

# Personnel Policy

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## **INTRODUCTION**

### **Purpose**

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the City of Freeport. They should not be construed as contract terms for any city employees. The policies are not intended to cover every situation that might arise and can be amended at any time at the sole discretion of the City. These policies supersede all previous personnel policies.

Except as otherwise prohibited by law, the City of Freeport has the right to terminate any employee at any time for any or no reason. Employees may similarly terminate employment at any time for any reason.

### **Scope**

These policies apply to all employees of the City. Except where specifically noted, these policies do not apply to:

- Elected Officials;
- City Attorney;
- Members of City Boards, Commissions and Committees;
- Consultants and Contractors;
- Volunteers, except as specifically noted for paid per-call-firefighters.

Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law. Departments may have special work rules deemed necessary by the supervisor and approved by the City Clerk for the achievement of objectives of that department. Each employee will be given a copy of such work rules by the department upon hiring and such rules will be further explained and enforcement discussed with the employee by the immediate supervisor.

### **EEO Policy Statement**

The City of Freeport is committed to providing equal opportunity in all areas of employment, including but not limited to hiring, demotion, transfer, recruitment, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Freeport will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

### **Data Practices Advisory**

Employee records are maintained in a location designated by the City Clerk. Personnel data is kept in personnel files, finance files, and benefit/medical files. Information is used to administer employee salary and benefit programs, process payroll, complete state and federal reports, document employee performance, etc.

Employees have the right to know what data is retained, where it is kept, and how it is used. All employee data will be received, retained, and disseminated according to the Minnesota Government Data Practices Act.

## **Media Requests**

All city employees have a responsibility to help communicate accurate and timely information to the public in a professional manner. Requests for private data or information outside of the scope of an individual's job duties should be routed to the appropriate department or to the data practices authority.

Any employee who identifies a mistake in reporting should bring the error to the city clerk or other appropriate staff. Regardless of whether the communication is in the employee's official city role or in a personal capacity, employees must comply with all laws related to trademark, copyright, software use, etc.

Except for routine events and basic information readily available to the public, all requests for interviews or information from the media are to be routed through the city clerk. No city employee is authorized to speak on behalf of the city without prior authorization from the city clerk or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites. When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the city clerk of the request.
2. If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the city clerk. An appropriate response would be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and submit your request to the appropriate person, who will get back to you as soon as he/she can." Then ask the media representative's name, questions, deadline, and contact information.

All news releases concerning city personnel will be the responsibility of the city clerk.

When/if the city clerk authorizes a staff person to communicate on behalf of the city in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the city. Account names on social media sites must be clearly connected to the city and approved by the city clerk.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: "The city finished street cleaning on 16 streets in the northwest corner of the city this past week" instead of "The city is doing a great job with street cleaning this year!" Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the city's Facebook page: "My family visited Hill Park this weekend and really enjoyed the new band shelter." Employees who have been approved to use social media sites on behalf of the city should seek assistance from the city clerk on this topic.

- Notify the city clerk if they will be using their personal technology (cell phones, home computer, cameras, etc.) for city business. Employees should be aware that data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

### **Personal Communications and Use of Social Media**

It is important for city employees to remember that the personal communications of employees may reflect on the city, especially if employees are commenting on city business or commenting on issues that implicate their city employment. As city representatives, employees share in the responsibility of earning and preserving the public's trust in the city. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, sex/gender, religion, national origin, disability, sexual orientation, or other protected categories. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember what you write or post cannot easily be undone. It may also be spread to larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
- The City of Freeport expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the city, it would be best to identify yourself and use a disclaimer such as, "These are my own opinions and do not represent those of the City of Freeport."

- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though *he* or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the city (e.g., (city name) Cop).

## **CITYWIDE WORK RULES & CODE OF CONDUCT**

### **Code of Conduct**

#### **Purpose**

The city council of the City of Freeport determines that a code of conduct for its members, as well as the members of the various boards and commissions of the City of Freeport, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the city council hopes to promote the faith and confidence of the citizens of Freeport in their government and to encourage its citizens to serve on its council and commissions.

#### **Standards of Conduct**

No member of the city council or a city board or commission may knowingly:

- a. Violate the open meeting law.
- b. Participate in a matter that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the city council.
- h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the city council has authorized the disclosure.
- i. Represent private interests before the city council or any city committee, board, commission or agency.

Except as prohibited by the provisions of Minn. Stat Sec. 471.87, there is no violation of subdivision b. of this section for a matter that comes before the council, board, or commission if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein



shall be construed to prohibit a contract with a member of the city council under the circumstances described under Minn. Stat. Sec. 471.88, if proper statutory procedures are followed.

### **Complaint, Hearing**

Any person may file a written complaint with the city clerk alleging a violation of the standards of conduct. The complaint must contain supporting facts for the allegation. The city council may hold a hearing after receiving the written complaint or upon the council's own volition. A hearing must be held only if the city council determines:

1. Upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally-recognized conflict of interest; and
2. That the complaint has been lodged in good faith and not for impermissible purposes such as delay.

The city council's determination must be made within 30 days of the filing of the allegation with the city clerk. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the city council's determination. At the hearing, the person accused must have the opportunity to be heard. If after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of an advisory board or commission from office.

### **Conduct as a City Employee**

In accepting City employment, employees become representatives of the City and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of Freeport. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a City employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

The following are job requirements for every position at the City of Freeport. All employees are expected to:

- Perform assigned duties to the best of their ability at all times; and
- Render prompt and courteous service to the public at all times; and
- Read, understand and comply with the rules and regulations as set forth in these Personnel Policies as well as those of their departments; and
- Conduct themselves with decorum toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy; and
- Report any and all unsafe conditions to the immediate supervisor; and
- Maintain good attendance.

### **Attendance & Absence**

The operations and standards of service in the City of Freeport require that employees be at work unless valid reasons warrant absence, or an employee has a position that has been approved to work remotely. In order for a team to function efficiently and effectively, employees must fully understand the goals that have been set for them and the time required to be on the job. Understanding attendance requirements is an essential function of every city position.

Employees who are going to be absent from work are required to notify their supervisor as soon as possible in advance of the absence. In case of unexpected absence, employees should call their

supervisor before the scheduled starting time. If the supervisor is not available at the time, the employee should leave a message that includes a telephone number where he/she can be reached and/or contact any other individual who was designated by the supervisor. Failure to use established reporting process will be grounds for disciplinary action. Departments may establish more specific reporting procedures.

The employee must call the supervisor on each day of an absence extending beyond one (1) day unless arrangements otherwise have been made with the supervisor. Employees who are absent for three (3) days or more and who do not report the absence in accordance with this policy, will be considered to have voluntarily resigned not in good standing. The city may waive this rule if extenuating circumstances warranted such behavior. This policy does not preclude the city from administering discipline for unexcused absences of less than three (3) days.

For budgetary and confidentiality reasons, non-exempt employees (eligible for overtime pay) are not authorized to take work home or work through lunch without prior approval from their supervisor.

### **Access to and Use of City Property**

Any employee who has authorized possession of keys, tools, cell phones, pagers, or other City-owned equipment must register his/her name and the serial number (if applicable) or identifying information about the equipment with his/her supervisor. All such equipment must be turned in and accounted for by any employee leaving employment with the City in order to resign in good standing.

Employees are responsible for the safekeeping and care of all such equipment. The duplication of keys owned by the City is prohibited unless authorized by the City Clerk. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

### **Appearance**

Departments may establish dress codes for employees as part of departmental rules. Personal appearance should be appropriate to the nature of the work and contacts with other people and should present a positive image to the public. Clothing, jewelry or other items that could present a safety hazard are not acceptable in the workplace. Dress needs vary by function. Employees who spend a portion of the day in the field need to dress in a professional manner appropriate to their jobs, as determined by their supervisor. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.

In all instances, clothing and appearance must be neat, clean, not ripped, heavily frayed or worn, and not expose an excessive amount of skin. Employees are allowed to wear jeans that are clean and free of rips, tears, fraying and not excessively tight or revealing.

### **Conflict of Interest**

City employees are to remove themselves from situations in which they would have to take action or make a decision where that action or decision could be a perceived or actual conflict of interest or could result in a personal benefit for themselves or a family member. If an employee has any question about whether such a conflict exists, he/she should consult with the City Clerk.

**Falsification of Records**

Any employee who makes false statements or commits, or attempts to commit, fraud in an effort to prevent the impartial application of these policies will be subject to immediate disciplinary action up to and including termination and potential criminal prosecution.

**Personal Telephone Calls**

Personal telephone calls are to be made or received only when truly necessary. They are not to interfere with City work and are to be completed as quickly as possible. Any personal long-distance call costs will be paid for by the employee. Please refer to the Cell Phone policy for information on use of cellular phones.

**Political Activity**

City employees have the right to express their views and to pursue legitimate involvement in the political system. However, no City employee will directly or indirectly, during hours of employment, solicit or receive funds for political purposes. Further, any political activity in the workplace must be pre-approved by the City to avoid any conflict of interest or perception of bias such as using authority or political influence to compel another employee to apply for or become a member in a political organization.

**Smoking**

All City buildings and vehicles, in their entirety, shall be designated as tobacco free, meaning that smoking in any form (through the use of tobacco products such as pipes, cigars, and cigarettes) or “vaping” with e-cigarettes is prohibited while in a City facility or vehicle.

Smoking of any kind, including pipes, cigars, and cigarettes, vaping with e-cigarettes and the use of chewing tobacco is prohibited for employees while on duty. Employees 18 and over are allowed to smoke only during their breaks and lunch, and only in areas designated for that purpose.

**DEFINITIONS**

For purposes of these policies, the following definitions will apply:

Authorized Hours: The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee’s supervisor.

Benefits: Privileges granted to qualified employees in the form of paid leave and/or insurance coverage.

Benefit Earning Employees: Employees who are eligible for at least a pro-rated portion of City provided benefits. Such employees must be year-round employees who work at least 20 hours per week on a regular basis.

Demotion: The movement of an employee from one job class to another within the City, where the maximum salary for the new position is lower than that of the employee’s former position.

Employee: An individual who has successfully completed all stages of the selection process including the training period.

Exempt Employee: Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act.

FICA (Federal Insurance Contributions Act): FICA is the federal requirement that a certain amount be automatically withheld from employees' earnings. Specifically, FICA requires an employee contribution of 6.2% for Social Security and 1.45% for Medicare. The City contributes a matching 7.65% on behalf of each employee. Certain employees are exempt or partially exempt from these withholdings (e.g., police officers).

Fiscal Year: The period from January 1 to December 31.

Full-time Employee: Employees who are required to work forty (40) or more hours per week year-round in an ongoing position.

Hours of Operation: The City's regular hours of operation are Monday through Friday with hours as set by the City Council, from time to time.

Management Employee: An employee who is responsible for managing a department or division of the City.

Non-exempt Employee: Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek.

Part-time Employee: Employees who are required to work less than forty (40) hours per week year-round in an ongoing position.

Pay Period: A fourteen (14) day period beginning at 12:00 a.m. (midnight) on Sunday through 11:59 p.m. on Saturday, fourteen (14) days later.

PERA (Public Employees Retirement Association): Statewide pension program in which all City employees meeting program requirements must participate in accordance with Minnesota law. The City and the employee each contribute to the employee's retirement account.

Promotion: Movement of an employee from one job class to another within the City, where the maximum salary for the new position is higher than that of the employee's former position.

Reclassify: Movement of a job from one classification to another classification because of a significant change in the position's duties and responsibilities.

Seasonal Employee: Employees who work only part of the year (100 days or less) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn benefits or credit for seniority.

Service Credit: Time worked for the City. An employee begins earning service credit on the first day worked for the City. Some forms of leave will create a break in service.

Temporary Employee: Employees who work in temporary positions. Temporary jobs might have a defined start and end date or may be for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn benefits or credit for seniority.

Training Period: A six-month period at the start of employment with the City (or at the beginning of a promotion, reassignment or transfer) that is designated as a period within which to learn the job. The training period is the last part of the selection process. The training period is an integral extension of the city's selection process and is used by supervisors for closely observing an employee's work.

An employee serving his/her initial probationary period may be disciplined at the sole discretion of the city, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Transfer: Movement of an employee from one City position to another of equivalent pay.

Workweek: A workweek is seven consecutive 24-hour periods. For most employees the workweek will run from Sunday through the following Saturday. With the approval of the City Clerk, departments may establish a different workweek based on coverage and service delivery needs.

## **EMPLOYEE RECRUITMENT & SELECTION**

### **Scope**

The City Clerk or a designee will manage the hiring process for positions within the City. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to City employment. All hires will be made according to merit and fitness related to the position being filled.

### **Features of the Recruitment System**

The City Clerk or designee will determine if a vacancy will be filled through an open recruitment or by promotion, transfer or some other method. This determination will be made on a case-by-case basis. The majority of position vacancies will be filled through an open recruitment process.

Application for employment will generally be made on application forms provided by the City. Other materials in lieu of a formal application may be accepted in certain recruitment situations as determined by the City Clerk or designee. Supplemental questionnaires may be required in certain situations. All candidates must complete and submit the required application materials by the posted deadline, in order to be considered for the position. The deadline for application may be extended by the City Clerk.

Position vacancies may be filled on an "acting" basis as needed. The City Council will approve all acting appointments. Pay rate adjustments, if any, will be determined by the City Council.

### **Testing and Examinations**

Applicant qualifications will be evaluated in one or more of the following ways: training and experience rating; written test; oral test or interview; performance or demonstrative test; physical agility test, or another appropriate job-related exam.

Internal recruitments will be open to any City employee who: (1) has successfully completed the initial training period; (2) meets the minimum qualifications for the vacant position; and (3) currently is and for the past year has been in good standing with the City.

The City Council or designee will establish minimum qualifications for each position with input from the appropriate supervisor. To be eligible to participate in the selection process a candidate must meet the minimum qualifications.

### **Pre-Employment Medical Exams**

The City Clerk or designee may determine that a pre-employment medical examination, which may include a psychological evaluation, is necessary to determine fitness to perform the essential functions of any City position. Where a medical examination is required, an offer of employment is contingent upon successful completion of the medical exam.

When a pre-employment medical exam is required, it will be required of all candidates who are finalists and/or who are offered employment for a given job class. Information obtained from the medical exam will be treated as confidential medical records.

When required, the medical exam will be conducted by a licensed physician designated by the City with the cost of the exam paid by the City. (Psychological/psychiatric exams will be conducted by a licensed psychologist or psychiatrist.) The physician will notify the City Clerk or designee that a candidate either is or isn't medically able to perform the essential functions of the job, with or without accommodations and whether the candidate passed a drug test, if applicable. If the candidate requires accommodation to perform one or more of the essential functions of the job, the City Clerk or designee will confer with the physician and candidate regarding reasonable and acceptable accommodations. If a candidate is rejected for employment based on the results of the medical exam, he/she will be notified of this determination.

### **Selection Process**

The selection process will be a cooperative effort between the City Clerk or designee and the hiring supervisor, subject to final hiring approval of the City Council. Any, all or none of the candidates may be interviewed.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.

### **Background Checks**

All finalists for employment with the City will be subject to a background check to confirm information submitted as part of application materials and to assist in determining the candidate's suitability for the position. Except where already defined by state law, the City Clerk will determine the level of background check to be conducted based on the position being filled.

### **Training Period**

The training period is an integral part of the selection process and will be used for the purpose of observing the employee's work and for training the employee in work expectations. Training periods apply to new hires, transfers, promotions and rehires. Training periods are six months in duration.

## **ORGANIZATION**

### **Job Descriptions**

The City will maintain job descriptions for each regular position. New positions will be developed as needed but must be approved by the City Council prior to the position being filled.

A job description is prepared for each position within the City. Each job description will include: position title, department, supervisor's title, FLSA status (exempt or nonexempt), primary objective of the position, essential functions of the position, examples of performance criteria, minimum requirements, desirable training and experience, supervisory responsibilities (if any), and extent of supervisory direction or guidance provided to position. Good attendance and compliance with work rules and policies are essential functions of all City positions.

Prior to posting a vacant position the existing job description is reviewed by the City Clerk or designee and the hiring supervisor to ensure that the job description is an accurate reflection of the position and that the stated job qualifications do not present artificial barriers to employment.

A current job description is provided to each new employee. Supervisors are responsible for revising job descriptions as necessary to ensure that the position's duties and responsibilities are accurately reflected. All revisions are reviewed and must be approved by the City Clerk.

### **Assigning and Scheduling Work**

Assignment of work duties and scheduling work is the responsibility of the supervisor subject to the approval of the City Clerk.

### **Job Descriptions and Classifications**

Assignment of job titles, establishment of minimum qualifications, and the maintenance of job descriptions and related records is the responsibility of the City Clerk.

### **Layoff**

The City Clerk will maintain a seniority list. In the event that it becomes necessary to reduce personnel, temporary employees and those serving a probationary period in affected job classes will be terminated from employment with the City before other employees in those job classes. Within these groups, the selection of employees to be retained will be based on merit and ability as determined by the City Clerk, subject to approval of the City Council. When all other considerations are equal, the principle of seniority will apply in layoffs and recall from layoff.

## **HOURS OF WORK**

### **Work Hours**

Work schedules for employees and opportunities to work remotely will be established by supervisors with the approval of the City Clerk. The regular work week for employees is five eight-hour days in addition to a lunch period, Monday through Friday, except as otherwise approved by the City Clerk in accordance with the customs and needs of the individual departments.



### **Meal Breaks and Rest Periods**

A paid fifteen (15) minute break is allowed within each four (4) consecutive hours of work. An unpaid thirty (30) minute lunch period is provided when an employee works eight or more consecutive hours. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time or lunch time by saving these breaks.

Departments with unique job or coverage requirements may have additional rules, issued by the supervisor and subject to approval of the City Clerk, on the use of meal breaks and rest periods.

### **Adverse Weather Conditions**

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). Employees will be allowed to use accrued paid time off or compensatory time; or with supervisor approval may modify the work schedule or make other reasonable schedule adjustments.

Public works maintenance employees will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the City Clerk.

## **COMPENSATION**

Full-time employees of the city will be compensated according to schedules adopted by the City Council. Unless approved by the Council, employees will not receive any amount from the city in addition to the pay authorized for the positions to which they have been appointed. Expense reimbursement or travel expenses may be authorized in addition to regular pay.

Under the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages. While the Minnesota Government Data Practices Act (Minn. Stat. §13.43), specifically lists an employee's actual gross salary and salary range as public personnel data, Minnesota law also requires wage disclosure protection rights and remedies to be included in employer personnel handbooks. To that end, and in accordance with Minn. Stat. §181.172, employers may not:

- Require nondisclosure by an employee of his or her wages as a condition of employment.
- Require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wages.
- Take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.
- Retaliate against an employee for asserting rights or remedies under Minn. Stat. §181.172, subd. 3.

The city cannot retaliate against an employee for disclosing his/her own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the city and/or file a complaint with the Minnesota Department of Labor and Industry at (651) 284-5070 or (800) 342-5354.

### **Seasonal / Temporary Employee**

Compensation for seasonal and temporary employees will be set by the City Council at the time of hire, or on an annual basis.

### **Paychecks**

Paychecks are issued every two weeks. Distribution of paychecks to City employees is to be accomplished in a timely manner using accurate, consistent procedures. When paydays fall on a holiday, checks are normally issued the day before the holiday.

Paychecks will not be given to anyone other than the person for whom they were prepared, unless the person has a note signed by the employee authorizing the City to give the other person the check. Checks will be given to the spouse, or another appropriate immediate family member, in the case of a deceased employee.

Employees are responsible for notifying the City Clerk of any change in status including changes in address, phone number, names of beneficiaries, marital status, etc.

### **Direct Deposit**

As provided for in Minnesota law, all employees are required to participate in direct deposit. Employees are responsible for notifying the city administrator of any change in status, including changes in address, phone number, names of beneficiaries, marital status, etc.

### **Time Reporting**

Full-time, non-exempt employees are expected to work 40 hours per workweek and will be paid according to the time reported on their time sheets. To comply with the provisions of the federal and state Fair Labor Standards Acts, hours worked and any PTO used by non-exempt employees are to be recorded daily and submitted to payroll on a bi-weekly basis. Each time reporting form must include the signature of the employee and immediate supervisor. Reporting false information on a time sheet may be cause for immediate termination.

### **Overtime / Compensatory Time**

The City of Freeport has established this overtime policy to comply with applicable state and federal laws governing accrual and use of overtime. The City Clerk will determine whether each employee is designated as “exempt” or “non-exempt” from earning overtime. In general, employees in executive, administrative and professional job classes are exempt; all others are non-exempt.

### **Non-Exempt (Overtime-eligible) Employees:**

All overtime-eligible employees will be compensated at the rate of time and one-half for all hours worked over 40 in one workweek. PTO, compensatory time and paid holidays do not count toward “hours worked”. Compensation will take the form of either time and one-half pay or compensatory time. Compensatory time is paid time off at the rate of one and one-half hours off for each hour of overtime worked.

The employee’s supervisor must approve overtime hours in advance. An employee who works overtime without prior approval may be subject to disciplinary action.

The accrual period for compensatory time runs from November 1 through October 31 of the following year. The maximum compensatory time accumulation is 60 hours. Once an employee has earned 60 hours of compensatory time in the accrual period no further compensatory time may accrue in that accrual period. All further overtime will be paid.

Effort should be made by the employee to use up compensatory time before October 31. An employee may carry over no more than 24 hours of compensatory time into the next accrual period. Any compensatory time remaining on October 31st in excess of 24 hours to be paid out shortly after that date.

A minimum of four hours and a maximum of 24 hours of compensatory time shall be used at a time. A minimum of two hours will be paid to all employees for each call out to respond to accidents, complaints or emergencies. Whenever it is prudent authorization from the employee's supervisor should be obtained before responding to a call out. Some call outs can be addressed once the employee begins their shift. Only emergencies will be considered as call outs. When prior authorization is not obtained for a call out, a written report must accompany the timesheet. If the supervisor finds the claim for payment for a call out is not justified, the claim may be denied. Communications relating to City business at home is not considered call out time.

#### **Exempt (non-overtime-eligible) Employees**

Exempt employees are expected to work the hours necessary to meet the performance expectations outlined by their supervisors. Generally, to meet these expectations, and for reasons of public accountancy, an exempt employee will need to work 40 or more hours per week. Exempt employees do not receive extra pay for the hours worked over 40 in one workweek.

Exempt employees are paid on a salary basis. This means that they receive a predetermined amount of pay each pay period and are not paid by the hour. Their pay does not vary based on the quality or quantity of work performed, and they receive their full weekly salary for any week in which any work is performed.

The City of Freeport will only make deductions from the weekly salary of an exempt employee in the following situations:

- The employee is in a position that does not earn PTO and is absent for a day or more for personal reasons other than sickness or accident;
- The employee is absent for a full workweek and, for whatever reason, the absence is not charged to PTO (for example, a situation where the employee has exhausted all of his/her PTO or a situation where the employee does not earn PTO).
- The very first workweek or the very last workweek of employment with the City in which the employee does not work a full week. In this case, the City will prorate the employee's salary based on the time actually worked.
- The employee is in a position that earns PTO and is absent for a partial day due to personal reasons, illness or injury, but PTO has not been requested or has been denied, PTO is exhausted, or the employee has specifically requested unpaid leave.
- The employee is suspended without pay for a full day or more for disciplinary reasons for violations of any written policy that is applied to all employees.
- The employee takes unpaid leave under the FMLA.

The City of Freeport may for budgetary reasons implement a voluntary or involuntary unpaid leave program and, under this program, make deductions from the weekly salary of an exempt employee. In this case, the employee will be treated as non-exempt for any workweek in which the budget-related deductions are made.

The City of Freeport will not make deductions from pay due to exempt employees being absent for jury duty or attendance as a witness but will require the employee to pay back to the City any amounts received by the employee as jury fees or witness fees.

If the City inadvertently makes an improper deduction to the weekly salary of an exempt employee, the City will reimburse the employee and make appropriate changes to comply in the future.

All employees, in all departments, are required to work overtime as requested by their supervisors as a condition of continued employment. Refusal to work overtime may result in disciplinary action. Supervisors will make reasonable efforts to balance the personal needs of their employees when assigning overtime work.

### **Leave Policy for Exempt Employees**

Exempt employees are required to work the number of hours necessary to fulfill their responsibilities including evening meetings and/or on-call hours. The normal hours of business for management staff are set by the city council, from time-to-time, plus evening meetings as necessary.

Exempt employees are required to use PTO when on personal business or away from the office for four (4) hours or more, on a given day.

Absences of less than four (4) hours do not require use of PTO as it is presumed that the staff member regularly puts in work hours above and beyond the normal Monday through Friday requirement. Exempt employees must communicate their absence to the City Clerk or his/her designee.

If one of the above employees regularly absents themselves from work under this policy, and it is found that there is excessive time away from work which is not justified, the situation will be handled as a performance issue. If it appears that less than forty (40) hours per week is needed to fulfill the position's responsibilities, the position will be reviewed to determine whether a part-time position will meet the needs of the City. Additional notification and approval requirements may be adopted by the City Clerk for specific situations as determined necessary.

### **PERFORMANCE REVIEWS**

An objective performance review system will be established by the City Clerk or designee for the purpose of periodically evaluating the performance of City employees. The quality of an employee's past performance will be considered in personnel decisions such as promotions, transfers, demotions, terminations and, where applicable, salary adjustments.

Performance reviews will be discussed with the employee. While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable using the city's grievance process, other performance evaluation data, including subjective assessments, are not. For those parts of the performance evaluation system deemed not

challengeable, an employee may submit a written response, which will be attached to the performance review. Performance reviews are to be scheduled on a regular basis, at least annually. The form, with all required signatures, will be retained as part of the employee's personnel file.

During the training period, informal performance meetings should occur frequently between the supervisor and the employee.

Signing of the performance review document by the employee acknowledges that the review has been discussed with the supervisor and does not necessarily constitute agreement. Failure to sign the document by the employee will not delay processing.

## **BENEFITS**

### **Severance Pay**

Employees leaving the City in good standing will receive 100% of their PTO balance as compensation.

### **Health Insurance**

The City may offer health insurance to prospective employees.

### **Dental Insurance**

The City does not provide dental insurance.

### **Life Insurance**

The City provides \$10,000 in term life insurance for all full-time employees.

### **Retirement**

The City participates in the Public Employees Retirement Fund (PERA) to provide pension benefits for its eligible employees. Participation in PERA is mandatory for most employees and contributions into PERA begin immediately. The City and the employee contribute to PERA each pay period as determined by state law. Most employees are also required to contribute a portion of each pay check for Social Security and Medicare (the City matches the employee's social security and Medicare withholding). For information about PERA eligibility and contribution requirements contact the City Clerk.

## **HOLIDAYS**

The City observes the following official holidays for all regular full-time and part-time employees:

New Year's Day	Labor Day	Martin Luther King, Jr. Day
Veteran's Day	President's Day	Thanksgiving Day
Christmas Eve Day	Christmas Day	Friday after Thanksgiving*
Memorial Day	Independence Day	

\*The Friday after Thanksgiving Day was provided to employees in exchange for not observing Columbus Day.

Official holidays commence at the beginning of the first shift of the day on which the holiday is observed and continue for twenty-four (24) hours thereafter.

When a holiday falls on a Sunday, the following Monday will be the “observed” holiday and when a holiday falls on a Saturday, the preceding Friday will be the “observed” holiday for City operations/facilities that are closed on holidays.

Full-time employees will receive pay for official holidays at their normal straight time rates, provided they are on paid status on the last scheduled day prior to the holiday and first scheduled day immediately after the holiday. Part-time employees will receive pro-rated holiday pay based on the number of hours normally scheduled. Any employee on a leave of absence without pay from the City is not eligible for holiday pay.

Premium pay of 1.5 times the regular hourly wage for employees required to work on a holiday will be for hours worked on the “actual” holiday as opposed to the “observed” holiday.

Employees wanting to observe holidays, other than those officially observed by the City, may request to trade out up to three holidays in the list above with ‘personal holidays’ to celebrate dates meaningful to the employee.

## **LEAVES**

Depending upon an employee’s situation, more than one form of leave may apply during the same period of time (e.g., The Family and Medical Leave Act is likely to apply during a worker’s compensation absence.). An employee will need to meet the requirements of each form of leave separately. Leave requests will be evaluated on a case-by-case basis.

Except as otherwise states, all paid time off, taken under any of the City’s leave programs, must be taken consecutively, with no intervening unpaid leave. The City will provide employees with time away from work as required by state or federal statutes, if there are requirements for such time off that are not described in the personnel policies.

### **Paid Time Off (PTO)**

PTO replaces individual sick leave, vacation leave, personal leave days and funeral leave plans and combines them into a single benefit program. PTO does not replace City observed holidays, jury duty, military leave, or court leave. Employees accrue PTO based on length of service with the City. Employees will accrue PTO during their training period.

PTO can be used for any reason, subject to existing request and approval procedures. As with all paid time off programs, the City needs to ensure that service to the public and work requirements are not adversely impacted.

### **Medical Certification**

Good attendance is an essential job function for all City employees. If unplanned absences are excessive, a doctor’s certification may be required. The physician’s certification is to state the nature and duration of the illness or injury and verify that the employee is unable to perform the duties and responsibilities of his/her position. A statement attesting to the employee’s ability to return to work and perform the essential functions of the job and a description of any work restrictions may also be required before the employee returns to work.

**Accrual Rates for PTO**

<u>Years of Service</u>	<u>Annual Accrual Rates</u>
1 Year	9 Days
2 Years	14 Days
3 Years	15 Days
4 Years	16 Days
5 Years	17 Days
6 Years	18 Days
7 Years	19 Days
8 Years	20 Days
9 Years	21 Days
10 Years	22 Days
11+ Years	22 Days

PTO will not accrue during unpaid leaves. Regular part-time employees will accrue PTO on a prorated basis based on regular hours worked.

PTO will accrue on a pay-period basis up to a maximum of 1½ times the employee’s maximum annual accrual rate as noted above. Employees can carry over any PTO that does not exceed the stated cap. No additional accrual will occur above the cap.

**Returning to Work After a Medical Absence**

After a medical absence, a physician's statement may be required on the employee’s first day back to work, indicating the nature of the illness or medical condition and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation.

Any work restrictions must be stated clearly on the return-to-work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision.

The City has the right to obtain a second medical opinion to determine the validity of an employee’s worker's compensation claim, or to obtain information related to restrictions or an employee's ability to work. The City will arrange and pay for an appropriate medical evaluation when it has been required by the City.

**Unpaid Leave**

Unpaid leaves may be approved in accordance with the City personnel policies. Employees must normally use all accrued PTO prior to taking an unpaid leave. If the leave qualifies under Parenting Leave or Family and Medical Leave, the employee may retain a balance of forty (40) hours when going on an unpaid leave. Any exceptions to this policy must be approved by the City Clerk.

**Separation Payment**

Employees will be paid accrued, unused PTO, earned through the last date of active employment, subject to applicable caps as noted above, (and applicable taxes withheld) following termination of employment. The rate of pay will be the employee’s base rate of pay at the employee’s termination date. In the event of the employee’s death, earned, unused PTO time will be paid to the employee’s

surviving spouse directly, (if there is not a personal representative of the estate appointed) up to statutory limits.

### **Military Leave**

State and federal laws provide protections and benefits to City employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training or active service not exceeding a total of 15 days in any calendar year. City compensation is in addition to the military's pay for these 15 days, as per MN Attorney General's Opinion.

The leave of absence is only in the event the employee returns to employment with the City as required upon being relieved from service, or is prevented from returning by physical or mental disability or other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. Employees on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five years.

Where possible, notice is to be provided to the City at least ten (10) working days in advance of the requested leave. If an employee has not yet used his/her fifteen (15) days of paid leave when called to active duty, any unused paid time will be allowed for the active duty time, prior to the unpaid leave of absence.

Employees returning from military service will be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of PTO accruals.

Eligibility for continuation of insurance coverage for employees on military leave beyond fifteen (15) days will follow the same procedures as for any employee on an unpaid leave of absence.

### **Military Leave for Family Members**

The city will not discharge from employment or take adverse employment action against an employee because an immediate family member is in the military forces of the United States or Minnesota. Nor will the city discharge from employment or take adverse employment action against an employee because they attend departure or homecoming ceremonies for deploying or returning personnel, family training or readiness events or events held as part of official military reintegration programs. Employees may substitute PTO if they choose to do so.

### **Jury Duty**

Regular full-time and part-time employees will be granted paid leaves of absence for required jury duty. Such employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. Time spent on jury duty will not be counted as time worked in computing overtime.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.



Employees are required to notify their supervisor as soon as possible after receiving notice to report for jury duty. The employee will be responsible for ensuring that a report of time spent on jury duty and pay form is completed by the Clerk of Court so the City will be able to determine the amount of compensation due for the period involved.

Temporary and seasonal employees are generally not eligible for compensation for absences due to jury duty, but can take a leave without pay subject to department head approval. However, if a temporary or seasonal employee is classified as exempt, he/she will receive compensation for the jury duty time.

### **Court Appearances**

Employees will be paid their regular wage to testify in court for City-related business. Any compensation received for court appearances (e.g. subpoena fees) arising out of or in connection with City employment, minus mileage reimbursement, must be turned over to the City.

### **Job Related Injury or Illness**

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to the supervisor and make arrangements for a medical appointment.

Worker's compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

### **Pregnancy and Parenting Leave**

Employees who work twenty (20) hours or more per week and have been employed more than one year are entitled to take an unpaid leave of absence in connection with the birth or adoption of a child. The leave may not exceed six weeks, and must begin within six (6) weeks after the birth or adoption of the child.

The employee is entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave. Group insurance coverage will remain in effect during the six (6) week Parenting Leave.

If the employee has any FMLA eligibility remaining at the time this leave commences, this leave will also count as FMLA leave. The two leaves will run concurrently until eligibility for either leave expires.

### **Administrative Leave**

Under special circumstances, an employee may be placed on an administrative leave pending the outcome of an internal or external investigation. The leave may be paid or unpaid, depending on the circumstances, as determined by the City Clerk with the approval of the City Council.

### **Adoptive Parents**

Adoptive parents will be given the same opportunities for leave as biological parents (see provisions for Parenting Leave). The leave must be for the purpose of arranging the child's placement or caring for the child after placement. Such leave must begin before or at the time of the child's placement in the adoptive home.

### **School Conference Leave**

Any employee who has worked half-time or more for more than twelve (12) consecutive months, may take unpaid leave for up to a total of sixteen (16) hours during any school year to attend school conferences or classroom activities related to the employee's child (under 18 or under 20 and still attending secondary school), provided the conference or classroom activities cannot be scheduled during non-work hours. When the leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the city. Employees may choose to use PTO hours for this absence but are not required to do so.

### **Bone Marrow/Organ Donation Leave**

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours unless agreed to by the City, to undergo medical procedures to donate bone marrow or an organ. The City may require a physician's verification of the purpose and length of the leave requested to donate bone marrow or an organ.

### **Victim or Witness Leave**

An employee who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony is entitled to reasonable time off from work to attend criminal proceedings related to the victim's case.

### **Elections/Voting**

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off with pay for purposes of serving as an election judge, provided that the employee gives the City at least twenty (20) days written notice. The city may reduce the wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment.

All employees eligible to vote at a State general election, at an election to fill a vacancy in the office of United States Senator or Representative, or in a Presidential primary, will be allowed time off with pay to vote during the morning of election day. Employees wanting to take advantage of such leave are required to work with their supervisors to avoid coverage issues.

### **Regular Leave without Pay**

The City Clerk may authorize leave without pay for up to thirty (30) days. Leave without pay for greater periods may be granted by the City Council to a maximum of one (1) year.

Normally employee benefits will not be earned by an employee while on leave without pay. However, the City's contribution toward health, dental and life insurance may be continued, if approved by the City Council, for leaves of up to ninety (90) days when the leave is for medical reasons and FMLA has been exhausted.

If an employee is on a regular leave without pay and is not working any hours, the employee will not accrue (or be paid for) holidays or PTO. Employees who are working reduced hours while on this type of leave will receive holiday pay on a prorated basis and will accrue PTO based on actual hours worked.

Leave without pay hours will not count toward seniority and all accrued PTO and compensatory time must normally be used before an unpaid leave of absence will be approved.

Leave without pay for purposes other than medical leave or work-related injuries will be at the convenience of the City.

Employees returning from a leave without pay for a reason other than a qualified Parenting Leave or FMLA, will be guaranteed return to the original position only for absences of thirty (30) calendar days or less.

Employees receiving leave without pay in excess of thirty (30) calendar days, for reasons other than qualified Parenting Leave or FMLA, are not guaranteed return to their original position. If their original position or a position of similar or lesser status is available, it may be offered at the discretion of the City Clerk subject to approval of the City Council.

## **Family and Medical Leave**

### Eligibility

To qualify to take FMLA leave under this policy, an employee must meet all the following conditions:

- Have worked for the City for 12 months (or 52 weeks) prior to the date the leave is to commence. The 12 months or 52 weeks need not have been consecutive; however, the City will not consider any service 7 years prior to the employee's most recent hire date.
- Have worked at least 1,250 hours during the 12-month period prior to the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act ("FLSA") determine the number of hours worked by an employee.

### Types of Leave Covered by FMLA

Leave will be granted to all eligible employees for any of the following reasons:

- The birth of a child, including prenatal care, or placement of a child with the employee for adoption or foster care;
- To care for a spouse, child, or parent who has a serious health condition;
- Due to a serious health condition that makes the employee unable to perform the essential functions of the position;
- A covered military member's active duty or call to duty or to care for a covered military member.

### Definitions

- "Spouse" does not include domestic partners or common-law spouses.
- "Caring for" a covered family member includes psychological as well as physical care. It also includes acquiring care and sharing care duties. An eligible "child," with some exceptions, is under 18 years of age.

- An eligible “parent” includes a biological parent or a person who stood in the place of a parent.
- “Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves one of the following:
  - Hospital Care: Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;
  - Pregnancy: Any period of incapacity due to pregnancy, prenatal medical care or childbirth;
  - Absence Plus Treatment: A period of incapacity of more than three consecutive calendar days that also involves continuing treatment by or under the supervision of a health care provider.
  - Chronic Conditions Requiring Treatments: An incapacity from a chronic condition which requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity;
  - Permanent/Long-Term Conditions Requiring Supervision
  - Multiple Treatments: Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider.

#### Length and Amount of Leave

The length of FMLA leave is not to exceed twelve (12) weeks in any twelve (12) month period. The leave year is calculated based on a calendar year basis.

The entitlement to FMLA leave for the birth or placement of a child for adoption expires twelve (12) months after the birth or placement of that child.

#### How Leave May Be Taken

FMLA leave may be taken for 12 (or less) consecutive weeks, may be used intermittently (a day periodically when needed), or may be used to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks.

Intermittent leave may be taken when medically necessary for the employee’s serious health condition or to care for a seriously ill family member. Intermittent leave must be documented in the medical certification form as medically necessary.

If an employee is taking intermittent leave or leave on a reduced schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as to not disrupt the City’s business.

In instances when intermittent or reduced schedule leave for the employee or employee's family member is foreseeable or is for planned medical treatment, including recovery from a serious health condition, the City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

Intermittent/reduced scheduled leave may be taken to care for a newborn or newly placed adopted or foster care child only with the City’s approval.

#### Procedure for Requesting Leave and Notice

All employees requesting FMLA leave must provide written or verbal notice of the need for the leave to the City Clerk.

When the need for the leave is foreseeable, the employee must give verbal or written notice to his/her supervisor at least thirty (30) days prior to the date on which leave is to begin.

If thirty (30) days' notice cannot be given, the employee is required to give as much notice as practicable, including following required call-in procedures.

The City requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

#### Certification and Documentation Requirements

For leave due to an employee's serious health condition or that of an employee's family member, the City will require the completion of a Medical Certification form by the attending physician or practitioner. The form must be submitted by the employee to the City Clerk within fifteen (15) calendar days after leave is requested. If the form is not submitted in a timely fashion, the employee must provide a reasonable explanation for the delay. Failure to provide medical certification may result in a denial or delay of the leave.

When leave is due to an employee's own serious health condition, a fitness for duty certification (FFD) will be required before an employee can return to work. Failure to timely provide such certification may eliminate or delay an employee's right to reinstatement under the FMLA.

If an employee is using intermittent leave and reasonable safety concerns exist regarding the employee's ability to perform his or her duties, a FFD certificate may be required as frequently as every 30 days during periods when the employee has used intermittent leave.

Recertification of leave may be required if the employee requests an extension of the original length approved by the City or if the circumstances regarding the leave have changed. Recertification may also be required if there is a question as to the validity of the certification or if the employee is unable to return to work due to the serious health condition.

#### Annual Medical Certification and Recertification

Where the employee's need for leave due to the employee's own serious health condition lasts beyond a single leave year, the City will require employees to provide a new medical certification in each subsequent leave year.

#### Reinstatement

Employees returning from Family and Medical Leave will be reinstated in the same position or a position equivalent in pay, benefits, and other terms and conditions of employment.

#### Group Health Insurance and Other Benefits, Concurrent Leave and Substitution of PTO

An employee granted leave under this policy will continue to be covered under the City's group health and plan under the same conditions and at the same level of City contribution as would have been provided had the employee been continuously employed during the leave period. The employee will be required to continue payment of the employee portion of group insurance coverage while on leave. Arrangements for payment of the employee's portion of premiums must be made by the employee with the City.

If there are changes in the City's contribution levels while the employee is on leave, those changes will take place as if the employee were still on the job.

Rights to additional continued benefits will depend on whether leave is paid or unpaid.

Any paid disability leave benefits (Short Term Disability or Long Term Disability), PTO or compensatory time off available to employees for a covered reason (an employee's serious health condition or a covered family member's serious health condition, including worker's compensation leave and Minnesota State Parenting Leave) will run concurrently with FMLA.

### Failure to Return to Work After FMLA

Under certain circumstances, if the employee does not return to work at the end of the FMLA leave for at least 30 calendar days, the City may require the employee to repay the portion of the monthly cost paid by the City for group health plan benefits. The City may also require the employee to repay any amounts the City paid on the employee's behalf to maintain benefits other than group health plan benefits.

### Military Caregiver Leave

An employee eligible for FMLA leave (described above) who is the spouse, son, daughter, parent, or next of kin of a covered servicemember may take up to 26 weeks in a single 12-month period to care for that servicemember.

The family member must be a current member of the Armed Forces (including a member of the National Guard or Reserves), who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy, or otherwise is on outpatient status or on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, or members on the permanent disability retired list.

### Definitions

- A “son or daughter of a covered servicemember” means the covered servicemember’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- A “parent of a covered servicemember” means a covered servicemember’s biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents “in law.”
- The “next of kin of a covered servicemember” is the nearest blood relative, other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember’s next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember’s only next of kin.
- “Covered active duty” means:
  - “Covered active duty” for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.
  - “Covered active duty” for members of the reserve components of the Armed Forces (members of the U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation as defined in section 101(a)(13)(B) of Title 10 of the United States Code.
- “Covered servicemember” means:

- An Armed Forces member (including the National Guard or Reserves) undergoing medical treatment, recuperation, or therapy or otherwise in outpatient status or on the temporary disability retired list, for a serious injury or illness”; or
- A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- “Serious injury or illness” means:
  - In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and
  - In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered servicemember, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.

Amount of Leave – Qualified Exigency

An eligible employee can take up to 12 weeks of leave for a qualified exigency.

Amount of Leave – Military Caregiver

An eligible employee taking military caregiver leave is entitled to 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date.

Leave taken for any FMLA reason counts towards the 26-week entitlement. If an employee does not take all 26 workweeks of leave to care for a covered servicemember during this “single 12-month period,” the remaining part of the 26 workweeks of leave entitlement to care for the covered servicemember is forfeited. 29 C.F.R. § 825.127(e)(1) (2017).

Certification of Qualifying Exigency for Military Family Leave

The City will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave

The City will require certification for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Servicemember.

All other provisions of the FMLA policy, including use of PTO, Employee Status and Benefits During Leave, Procedure for Requesting Leave, and Benefits During Leave and Reinstatement, are outlined above in the FMLA policy.

#### Reasonable Work Time for Nursing Mothers

Nursing mothers and lactating employees will be provided reasonable break times to express milk for her infant child during the twelve months following the birth of the child, unless it would cause undue business disruption. The paid break time must, if possible, run concurrently with any break time already provided. The city will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

#### **Light Duty/Modified Duty Assignment**

This policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. Light duty is evaluated by the City Clerk on a case-by-case basis. This policy does not guarantee assignment to light duty.

Such assignments are for short-term, temporary disability-type purposes. Assignment of light duty is at the discretion of the City Clerk. The City Clerk reserves the right to determine when and if light duty work will be assigned.

When an employee is unable to perform the essential requirements of his/her job due to a temporary disability, he/she will notify the supervisor in writing as to the nature and extent of the disability and the reason why he/she is unable to perform the essential functions, duties, and requirements of the position. This notice must be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability. The notice must include the expected time frame regarding return to work with no restrictions, meeting all essential requirements and functions of the City's job description along with a written request for light duty. Upon receipt of the written request, the supervisor is to forward a copy of the report to the City Clerk.

The City may require a medical exam conducted by a physician selected by the City to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

It is at the discretion of the City Clerk whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis, light duty will not generally be approved beyond six months.

If the City offers a light duty assignment to an employee who is out on worker's compensation leave, the employee may be subject to penalties if he/she refuses such work. The City will not, however, require an employee who is otherwise qualified for protection under the Family and Medical Leave Act to accept a light duty assignment.

The circumstances of each disabled employee performing light duty work will be reviewed regularly. Any light duty/modified work assignment may be discontinued at any time.

### **SEXUAL HARASSMENT PREVENTION**

#### General



The City of Freeport is committed to creating and maintaining a work place free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws.

In keeping with this commitment, the City maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment. Discriminatory behavior includes inappropriate remarks about, or conduct related to a person's legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

This policy statement is intended to make all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, and elected officials and members of the public aware of the matter of harassment, but specifically sexual harassment, to express the city's strong disapproval of harassment; to advise employees against this behavior and to inform them of their rights and obligations. The most effective way to address any sexual harassment issue is to bring it to the attention of management.

#### Applicability

Maintaining a work environment free from harassment is a shared responsibility. This policy is applicable to all city employees, volunteers, applicants, contractors/vendors, members of boards and commissions, City Council members, and members of the public both in the workplace and other city-sponsored social events.

#### Definitions

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment includes, but is not limited to, the following:

- Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- Verbal or written abuse, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.

- Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.

### Expectations

The City of Freeport recognizes the need to educate its employees, volunteers, members of boards and commissions, contractors/ vendors, applicants, elected officials and members of the public on the subject of sexual harassment and stands committed to providing information and training. All employees are expected to treat each other and the general public with respect and to assist in fostering an environment that is free from unwanted harassment. Violations of this policy may result in discipline, including possible termination. Each situation will be evaluated on a case-by-case basis.

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to any of the following:

- Immediate Supervisor;
- City Clerk;
- Mayor or City Council member.

In addition to notifying one of the above persons and stating the nature of the harassment, the employee is also encouraged to take the following steps, if the person feels safe and comfortable doing so. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and/or take other reasonable action, and as soon as feasible, contact a supervisor.

1. Communicate to the harasser the conduct is unwelcome. Professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions, and request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.
2. In some situations, such as with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with an offender.
3. To reiterate, it's important you notify a supervisor, the City Clerk, the mayor or councilmember of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the city administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the City Clerk, the mayor or the city attorney.

The City urges that conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate.

Management has the obligation to provide an environment free of sexual harassment. The City is obligated to prevent and correct unlawful harassment in a manner which does not abridge the rights of the accused. To accomplish this task, the cooperation of all employees is required.

In the case of a sexual harassment complaint, a supervisor must report the allegations promptly to the city administrator. If the city administrator is the subject of the complaint, then the supervisor is to report the complaint to the City Attorney. A supervisor must act upon such a report even if requested otherwise by the victim. The city will take proportionate corrective action to correct any and all reported harassment to the extent evidence is available to verify the alleged harassment and any related retaliation. As noted later in this policy, retaliation is strictly prohibited. All allegations will be investigated. Formal investigations will be prompt, impartial, and thorough. Strict confidentiality is not possible in all cases of sexual harassment as the accused has the right to answer charges made against them; particularly if discipline is a possible outcome. Reasonable efforts will be made to respect the confidentiality of the individuals involved, to the extent possible. Any investigation process will be handled as confidentially as practical and related information will only be shared on a need-to-know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

The city is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

#### Special Reporting Requirements

When the supervisor is the alleged harasser, a report will be made to the City Clerk who will assume the responsibility for investigation and discipline. For more information about what to do when allegations involve the City Clerk, the mayor, or a councilmember, see below.

If the City Clerk is the alleged harasser, a report will be made to the city attorney who will confer with the Mayor and City Council regarding appropriate investigation and action.

If a councilmember is the alleged harasser, the report will be made to the City Clerk and referred to the city attorney who will undertake the necessary investigation. The city attorney will report his/her findings to the City Council, which will take the action it deems appropriate.

Pending completion of the investigation, the City Clerk may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens. The city will take reasonable and timely action, depending on the circumstances of the situation.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action.

In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The city will take reasonable and timely action, depending on the circumstances of the situation.

### Retaliation

The City of Freeport will not tolerate retaliation or intimidation directed towards anyone who reports employment discrimination, serves as a witness, participates in an investigation, and/or takes any other actions protected under federal or state discrimination laws, including when requesting religious or disability accommodation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor;
2. City Clerk;
3. Mayor or City Councilmember;
4. In the event an employee feels retaliation has occurred by the City Clerk or the City Council, then reporting may be made to the city attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the City Clerk, or if the complaint is against the City Clerk to the city attorney, who will decide how to proceed in addressing the complaint.

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations.

## **RESPECTFUL WORKPLACE POLICY**

The intent of this policy is to provide general guidelines about conduct that is, and is not, appropriate in the workplace and other city-sponsored social events.

The city acknowledges this policy cannot possibly predict all situations that might arise, and also recognizes that some employees can be exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

Applicability

Maintaining a respectful public service work environment is a shared responsibility. This policy is intended to express to all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, elected officials and members of the public the expectations by the City of Freeport for respectful workplace conduct both in the workplace and other city-sponsored social events.

Abusive Customer Behavior

While the city has a strong commitment to customer service, the city does not expect employees to accept verbal and other abuse from any customer.

An employee may request that a supervisor intervene when a customer is abusive, or the employee may defuse the situation themselves, including professionally ending the contact.

If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor. Employees should leave the area immediately when violence is imminent unless their duties require them to remain (such as police officers). Employees must notify their supervisor about the incident as soon as possible.

Types of Disrespectful Behavior

The following behaviors are unacceptable and therefore prohibited, even if not unlawful in and of themselves:

- (a) Violent behavior: includes the use of physical force, harassment, bullying or intimidation.
- (b) Discriminatory behavior: includes inappropriate remarks about or conduct related to a person's legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.
- (c) Offensive behavior: may include such actions as: rudeness, angry outbursts, inappropriate humor, vulgar obscenities, name calling, disparaging language, or any other behavior regarded as offensive to a reasonable person based upon violent or discriminatory behavior as listed above. It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, considering the sensibilities of employees and the possibility of public reaction. Although the standard for how employees treat each other and the general public will be the same throughout the city, there may be differences between work groups about what is appropriate in other circumstances unique to a work group. If an employee is unsure whether a particular behavior is appropriate, the employee should request clarification from their supervisor or the city administrator.
- (d) Sexual harassment: can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
  - Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or

- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Names and Pronouns: Every employee will be addressed by a name and by pronouns that correspond to the employee's gender identity. A court-ordered name or gender change is not required.

#### Employee Response to Disrespectful Workplace Behavior

All employees should feel comfortable calling their supervisor or another manager to request assistance should they not feel comfortable with a situation. If situations involve violent behavior call the police, ask the individual to leave the area, and/or take other reasonable action

If employees see or overhear what they believe is a violation of this policy, employees should advise a supervisor, the City Clerk, or city attorney promptly.

Employees who believe disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor. In the event the disrespectful behavior occurring involves the employee's supervisor, the employee should contact the City Clerk.

Step 1(a). If you feel comfortable doing so, professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions. Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

Step 1(b). If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor or the City Clerk. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter.

In some situations, such as with an offender from the public it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with the offender.

Step 1(c). The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. It is vitally important you notify a supervisor, the City Clerk, the mayor or councilmember of promptly of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the City Clerk.

Step 2. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the City Clerk, the mayor or the city attorney.

#### Supervisor's Response to Allegations of Disrespectful Workplace Behavior

Employees who have a complaint of disrespectful workplace behavior will be taken seriously.

In the case of sexual harassment or discriminatory behavior, a supervisor must report the allegations promptly to the City Clerk, who will determine whether an investigation is warranted. A supervisor

must act upon such a report even if requested otherwise by the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

Step 1(a). If the nature of the allegations and the wishes of the victim warrant a simple intervention, the supervisor may choose to handle the matter informally. The supervisor may conduct a coaching session with the offender, explaining the impact of his/her actions and requiring the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 1(b). Supervisors, when talking with the reporting employee will be encouraged to ask him or her what he or she wants to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly. However, any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

Step 2. If a formal investigation is warranted, the individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations. Formal investigations will be prompt, impartial, and thorough. The person being interviewed may have someone of his/her own choosing present during the interview. Typically, the investigator will obtain the following description of the incident, including date, time and place:

- Corroborating evidence.
- A list of witnesses.
- Identification of the offender.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

Step 3. The supervisor must notify the City Clerk about the allegations (assuming the allegations do not involve the City Clerk). For more information about what to do when allegations involve the City Clerk, the mayor, or a councilmember, see “Special Reporting Requirements” below.

Step 4. In most cases, as soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations, and the alleged violator will have the opportunity to answer questions and respond to the allegations. The city will follow any other applicable policies or laws in the investigatory process.

Step 5. After adequate investigation and consultation with the appropriate personnel, a decision will be made regarding whether or not disciplinary action will be taken.

Step 6. The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable and to the extent permitted by the Minnesota Government Data Practices Act.

Step 7. The city will take reasonable and timely action, depending on the circumstances of the situation.

The city is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint

under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

#### Special Reporting Requirements

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the City Clerk who will determine how to proceed in addressing the complaint as well as appropriate discipline.

If the City Clerk is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the city attorney who will confer with the mayor and City Council regarding appropriate investigation and action.

If a councilmember is perceived to be the cause of a disrespectful workplace behavior incident involving city personnel, the report will be made to the City Clerk and referred to the city attorney. In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The independent investigator will report his/her findings to the City Council. The city will take reasonable and timely action, depending on the circumstances of the situation.

Pending completion of the investigation, the City Clerk may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action.

#### Confidentiality

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s).

#### Retaliation

Retaliation is strictly prohibited. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Individuals who report harassing conduct, participate in investigations, or take any other actions protected under federal or state employment discrimination laws will not be subject to retaliation.

Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the



media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor;
2. City Clerk;
3. Mayor or city councilmember
4. In the event an employee feels retaliation has occurred by the City Clerk or the city council, then reporting may be made to the city attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the City Clerk, or if the complaint is against the City Clerk to the city attorney, who will decide how to proceed in addressing the complaint.

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations.

### **Possession and Use of Dangerous Weapons**

Possession or use of a dangerous weapon (see attached definitions) is prohibited on city property, in city vehicles, or in any personal vehicle, which is being used for city business. This includes employees with valid permits to carry firearms.

The following exceptions to the dangerous weapons prohibition are as follows:

- Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on city property.
- A person who is showing or transferring the weapon or firearm to a police officer as part of an investigation.
- Police officers and employees who are in possession of a weapon or firearm in the scope of their official duties.

## **SEPARATION FROM SERVICE**

### **Resignations**

Employees wishing to leave the City service in good standing must provide a written resignation notice to their supervisor, at least fourteen (14) working days before leaving. Exempt employees must give thirty calendar days' notice. The written resignation must state the effective date of the employee's resignation.

Unauthorized absences from work for a period of three consecutive workdays may be considered as resignation without proper notice. Failure to comply with this procedure may be cause for denying the employee's severance pay and any future employment with the City.

**Severance Pay**

Employees who leave the employ of the City in good standing by retirement or resignation will receive pay for 100% of unused accrued PTO.

**DISCIPLINE**

**General Policy**

Supervisors are responsible for maintaining compliance with City standards of employee conduct. The objective of this policy is to establish a standard disciplinary process for employees of the City of Freeport. City employees will be subject to disciplinary action for failure to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable city policies.

Discipline will be administered in a non-discriminatory manner. An employee who believes that discipline applied was either unjust or disproportionate to the offense committed may pursue a remedy through the grievance procedures established in the City's personnel policies. The supervisor and/or the City Clerk will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

**No Contract Language Established**

This policy is not to be construed as contractual terms and is intended to serve only as a guide for employment discipline.

**Process**

The City may elect to use progressive discipline with any employee. There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these personnel policies implies that any City employee has a property right to the job he/she performs.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee.

The following are descriptions of the types of disciplinary actions:

Oral Reprimand

This measure will be used where informal discussions with the employee's supervisor have not resolved the matter. All supervisors have the ability to issue oral reprimands without prior approval.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice that the performance or behavior needs to change, and what the change must be. The supervisor will document the oral reprimand including date(s) and a summary of discussion and corrective action needed.

Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the supervisor with prior approval from the City Clerk.

A written reprimand will: (1) state what did happen; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. Employees' signatures do not mean that they agree with the reprimand. Written reprimands will be placed in the employee's personnel file.

### **Suspension With or Without Pay**

The City Clerk may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans will not be suspended without pay in conjunction with a termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

### **Demotion and/or Transfer**

An employee may be demoted or transferred if attempts at resolving an issue have failed and the City Clerk determines a demotion or transfer to be the best solution to the problem. The employee must be qualified for the position to which they are being demoted or transferred. The City Council must approve this action.

### **Salary**

An employee's salary increase may be withheld or the salary may be decreased due to performance deficiencies.

### **Dismissal**

The City Clerk, with the approval of the City Council, may dismiss an employee for substandard work performance, serious misconduct, or behavior not in keeping with City standards.

If the disciplinary action involves the removal of a qualified veteran, *who has completed his/her initial probationary period*, the appropriate hearing notice will be provided and all rights will be afforded the veteran in accordance with Minnesota law.

## **GRIEVANCE PROCEDURE**

Any dispute between an employee and the City relative to the application, meaning or interpretation of these personnel policies will be settled in the following manner:

Step 1: The employee must present the grievance in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of the personnel policies allegedly violated and the remedy requested, to the proper supervisor within twenty-one (21) days after the alleged violation or dispute has occurred. The supervisor will respond to the employee in writing within seven (7) calendar days.

Step 2: If the grievance has not been settled in accordance with Step 1, it must be presented in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of the Personnel Policies allegedly violated, and the remedy requested, by the employee to the City Clerk within seven (7) days after the supervisor's response is due. The City Clerk or his/her designee will respond to the employee in writing within seven (7) calendar days. The decision of the City Clerk is final for all disputes with exception of those specific components in a performance evaluation subject to a challenge through the Minnesota Department of Administration.

### Waiver

If a grievance is not presented within the time limits set forth above, it will be considered "waived." If a grievance is not appealed to the next step in the specified time limit or any agreed extension thereof, it will be considered settled on the basis of the City's last answer. If the City does not answer a grievance or an appeal within the specified time limits, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the City and the employee without prejudice to either party.

The following actions are not grievable:

- While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable, other performance evaluation data, including subjective assessments, are not.
- Pay increases or lack thereof; and
- Merit pay awards.

The above list is not meant to be all inclusive or exhaustive.

## **EMPLOYEE EDUCATION & TRAINING**

The City promotes staff development as an essential, ongoing function needed to maintain and improve cost effective quality service to residents. The purposes for staff development are to ensure that employees develop and maintain the knowledge and skills necessary for effective job performance and to provide employees with an opportunity for job enrichment and mobility.

### **Policy**

The City will pay for the costs of an employee's participation in training and attendance at professional conferences, provided that attendance is approved in advance under the following criteria and procedures:

### **Job-Related Training & Conferences**

The subject matter of the training session or conference is directly job-related and relevant to the performance of the employee's work responsibilities. Responsibilities outlined in the job description, annual work program requirements and training goals and objectives that have been developed for the employee will be considered in determining if the request is job-related.

CLE or similar courses taken by an employee in order to maintain licensing or other professional accreditation will not be eligible for payment under this policy unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the City.

The supervisor and the City Clerk are responsible for determining job-relatedness and approving or disapproving training and conference attendance.

### **Job-Related Meetings**

Attendance at professional meetings costing \$500 or less, and directly related to the performance of the employee's work responsibilities, does not require the approval of the City Clerk. Advance supervisor approval is required to ensure adequate department coverage.

### **Request for Participation in Training & Conferences**

The request for participation in a training session or conference must be submitted in writing to the employee's supervisor on the appropriate form. All requests must include an estimate of the total cost (training session, travel, meals, etc.) and a statement of how the education or training is related to the performance of the employee's work responsibilities with the City.

Requests totaling more than \$500 must be approved by the employee's supervisor and the City Clerk. Documentation approving conference or training attendance will be provided to the employee with a copy placed in the employee's personnel file.

Payment information such as invoices, billing statements, etc., regarding the conference or training should be forwarded to accounting for prompt payment.

### **Out of State Travel**

The following rules were adopted on February 23, 2010 as the Elected Officials & City Employees Out-of-State Travel Policy.

#### Purpose

The City of Freeport recognizes that its elected official and/or city employees may at times receive value from traveling out of the state for workshops, conferences, events and other assignments. This policy sets forth the conditions under which out-of-state travel will be reimbursed by the city.

#### General Guidelines

The event, workshop, conference or assignment must be approved in advance by the City Council at an open meeting and must include an estimate of the cost of the travel. In evaluating the out-of-state travel request; the Council will consider the following:

- Whether the individual will be receiving training on issues relevant to the city or to his or her role as an elected official or city employee;
- Whether the individual will be meeting and networking with other individuals from around the country to exchange ideas on topics of relevance to the city or on the official roles of local elected officials or city employees;
- Whether the individual will be viewing a city facility or function that is similar in nature to one that is currently operating at, or under consideration by the City where the purpose for the trip is to study the facility or function to bring back ideas for the consideration of the full council;
- Whether the individual has been specifically assigned by the Council to visit another city for the purpose of establishing a goodwill relationship such as a "sister-city" relationship;
- Whether the individual has been specifically assigned by the Council to testify on behalf of the city at the United States Congress or to otherwise meet with federal officials on behalf of the city.
- Whether the city has sufficient funding available in the budget to pay the cost of the trip.

No reimbursements will be made for attendance at events sponsored by or affiliated with political parties.

The city may make payments in advance for airfare, lodging and registration if specifically approved by the Council. Otherwise all payments will be made as reimbursements to the elected official.

The city will reimburse for transportation, lodging, meals, registration, and incidental costs as follows:

Airfare will be reimbursed at the coach rate.

Mileage will be reimbursed at the IRS rate. If two or more council members travel together by car, only the driver will receive reimbursement. The city will reimburse for the cost of renting an automobile if necessary to conduct city business.

Lodging costs are limited to those which are reasonable and necessary and meal costs are limited to that allowed under the Meal Allowance Reimbursement Policy (see attached).

Receipts are required for lodging, airfare, and meals and should accompany an expense report form. It is not necessary to have receipts for cabs and tips. The expense report form shall be submitted to the Clerk for payment.

The city will not reimburse for alcoholic beverages, personal telephone calls, costs associated with the attendance of a family member, rental of luxury vehicles, meal expenses included in the cost of registration, or recreational expenses such as golf or tennis.

### **Compensation for Travel & Training Time**

Time spent traveling to and from, as well as time spent attending a training session or conference, will be compensated in accordance with the federal Fair Labor Standards Act.

Travel and other related training expenses will be reimbursed subject to the employee providing necessary receipts and appropriate documentation.

### **Memberships and Dues**

The purpose of memberships to various professional organizations must be directly related to the betterment of the services of the City. Normally, one City membership per agency, as determined by the City Clerk is allowed, providing funds are available.

Upon separation of employment, individual memberships remain with the City and are transferred to another employee by the supervisor.

### **Travel & Meal Allowance**

If employees are required to travel outside of the area in performance of their duties as a City employee, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred. In no case will city funds be used to pay for, or reimburse, for events sponsored by or affiliated with political parties. However, the City will not reimburse employees for meals connected with training or meetings within City limits, unless the training or meeting is held as a breakfast, lunch or dinner meeting. The city will also not reimburse employees for the costs for travel of family members.

Employees who find it necessary to use their private automobiles for City travel and who do not receive a car allowance will be reimbursed at the prevailing mileage rate as established by the City Council, not to exceed the allowable IRS rate.

Expenses for meals, including sales tax and gratuity, will be reimbursed according to this policy. No reimbursement will be made for alcoholic beverages. Meal expenses will be allowed up to the IRS per diem rate per day.

A full reimbursement, over the maximum defined, may be authorized if a lower cost meal is not available when attending banquets, training sessions, or meetings of professional organizations.

### **OUTSIDE EMPLOYMENT**

The potential for conflicts of interest is lessened when individuals employed by the City of Freeport regard the City as their primary employment responsibility. All outside employment is to be reported to the employee's immediate supervisor. If a potential conflict exists based on this policy or any other consideration, the supervisor will consult with the City Clerk. Any City employee accepting employment in an outside position that is determined by the City Clerk to be in conflict with the employee's City job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

For the purpose of this policy, outside employment refers to any non-City employment or consulting work for which an employee receives compensation, except for compensation received in conjunction with military service or holding a political office or an appointment to a government board or commission that is compatible with City employment. The following is to be considered when determining if outside employment is acceptable:

- Outside employment must not interfere with a full-time employee's availability during the City's regular hours of operation or with a part-time employee's regular work schedule.

- Outside employment must not interfere with the employee's ability to fulfill the essential requirements of his/her position.
- The employee must not use City equipment, resources or staff in the course of the outside employment.
- The employee must not violate any City personnel policies as a result of outside employment.
- The employee must not receive compensation from another individual or employer for services performed during hours for which he/she is also being compensated by the City. Work performed for others while on approved PTO or compensatory time is not a violation of policy unless that work creates the appearance of a conflict of interest.
- No employee will work for another employer, or for his/her own business, while using paid sick leave from the city for those same hours.

Departments may establish more specific policies as appropriate, subject to the approval of the City Clerk.

City employees are not permitted to accept outside employment that creates either the appearance of or the potential for a conflict with the development, administration or implementation of policies, programs, services or any other operational aspect of the City.

### **DRUG FREE WORKPLACE**

In accordance with Federal Law, the City of Freeport has adopted the following policy on drugs in the workplace:

Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the City's intent and obligation to provide a drug-free, safe and secure work environment.

The unlawful manufacture, distribution, possession, or use of a ~~controlled substance~~ *drug* on City property or while conducting City business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

The City recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate.

Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting City business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

### **CITY DRIVING POLICY**

This policy applies to all employees who drive a vehicle on city business at least once per month, whether driving a city-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature



of the job. The City expects all employees who are required to drive as part of their job to drive safely and legally while on City business and to maintain a good driving record.

The City will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their immediate supervisor on the first work day after any temporary, pending or permanent action is taken on their license and to keep their supervisor informed of any changes thereafter.

The City will determine appropriate action on a case-by-case basis.

## **CELLULAR PHONE USE**

This policy is intended to define acceptable and unacceptable uses of cellular telephones. Its application is to ensure that cellular phone usage is consistent with the best interests of the City without unnecessary restriction of employees in the conduct of their duties. This policy will be implemented to prevent the improper use or abuse of cellular phones and to ensure that City employees exercise the highest standards of propriety in their use.

### General Policy

Cellular telephones are intended for the use of City employees in the conduct of their work for the City. Supervisors are responsible for the cellular telephones assigned to their employees and will exercise discretion in their use. Nothing in this policy will limit supervisor discretion to allow reasonable and prudent personal use of such telephones or equipment provided that:

- Its use in no way limits the conduct of work of the employee or other employees.
- No personal profit is gained or outside employment is served.
- All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of cellphones at all times. Employees whose job responsibilities include regular or occasional driving and who are issued a cellphone for business use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances and in accordance with Minnesota law, employees are required to use hands-free operations or pull off into a parking lot and safely stop the vehicle before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times. Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area. Hands-free equipment will be provided with city-issued phones to facilitate the provisions of this policy.
- Reading/sending text messages, making or receiving phone calls, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.
  - In accordance with State law, there is an exception to hands free cell phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a State law exception for authorized emergency vehicles while in the performance of official duties.
- Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

- A supervisor may authorize an employee to use his/her own personal phone for City business and be reimbursed by the City for those calls.

Use of public resources by City employees for personal gain and/or private use including, but not limited to, outside employment or political campaign purposes, is prohibited and subject to disciplinary action which may include termination and/or criminal prosecution, depending on the circumstances. Incidental and occasional personal use may be permitted with the consent of the supervisor.

Cellular telephones will be provided to department managers. A department manager who opts to use a personally owned phone may be reimbursed the average value of a single monthly plan paid by the City.

#### Procedures

It is the objective of the City of Freeport to prevent and correct any abuse or misuse of cellular telephones through the application of this policy. Employees who abuse or misuse such telephones may be subject to disciplinary action.

#### Responsibility

The City Clerk, or designee, will have primary responsibility for implementation and coordination of this policy. All supervisors will be responsible for enforcement within their departments.

### **SAFETY**

The health and safety of each employee of the City and the prevention of occupational injuries and illnesses are of primary importance to the City. To the greatest degree possible, management will maintain an environment free from unnecessary hazards and will establish safety policies and procedures for each department. Adherence to these policies is the responsibility of each employee. Overall administration of this policy is the responsibility of each supervisor.

#### **Reporting Accidents and Illnesses**

Both Minnesota Worker's Compensation laws and the state and federal Occupational Safety and Health Acts require that all on the job injuries and illnesses be reported as soon as possible by the employee, or on behalf of the injured or ill employee, to his/her supervisor. The employee's immediate supervisor is required to complete a First Report of Injury and any other forms that may be necessary related to an injury or illness on the job.

#### **Safety Equipment/Gear**

Where safety equipment is required by federal, state, or local rules and regulations, it is a condition of employment that such equipment be worn by the employee.

#### **Unsafe Behavior**

Supervisors are authorized to send an employee home immediately when the employee's behavior violates the City's personnel policies, department policies, or creates a potential health or safety issue for the employee or others.

#### **Access to Gender-Segregated Activities and Areas**

With respect to all restrooms, locker rooms or changing facilities, employees will have access to facilities that correspond to their affirmed gender identity, regardless of their sex at birth. The city maintains separate restroom and/or changing facilities for male and female employees and allows employees to access them based on their gender identity.

In any gender-segregated facility, any employee who is uncomfortable using a shared facility, regardless of the reason, will, upon the employee's request, be provided with an appropriate alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule. However, the city will not require a transgender or gender diverse employee to use a separate, nonintegrated space, unless requested by the transgender or gender diverse employee, because it may publicly identify or marginalize the employee as transgender.

Under no circumstances may employees be required to use sex-segregated facilities that are inconsistent with their gender identity.