

**APPENDIX E**

**PERSONNEL RULES AND REGULATIONS**

**CITY OF KIRKWOOD, MISSOURI**

**April 21, 2023**

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## 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 November 4, 2021.

#### SECTION 2. Purpose

The purpose of these Personnel Rules and Regulations 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 Personnel Rules and Regulations are not intended to be and shall not be considered all inclusive. The Personnel Rules and Regulations are not intended to be a substitute for the good judgment, common sense, and discretion of City personnel. These Personnel Rules and Regulations supersede and replace all previous Personnel 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 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. These 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 Personnel 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 these 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.

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### 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 unless defined otherwise in any written benefit plan document.

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.

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. The probationary period for any employee may be extended by a Department Head with approval of the Chief Administrative Officer.

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.

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.

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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 Services, Director of Finance, Director of Procurement, Director of Parks and Recreation, 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 Personnel Rules and Regulations shall be vested with the Chief Administrative Officer or his or her designee. For purposes of these Personnel Rules and Regulations, any reference to the Chief Administrative Officer shall be deemed to include any designee of the Chief Administrative Officer, specifically including but not limited to the Assistant Chief Administrative Officer of the City. It shall be the responsibility of the Chief Administrative Officer to administer, interpret, and from time to time recommend to the City Council appropriate amendments in order to maintain these Personnel 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 Personnel 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 or her request, concerning specific changes in these Personnel Rules and Regulations;
- c. Review and recommend to the City Council, upon its request, the approval of job descriptions, classification and pay plans for the City;
- d. Advise the Chief Administrative Officer, upon his or her request, on appropriate interpretation of provisions of these Personnel Rules and Regulations;

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- e. Hear grievance appeals in accordance with Article XIII; and
- f. Perform such other duties with reference to these Personnel Rules and Regulations as may be directed by the City Council or Chief Administrative Officer.

### SECTION 4. Applicability of Exclusion

These Personnel Rules and Regulations shall be applicable only to those employees in the classified service of the City. Specifically excluded from these Personnel Rules and Regulations provisions 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 Services, Director of Finance, Director of Procurement, Director of Parks and Recreation, 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. Employees represented by any organized labor union shall be subject to the provisions of these Personnel Rules and Regulations, except to the extent that any specific term or provision in any collective bargaining agreement or memorandum of understanding in effect between the City and any unit of employees represented by a labor union is in conflict with any specific provision in these Personnel Rules and Regulations, in which event the specific provisions of any such collective bargaining agreement or memorandum of understanding shall govern and supersede any conflicting provision in these Personnel Rules and Regulations.

### 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.

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### 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 Personnel Rules and Regulations, such as:

- 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 essential job duties, required and desirable knowledge, skills and abilities, any special requirements, examples of work, and related information. The job descriptions are descriptive and not restrictive. They are intended to indicate generally the kinds of activities performed by the established classification.

#### SECTION 2. 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, market rate, midpoint and maximum rates of pay, referenced herein as the Classification and Pay Plan. 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.

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### SECTION 3. 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.

### SECTION 4. Reclassification

When significant changes are made to a particular position which changes the complexity or level of responsibility, the Department Head may request in writing a pay grade evaluation of the position to the Human Resources Manager. The request should include the job duty changes and other circumstances that have precipitated the evaluation. The Human Resources Manager will meet with the applicable Department Head, supervisor and incumbent(s) as deemed appropriate to discuss the changes.

Utilizing a point factor system and market data, the Human Resources Manager and Assistant Chief Administrative Officer will determine if a change in pay grade is warranted. If, after a new Classification and Pay Plan Ordinance is adopted, it is determined the employee's current salary is below the minimum rate of the new pay grade, the employee will be placed at the minimum rate of the new pay grade. If the current salary is within the new salary range, it will be at the discretion of the Department Head as to whether any further adjustment is recommended to the Chief Administrative Officer. In the instance where an employee's job is reassigned to a higher salary grade, the employee's pay may 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 pay grade.

### SECTION 5. 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 or her recommendation for any new position classification to the City Council.

### SECTION 6. Maintenance of the Plan

- a. When a vacancy occurs, the Chief Administrative Officer 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 for review and recommendation.

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- c. The Chief Administrative Officer 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 classification 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 or her delegate as provided for in these Personnel Rules and Regulations 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 any compensation policies of the City adopted by Ordinance.

### SECTION 7. Official Copy of the Classification and Pay Plan

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

## **ARTICLE V - CLASSIFICATION AND PAY PLAN ADMINISTRATION**

### SECTION 1. 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 initial rate above the market rate of the applicable pay grade shall be upon approval by the Assistant Chief Administrative Officer and only upon appropriate documentation by the Department Head that such action is to the benefit of the City.
- b. Promotions and Transfers - 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 probationary period is extended, revert to his or her previous position at his or her prior rate of pay for the position, provided a position is available.

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.

- c. Demotions - An employee who requests and accepts an assignment in a lower pay classification shall have his or her salary reduced by the percentage differential between the two relevant pay classifications.

In the case of a demotion resulting from poor performance, the employee's current salary will be 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.

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In the case of a demotion resulting from an organizational change or change in duties 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.

- d. Merit Increases - A merit increase is a payment granted to an employee as a result of overall performance. The merit increase may be a lump-sum payment, 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 for the amount of the merit increase. Merit increases may be granted once per year, unless otherwise provided by ordinance. Employees on disciplinary probation or any type of performance improvement plan will not receive their merit increase until such time as performance improves as determined by the applicable Department Head or the period of disciplinary probation has expired.
- e. 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.
- f. Cost of Living Adjustments - Each budget cycle, the Chief Administrative Officer shall evaluate the salary schedules to ensure the market rates are accurate. When appropriate, the salary schedules may be adjusted on January 1, in order to take into account the Consumer Price Index for All Urban Consumers in the Midwest (CPI-Midwest U). All employees who are paid at or below the maximum of the salary range for their classification will receive such increase.
- g. 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 Classification and Pay Plan and to promote the concept of merit or performance pay.
- h. Compensation Policies Ordinance - Nothing contained in these Personnel Rules and Regulations is intended to or shall supersede the compensation policies of the City adopted by Ordinance.

### SECTION 2. 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

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from the relevant pay period, with an explanation of the reason(s) the deduction is believed to have been improper.

- c. 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 and Other Compensation 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 accrued comp time use and paid vacation leave, paid holiday leave and paid 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.
- b. Compensation on Sunday. Compensation for work 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. Compensation 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 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. Subject to written approval from the Chief Administrative Officer of the City, any Department Head of the City may adopt particular call-out policies and procedures within a City Department, including but not limited to scheduling, compensation for driving time for call-outs and paid or unpaid meal periods during call-outs, so long as any such Department call-out policies and procedures do not conflict with any specific provisions of these Personnel Rules and Regulations.
- 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

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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 eighty (80) 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. Approved accrued compensatory time used shall count as “hours worked” for purposes of any overtime calculation.

### SECTION 2. Fire Department

- a. Work Week. Unless otherwise designated in writing, the work week of the Fire Department for ranks below Assistant Chief/Fire Marshal and Deputy Chief/CMO (Chief Medical Officer) 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 48-hour tour of duty (or any change to the hours constituting the normal 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 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. Effective January 1, 2018, the work cycles for commissioned law enforcement personnel include work cycles of fifteen (15) days, fourteen (14) days and seven (7) days depending upon the division assignment within the Police Department, such as a fourteen (14) day work cycle for the patrol division, seven (7) day work cycle for the investigative division and a fifteen (15) day work cycle for the traffic unit division. The Chief of Police shall review any work cycle modifications with the Chief Administrative Officer prior to implementing any work cycle changes for commissioned law enforcement personnel subject to a rotating work schedule. Non-commissioned personnel of the Police Department, such as dispatchers, shall be subject to the standard seven (7) day work week of the City.

Commissioned law enforcement personnel subject to a rotating work schedule and work cycle of fourteen (14) days shall accrue compensatory time (“comp time”) for the first four (4) hours worked beyond eighty

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(80) during each fourteen (14) day work cycle. For any hours worked beyond eighty-four (84) during any fourteen (14) day work cycle, such law enforcement personnel will receive payment of overtime at one and one-half (1 1/2) times the regular rate of pay for one-half of the hours over eighty-four (84) and accrual of comp time at the rate of 1.5 hours for the other one-half amount of hours worked over eighty-four (84) or, at the choice of the individual law enforcement officer, accrual of comp time at 1.5 times all hours worked over eight-four (84) (subject to a cumulative comp time maximum of 120 hours). Commissioned law enforcement personnel subject to a rotating work schedule and work cycle of fifteen (15) days will receive payment of overtime at one and one-half (1 1/2) times the regular rate of pay for one-half of the hours over eighty-five (85) and accrual of comp time at the rate of 1.5 hours for the other one-half amount of hours worked over eighty-five (85) or, at the choice of the individual law enforcement officer, accrual of comp time at 1.5 times all hours worked over eighty-five (85), subject to a cumulative comp time maximum of 120 hours. Law enforcement personnel of the Police Department with a seven (7) day work cycle shall be paid overtime or accrue comp time after working any hours beyond forty (40) during a seven (7) day work cycle, at the rate of 1.5 times the regular rate of compensation or comp time accrual at 1.5 times all hours worked over forty (40) during such seven (7) day work cycle.

Approved accrued comp time use, paid vacation leave, paid 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 cycle, 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 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 three (3) 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:

- (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 tend to personal matters, and
- (iii) A record is maintained by the Department Head of all time traded by his or her employees, and
- (iv) The period during which the time is traded and paid back does not exceed 12 months.

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### 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.

## **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. An employee's compensation may be increased during part or all of the period while serving in an acting capacity.

### 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 political affiliation, age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex, sexual orientation, gender identity or expression or transgender status or disability unrelated to the ability to perform the job or any other classification protected under applicable state or federal law. 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 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.

### 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

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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 or her 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.

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, and is otherwise carried out in a manner compliant with applicable law.

### 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.

### 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 prior approval 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.

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### SECTION 9. General Examination Provisions

1. The Chief Administrative Officer 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 or any background information reveals a likelihood of compromising total effectiveness in a given classification.
  - c. The applicant has made a false statement of any material fact 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 essential 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.

### 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, demoted or promoted employee to the position, and for replacing any employee whose performance does not meet the required work standards.

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### b. Duration

Every person transferred, promoted, demoted, 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, transferred or demoted prior to completing a probationary period shall begin a new 12 month probationary period in the new position and, except law enforcement officers as defined in Section 590.502, R.S.Mo. who may be entitled to a due process hearing as set forth in Article XIII, Section 20 hereof, no other probationary employee shall have 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 (whether due to initial employment, position change, performance or disciplinary reasons), the Department Head may remove an employee for any lawful reason. A law enforcement officer who is removed from employment shall be entitled to a full due process hearing before the Chief Administrative Officer as set out in Article XIII, Section 20. In all other circumstances and for all other employees, an employee removed during any probationary period cannot appeal such removal through the grievance procedure.

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

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### 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 Police Officers' and Fire Fighters' Pension Plan; however, no person receiving retirement benefits shall be employed as a full-time permanent employee of the City.

### SECTION 4. Disability

If the City reasonably determines that an employee is unable to perform all of the essential functions of his or her position because of a disability, taking into consideration any reasonable accommodation, the City may separate, transfer, or otherwise dismiss an employee. The separation of an employee due to the inability to perform his or her essential job functions is not appealable to the Kirkwood Civil Service Commission. 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 his or her job or whether a reasonable accommodation is necessary to enable the employee to perform the essential functions of his or her 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 or her possession shall return such equipment or property to his or her Department Head prior to receiving his or her 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 classifications. No regular employee shall be laid off while another person is employed on a probationary or temporary basis in the same classification 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 classification and department involved so long as employees with the same classification are performing substantially identical job duties in the course of employment. 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 based on seniority. Employees laid off shall be placed on a priority recall list for a maximum of 180 calendar

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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. 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 any factor prohibited by applicable law.

#### SECTION 4. 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 discharge or reduction. Eligible employees may appeal disciplinary actions against them pursuant to the City's grievance procedure.

#### SECTION 5. Warnings

Oral and written warnings with reasonable time for improvement and subsequent review, as deemed applicable by management or supervision, shall generally precede more severe disciplinary action whenever, in the judgment of the Department Head or Supervisor, an infraction is minor and readily correctable.

When an oral warning is given, the Supervisor should explain the infraction to the employee and indicate corrective measures. The Supervisor should inform the employee that his or her 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 violated or the same performance expectation has not been met. 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 written warning and sign it. 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.

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### SECTION 6. Suspension, Demotion, Probation Reinstatement or Termination

A Department Head, including an interim or acting Department Head, or the Chief Administrative Officer or his or her designee within the City's Administration, specifically including the City's Assistant Chief Administrative Officer and the City's Human Resources Manager, 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, policy, practice or directive.
  - e. Destruction or loss of City or private 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.
  - p. Unauthorized possession or use of a dangerous weapon. A dangerous weapon shall include, but not be limited to, handguns, firearms, explosives, knives, simulated firearms

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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.

Except for probationary, part-time or temporary employees, a Department Head shall not discharge any employee without first having suspended the employee, without pay. In such event, the Department Head

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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 or her Supervisor or Department Head.

Any suspension, demotion, reinstatement of probation or termination of a law enforcement officer as a result of a complaint shall be handled in accordance with Section 590.502, R.S.Mo.

**ARTICLE X - LEAVES OF ABSENCE**

SECTION 1. Holidays

All permanent, full-time employees shall be entitled to 11 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 11 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. Provided, however, if the position has seasonal or other variations that would significantly affect the ability of an employee to earn holiday pay as contemplated herein, a Department Head may request permission from the Assistant Chief Administrative Officer for a different period to be used in calculating holiday leave. 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. Independence Day       |
| 2. Martin Luther King’s Birthday | 7. Labor Day              |
| 3. Presidents Day                | 8. Thanksgiving           |
| 4. Memorial Day                  | 9. Day after Thanksgiving |
| 5. Juneteenth                    | 10. Christmas Eve Day     |
|                                  | 11. 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.

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Notwithstanding the above provisions regarding holidays for City employees, law enforcement personnel who work on a rotating work schedule shall be allotted eleven (11) days of “paid time off” in lieu of “holidays” (referenced periodically as “PTO”) each calendar year, beginning with calendar year 2023. Such law enforcement personnel shall not participate in City holidays but shall be permitted to use eleven (11) days of paid leave, in lieu of holidays, during each calendar year, beginning with calendar year 2023. 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 only, any such PTO may be designated as “holiday leave.” No such paid leave 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 or her then current rate of pay or, in the event of law enforcement personnel scheduled to work shift days of ten (10) or twelve (12) hours such compensation shall be for either the ten (10) hours or twelve (12) hours shift applicable as of December 31 of each calendar year. 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 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 eleven (11) 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 eleven (11) paid leave days, during the calendar year under such circumstances.

In the event that any law enforcement employee utilizes such PTO 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 PTO 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 or her 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 continuous 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.

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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. Accrued vacation is available for use on or after the first day of the first month following six months of continuous employment. The employee may also accrue 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:

<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

For purposes of this vacation policy, a “fire shift” means 24 hours.

The amount of vacation for employees shall be identified on the basis of annual hours of vacation available during any calendar year to coincide with each employee’s regularly scheduled number of hours to be worked during each work week or during each work cycle for the Police Department.

Notwithstanding any other provision herein, the Chief Administrative Officer may set or modify the rate of accrual of vacation leave for any employee due to recruiting or other unique circumstances, although such discretion shall generally be reserved for a 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. Provided, however, if the position has seasonal or other variations that would significantly affect the ability of an employee to earn vacation as contemplated herein, a Department Head may request permission from the Assistant Chief Administrative Officer for a different period to be used in calculating vacation leave. 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.

At the recommendation of a Department Head and with written approval from the Chief Administrative Officer, a current part-time employee of the City who becomes a full-time employee may be provided vacation at an accrual rate greater than set forth above upon commencement of full-time employment. In making such recommendation, the Department Head shall consider the duration of prior part-time continuous employment with the City (which must be a minimum of five (5) years). The “credited” service

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from part-time employment toward vacation accrual as a full-time employee shall not exceed one-half of the period of continuous employment as a part-time employee.

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, after six months of continuous employment with the City, 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 or her work or fails to provide at least ten business days' notice of resignation. No leave time may be substituted for such notice. Accrued, but unused vacation, will not be paid to employees whose employment with the City ends after less than six months of continuous employment following the employee's most recent date of hire.

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.

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, consisting of eight hours or ten (10) or twelve (12) hours for any law enforcement personnel subject to a scheduled shift day of ten (10) or twelve (12) hours, of personal sick leave for each full month of continuous service rendered. Accrual of sick leave shall commence on the first day of the first month following the date of employment. In the event that employment begins on the first day of the month, accrual of sick leave shall commence on the first day of employment. Sick leave accrual may be increased beyond eight hours per month for any employment position for which regularly scheduled hours are significantly more than 2080 during a full calendar year of employment. Fire shift personnel shall accrue 12.0 hours of personal sick leave for each full month of continuous service. Sick leave shall not count as "hours worked" for purposes of any overtime calculation for City employees.

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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 1040 hours (except for Fire Department personnel scheduled for 24-hour shifts in which event the maximum sick leave accrual shall be 1456 hours) 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, except as described further below in this Personal Sick Leave policy or in any subsequent policy adopted by the City Council.

In addition, an employee may use up to a maximum of ten (10) earned sick leave days (except that fire shift personnel may use up to a maximum of five 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 or she will not accept or perform any work for any other employer or engage in any self-employment work activity during his or her leave of absence; if an employee does so, he or she acknowledges that in such circumstances his or her conduct will be deemed to be a violation of the terms of the leave of absence, and that his or her employment with the City will be considered to have been terminated voluntarily on his or her part as of the first day of such a violation.

All City employees who have accrued the maximum sick leave amount of 1040 hours and have not utilized any sick leave during the calendar year will be provided an additional 8 hours of vacation time the following January 1<sup>st</sup> as a Bonus Vacation Day. Any such Bonus Vacation Day is earned annually and must be re-earned each calendar year. As a Sick Leave Buy Back Option, employees who have accrued at least 520 hours of total sick leave as of December 31 and have not used any sick leave during the calendar year may sell back up to forty-eight (48) hours of sick leave at 50% of their value. Employees who have accrued at least 520 hours of total sick leave during the calendar year and have used no more than twelve (12) hours of sick leave during such calendar year may sell back up to thirty-two (32) hours of sick leave at 50% of their value. Employees must request in writing to use any such Sick Leave Buy Back Option by January 15. The City shall pay out the appropriate amount within 30 days of receiving such written request. For purposes of the Bonus Vacation Day and Sick Leave Buy Back Option described in this Section, Employees shall be entitled to use up to eight (8) hours per calendar year for preventive health care appointments, such as routinely scheduled annual or periodic medical, dental or vision examinations, which shall not be considered for purposes of eligibility for either a Bonus Vacation Day or the Sick Leave Buy Back Option. The City may require that appropriate documentation be submitted for any use of sick leave for such routine annual or periodic medical, dental or vision examination appointments.

The Sick Leave Buy Back Option and Bonus Vacation Day policies described herein shall not apply to any employees represented by an organized labor union. Any sick leave buy back and/or bonus vacation day policy for employees represented by any labor union, specifically including Fire Department employees represented by Local 2665 of the International Association of Fire Fighters, Police Department employees represented by the Eastern Missouri Coalition of Police, Fraternal Order of Police, Lodge 15 and Electric Department employees represented by Local Union No. 2 of the International Brotherhood of Electrical

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Workers, shall be governed exclusively by the terms of any collective bargaining agreement or memorandum of understanding in effect between the City and the union representing such employees of the City.

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. Upon request, the employee will be required to complete and submit an FMLA Certification Form for such intended absence. If the employee is not eligible for FMLA leave, such employee shall, before commencing such leave, submit a statement from the attending physician which shall include:

1. A description of the reason leave is needed.
2. The anticipated date that the leave should begin.
3. The date on which the employee will be able to return to work.
4. Whether the employee will or is likely to be under any physical restrictions as a result of the illness or injury 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.

An employee on approved vacation leave who becomes ill or injured during such vacation leave cannot use sick leave in lieu of already approved vacation leave.

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. A separation for such reason is not appealable to the Kirkwood Civil Service Commission. Earned unused sick leave is not payable upon separation of employment, except as may be provided in the City's deferred compensation Section 457(b) Plan in effect and referenced in ARTICLE XI, Section 5 of these Personnel Rules and Regulations.

### 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 less any amount received by the employee as workers compensation benefits. Such occupational injury pay shall continue until the happening of the earliest of the following 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.

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- c. The date of any resolution or settlement of any workers' compensation claim.
- 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 the employee is not currently qualified to perform. Light duty, if provided, is temporary and may be discontinued by the City at any time. Provided, however, no occupational injury or illness compensation shall be provided to any employee who rejects a light duty assignment offered by the City to the employee.

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.

Any leave of absence due to occupational injury or illness may also be designated as FMLA leave when appropriate and the employee, if so designated, shall comply with the City's FMLA policy as requested.

### 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 Personnel Rules and Regulations.

### 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, step-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,

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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 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 or her 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 Personnel Rules and Regulations 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 he or she has available emergency, vacation or 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 Under Federal Law

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 or her 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. National Guard and Military Reserve Duty or Training Leave Under Missouri Law

Any employee of the City, who is or may become a member of the National Guard or of any reserve component of the Armed Forces of the United States and who is engaged in the performance of duty in the service of the United States under competent orders for an extended and indefinite period of time, shall be entitled to leave of absence from his or her respective duties as an employee until such military service is completed without loss of position, seniority, accumulated leave, impairment of performance appraisal, pay status, work schedule including shift, working days and days off assigned to the employee at the time leave commences, and any other right or benefit to which the employee is entitled, and no retirement benefit shall be diminished or eliminated because of such service.

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In addition to a leave of absence otherwise authorized in these Personnel Rules and Regulations, any employee of the City who is or may become a member of the National Guard or of any reserve component of the Armed Forces of the United States shall be entitled to a leave of absence from his or her respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits, to which otherwise entitled, for all periods of military services during which he or she is engaged in the performance of duty or training in the service of Missouri at the call of the Governor and as ordered by the adjutant general without regard to length of time, and for all period of military services during which they are engaged in the performance of duty in the service of the United States under competent orders for a period not to exceed a total of one hundred twenty hours in any federal fiscal year (October 1 through September 30).

Before any payment of compensation is made covering the period of any such leave, the employee shall file with the City an official order from the appropriate military authority as evidence of such duty for which military leave pay is granted, which order shall contain the certification of the employee's commanding officer of performance of duty in accordance with the terms of such order.

Any employee entitled to military leave pursuant to this Policy of the City shall only be charged military leave for any hours which the employee would otherwise have been required to work had it not been for such military leave. The minimum charge for military leave shall be one hour and additional charges for military leave shall be in multiples of the minimum charge.

No member of the organized militia shall be discharged from employment by the City because of being a member of the organized militia, nor shall he or she be hindered or prevented from performing any militia service he or she may be called upon to perform by proper authority nor otherwise be discriminated against or dissuaded from enlisting or continuing his or her service in the militia by threat or injury to him or her in respect to his or her employment.

### 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 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. Jury or Witness Leave 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 or she 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.

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### 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
  - (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 use accrued paid vacation, accrued paid sick leave and accrued compensatory time 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 use all of his or her available accrued

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paid sick leave first (maximum of ten (10) paid days annually, except for fire shift personnel who have a maximum of five (5) 24-hour work shifts annually), then use all of his or her accrued paid vacation and then use all of his or her accrued compensatory time 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 use all of his or her accrued paid sick leave first, then use all of his or her accrued paid vacation leave, PTO with respect to law enforcement personnel of the City who receive paid time off in lieu of holidays, and then use all of his or her accrued compensatory time 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, accrued paid sick leave or accrued compensatory time will be required but such paid leave may be used at the employee’s option.
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 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 Human Resources 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

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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. Spouses 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 or her own 12 weeks of leave during a 12-month period if the leave is for his or her 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 or her 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.
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 submit a sufficient and complete FMLA Certification Form, upon request. The Certification Form is due 15 days after the City's written request directed to the employee.

While on leave, the employee may be asked to periodically report on his or her 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 or she will not accept or perform any work for any other employer or engage in any self-employment work activity during his or her leave of absence; if an employee does so, he or she acknowledges that in such circumstances his or her conduct will be deemed to be a violation of the terms of the leave of absence, and that his or her employment with the City will be considered to have been terminated voluntarily on his or her part as of the first day of such a violation.

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15. Prior to being returned to work following a leave taken under this Policy, an employee whose leave was occasioned by his or her 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, including any leave due to occupational injury or illness, the time spent on such a leave may be designated as Family and Medical Leave and may 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.

### SECTION 15. Genetic Information Nondiscrimination Act

The Genetic Information and Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the City asks that employees not provide any genetic information when responding to a request for medical information. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of genetic services sought or received by an individual (employee) or an individual's family member, and genetic information of a fetus carried by an individual (employee) or an individual's family member or an embryo lawfully held by an individual (employee) or family member receiving assistive reproductive services.

### SECTION 16. Lactation Breaks

The City will provide reasonable breaks for an employee to express breast milk for her nursing child for one (1) year after the child's birth each time such employee has a need to express the milk. The City will provide a place other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public which may be used by an employee to express breast milk. Any breaks taken for the purpose of expressing milk are not required to be compensated. However, any employee who uses existing compensated breaks to express milk will be compensated in the same manner that other City employees are compensated for any such break time. Any employee classified as exempt for purposes of overtime eligibility is not entitled to lactation breaks under applicable federal law but may be provided such breaks at the discretion of such employee's Department Head or the Chief Administrative Officer or Assistant Chief Administrative Officer of the City.

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An employee should advise management if she needs break time and an area of privacy for purposes of expressing breast milk for a nursing child. No employee will be discriminated against or retaliated against for exercising such rights pursuant to this policy.

### SECTION 17. Leave for Victims of Sexual or Domestic Violence

An employee who is a victim of domestic or sexual violence, or whose family or household member is a victim of domestic or sexual violence, may seek up to two weeks of unpaid leave during any twelve-month period for any of the following reasons:

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- (2) Obtaining services from a victim services organization for the employee or the employee's family or household member;
- (3) Obtaining psychological or other counseling for the employee or the employee's family or household member;
- (4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or to ensure economic security; or
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

For purposes of leave under this Policy, "a family or household member" means a spouse, parent, son, daughter, other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

Employees seeking leave must provide at least 48 hours' advance notice of the intention to take leave, unless giving notice is not practicable. Leave may be taken intermittently or on a reduced work schedule.

When requesting leave under this Policy, employees also must certify that the employee or the employee's family or household member is a victim of domestic or sexual violence and that the leave is for a qualifying reason, and the employee must provide supporting documentation such as a police report, documentation from a victim services organization, or other corroborating documentation.

The twelve-month period during which an eligible employee is entitled to a total of two (2) weeks leave under this Policy begins on January 1 of each year. An eligible employee is only entitled to a total of twelve (12) weeks leave in any given twelve-month period regardless of the number of qualifying conditions that may arise in any twelve-month period, either under this Policy and/or the Family and Medical Leave Policy. This Policy does not create a right for an employee to take unpaid leave that exceeds the amount of unpaid leave time allowed under the Federal Family and Medical Leave Act of 1993 (29 U.S.C. §§ 2601, *et seq.*).

For any leave taken in accordance with this Policy that would otherwise be unpaid, the employee is required to use accrued paid vacation, accrued paid sick leave and accrued compensatory time to the extent available in the following manner:

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(1) For any leave taken to care for a family or household member who has been subjected to domestic or sexual violence, the employee is required to use all of the employee's available accrued paid sick leave first (maximum of ten (10) paid days annually, except for fire shift personnel who have a maximum of five (5) twenty-four-hour work shifts annually), then use all of the employee's accrued paid vacation and then use all of the employee's accrued compensatory time while on leave; and

(2) For any leave taken under this Policy because the employee has been subjected to domestic or sexual violence, the employee is required to use all of the employee's accrued paid sick leave first, then use all of the employee's accrued paid vacation leave, PTO with respect to law enforcement personnel of the City who receive paid time off in lieu of holidays, and then use all of employee's accrued compensatory time while on leave.

For the duration of any leave taken under this Policy, the City 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 thirty (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.

Additionally, employees who are victims of sexual or domestic violence, or who have a family or household member who is the victim of domestic or sexual violence, may request reasonable safety accommodations, in a timely manner, to the known limitations resulting from circumstances relating to being a victim of domestic or sexual violence, or a family or household member being a victim of domestic or sexual violence. The City is not required to make safety accommodation(s) under this Policy if such accommodation(s) would impose an undue hardship on the operations of the City. The City may require that the employee requesting a reasonable safety accommodation pursuant to this Policy provide the City a written statement signed by the employee, or an individual acting on the employee's behalf, certifying that the reasonable safety accommodation is for a purpose authorized under this Policy.

Any interpretation of this Policy shall be governed by appropriate Missouri law and regulations issued under the Victims Economic Safety and Security Act, Section 285.624, *et seq.* R.S. Mo.

### SECTION 18. Paid Parental Leave

The City of Kirkwood provides paid parental leave to eligible employees following the birth of the employee's child or the placement of a child with the employee in connection with adoption or foster care. The purpose of paid parental leave is to enable eligible employees to care for and bond with a newborn or a newly adopted or newly placed child. Leave under this policy will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable. This policy will be in effect for births, adoptions or placements of foster children occurring on or after October 6, 2022.

Eligible employees must meet the following criteria:

- (a) Have been employed by the City of Kirkwood in a full-time capacity for at least 12 months; and,
- (b) Have worked at least 1,250 hours during the 12 consecutive months immediately preceding the date the leave would begin; and,
- (c) Be a permanent, full-time employee (temporary employees and part-time employees are not eligible for this benefit).

In addition, employees must meet one of the following criteria:

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- (a) Have given birth to a child; or,
- (b) Be a spouse or committed partner to a person who has given birth to a child; or,
- (c) Have adopted a child or been placed with a foster child (in either case, the child must be age 17 or younger). The adoption of a new spouse's child is excluded from this policy.

Eligible employees will receive a maximum of three (3) weeks (except that fire shift personnel will receive up to a maximum of six (6) days, defined as 24-hour shift days) of paid parental leave per birth, adoption or placement of a child/children. The fact that a multiple birth, adoption or placement occurs (*e.g.*, the birth of twins or adoption of siblings) does not increase the total amount of paid parental leave granted for that event. In addition, in no case will an employee receive more than three weeks (for fire shift personnel, no more than six (6) 24-hour shift days) of paid parental leave in a 12-month period, regardless of whether more than one birth, adoption or foster care placement event occurs within that 12-month time frame.

Approved paid parental leave may be taken at any time during the 6-month period immediately following the birth, adoption or placement of a child with the employee. Paid parental leave may not be used or extended beyond this 6-month time frame. Employees must take paid parental leave in one continuous period of leave. Any unused paid parental leave will be forfeited at the end of the 6-month time frame. Upon termination of employment with the City of Kirkwood, employees will not be paid for any unused paid parental leave for which the employee was eligible.

Paid parental leave taken under this policy will run concurrently with leave under the FMLA and the Family and Medical Leave Policy of the City of Kirkwood; thus, any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or placement of a child through adoption or foster care will be counted toward the 12 weeks of available FMLA leave per a 12-month period. All other requirements and provisions under the FMLA will apply. In no case will the total amount of leave—whether paid or unpaid—granted to the employee exceed 12 weeks during the 12-month FMLA period.

After the paid parental leave is exhausted, the balance of FMLA leave (if applicable) will be compensated through the employee's accrued paid vacation, accrued paid sick leave, and accrued compensatory time to the extent available in the manner set out in the City of Kirkwood's Family and Medical Leave Policy. If a holiday occurs while the employee is on paid parental leave, such day will be charged to holiday pay; however, such holiday pay will not extend the total paid parental leave entitlement. Upon exhaustion of accrued paid vacation, accrued paid sick leave, and accrued compensatory time, any remaining leave will be unpaid leave.

The City of Kirkwood will maintain employees' health care coverage during the paid parental leave period on the same basis as coverage would have been provided if the employee had not taken leave.

An employee who seeks paid parental leave will provide the employee's Department Head and the human resource department with notice of the request for paid parental leave at least 30 days prior to the proposed date of the leave (or if the leave was not foreseeable, as soon as possible). The employee must complete the necessary HR forms and provide all documentation as required by the HR department to substantiate the request.

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### **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 single fiscal year of the City, i.e. from April 1 through March 31, shall not exceed \$3,000 for undergraduate tuition reimbursement or \$4,000 for graduate class attendance tuition.
- 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 \$3,000 or \$4,000 as applicable, for the cost of tuition reimbursement and required fees during any single fiscal 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 or her designee.
- h. Any City employee who has received any payment for tuition reimbursement shall be obligated to repay such amount on a pro rata schedule, pursuant to a separate signed Tuition Reimbursement Agreement if such employee voluntarily leaves the employment of the City for any reason whatsoever or such employee is terminated for misconduct with the employee’s work at any time prior to completing 24 months of employment service from employee’s receipt of any tuition reimbursement payment pursuant to this policy.
- i. As a transition for the increased amount of tuition reimbursement available pursuant to this revised Tuition Reimbursement Program policy in 2018, the maximum amount of tuition reimbursement for the period of January 1, 2018 through March 31, 2019 shall be \$2,750 for undergraduate class attendance and reimbursement and \$3,500 for graduate class attendance and reimbursement. Effective April 1, 2019, the annual maximum amounts of \$3,000 and \$4,000 shall be in effect for the fiscal year of April 1, 2019 through March 31, 2020 and each fiscal year thereafter.

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- j. For avoidance of doubt, the maximum amount of \$3,000 for undergraduate class tuition reimbursement and \$4,000 for graduate class tuition reimbursement shall not be cumulative. No employee shall be entitled to tuition reimbursement in excess of \$4,000 during any City fiscal year regardless of whether the employee attends both undergraduate and graduate classes during any fiscal year.

### 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 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, known as a Section 457(b) Plan, 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 political affiliation, age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex, sexual orientation, gender identity or expression or transgender status or disability unrelated to the ability to perform the job or any other classification protected under applicable state or federal law.

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 while on duty or in uniform or wearing any attire identifying the City of Kirkwood. 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

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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.
- 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 person currently serving on any City Board or Commission may become a full-time or part-time employee of the City while so serving on any City Board or Commission and no full-time or part-time employee of the City shall be appointed to any City Board or Commission while employed with the City. This provision does not apply to any person classified by the City as a temporary employee.

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.

No employee shall accept or be influenced in his or her duties by an offer of any payment, gift or favor from any source, other than their regular compensation from the City. It is particularly important that employees refrain from accepting gifts where it might be construed as evidence of favoritism or unfair advantage relative to any supplier or vendor. These limitations are not intended to prohibit the acceptance of a) small gifts of no significant value, such as pens, pencils, note pads and other items which can be used in the performance of work duties, and b) non-alcoholic consumable items such as food, of no significant value, that can be shared equally on the City premises by all employees. Alcoholic beverages or gifts of significant value sent to the City or City employees shall remain unopened and be returned to the sender.

### **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 law enforcement officers, as defined in Section 590.502, R.S.Mo., and other classified,

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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 for Non-Law Enforcement Officers.

The grievance and complaint procedures set out in this Section are available only to classified, permanent, full-time employees who are not law enforcement officers as defined in Section 590.502, R.S.Mo. and who are not serving a probationary period, whether imposed due to a new position or for disciplinary or performance reasons.

- 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. 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 or her designee shall investigate and document the matter and render a decision within 10 working days of receipt of the request, unless it is impracticable to do so in such a timeframe.
- 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

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receipt of the request, unless it is impracticable to do within such a timeframe. For grievances that are not eligible to be appealed to the Civil Service Commission, the decision of the Chief Administrative Officer shall be final with respect to this grievance procedure. 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 (unless an appeal to the Civil Service Commission is expressly prohibited under these Personnel Rules and Regulations) 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 calendar days from the date of receipt of the decision of the Chief Administrative Officer. The Civil Service Commission shall convene as soon as reasonably practicable 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 continued timely by the employee within the aforementioned procedure shall be considered as satisfied and not subject to further consideration.

### SECTION 3. Procedures For Handling Grievances And Complaints for Law Enforcement Officers.

The grievance and complaint procedures set out in this Section are available only to law enforcement officers as defined in Section 590.502, R.S.Mo. To the extent any specific term or provision of the collective bargaining agreement or memorandum of understanding between the City and any unit of employees represented by a labor union is in conflict with any specific provision of this Section, the specific term or provision of the collective bargaining agreement or memorandum of understanding shall govern and supersede any conflicting provision of this Section, except as otherwise prohibited by applicable law.

- STEP A. A written grievance or complaint must be delivered to the Captain in the chain of command of the complaining law enforcement officer within five (5) working days following knowledge of the occurrence. Where possible, the grievance should be settled at this level. The Captain shall have five (5) working days to respond in writing, unless it is impracticable to do so in such timeframe.
- STEP B. In the event that Step A does not resolve the situation, the law enforcement officer may forward the grievance or complaint, in writing, to the Chief of Police within five (5) working days following receipt of the Captain's response. The Chief of Police shall consider the matter, shall investigate as may be appropriate in his/her discretion and render a decision within ten (10) working days of receipt of the request, unless it is impracticable to do so in such a timeframe.
- STEP C. In the event that Step B does not resolve the problem and the grievance involves a suspension without pay, demotion, termination, transfer or status resulting in economic loss to the law enforcement officer, the law enforcement officer shall be entitled to a

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full due process hearing before the Chief Administrative Officer. The Chief Administrative Officer will provide a written decision, including findings of fact, to the law enforcement officer within ten (10) working days of conclusion of the due process proceeding, unless it is impracticable to do within such a timeframe. The decision shall include the right of appeal to the Civil Service Commission, if the decision is eligible for such an appeal. For grievances that are not eligible to be appealed to the Civil Service Commission, the decision of the Chief Administrative Officer shall be final with respect to this grievance procedure.

STEP D. If the grievance is made on behalf of a full-time, non-probationary law enforcement officer and involves suspension for more than five (5) shift days, dismissal (unless an appeal to the Civil Service Commission is expressly prohibited under these Rules and Regulations) or disciplinary demotion, the law enforcement officer may request an appeal hearing before the Civil Service Commission. A written request for this appeal shall be filed with the City's liaison to the Civil Service Commission (Assistant Chief Administrative Officer) within seven (7) calendar days from the date of receipt of the decision of the Chief Administrative Officer. The Civil Service Commission shall convene as soon as reasonably practicable 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.

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

The City discourages the employment of relatives with the City. 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, a Department Head or a Division Head. In addition, no person who is a member of the immediate family of an employee may be hired, transferred or promoted to work in the same work unit of the City. 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. This policy applies to e-cigarettes and any other smoking device or product.

### **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

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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, sexual orientation, gender identity or expression or transgender status, disability unrelated to the ability to perform essential functions of the job or any other protected classification under applicable federal or state law. In short, discrimination 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.

(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

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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 Age, Race, Color, Genetic Information, Pregnancy, National Origin, Ancestry, Religion, Sex, Disability, Sexual Orientation or Gender Identity**

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 joke or epithet based on age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex, disability, sexual orientation or gender identity.

(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 joke or epithet based on age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex, disability, sexual orientation or gender identity.

(c) It is also prohibited for any employee to deface City property or the personal property of anyone else for purposes of a joke or epithet based on age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex, disability, sexual orientation or gender identity.

(d) It is also prohibited for any employee to utter or use any slur, joke or epithet at work or when referring to or about any other person, be they an employee or a non-employee, based on age, race, color, genetic information, pregnancy, national origin, ancestry, religion, sex, disability, sexual orientation or gender identity.

### **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 Human Resources 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 Human Resources Manager or Assistant Chief Administrative Officer, who shall do a prompt and thorough investigation. A report of such investigation 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,

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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 or her 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 or her Supervisor as to the existence of a disability which the job applicant or employee believes needs to be accommodated so that he or she will enjoy and be afforded equal employment opportunity in the workplace.

3. An individual may be considered disabled if he or she 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 or her Supervisor of the existence of a disability which the employee believes needs to be accommodated so that he or she 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 or her Supervisor, Department Head, Chief Administrative Officer or Assistant Chief Administrative Officer if he or she believes that he or she 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 or she 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.

**Department Heads**

Each Department Head has the authority and responsibility for maintaining a safe and healthful working condition within his or her 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,

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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 or her employees and the safe performance of machines and equipment within his or her 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.

Supervisors are responsible for making certain that there is an immediate investigation into any Preventable Accident, defined herein. A Preventable Accident is defined as any injury or accident involving a City vehicle or equipment, whether being used for City or personal use, that results in property damage and/or personal injury, and in which the employee in question failed to exercise every reasonable precaution to prevent the injury or accident. Each Supervisor must report all information regarding a Preventable Accident to the Safety Manager, which will then be reviewed for appropriate action pursuant to the Safety Discipline Policy below. Each Supervisor shall also be responsible to issue discipline to an employee who violates any safety policy, rule or regulation, other than discipline to be issued in the event of a Preventable Accident. Ensuring a safe workplace within the City is the responsibility of all Department Heads, Supervisors and employees, all of whom shall be held accountable to fulfill their obligations to provide the safest working environment feasible within the City.

### **Employees and Safety Discipline Policy**

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

All employees that operate City vehicles or equipment shall be subject to appropriate disciplinary action in the event of a Preventable Accident. A Preventable Accident determination will be made by the Safety Committee, taking into consideration the information contained in any Missouri Uniform Crash Report (Section 7d) conducted by the accident and investigation and any reviewing police officers. In the absence of any completion of a Missouri Uniform Crash Report, the Safety Committee shall make a determination as to whether a Preventable Accident has occurred.

If a Preventable Accident occurs, the employee responsible will at a minimum not qualify for the safety bonus for that year (if otherwise applicable) and be issued appropriate disciplinary action for the incident.

It will be the responsibility of the Department Head to issue appropriate discipline following a Preventable Accident in consultation with the Human Resources Manager.

If any subsequent Preventable Accident occurs within any 24 month period, the employee will be subject to further disciplinary action, which may include suspension without pay, demotion or employment termination, taking into consideration any aggravating circumstances as described below. The discipline for any such subsequent Preventable Accident shall be the responsibility of the Department Head in consultation with the City's Human Resources Manager, taking into consideration all applicable provisions of the City's Personnel Rules and Regulations.

Aggravating circumstances to be reviewed shall include, but not be limited to: the severity of injury or vehicular or other property damage; level of negligence or willful disregard of safety procedures or policy on the part of the employee; refusal to follow established traffic laws, safety rules or regulations; failure to

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pass a drug/alcohol screening; and any prior incidents of one or more Preventable Accident and any prior disciplinary action in the personnel file of the employee.

Any violation of a safety policy, rule or regulation shall also be subject to disciplinary action even if there is no Preventable Accident. Generally, a written warning should be issued to any employee for the first violation of any safety policy, rule or regulation which does not result in a Preventable Accident or any damage to property or person. Any safety violation thereafter shall result in more severe disciplinary action, including the possibility of employment termination.

### 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 or her 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 or she is performing at all times. Suitable clothing means clothing that will minimize the possibility of damage from moving machinery, hot or injurious 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

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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:

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

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1. The employee's Department Head.
2. The Human Resources 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 Human Resources 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 Human Resources Manager, the Chief Administrative Officer shall investigate the complaint or determine an appropriate delegate to investigate the complaint.

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 Human Resources Manager 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 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 any unauthorized drug by an employee where a state or other country considers such drug use lawful (such as a state in which either medical or recreational marijuana use is considered lawful, specifically including but not limited to the State of Missouri) does not excuse any violation of this policy.

The use of medically prescribed medications and drugs which are lawful under both federal and Missouri law is not per se a violation of this policy. However, failure by the employee to notify his or her 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 may 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

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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 or her system or report to work or be subject to duty while his or her ability to perform any job duties is or has been impaired due to alcohol or drug use, on or off duty;
- B. not possess or use, or have the odor of alcohol or drugs on his or her 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 or her designee;
- E. notify his or her 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

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- 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 or her 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 or her 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;
  - 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

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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 or her 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

1. Upon a negative result, the employee shall return to work.
2. 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.
3. 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 or her 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.
- 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 or her 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.

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### 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 EMPLOYEES IN SAFETY SENSITIVE POSITIONS**

All City employees who hold a Commercial Driver's License (CDL) or are otherwise employed in safety sensitive positions with the City, specifically including but not limited to bargaining unit employees of the City Police Department, City's Fire Department and City's Electric Department, and all supervisory and management employees of such City Departments, shall be subject to the substance abuse testing provisions set forth in this Section B below, regardless of whether such employees hold a CDL. All City employees who hold a CDL are also subject to the rules established under the guidelines of the Federal Motor Carrier Safety Administration (FMCSA). For avoidance of doubt, all employees engaged in safety sensitive employment positions with the City shall be subject to the substance abuse testing and procedures described below regardless of whether such safety sensitive employment position requires the employee to hold a CDL or whether the employee is a "driver" with the City. A summary of such rules, policies and procedures is as follows:

#### Employees Covered

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 FMCSA 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.

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.

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### 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 and drug testing pool shall be determined annually in accordance with the current random drug testing and random alcohol testing percentage rates established under the guidelines of the FMCSA. 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 or she 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.

**Additional tests for law enforcement officers.** In addition to any other instances set forth above in this Policy, on-duty law enforcement officers will be subject to drug/alcohol tests (1) when an officer's use of force results in serious physical injury or death of any person or (2) when a firearm is discharged by an on-duty police officer, except when humanely killing an injured animal or during a sanctioned Police Department activity, such as range qualification.

### 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.

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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.

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**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 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 all current DOT Rules or Regulations, which provide 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 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 or her 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.

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**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.

**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 or she 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;

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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.

### **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 Human Resources Manager.

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

## APPENDIX E – PERSONNEL RULES AND REGULATIONS

the SAP. Follow-up testing shall only occur just before, during or just after the employee operates a commercial motor vehicle.

Consequences. Besides the penalties set out by the City for violations of this policy, the following consequences are required by the FMCSA which was established within the Department of Transportation (DOT) on January 1, 2020 and formerly been a part of the Federal Highway Administration (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.

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

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- d. Explanations of employee conduct which is prohibited by these Personnel Rules and Regulations and the circumstances under which an employee will be tested.
- e. The drug and alcohol test procedures.
- 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 Personnel Rules and Regulations.
- 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.

### **D. FMCSA DRUG AND ALCOHOL CLEARINGHOUSE PROVISIONS**

#### 1. General Information

Effective January 6, 2020 FMCSA Regulations establishing a database that will contain information about violations of DOT/FMCSA Drug and Alcohol programs for holders of CDL's went into effect. This database is called the Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse. Under these Regulations, the City, the MRO and SAP's are required to report violations of DOT Drug and Alcohol testing regulations by applicants and Employees.

#### 2. Clearinghouse Searches

The City is required to conduct a search or "query" of the Clearinghouse for all applicants and on an annual basis for all current Employees. As a condition to be considered for employment (applicants) or in order to continue to be employed (Employees), applicants and Employees must provide the necessary consent, including electronic consent when applicable, to allow for the City to conduct the query.

#### 3. Personal Information to be Reported by City to the Clearinghouse

Applicants and Employees should be aware that the City is required to collect, maintain and report information to the Clearinghouse as to the following:

- A verified positive, adulterated, or substituted Drug test result;
- An Alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any Drug or Alcohol test;

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- The City’s actual knowledge, as defined in 49 CFR §382.107, of  
On duty Alcohol use pursuant to §382.205;  
Pre-duty Alcohol use pursuant to §382.207;  
Alcohol use following an accident pursuant to §382.209; and  
Controlled Substance use pursuant to §382.213.
- A Substance Abuse professional’s report of the successful completion of the Return-to-Duty process;
- A negative Return-to-Duty test; and
- The City’s report of completion of Follow-Up testing.

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

#### **PURPOSE**

To establish a uniform policy for reimbursing City employees for travel outside the St. Louis Metropolitan Statistical Area 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 Personnel 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 or her 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.

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3. Review and approve all expenses reported for reimbursement in accordance with the specific provisions outlined below.
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 or her 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.

On occasion, the employee may wish to drive a vehicle to his or her destination. The City has City owned vehicles that may be used, or an employee may take advantage of an agreement the City has with a rental car company. If the employee wishes to use his or her personal vehicle for travel outside the St. Louis Metropolitan Statistical Area in lieu of air transportation or use of a City vehicle or rental vehicle, the employee will only receive the “cash equivalent” for use of his or her personal vehicle; the “cash equivalent” will be based on the lowest cost of either the lowest airfare in effect 30 days prior to the employee’s departure date, or the cost of the rental vehicle for the number of days the employee is involved on City business. Generally, a rental vehicle will be cheaper than mileage reimbursement for any trip involving more than 70 miles of travel per day. If the employee elects to use his or her personal vehicle or a rental 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.

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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 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.

### MEALS

The cost of all meals while away on City business will be reimbursed. In most situations, the maximum daily cost should not exceed \$65.00. 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.

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### 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 may apply for mileage reimbursement when mileage exceeds 70 miles in any pay period. Mileage reimbursement for travel inside the St. Louis Metropolitan Statistical Area is in the Finance Director's sole discretion and, if made, will be in an amount set by the Finance Director. De minimus mileage incurred on a personal vehicle will not be reimbursed. Use of a personal vehicle for trips out of the St. Louis Metropolitan Statistical Area will be governed by the City's Travel Policy.

It is the employee's responsibility to pay for gas, insurance and maintenance of employee's personal vehicle. It is further the employee's responsibility to disclose to employee's insurer the uses to which employee chooses to put employee's vehicle which may affect 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, all employees are expected to dress professionally and appropriately for their work duties with the City. Polo shirts, dress shirts, dress pants and dresses are examples of appropriate business casual attire. Exceptions to this policy may be permitted at the discretion of the Chief Administrative Officer, such as team jerseys and blue jeans.

Casual dress does not apply to employees who typically wear uniforms or those who are working in an 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 may include any attire that may be deemed reasonably offensive and/or inconsistent with the City's Equal Employment Opportunity, Anti-Harassment and Non-Discrimination Policy or other

## APPENDIX E – PERSONNEL RULES AND REGULATIONS

policies. 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 clothing in accordance with any requirements of the Department Head.

### **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 equipment to an employee may be withdrawn at any time at the discretion of the Chief Administrative Officer 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, emails or texts

## APPENDIX E – PERSONNEL RULES AND REGULATIONS

should be infrequent and brief and made on the employee's own time, such as during breaks or lunch. Any other personal use during business hours may not interfere with being productive or performing expected job duties. 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/TEXT 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 Personnel Rules and Regulations.

#### **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.

## APPENDIX E – PERSONNEL RULES AND REGULATIONS

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-MAIL/TEXT 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 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 all-users. No employee is permitted to use the all-users email address without prior approval by the Department Head. Such approval shall be granted only when strictly necessary to conduct City business.

### PROHIBITED USES OF E-MAIL/TEXTS

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, color, pregnancy, ethnicity, sex, sexual orientation, age, ancestry, 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.

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- 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.

### PROHIBITED INTERNET USAGE

Accessing sites that are pornographic or sites that promulgate violence or terrorism (also commonly known as “hate” sites), or sites that 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 generally be limited to lunch and outside of (before or after) work time and only if the equipment is not needed for City business. Employees should consider the personal use of City E-mail privileges in the same manner as use of a City telephone or personal cell phone. Limited personal use is expected to occur but should not interfere with being productive or performing expected job duties. 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

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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 City's Personnel Rules and Regulations. 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).

### **ARTICLE XXX - CITY PROPERTY**

All property owned or maintained by the City shall at all times be subject to the City's control and inspection. This includes, but is not limited to, City vehicles, offices, work stations, desks and lockers. No employee shall have any expectation of privacy with respect to such property and the City reserves the right at any time to search or inspect any such property. No expectation of privacy exists regarding the contents of City lockers even if such lockers are secured by an employee owned lock.

### **ARTICLE XXXI - SOCIAL MEDIA POLICY**

A. Overview. With the rise of new media and next generation communication tools, the manner in which employees of the City can communicate, both internally and externally, continues to evolve. While this creates new opportunities for communication and collaboration, it also creates new responsibilities for our employees. This Social Media Policy applies to all employees who use the following (which is not intended to be an exhaustive list):

- Social networking websites, examples of which include MySpace, Facebook, LinkedIn, Twitter and YouTube;
- Blogs;
- Instant messaging sites;
- Wikis, such as Wikipedia and any other site where text can be posted;
- Web bulletin boards or chat rooms.

All of these activities are referred to as "Social Media Postings" in this Policy.

B. Scope of Policy. This Social Media Policy covers an employee's personal use of Social Media Postings and the sanctioned use of Social Media Postings for City business purposes.

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### C. Personal Use of Social Media.

1. This Policy section applies when an employee is using personal/home computers or other personal devices. The City takes no position on employees' decision to participate in the use of Social Media Postings. In general, employees who participate in Social Media are free to publish their own personal information. Any use of City computers or other City issued devices for personal Social Media Postings should generally be limited to lunch and outside (before or after) work time and only if the equipment is not needed for City business. Limited personal use is expected to occur but should not interfere with being productive or performing expected job duties.
2. Responsible Social Media Postings. Ultimately, an employee is responsible for what is posted online. Before creating online content, an employee should consider the risks and rewards that are involved, including how Social Media Postings may affect others who perform services for or are employed with the City. Harassment, intimidation or demeaning comments against such persons on social networking sites may result in discipline up to and including dismissal. Thus, the City encourages an employee to always be fair and courteous to co-workers, citizens, suppliers, vendors or other people who work on behalf of the City. Also, an employee should keep in mind that he or she is more likely to resolve work-related complaints by speaking directly with co-workers or by addressing the issue or problem with the Department Head than by posting complaints to a social media outlet. Nevertheless, if an employee decides to post complaints or criticism, he or she should avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparages guests, co-workers, citizens, suppliers or vendors, that might constitute harassment or bullying or might violate any applicable law. Examples of such conduct include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, age, national origin, ethnicity, pregnancy, religion or any other status protected by law or City policy.
3. Identification. If an employee chooses to identify himself or herself as a City employee on any Social Media network or site, either in words or in image, he or she must state in clear terms within any specific social media posting that the views expressed are the employee's alone and that they do not reflect the views of the City. No personal use of social media shall include any pictures or photographs of the employee wearing any City uniform or operating any City equipment. Employees are prohibited from acting as a spokesperson for the City or posting comments as a representative of the City.
4. Honesty and Accuracy. An employee should ensure that he or she is always honest and accurate when posting information or news. If an employee makes a mistake, it should be corrected quickly. An employee should be open about any previous posts that have been altered. It is important to remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that are known to be false about the City, co-workers, vendors or others working on behalf of the City. In short, the City expects its employees, when commenting on matters related to the City's business, services or programs, to exercise good judgment and common sense, consistent with the City's values of honesty, integrity and ethical behavior. Each employee should be mindful that any Social Media Posting may remain public for a long time if not indefinitely.

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5. Right to Access. The City reserves the right to monitor Social Media Postings of employees. Any information that employees post on any social media may be accessed by the City at any time, without prior notice. The City prohibits taking negative employment action against any employee for reporting a possible deviation from this Policy or for cooperating in an investigation. Any employee who retaliates against a co-worker for reporting a possible deviation from this Policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.
  6. Prohibited Activity. Employees may not disclose confidential information of any department, specifically including confidential information relating to ongoing investigations, or disclose confidential information of third parties who have provided information to any department, including federal, state or local security/safety information, or disclose private personnel information or Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).
- D. Use of Social Media For City Business Purposes.
1. Social Media Uses. Social Media provides a new and potentially valuable means of assisting City departments and their personnel in community outreach for problem solving, investigations, crime prevention, recruiting, training, safety education and providing public awareness of the activities of City personnel in serving and protecting the interests of the City’s residents and community.
  2. Specific uses for City sanctioned Social Media include but are not limited to:
    - a. Time sensitive notifications related to road closures, special events and weather emergencies.
    - b. Investigative tool for law enforcement when seeking evidence or information about missing persons, wanted persons, crimes perpetrated online such as cyber bullying or cyber stalking, unsolved crimes through solicitation of tips and posting of photos or videos of a crime by a participant or observer.
    - c. Alerting the public to the effective law enforcement services of the police department and the effective rescue and fire protection services provided by the City’s fire department.
    - d. Obtaining information as a recruitment mechanism for persons seeking employment or volunteer positions with the City.
  3. Rules Applicable to City Sanctioned Use of Social Media.
    - a. All Social Media Postings are subject to all existing City policies, including, for example, the City’s Equal Employment Opportunity, Non-Discrimination and Anti-Harassment Policy, Workplace Violence Policy, Computer/Internet/E-mail/Text Policy and Wireless Telecommunications Usage Policy.
    - b. Social Media Postings containing obscene or sexually explicit language, images or acts and statements or other forms of speech that ridicule, malign, disparage or otherwise express bias or are harassing, demeaning toward City employees, City

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officials, vendors or others who perform services and work with the City is prohibited.

- c. There is no expectation of privacy with Social Media Postings sanctioned by the City. The City reserves the right to monitor use of its devices or networks and to retrieve all Social Media Postings. The City reserves the right to block access from its networks for Social Media Postings at its sole discretion.
- d. Employees may not disclose confidential information of any department, specifically including confidential information relating to ongoing investigations, or disclose confidential information of third parties who have provided information to any department, including federal, state or local security/safety information, or disclose private personnel information or Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).
- e. No employee shall divulge information gained by reason of his or her authority, make any statements or publish any materials that could reasonably be considered to represent the views or positions of any department, without express authorization to do so.
- f. No information shall be disclosed which is likely to identify the specific location or identification of any person subject to an emergency call for law enforcement assistance.
- g. No employee shall disseminate or transmit in any fashion photographs or images of individuals receiving emergency medical assistance. The City is the owner of any photographs or electronic images taken by the fire department or law enforcement personnel within the scope of employment. Any such photographs or electronic images must be turned into the proper department authority.
- h. The use of social media does not alter or change the emergency or life safety report protocols currently in place. Social Media should not be used in place of the Emergency Operations Center (9-1-1).
- i. The establishment and use of any City-sanctioned Social Media sites are subject to approval by the Chief Administrative Officer and applicable Department Head. All City Social Media sites shall be administered by authorized administrators of the respective department.
- j. City Social Media sites should explicitly state they are maintained by the City and that they follow the City’s Social Media Policy, with links to such Policy on the official City web site.
- k. Wherever possible, City Social Media sites should link back to the official City and departmental websites for forms, documents, online services and other information necessary to conduct business with the City.
- l. The authorized administrators will monitor content on City Social Media sites to ensure adherence to both the City’s Social Media Policy and the interests and goals of the City.

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- m. The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Comments on topics or issues not considered to be within the relevant concerns of the City may be removed.
  - n. The City will approach the use of Social Media tools as consistently as possible among different departments.
  - o. The City's website at [www.kirkwoodmo.org](http://www.kirkwoodmo.org) will remain the City's primary and predominant internet repository of accessible online information.
  - p. All City Social Media sites shall adhere to applicable federal, state and local laws, regulations and policies.
  - q. Any content maintained in a Social Media format that is related to City business may be considered a public record subject to public disclosure. This may include a list of subscribers (excluding any information of a personal nature), posted communication and communication submitted for posting.
  - r. No employee should conduct political activities or private business through any Social Media Posting.
  - s. No employee should post private facts or personal information about someone without his or her permission that has not been previously revealed to the public, is not of legitimate public concern or would be offensive to a reasonable person.
  - t. No employee shall use someone else's name, likeness or other personal attributes without that person's permission for an exploitative purpose; or publish the creative work of another, trademarks or certain confidential business information without the permission of the owner.
  - u. This Social Media Policy may be revised at any time.
4. Designation of Employees.
- a. The following guidelines apply to designation of employees to use any sanctioned City Social Media site.
    - i. Designated employees representing the City government via City Social Media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies. Any such designated City employee who alters, comments or accesses any City Social Media site is to conduct himself at all times as a representative of the City and, accordingly, shall adhere to all City/department standards of conduct and observe conventionally accepted protocols and proper decorum.
    - ii. Employees designated to represent individual department's interests on the City site are to be approved by the Department Head and submitted to the Chief Administrative Officer for approval.

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- iii. The use of department computers by designated department personnel to access Social Media for personal use is prohibited.
- iv. Designated department personnel use of personally owned devices to manage the department’s social media activities or in the course of official duties is permitted.
- v. Such designated employees are to identify themselves as a member of the applicable department within the City.

### E. Public Comment Policy.

1. As a public entity the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.
2. The intended purpose behind establishing City Social media sites is to disseminate information about the City to its citizens.
3. Public comments containing any of the following inappropriate forms of content shall not be permitted on City Social Media sites and are subject to removal and/or restriction by the authorized administrators:
  - a. Comments not related to the original topic, including random or unintelligible comments;
  - b. Profane, obscene, violent or pornographic content and/or language;
  - c. Content that promotes, fosters or perpetuates discrimination on the basis of race, ethnicity, ancestry, sexual orientation, pregnancy, disability, color, age, religion, sex or national origin;
  - d. Defamatory or personal attacks;
  - e. Threats to any person or organization;
  - f. Comments in support of, or in opposition to, any political campaigns or ballot measures;
  - g. Solicitation of commerce, including but not limited to advertising of any business or product for sale;
  - h. Conduct in violation of any federal, state or local law;
  - i. Encouragement of illegal activity;
  - j. Information that may tend to compromise the safety or security of the public or public systems; or
  - k. Content that violates a legal ownership interest, such as a copyright of any party.
4. A comment posted by a member of the public on any City Social Media site is the opinion of the commentator or poster only. Publication of a comment does not imply endorsement

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of, or agreement by, the City or that such comments reflect the opinions or policies of the City.

5. The City reserves the right to deny access to City Social Media sites for any individual who violates the City’s Social Media Policy, at any time without prior notice.
6. City employees are not permitted to respond to any public comment on behalf of the City without prior approval of the Chief Administrative Officer.

### **ARTICLE XXXII - FRAUD AND WHISTLE-BLOWER POLICY**

#### **Scope of Policy**

All employees of the City must observe high standards of business and personal ethics performing their duties and responsibilities and fraud in any form will not be tolerated. This Policy is designed to enable all employees of the City to raise any complaint of unethical, fraudulent or unlawful conduct in an appropriate manner and to protect any employee of the City raising such a good faith complaint from any retaliatory action.

By way of example, conduct which is prohibited by this Policy and complaints which should be reported pursuant to this Policy include without limitation:

- Embezzlement, misappropriation or use of City funds or property for any illegal, improper or unethical purpose;
- Forging, altering, tampering with or destroying any City accounting, payroll or audit-related records or documents, such as checks, timesheets, contractor agreements, purchase orders or any other financial documents of the City, whether in hard copy or electronically stored, except as otherwise permitted or required in accordance with record retention policies, as applicable;
- Any violation of the City’s Conflict of Interest restrictions in the City Charter and Code of Ordinances;
- Fraud or deliberate error in the preparation, evaluation, review or audit of any of the City’s budget, accounting or financial statements or any other purposeful conduct resulting in inaccurate financial reporting of any sort;
- Obtaining any benefit through deception or fraudulent activity, such as receiving compensation for hours not worked or services not performed;
- Unauthorized use of City logos or trademarks; and
- Deficiency and/or non-compliance with the City’s internal accounting controls.

This Policy is not designed to address financial or business decisions taken by the City or to provide a complaint procedure for matters covered by other specific policies in these Personnel Rules and Regulations, such as under the City’s Equal Employment Opportunity, Anti-Harassment and Non-Discrimination Policy, Workplace Violence Policy or Policy Regarding Reasonable Accommodations for Qualified Individuals with a Disability.

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### **Employee Protection**

This Policy is designed to offer protection to any employee who discloses a complaint, provided the disclosure is made in good faith. It is a violation of this Policy for any supervisor, manager, department head or other employee of the City to retaliate against any City employee who makes a complaint pursuant to this Policy. Prohibited retaliation against any employee “whistle-blower” under this Policy includes disciplining, demoting or suspending the employee or threatening to do so, terminating or threatening to terminate the employee or in any other manner intimidating the employee as a form of retaliation for any complaint made pursuant to this Policy. Any City employee engaging in retaliatory conduct will be subject to disciplinary action by the City, which may include termination of employment.

### **Confidentiality**

The City will treat all good faith complaints under this Policy in a confidential and sensitive manner to the extent feasible consistent with the City’s obligation to fully investigate any complaint filed or made under this Policy. A report of a complaint will only be disclosed to those persons who have a need to know and in order to properly conduct an investigation of the complaint. Any report or complaint shall be kept in a file that is separate from the personnel file of the employee making the complaint and the person or persons to whom it relates, although any disciplinary action that may be issued due to a complaint under this Policy shall be part of the personnel file of the disciplined employee.

### **Procedure for Making a Complaint and Investigation**

Any complaint by a City employee pursuant to this Policy must be made in writing to the Assistant Chief Administrative Officer, the Chief Administrative Officer or the Audit Committee of the City, with all factual details supporting any such complaint. The complaint should be made immediately upon discovery of any facts showing unethical, fraudulent or unlawful conduct as described in this Policy. Any employee may also submit a complaint anonymously under this Policy. The City’s Chief Administrative Officer, Assistant Chief Administrative Officer and/or the City’s Audit Committee shall be responsible for investigating any such complaint. The City’s Chief Administrative Officer shall determine who shall investigate any such complaint depending upon the nature of the complaint, unless the complaint is against the City’s Chief Administrative Officer, in which event the City’s Audit Committee shall investigate any such complaint. Any such complaint shall be investigated in consultation with legal counsel or other expert resources deemed necessary to conduct a full and complete investigation of the allegations of such complaint, and making decisions for appropriate corrective action, as applicable, to be implemented. The investigative action by the Chief Administrative Officer, Assistant Chief Administrative Officer or Audit Committee may include referral fully or in part to a law enforcement agency or City law enforcement personnel for appropriate investigation of any suspected criminal activity. Unless the employee has submitted or made a complaint anonymously under this Policy, the complainant will be informed of the final outcome of the City’s investigation as deemed appropriate under the circumstances.

### **Effect of Unsubstantiated Allegations**

If an employee makes an allegation in good faith under this Policy, which is not substantiated or confirmed by a subsequent investigation, no action will be taken against the individual making the complaint. However, if an employee makes a complaint maliciously without any reasonable factual foundation against another employee of the City, the employee making such complaint may be subject to discipline by the City as deemed appropriate.

**ARTICLE XXXIII - EMPLOYEE OBLIGATION TO ABIDE BY CITY PERSONNEL RULES  
AND REGULATIONS**

All employees of the City are required to read and abide by these Personnel Rules and Regulations of the City, which must be read and reviewed by all employees by accessing these Personnel Rules and Regulations on the City's website at [www.kirkwoodmo.org](http://www.kirkwoodmo.org). The City's Personnel Rules and Regulations do not constitute a contract, provide for any private cause of action or guarantee employment for any definite duration. The specific benefit plan documents govern the terms of any employee benefit policy or program. 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.