local business is not acceptable.

Dress chosen by individual employees must be appropriate for that day's activities (i.e., business meetings, etc.).

Unacceptable dress will be determined by the employee's immediate Supervisor. Disputes will be resolved by the Department Head. Any employee who reports to work in unacceptable dress will be sent home immediately to change and will not be paid for the absence.

The City expects all employees to maintain an appropriate personal appearance and follow reasonable grooming standards. Toward that end, employees shall maintain a professional and neat appearance with respect to their personal grooming including hair, uniform (as appropriate) and visible body parts. For all employees, tattoos that are visible to the public and deemed offensive, immoral or presenting an unprofessional appearance shall require the employee to cover said tattoo with a bandaging type material or a long sleeve shirt in accordance with any requirements of the Department Head. No visible and offensive facial or body piercing shall be permitted.

### **ARTICLE XXIV - EMPLOYEE PRIVATE PURCHASING**

No personal purchases shall be placed through the City's purchasing department for any reason. The City's name shall not be used by employees in making purchases in an attempt to avoid sales tax or discounts not otherwise available to the employee.

### **ARTICLE XXV - INCLEMENT WEATHER**

There is no provision for snow or other inclement weather leave and employees are expected to make it into work regardless of weather conditions or if in the opinion of the employee it is too dangerous to travel, a vacation day may be used. Generally, Department Heads are encouraged to grant considerable latitude as to tardiness caused by weather conditions.

As a general rule, City Hall never closes due to weather conditions. Should City Hall or any office of the City need to be closed because of extreme weather, heating failure or some other mechanical problem, employees would be notified either directly by a Supervisor or through the media.

### **ARTICLE XXVI - WIRELESS TELECOMMUNICATIONS USAGE POLICY**

The City may provide wireless telecommunications equipment to employees who as part of their employment have a regular and continuing business need for its use. Such wireless telecommunications equipment may include cellular telephones, pagers, and PDA's. Employees may be assigned wireless telecommunication equipment by a Department Head when their duties are determined to require frequent mobility but be readily accessible and/or when their duties require them to be available for emergency responses or consultation after normal business hours. Assignment of wireless telecommunication

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

equipment to an employee may be withdrawn at anytime at the discretion of the CAO or Department Head.

Wireless telecommunication equipment should be obtained through the Purchasing Department. Only the Purchasing Department has the authority to enter into contracts for service. Department Heads should work with the Purchasing Director to determine the type of equipment that best suits the need, identify the appropriate service vendor, and take advantage of the most cost effective service contract and features. Typically, wireless telecommunication providers are offering contracts that permit calls under certain circumstances to be made at no additional charge. Employees should remain aware of the terms of their contract so as to take advantage of no cost calling opportunities rather than calling with land line charges. Contracts may also place a maximum on the number of minutes that can be used without incurring additional costs. The service level should be set based solely on business needs and the employee must reimburse the city for any personal use that results in additional charges.

Personal use of City assigned wireless telecommunication equipment is permitted. During normal business hours personal use should be subject to the same limitations as that of a land line. Such calls should be infrequent and brief and made on the employee's own time, such as during breaks or lunch. Personal use outside of normal business hours is permitted so long as the employee reimburses the City for any additional charges incurred.

Employee communication via City-issued wireless telecommunication equipment at all times cannot be considered private. No employee shall have any expectation of privacy in the use of the equipment and no employee shall use the equipment for any type of communication that is offensive, illegal, inappropriate, or in violation of any City or departmental policy.

Employees may be financially responsible for assigned wireless telecommunication equipment if the equipment is lost or damaged as a result of the employee's negligence or not returned within a specified period of time.

Wireless telecommunications equipment use should not occur while driving a City vehicle unless it is an emergency. This does not apply to employees whose job responsibilities include being in contact with dispatch. Where possible, employees should send or receive communications when the vehicle is not in motion. Telecommunications equipment features such as pre-programming numbers, speed dial functions, and voice mail should be set up. Under no circumstances shall any employee while driving a City vehicle review any text message or create or send any text message when a vehicle is in motion.

Departments may restrict employee owned wireless telecommunications equipment during the work day and ban them from job sites. Departments may develop additional wireless telecommunications equipment policies and procedures for City assigned equipment to meet specific departmental needs.

Employees whose job responsibilities may require them to be contacted after hours in emergency situations should supply the City with contact information, including the numbers of any wireless telecommunications devices they might regularly carry. Such information should not be considered to make the employee "on call" or result in additional compensation outside of what may be required under state or federal law.

**ARTICLE XXVII - COMPUTER/INTERNET/E-MAIL POLICY**

**APPLICABILITY**

The computer system, network, Internet and E-mail access is the backbone of City operations and as such is an expensive infrastructure that needs to be monitored and protected. This policy applies to all employees and any other individuals who are provided access to the City's computer system. Third parties should only be provided access to the computer system as necessary for their business purpose with the City and only if they abide by all applicable rules.

**COMPUTERS**

The hardware and software that make up the City's computer system and all data on the system is the property of the City of Kirkwood. All data, including electronic messages within the system, is the property of the City and may be public records for the purpose of retention or accessible via Missouri's Sunshine Law and Public Records Law. The City purchases, owns, and administers the necessary software and licenses and employees may not rent, copy or loan the software, or its documentation.

Computers may not be relocated to another office without the permission of the MIS Department. Employees may not bring in any personal computer or other device including MP3 players to connect to the system without the permission of the MIS Department.

Even the most innocuous games, screen savers, and popular software have the capability of unknowingly introducing spyware, viruses, and backdoor access to our system. As a result, no software, applications, or modifications may be downloaded or made to City-owned equipment. The MIS Department may approve screen savers upon request. No instant messaging software may be downloaded and streaming audio (using the computer to listen to the radio) is prohibited unless authorized by the CAO as it reduces available bandwidth.

Employees should have no expectation of privacy in their use of any City-owned equipment or computer system. The City may at any time monitor, retrieve or recreate any files, calendars or computer communications of any employee. Employees should expect that their activities on computer devices or telephone devices can be reviewed at any time.

Employees who leave employment with the City have no property rights to contents of their E-mail messages or computer files. Supervisors or managers may access an employee's computer system and E-mail at any time.

**E-MAIL/TEXTS**

The E-mail system is provided by the City for the purpose of internal and external business related communication. The system and all electronic messages within the system are the property of the City of Kirkwood. Texts sent through city provided cell phones are also the property of the City of Kirkwood and employees should have no expectation of privacy regarding such messages.

**E-MAILTEXT ETIQUETTE**

Employees should be aware that while E-mail and texting is a quick and convenient method of communication. Once sent the E-mail/text can be viewed potentially by the public so sending or forwarding of E-mail/text messages should be carefully considered for appropriateness and good

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

judgment. Humor is often contextual and augmented by body language and so E-mail/texts may not be the most appropriate method of transmission. Electronic discussion of topics internally that begin to become controversial or involve significant differences of opinion should be discontinued in favor of face-to-face discussion.

With over 200 internal users of the E-mail system employees receive frequent E-mails. The system offers the availability of addressing all users with a group address entitled EVERYONE. The use of the EVERYONE address is strictly limited to city business and must be approved by a department head.

### PROHIBITED USES OF E-MAIL

The following E-mail/text uses including sending or forwarding communications are expressly prohibited:

- Communications that are disruptive, offensive, abusive, threatening or exceed the bounds of generally accepted standards of good taste and ethics.
- Communications of sexually explicit images or messages.
- Communications that contain anything that might be reasonably construed as harassment or disparagement of others based on race, national origin, ethnicity, sex, sexual orientation, age, disability, or religious beliefs, (except as may be specifically required as part of police reporting procedures including the statements of other parties).
- Solicitation for commercial ventures, religious or political causes.
- Any other use that may harm or compromise the integrity of the City or be otherwise inappropriate to the city's organizational philosophy.
- Intercepting, eavesdropping, recording, or altering another person's E-mail/text message without authority.
- Attempting to send E-mail/texts anonymously or adopting the identity of another person on any E-mail/text message, or using another person's login, other than with permission.
- Sending, downloading, or using information or software in violation of copyright law.
- Engaging in personal commercial activities including offering services or merchandise for sale.
- Engaging in any E-mail/text activity that would create liability for the City of Kirkwood.

### RETENTION

Depending on the content of an E-mail message, it may be considered a formal record and should be retained pursuant to a departmental, City, or Missouri record retention schedule. Accordingly, E-mail messages should be written with care with the understanding they may be public records. Employees should be aware that when they have deleted a message from their workstation mailbox it may not have been deleted from the server. The message may be residing in the recipient's mailbox or forwarded to other recipients. Unless there is a reason for archiving or retaining an E-mail, employees should delete sent and received messages regularly as accumulation of files will degrade system performance and response times. Employees and departments are responsible for retaining and archiving their own documents, E-mails and other records and should not rely on system back-ups as an appropriate retention method. Since space is limited and costly, employees should not be retaining personal E-mails, documents, spreadsheets, or photos on the system.

### INTERNET

Access to the Internet is provided for work related information gathering and communication.

## APPENDIX E - PERSONNEL RULES AND REGULATIONS

### PROHIBITED INTERNET USAGE

Accessing sites that are pornographic, commonly known as “hate” sites, promulgate violence or terrorism, or allow gambling are inappropriate and expressly prohibited using City-owned equipment (except in the course of law enforcement purposes).

### PERSONAL USE

The City recognizes that occasional personal use of computer equipment, cell phones, E-mail and Internet is desirable to employees and overly tight restrictions are detrimental to morale and unproductive to enforce. Such use should be limited to lunch and outside of (before or after) work time and only if the equipment is not needed for City business. Prohibited uses of E-mail and Internet browsing are violations regardless of whether they occur during work time, non-work time or during occasional personal use and are subject to discipline up to and including termination. All uses of City equipment, whether business or occasional personal use, are subject to monitoring. Excessive personal use will be subject to discipline. Employees should address questions on what constitutes excessive personal use to their department heads.

### IMPLEMENTATION AND ADMINISTRATION OF POLICY

It is the responsibility of each individual employee to understand and comply with this policy. To ensure the safety and uncompromised integrity of the system employees have the responsibility for reporting inappropriate use or activities to their supervisor. Department Heads are responsible for ensuring compliance with the policy within their departments.

Upon hire the Personnel Department will be responsible for distributing this policy as part of the Employee Rules and Regulations and obtaining the appropriate acknowledgment of receipt. The MIS Department will provide training on how to access the system. Training on specific applications is regularly available and Department Heads and employees should arrange opportunities for taking advantage of those sessions. Employees with E-mail access should at minimum take the introductory course for GroupWise and be competent in its basic use, archiving, and use of the scheduling and calendar function.

### **ARTICLE XXVIII - CONFLICT OF INTEREST**

All employees of the City must avoid any conflicts of interest in performing their duties and abide by the conflict of interest restrictions set forth in the City’s Charter and Code of Ordinances. Copies of any such restrictions may be obtained by contacting the Assistant Chief Administrative Officer.

### **ARTICLE XXIX - UNAUTHORIZED ALIEN POLICY**

The City will not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. “Unauthorized alien” means an alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. Section 1324a(h)(3).

APPENDIX E - PERSONNEL RULES AND REGULATIONS

**ACKNOWLEDGMENT OF RECEIPT OF THE  
PERSONNEL RULES AND REGULATIONS OF THE CITY OF KIRKWOOD**

The undersigned employee of the City of Kirkwood acknowledges receipt of the City's Personnel Rules and Regulations, dated December 4, 2008. I agree to read and abide by the policies and procedures contained in the City's Personnel Rules and Regulations. I understand that the specific benefit plan documents govern the terms of any employee benefit policy or program. I understand that the City's Personnel Rules and Regulations do not constitute a contract or guarantee of employment for any definite duration. I understand further that the City reserves the right to change or eliminate any provision of the City's Personnel Rules and Regulations at any time, with or without prior notice.

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Employee Signature

Date

(Ord. No. 7051, as amended by Ord. Nos. 7094, 7269, 7287, 7334, 7357, 7407, 7422, 7611, 7612, 7764, 7826, 7922, 7923, 7999, 8057, 8100, 8164, 8190, 8240, 8573, 8839, 8857, 9219, 9517, 9665, 9817 and Res. Nos. 101-93, 38-95, 87-96, 4-97, 5-97 and 31-77 are repealed, and Ord. No. 9934 is adopted as the new Personnel Rules and Regulations of the City of Kirkwood on 5-20-10.)