

Chapter 125 Personnel

Charter References — City personnel generally, art. X; the planning and zoning commission, art. XI; board of adjustment, §11.5.

Cross Reference — Administration generally, chs. **105 — 120**.

Editor's Note — Ord. no. 7328 §1, adopted August 28, 2006, deleted chapter 125 and adopted a new ch. 125 as set out herein. Former 125 derived from Code 1980 §18-1 — 18-5, 18-16 — 18-22, 18-33 — 18-44, 18-50 — 18-56, 18-62 — 18-69, 18-75 — 18-79; 18-91 — 18-94; 18-105 — 18-109, 18-118 — 18-121, 18-127 — 18-131; 18-137 — 18-144; 18-150 — 18-153, 18-164 — 18-166, 18-172 — 18-182, 18-192 — 18-213; CC 1990 §18-1 — 18-6, 18-26 — 18-32, 18-51 — 18-62, 18-76 — 18-82, 18-96 — 18-103, 18-116 — 18-120, 18-137 — 18-140, 18-156 — 18-160, 18-176 — 18-177, 18-191 — 18-195, 18-211 — 18-218, 18-225, 18-236 — 18-238, 18-256 — 18-258, 18-281 — 18-291, 18-311 — 18-332; ord. no. 4582, 11-11-1985; ord. no. 4990 §1, 2-27-1989; ord. no. 5133, 5-29-1990; ord. no. 5139, 7-9-1990; ord. no. 5264, 8-13-1991; ord. no. 5563, 11-22-1993; ord. no. 5572, 11-30-1993; ord. no. 5656, 9-26-1994; ord. no. 5657, 9-26-1994; ord. no. 5959, 4-28-1997; ord. no. 5982, 7-14-1997; ord. no. 6126, 7-13-1998; ord. no. 6711, 7-8-2002; ord. no. 6740, 9-9-2002; ord. no. 6801, 1-15-2003; ord. no. 6855, 4-14-2003; ord. no. 6917, 10-27-2003; ord. no. 6951, 12-8-2003. We have reserved any unused section numbers from the former ch. 125.

- ARTICLE I In General** (Section 125.005 – Section 125.030) >
- ARTICLE II Classification of Positions** (Section 125.035 – Section 125.065) >
- ARTICLE III Employment Procedures and Examinations — Lists** (Section 125.070 – Section 125.225) >
- ARTICLE IV Layoffs and Disciplinary Actions** (Section 125.230 – Section 125.250) >
- ARTICLE V Complaints and Grievances** (Section 125.255 – Section 125.285) >
- ARTICLE VI Leave Policies** (Section 125.290 – Section 125.370) >
- ARTICLE VII Insurance and Sick Leave** (Section 125.375 – Section 125.440) >
- ARTICLE VIII Employees' Code of Ethics** (Section 125.445 – Section 125.560) >
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City of Florissant, MO
Wednesday, January 15, 2025

Chapter 125. Personnel

ARTICLE I. In General

Section 125.005. Purpose of Chapter — Equal Opportunity Employer — Appointments and Promotions Generally.

[Ord. No. 7328 §1, 8-28-2006]

The general purpose of this Chapter is to establish for the City a system of personnel administration based on merit principles governing the appointment, promotion, transfer, layoff, removal, discipline and welfare of its classified service and other incidents in City employment. It is the express policy of the City of Florissant not to discriminate in employment because of race, color, religion, age, sex, pregnancy, national origin, veteran status, handicap or disability unrelated to the ability to perform a job. All appointments and promotions to positions in the City's service shall be on the basis of merit and fitness to be ascertained as far as practicable by competitive examinations and service ratings, except as otherwise specified in this Chapter.

Section 125.010. Composition of Classified Service.

[Ord. No. 7328 §1, 8-28-2006]

- A. The classified service to which this Chapter shall apply shall comprise all positions in the City now existing or hereafter established, except the following:
1. Private secretary to the Mayor;
 2. Purchasing Officer;
 3. Personnel Officer;
 4. Directors of departments;
 5. Clerk of the Municipal Court;
 6. City Attorney and Assistant City Attorney;
 7. City Clerk;
 8. Members of advisory and administrative boards and commissions;
 9. All persons serving without compensation.

Section 125.015. Personnel Commission Generally.

[Ord. No. 7328 §1, 8-28-2006]

- A. *Composition.* There shall be a Personnel Commission composed of nine (9) members, one (1) from each ward, appointed by the Council. Each member shall be a registered voter of the City and shall have resided therein for at least two (2) years immediately prior to his/her appointment. The members of the Commission shall be persons in sympathy with the application of merit principles to public employment. No member of the Commission shall be a member of any local, State or national committee of a political party or any elected officer of any partisan political club or organization. The members of the Commission during their terms thereon shall hold no other public office or employment in the City and shall not hold or be a candidate for a political office. Appointment to the Commission shall require the approval of seven (7) Council members.
- B. *Terms Of Office.* The members of the Commission shall be appointed for a term of four (4) years. Vacancies for the balance of the term shall be filled as provided for original appointment.
- C. *Removal From Office.* Members of the Personnel Commission may be removed upon the affirmative vote of seven (7) members of the Council, for cause, upon notice and written charges and after opportunity for public hearing is given, no less than ten (10) days after notice to the person so charged. At such hearing the person so charged may be represented by counsel and may present evidence in his/her behalf.
- D. *Powers And Duties.* It shall be the duty of the Personnel Commission to:
1. Advise the Mayor and Council on problems concerning personnel administration.
 2. Make any investigation which it deems desirable concerning the system of personnel administration in the City and make a report to the Mayor and Council at least once each year of any findings and recommendations. No such report shall be required in the event that the Personnel Commission has not undertaken any investigation resulting in any findings or recommendations.
 3. Hear and determine the appeals of all persons in the classified service from all actions of department heads or other duly authorized supervisory personnel relating to the discharge, suspension, disciplining or otherwise penalizing of such persons, who shall have the right to be represented by Council.
 4. Perform such other duties with reference to personnel administration, not inconsistent with the Charter, as the Council may prescribe by ordinance.
- E. *Voting.* The Mayor may attend meetings of the Commission and may have a voice but no vote in its proceedings. Actions of the Commission shall be taken only upon the affirmative vote of a majority of the members of the Commission.

Section 125.020. Personnel Officer.

[Ord. No. 7328 §1, 8-28-2006]

- A. *Position Created.* In accordance with Article X of the Charter, there is hereby created the position of Personnel Officer.
- B. *Powers And Duties Generally.* The Personnel Officer, who may also be designated as the Personnel Director, shall have the power and it shall be his/her duty to:
1. Publicize the call for all competitive examinations;
 2. Take all applications for employment and conduct competitive examinations of all applicants for positions;
 3. Be the custodian of all personnel records;

4. Prepare and recommend for action by the Council rules and changes of rules as deemed desirable, including a classification plan on the basis of duties, responsibilities and qualifications so arranged as to promote the filling of the higher classifications, as far as practicable, through promotion from lower classifications;
5. Recommend to the Council an appropriate classification for each position in the classified service and recommend changes from class to class, as appropriate;
6. Prepare for submission to the Council statements as to uniform standards with respect to duty, salary classification, attendance, leave regulations, transfers, promotions, employee training and employee benefits;
7. Make such administrative regulations as he/she may deem necessary, not inconsistent with applicable ordinances and regulations involving the administration of the provisions of such ordinances and regulations;
8. If deemed appropriate or requested, make semi-annual reports to the Mayor, his/her designee or the Council for its approval, together with such recommendations for action as he/she may deem desirable, and such special reports as may be requested by the Mayor, his/her designee or the Council;
9. Cooperate with department heads and others in providing programs of training and education for employees, employee welfare, promoting of employee morale, and otherwise raising standards of performance in the classified service;
10. Approve or disapprove, as to compliance with the provisions of this Chapter, all appointments, demotions, transfers, promotions, service ratings, leaves of absence, changes in rates of pay, suspensions, separations and other matters affecting the status of employees;
11. Make such investigations as he/she may deem desirable with respect to the enforcement and effect of the personnel provisions of ordinances and of this Chapter and such special investigations and reports as the Mayor, his/her designee or the Council may request;
12. Assist the department heads in all practicable ways in handling other personnel matters;
13. Perform such other functions as the Mayor, his/her designee or the Council may from time to time require;
14. Prepare such forms as are necessary in the maintenance of the personnel system.

Section 125.025. Establishment of Plan of Deferred Compensation For Employees — Funding — Rules and Regulations.

[Ord. No. 7328 §1, 8-28-2006]

- A. The City does hereby authorize a deferred compensation plan and trust for City employees in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, as amended.
- B. The Council does hereby declare that the primary purpose of this plan is to provide supplemental retirement income and other deferred benefits to participating employees in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, as amended. The plan and trust are established and shall be maintained for the exclusive benefit of eligible employees.
- C. The Director of Finance is hereby authorized to maintain a plan and trust document in

accordance with provisions of Section 457 of the Internal Revenue Code of 1986, as amended, to formulate rules and procedures for the administration of the plan and trust and to serve as plan trustee on behalf of the City.

Section 125.030. Establishment of Flexible Benefit Plan.

[Ord. No. 7328 §1, 8-28-2006]

The City does hereby authorize and establish a "Flexible Benefit Plan" pursuant to the document which is on file in the City offices and made a part hereof as if fully set out herein.

ARTICLE II. Classification of Positions

Section 125.035. Maintenance.

[Ord. No. 7328 §1, 8-28-2006]

The Personnel Officer shall maintain the classification of all positions in the classified service on the basis of duties and responsibilities.

Section 125.040. Classification Plan Generally.

[Ord. No. 7328 §1, 8-28-2006]

The classification plan for City employees shall allocate each classified position to its appropriate class, placing in each class those positions which are substantially so similar with respect to duties, responsibility and character of work as to require generally the same kind and amount of training and experience for proper performance and to merit approximately equal pay. It shall provide, insofar as practicable, uniform application of the classification plan to positions in the several departments of the classified service.

Section 125.045. Position Titles.

[Ord. No. 7328 §1, 8-28-2006]

- A. *Generally.* Each position in the classified service of the City shall be assigned a title, but the use of such titles shall not be construed as declaring to any event, or in any way, what the duties or responsibilities of any position shall be, or as limiting or in any way modifying the power of any department head to assign duties to or direct and control the work of employees under his/her supervision. The job content of any position covered by a title consists of those functions as directed by the department head or any subordinate to whom his/her authority has been delegated.
- B. *Use.* The title (or appropriate abbreviation or code number or symbol) of each position allocated to the particular classification pursuant to this Section shall be used on all payrolls, personnel forms and official records.
- C. *Effect On Wage Rates, Etc.* Upon the approval of the classification plan, no regular employee of the City shall be appointed, employed or paid under any title other than that of the class to which the position occupied by him/her is allocated; and no person shall be employed as a regular employee or paid in any position until the class of such position has been determined.

Section 125.050. Administration.

[Ord. No. 7328 §1, 8-28-2006]

- A. The administration of the classification plan, use of proper titles and allocation of such titles to the proper wage classification shall be the continuing responsibility of the department heads and the Personnel Officer.
- B. Jointly, they shall study the duties and responsibilities of each new position as it is created and, on the basis of this study, recommend to the Mayor, his/her designee or the Council the position for inclusion in the appropriate class for the duties performed.
- C. When a change is made in the duties and responsibilities of a position involving either the addition of new assignments or the taking away or modifications of existing ones, such changes shall be reported by the department heads to the Personnel Officer who shall investigate such changes; and if they are to be permanent and significant enough to warrant reclassification, he/she shall recommend to the Mayor, his/her designee or the Council the appropriate class for the position.
- D. The Personnel Officer shall periodically check the classification of positions and, upon the basis of his/her investigations, recommend to the Mayor, his/her designee or the Council that existing classes be combined, abolished or, if necessary, new classifications established. All such recommendations made by the Personnel Officer shall be submitted to the Mayor, his/her designee or the Council for review and approval.

Section 125.055. Reclassification.

[Ord. No. 7328 §1, 8-28-2006]

A regular employee of the City who is occupying a position reallocated to a different class shall continue in the class only if he/she is eligible for, and is actually appointed to, the position of the new class in accordance with the regulations governing promotion, transfer or demotion. Any regular employee whose position is reallocated shall have an orientation period of sixty (60) calendar days to prepare and qualify for the new class by attaining a passing grade in a test of fitness or other evaluation for the class to which the position has been reallocated.

Section 125.060. Review of Position Classification.

[Ord. No. 7328 §1, 8-28-2006]

If any employee of the City believes that his/her position has been improperly allocated, he/she may submit a written request to the Personnel Officer for a review. Such a request shall set forth the employee's reasons justifying a review. The Personnel Officer shall make an investigation of the position with a view of determining its correct allocation and shall report his/her findings to the Mayor or his/her designee. At the discretion of the Mayor or his/her designee, any recommended change may be submitted to the Council for approval.

Section 125.065. Wage Increase and Schedule.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 7754 §1, 11-30-2010; Ord. No. 7781 §1, 4-13-2011; Ord. No. 7957 §1, 3-12-2013; Ord. No. 8013 §§1—2, 11-25-2013; Ord. No. 8047 §§1—2, 7-14-2014; Ord. No. 8059 §§1—2, 7-14-2014, Ord. No. 8103 §§1—2, 12-8-2014; Ord. No. 8190 §§1 – 2, 11-23-2015; Ord. No. 8280 §§1 – 2, 11-28-2016; Ord. No. 8287 §1, 12-12-2016; Ord. No. 8292 §1, 1-9-2017; Ord. No. 8318 §§ 1 — 8, 5-9-2017^[1]; Ord. No. 8367, 11-27-2017; Ord. No. 8477, 11-26-2018; Ord. No. 8493, 2-11-2019; Ord. No. 8500, 4-8-2019; Ord. No. 8509, 5-13-2019; Ord. No. 8528, 7-8-2019; Ord. No. 8572, 11-11-2019; Ord. No. 8599, 2-10-2020; Ord. No. 8654, 11-23-2020; Ord. No. 8745, 11-22-2021]

A. Non-Police Department Employees.

1. Job Classification and Grade Level — Generally.

[Ord. No. 8780, 4-25-2022; Ord. No. 8845, 11-28-2022; Ord. No. 8899, 8-14-2023; Ord. No. 8916, 9-25-2023]

Job Classification	Grade Level
Bus Driver	1
Custodian	1
Cashier	2
Mailroom/Printing Clerk	2
Receptionist	2
Technical Director	3
Assistant Court Clerk	4
Assistant to Golf Course Manager	4
Class C Laborer	4
Clerk	4
Permit Inspection Clerk	4
Prosecuting Attorney Clerk	4
Administrative Assistant	5
Assistant Golf Club House Manager	5
Golf Course Assistant Superintendent	5
Accounting Clerk	6
Assistant Theatre Manager	6
Community Development Specialist	6
Deputy City Clerk	6
Deputy Court Clerk	6
Human Resources Specialist	6
Lead Permit Inspection Clerk	6
Media Production Specialist	6
Class B Laborer	7
Code Enforcement	7
Equipment Maintenance Mechanic	7
E-Sports Manager	7
Executive Assistant	7
Property Maintenance & Housing Inspector	7
Recreation Specialist	7
Senior Coordinator	7
Senior Ranger	7
Street Sweeper	7
Engineering Technician	8
Golf Club House Manager	8
Building Maintenance	9
Class A Laborer	9

Job Classification	Grade Level
Forester 1	9
IT System Support Technician	9
Media Manager	10
Multi-Building Inspector	10
Civil Engineer 1	10
Recreation Manager	10
Class A Foreman	11
Commercial Inspector	12
Community Development Grant Manager	12
Equipment Maintenance Supervisor	12
Golf Course General Manager	12
Plan Reviewer	12
Center Director	14
Golf Course Superintendent	14
Information Technology Manager	14
Building Maintenance Supervisor	15
Gov Affairs/Senior Communications Manager	15
Theatre Manager	15
Director of Community Development/ Housing	16
Health Superintendent	16
Park Superintendent	16
Recreation Superintendent	16
Street Superintendent	16
Assistant Director of Finance	17
Building Commissioner	17
City Engineer	17

2. This Section shall not be in any way construed to authorize a wage range above the maximum wage set forth in the grade and step schedule for each job classification.
3. Each person in the service of the City of Florissant shall be eligible for an annual wage increase and lateral move to the next higher step within his or her respective grade on June 1st conditioned upon the completion of a successful performance review. New hires must have completed six (6) months of service to be eligible for an annual wage increase. No annual wage increase shall exceed the final step established for any grade.
4. New employees with appropriate education and prior years of training and experience may be employed at any wage step within the respective grade for their job classification based upon the recommendation of the Department Head with the approval of the Mayor.
5. Every employee transferred from one (1) job classification to a job classification of equal wage range shall receive the same compensation he/she received in the original job classification until his/her length of service in the new job classification qualifies him/her for a higher salary.

6. Every employee promoted from one (1) job classification to a job classification of a higher pay grade shall receive the compensation of the grade in the new position that would increase his/her compensation by a minimum of five percent (5%) over and above the compensation paid for the grade from which he/she was transferred, or the starting pay for that grade, whichever is greater.
7. Hours worked by employees in the classified service of the City in excess of forty (40) hours in any work week shall be compensated at one and one-half (1 1/2) times the basic hourly pay or by compensatory time as authorized by Federal law at the rate of time one and one-half (1 1/2) for any overtime hours, unless such employee is exempt from overtime under applicable law. "Hours worked" shall include all paid leave time, such as for sick leave, vacation, holiday or bereavement leave, for purposes of overtime calculations.

Any employee required to perform overtime work after completion of normal work hours shall be compensated for the total time worked. If an employee is recalled to perform work after having completed his/her regular schedule, he/she shall be compensated for not less than two (2) hours as a minimum, whether or not the actual amount of time spent is less than such number of hours.
8. Exempt Employees. Except as herein otherwise provided, the compensation for unclassified employees as identified in Article X, Section **10.1(1)** of the Florissant City Charter, shall constitute the total annual compensation for the services provided and no additional compensation by way of overtime pay or holiday pay shall be paid any person occupying one (1) of said positions.
9. The Mayor of the City of Florissant is hereby authorized to establish guidelines which shall be approved by the Council to determine if an employee of the City paid under this Section is entitled to additional time off with pay as a result of meritorious service to the City. The guidelines herein authorized shall contain provisions which shall limit the number of days off so granted to any one (1) employee to a maximum of three (3) days per fiscal year. Every employee transferred from one (1) job classification to a job classification of equal or higher wage range shall receive the same compensation he/she received in the original job classification until his/her length of service in the new job classification qualifies him/her for a higher salary.
10. The normal workweek for full-time classified employees shall be forty (40) hours.
11. Periodic Grade And Step Wage Review. The Florissant City Council will review the grade and step wage schedule every three (3) to five (5) years and make adjustments as necessary to keep the classified wage plan competitive.

B. Police Department Employees.

1. Job Classification — Police.
[Ord. No. 8801, 6-27-2022; Ord. No. 8973, 4-8-2024]

Job Classification
Corrections Officer
Corrections Transport Officer
Dispatcher
Probationary Police Officer
Police Officer
Police Sergeant
Police Lieutenant
Police Captain

Job Classification
Police Major
Chief of Police
Police Accreditation and Communications Manager
Police Crime Analyst

2. Uniformed Personnel Grade And Step Schedule. The grade and step schedule for each job classification for full-time uniformed personnel positions within the service of the City of Florissant are hereby established and a copy of same is held on file in the City offices.
3. Uniformed Employees.
 - a. Each person in the uniformed service of the City of Florissant shall be eligible for an annual wage increase and lateral move to the next higher step within their respective grade on June 1st upon the completion of a successful performance review. New hires must have completed six (6) months of service to be eligible for an annual increase. No annual wage increase shall exceed the final step established for any grade.
 - b. Every uniformed employee promoted from one (1) job classification to a job classification of a higher pay grade shall receive the compensation of the first pay grade and step in the new position.
4. Exempt Employees. Except as herein otherwise provided, the compensation for unclassified employees as identified in Article X, Section **10.1(1)** of the Florissant City Charter, plus the addition of the Major, Captain and Lieutenant positions, shall constitute the total annual compensation for the services provided and no additional compensation by way of overtime pay or holiday pay shall be paid any person occupying one (1) of said positions. The normal work week for full-time unclassified employees plus the Major, Captain and Lieutenant positions shall be forty (40) hours per week.
5. Police Department.
 - a. The Police Major may be appointed by and serve at the discretion of the Chief of Police. A Major reduced in rank by the Chief of Police will be returned to the last commissioned rank in which he or she had successfully completed their probationary period and shall have no right to appeal this reduction in rank.
 - b. Police Officers may be assigned to and removed from the Detective Bureau at the discretion of the Chief of Police.
 - c. A Dispatcher, assigned by the Chief of Police as a Lead Dispatcher, shall be compensated at the rate of two hundred dollars (\$200.00) per month additional salary while performing the duties of same. A Lead Dispatcher shall be selected and removed by the Chief of Police at any time.
 - d. New employees with prior appropriate education and full-time Police experience may be employed as a Police Officer at any wage step for their job classification based upon the number of years of prior Police experience, as determined and approved by the Chief of Police.
 - e. Every employee promoted from one (1) job classification to a job classification of a higher pay grade shall receive the compensation of the first step in the new pay grade.
 - f. Whenever a holiday, as listed in Section **125.295** of the Florissant City Code, occurs during any pay period, each employee serving in the job classification of Sergeant, Police Officer, Student Police Officer, Probationary Police Officer, Dispatcher, Corrections Transport Officer, or Corrections Officer shall receive, in addition to the regular pay for the pay period, a sum equal to eight (8) hours regular pay or holiday

pay.

- g. The normal work schedule for full-time uniformed employees in the Police Department that are covered by this pay ordinance shall be determined by the Chief of Police and such schedule shall comply with any and all applicable Federal and State laws and regulations. Any time worked in excess of the normal work schedule shall entitle the employee to compensation based upon time one and one-half (1 1/2) of the regular rate or compensatory time as authorized by applicable Federal and State law except for those positions identified as exempt.^[2]

[2] *Editor's Note: Former Subsection (B)(5)(h), regarding Academy Recruits, was repealed 6-27-2022 by Ord. No. 8801.*

6. Periodic Grade And Step Wage Review. The Florissant City Council will review the grade and step wage schedule every three (3) to five (5) years and make adjustments as necessary to keep the Police wage plan competitive.

[1] *Editor's Note: After consultation with the City, this Section was reorganized to have former Subsections (A — H), now be (A)(1 — 8) and Ord. No. 8318 was added as Subsections (B)(1 — 6) herein.*

ARTICLE III. Employment Procedures and Examinations — Lists

Division 1. Generally

Section 125.070. Application and Testing Generally — Supply of Applicants — Prerequisites For Appointment.

[Ord. No. 7328 §1, 8-28-2006]

The Personnel Officer shall have charge of applications for employment and the testing of all applicants for classified positions with the City. The Personnel Officer is responsible for securing and maintaining an adequate supply of qualified applicants. No person shall be appointed as a regular employee to a classified position unless he/she shall have filed a completed application form as prescribed by the Personnel Officer, exhibited necessary qualifications, passed the required tests, and is certified for appointment in accordance with this Chapter and authorized for employment by the Mayor.

Section 125.075. Employment Announcements.

[Ord. No. 7328 §1, 8-28-2006]

All examinations for positions in the classified service of the City shall be published by posting announcements in the City Hall, on official bulletin boards, and in such other places and throughout such other media as the Personnel Officer deems advisable. The announcement shall specify the title and salary range of the class for which the examination is announced, the nature of the work to be performed, the education and experience desirable for the performance of the work of the class, the time, place and manner of taking the examination, the closing date for receiving applications, and other pertinent information.

Section 125.080. Application Forms.

[Ord. No. 7328 §1, 8-28-2006]

Applications for employment in the classified service of the City shall be made on forms provided by the Personnel Officer. Such forms shall require information covering education, training, experience and other pertinent data. All applications shall be signed by the applicant. The Personnel Officer may require proof of age if, by law, a minimum age has been established for engaging in work that is entailed by the position for which application is made.

Section 125.085. Rejection of Applications.

[Ord. No. 7328 §1, 8-28-2006]

The Personnel Officer shall reject any application for employment in the classified service of the City which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications shall be rejected if the applicant has been convicted of a felony or has made any false statement or material omission in his/her application.

Section 125.090. Appointments Generally.

[Ord. No. 7328 §1, 8-28-2006]

All appointments of regular employees to classified positions shall be made according to qualifications, merit and ability. An applicant for a classified position of the City may, upon sufficient verification to the Personnel Officer of ten (10) or more years' experience in a comparable position, be allowed to substitute such experience for and in lieu of possession of a high school diploma or a G.E.D. certificate.

Section 125.095. List of Applicants — Procedure When List of Applicants Exhausted.

[Ord. No. 7328 §1, 8-28-2006]

The Personnel Officer shall provide to the Mayor a list of qualified applicants. These lists may be submitted from time to time as employment, re-employment and promotion lists are revised. Should appointments by the Mayor or withdrawal of names exhaust the list of applicants, the Mayor may fill the vacancy with a temporary appointment.

Section 125.100. Requisition To Fill Vacancy.

[Ord. No. 7328 §1, 8-28-2006]

When vacancies occur in a classified position, the applicable department head desiring to fill the vacancies shall submit to the Personnel Officer a requisition which has been approved by the Mayor.

Section 125.105. Recommendation of Applications To Mayor.

[Ord. No. 7328 §1, 8-28-2006]

Upon receipt of a requisition provided for by Section **125.100**, the Personnel Officer shall review the lists of applicants previously given the Mayor and determine which, if any, of the applicants are available. He/she shall then give to the Mayor, in order of their merit, the list of appropriate applications.

Section 125.110. Positions To Be Filled By Promotion — Exceptions.

[Ord. No. 7328 §1, 8-28-2006]

Vacancies in the classified positions, where practicable, shall be filled by promotion except that such vacancies may be filled by demotion or transfer when, in the opinion of the Mayor, the best interest of the City will be served thereby. Nothing in this Section shall prevent the appointment of a new applicant when the qualifications and merit of such an individual are considered superior to any present employee in a lower position.

Section 125.115. Temporary Appointments.

[Ord. No. 7328 §1, 8-28-2006]

In the absence of a list of qualified applicants on file, the Mayor may make temporary appointments, provided such temporary appointees have completed prescribed pre-employment requirements. Generally, such temporary appointments may not exceed one hundred twenty (120) calendar days.

Section 125.120. Emergency Appointments.

[Ord. No. 7328 §1, 8-28-2006]

In the event of an emergency which may result in loss of public property or service, inconvenience to the public or to the City, the Mayor may select and appoint a temporary employee without regard to established procedures, but in no case shall such emergency appointments continue longer than sixty (60) calendar days.

Section 125.125. Planned Temporary Employment.

[Ord. No. 7328 §1, 8-28-2006]

Applicants for planned temporary employment, other than those referred to in Sections **125.115** and **125.120**, shall meet appropriate qualifications for the specific position as determined by the Personnel Officer. Such employment shall not exceed one hundred eighty (180) calendar days.

Division 2. Probationary Period

Section 125.130. Generally.

[Ord. No. 7328 §1, 8-28-2006]

Every person appointed to a permanent position in the classified service by virtue of employment, promotion, transfer or demotion shall serve a working test period of probation while occupying such position, which shall be considered a part of the test of fitness.

Section 125.135. Duration.

[Ord. No. 7328 §1, 8-28-2006]

The probationary period for all classified employees of the City shall commence immediately upon appointment to the classified position and shall continue for a period of one (1) year, unless such employee is terminated prior to that time.

Section 125.140. Evaluation of Employee.

[Ord. No. 7328 §1, 8-28-2006]

- A. All department heads shall, at the end of three (3) months, six (6) months, nine (9) months and twelve (12) months, following the date of appointment of the employee, submit to the Personnel Officer a written statement of the evaluation of the probationary employee, and in addition to the foregoing the department head shall state on the twelve (12) month evaluation either that:
1. The services of the employee were satisfactory; or
 2. The services of the employee were unsatisfactory.

Section 125.145. Layoff During Probationary Period.

[Ord. No. 7328 §1, 8-28-2006]

If an employee is terminated during or immediately upon conclusion of his/her probationary period and subsequently reappointed to the same department in the same class of position, he/she shall be given credit for the portion of the probationary period previously completed.

Section 125.150. Transfer During Probationary Period.

[Ord. No. 7328 §1, 8-28-2006]

If an employee is transferred during his/her probationary period from a position in one department to a position in another department, the second (2nd) department head may, in his/her discretion, grant credit for that portion of the probationary period previously completed.

Section 125.155. Removal of Probationary Employee.

[Ord. No. 7328 §1, 8-28-2006]

A probationary employee may be removed for cause at any time during his/her probationary period or within ten (10) working days of the conclusion of the probationary period at the discretion of the department head. The City's grievance procedure is not available to any probationary employee.

Section 125.160. (Reserved)

Division 3. Employment Tests

Section 125.165. Generally.

[Ord. No. 7328 §1, 8-28-2006]

The tests of merit required by this Chapter shall be practicable and designed to measure fairly the relative qualifications of applicants to discharge in a satisfactory manner the duties of the classifications for which such applications were made and shall be administered in the manner prescribed by the City personnel. Such employment tests may take into consideration knowledge, skill, aptitude and other such measurable qualities. Education, experience, personality, appearance and other appropriate criteria shall be rated from the personal interview. Weights shall be assigned each test and interview and the combined weight shall determine the order of listing for the applicant on the employment list described by this Chapter.

Section 125.170. Temporary Employees.

[Ord. No. 7328 §1, 8-28-2006]

Temporary employees, as provided for by this Chapter, may be appointed using such of the tests prescribed for regular employees as may be appropriate to screen the selection of applicants. All temporary employees shall satisfactorily complete the work test provided by this Chapter. The City's grievance procedure is not available to any temporary employee.

Section 125.175. Rating Results — Minimum Ratings.

[Ord. No. 7328 §1, 8-28-2006]

Sound measurement techniques shall be used in rating the results of tests given under this Chapter and in determining the relative ranking of the applicants. The minimum rating by which eligibility may be achieved shall be established by appropriate City personnel. A minimum rating may also apply to the ratings of any part of the tests. Applicants may be required to attain at least a minimum rating on each part of the test in order to receive a passing grade or to be rated on the remaining parts of the test.

Section 125.180. Availability Generally — Not To Contain Certain Questions, Etc.

[Ord. No. 7328 §1, 8-28-2006]

Competitive examinations under this Chapter shall be open to all applicants who meet the standards or requirements fixed by the Personnel Officer with regard to experience, age, education and such other factors as may be held to be related to the ability of the candidate to perform, with reasonable efficiency, the duties of the position. Preferential hiring may be accorded residents of the City.

Section 125.185. Procedures To Be Used in Conducting Examinations.

[Ord. No. 7328 §1, 8-28-2006]

Appropriate City personnel shall establish the procedures to be used in conducting the examination of applicants.

Section 125.190. Notification of Results — Inspection of Papers, Etc. — Appeal For Correction of Rating.

[Ord. No. 7328 §1, 8-28-2006]

Each person who takes a test pursuant to the provisions of this Chapter shall be given written notice within twenty-one (21) calendar days as to whether he/she passed or failed in such examination. Each person in a test shall be entitled to inspect his/her rating and examination papers with the exception of the results of the polygraph test and any psychological testing which shall be considered closed records, but examination papers shall not be open to the general public. Such inspection shall be permitted only during regular business hours at the office of the Personnel Officer and within twenty-eight (28) calendar days of the mailing of the notice.

Section 125.195. (Reserved)

Section 125.200. Availability of Tests To Present City

Employees.

[Ord. No. 7328 §1, 8-28-2006]

The tests referred to in this Chapter shall be open to regular or temporary employees of the City who meet the necessary requirements, and those who so qualify for eligibility shall be placed on the promotion list for consideration to fill openings in higher positions.

Division 4. Lists

Section 125.205. Enumerated.

[Ord. No. 7328 §1, 8-28-2006]

- A. Vacancies existing in the classified service of the City shall be filled from applicants for such positions whose names appear on one (1) or more of the following lists as described in Sections **125.210** through **125.220**:
1. Employment lists;
 2. Re-employment lists;
 3. Promotion lists.

Section 125.210. Employment Lists.

[Ord. No. 7328 §1, 8-28-2006]

Employment lists, as referred to in Section **125.205**, shall be prepared by the Personnel Officer and shall show the names of persons who have applied for employment if such persons have met the minimum requirements imposed for such employment and have received the overall rating required for eligibility. Their names shall be placed on the employment list in the order of such overall ratings from the highest to the lowest. When two (2) or more candidates have equal overall ratings, their names shall be arranged on the list in the order in which their applications were received. Such lists shall show the name, residence address, rating of tests, interview ratings and overall ratings. The Personnel Officer shall have jurisdiction over such lists and use them as the basis for certifying to the Mayor eligibility for employment. Employment lists shall remain in force unless previously exhausted or superseded. When the needs of the service require that an examination be held for a class of position for which an employment list already exists, the Personnel Officer shall consolidate the existing list with the list established as a result of the new examination. The names of persons remaining on the old list shall be placed on the new list in accordance with their previous rating as though they had taken the new examination. Should such persons elect to take new tests, their names shall be placed on the list in accordance with the new rating.

Section 125.215. Re-Employment Lists.

[Ord. No. 7328 §1, 8-28-2006]

Any person who, after the effective date of this Chapter, filled a position from which he/she was laid off because there was a lack of work shall be entitled to have his/her name placed on a re-employment list to fill a vacancy in the same or lower classified position without test provided he/she so requests in writing within one (1) year from the date of his/her layoff. The order in which names are arranged on such re-employment list shall take into consideration the service rating obtained while in the service and the length of service. Any person who after the effective date of this Chapter

filled a position from which he/she resigned in good standing shall be entitled to reapply for employment as herein provided, and, in considering re-employment of such person, his/her service rating, length of service, the conditions surrounding his/her separation from service and his/her test results shall be considered.

Section 125.220. Promotion Lists.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 8445, 9-10-2018]

The Personnel Officer shall prepare and keep available a promotion list of persons who are in classified positions and who desire promotion to higher-rated positions. Such lists shall show the employee's name, department, title, rating of his/her supervisor (numerically rated on the same scale as for personnel interview of an applicant), length of service in present title and period of continuous service with the City. Such an employee shall be required to take the tests provided for applicants, and his/her test results and earned ratings shall appear on the list. No time limitation applies to promotion lists. Names from the promotion lists may be removed in the manner set forth in Section **125.225**. It shall be the responsibility of the department heads to keep the Personnel Officer advised of the names of employees seeking promotion, but nothing in this Section shall prevent any employee from requesting the Personnel Officer to place his/her name on such a list. Nothing herein shall be deemed to require that promotions be limited to employees who have requested promotion or who have placed or caused their names to be placed on such a list.

Section 125.225. Maintenance and Review of Lists — Removal of Names.

[Ord. No. 7328 §1, 8-28-2006]

- A. Maintenance of employment, re-employment and promotion lists shall be the responsibility of the Personnel Officer. To the extent appropriate, he/she shall review the lists, determine eligibility and interest status of applicants listed thereon and remove names for the following reasons, among others:
1. Refusal to accept appointment or report after appointment, unless a satisfactory reason is established which justifies continuance of his/her name on the list;
 2. Request of an applicant or employee that his/her name be removed;
 3. Failure to respond within a reasonable period of time of any inquiry concerning availability;
 4. Expiration of one (1) year period on employment or re-employment list;
 5. Notice of death, loss of citizenship or other eligibility requirements or notice by postal authorities of inability to locate at last known address.

ARTICLE IV. Layoffs and Disciplinary Actions

Section 125.230. Layoffs.

[Ord. No. 7328 §1, 8-28-2006]

- A. *Generally.* The Mayor or a department head may lay off an employee when he/she deems it necessary by reason of shortage of work or funds or other material change in the duties or organization. The duties performed by an employee laid off may be reassigned to other employees already working. No regular employee shall be laid off while another person is

employed on a probationary or temporary basis in the same class in that department, and no probationary employee shall be laid off while another person is employed on a temporary basis in the same class in that department.

- B. *Order Of Layoff.* Order of layoff shall be determined mainly by length of service, ability and performance records.

Section 125.235. (Reserved)

Section 125.240. Warnings.

[Ord. No. 7328 §1, 8-28-2006]

- A. Oral and written warnings with reasonable time for improvement and subsequent review may precede more severe discipline whenever, in the judgment of the supervisor or department head, an infraction is minor and readily correctable.
- B. When an oral warning is given, the supervisor should explain the infraction to the employee and indicate corrective measures. The supervisor should inform the employee that his/her conduct must improve or face more severe disciplinary action. The employee is required to sign an acknowledgment that the oral warning took place. A record of this warning will be placed in the employee's personnel file and the employee will receive a copy.
- C. A written warning may be used for more serious infractions or in cases where the same rule has been broken. The supervisor should state, in writing, the nature of the infraction leading to the disciplinary action. The warning may also include what improvement is expected, the time limit for this improvement to occur and consequences if the improvement goal is not met. The employee must read the reprimand and sign the warning. Failure to sign the warning to acknowledge receipt shall be grounds for additional disciplinary action. One (1) copy of the warning will be placed in the employee's personnel file and one (1) copy will be given to the employee.

Section 125.245. Suspension or Discharge.

[Ord. No. 7328 §1, 8-28-2006]

- A. A department head, including interim or acting department head, or the Mayor or his/her authorized designee has the authority to suspend, demote, reinstate probation or terminate the services of any employee because of:
1. A reduction in force due to the lack of funds or curtailment of work.
 2. Misconduct, poor performance, lack of ability to safely perform essential functions, violation of established regulations, procedures or expectations (written or otherwise), including but not limited to:
 - a. Obtaining materials or leave time based on misrepresentation; dishonesty; stealing; or any criminal act.
 - b. Conviction of a felony or of a misdemeanor involving moral turpitude.
 - c. Abusive, harassing or improper treatment of a citizen, prisoner; or other individual in the community or on the City payroll.
 - d. Violation of any lawful and reasonable departmental or City rule, regulation or directive.

- e. Destruction or loss of City property.
- f. Absence from duty without permission, proper notice or satisfactory reason.
- g. Falsifying reports or records.
- h. Insubordination, non-compliance with rules, policies, assignments or procedures.
- i. Possessing, using or being under the influence of narcotics, other mind-influencing substances or alcohol on the job or engaging in any violation of the City's policy against substance abuse.
- j. Incompetence, ineffectiveness, poor performance, inefficiency or wastefulness in the performance of assigned duties.
- k. Disregard for safety policies or procedures.
- l. Engaging in personal business/other employment while on duty, using City vehicles or equipment for personal use except as such use may be specifically authorized.
- m. An unsatisfactory attendance record.
- n. Gambling on City property.
- o. Theft or unauthorized use or removal of City or employee property.
- p. Unauthorized possession or use of a dangerous weapon. A dangerous weapon shall include, but not be limited to, handguns, firearms, explosives, knives, simulated firearms operated by gas or compressed air, slingshots, sand clubs, metal knuckles, dangerous chemicals and other weapons further defined by Missouri Statute and/or City ordinance. Unauthorized possession or use of a dangerous weapon shall include specifically the wearing, transporting, storing, using, brandishing or carrying of a dangerous weapon of any type, concealed or unconcealed, upon the property of the City, regardless of whether the employee is licensed to carry the dangerous weapon. Unauthorized possession or use also includes carrying a dangerous weapon of any type outside of the City's property while acting within the course of employment, regardless of whether the employee is licensed to carry the weapon. Employees may not carry any dangerous weapon while performing any task on behalf of the City or while attending any function on behalf of the City. No dangerous weapon shall be allowed on or within any City owned vehicle or personal vehicle being used to conduct any business on behalf of the City. This prohibition against unauthorized possession or use of dangerous weapons is not applicable to the use or possession of weapons by law enforcement personnel in accordance with the policies, procedures and directives of the City's Police Department or the use or possession of an object which may be a dangerous weapon, such as a knife or dangerous chemical, incident to performance of duties in the course and scope of an employee's employment with the City.
- q. Threatening or coercing employees or supervisors.
- r. Reasonable suspicion of the commission of a criminal act occurring on or off the job which relates to job performance or of such a nature that continuation of employment in the assigned position could affect job performance or could constitute negligence in regard to the City's duty to the public.
- s. Reasonable suspicion of engaging in dishonest or immoral conduct on or off the job that undermines the effectiveness of the City's activities or affects relations with other City employees or residents.
- t. Using public employment for private gain.
- u. Failure or refusal to perform an assigned task.

- v. Any conduct which involves harassment or discrimination under any State or Federal law or which constitutes inappropriate conduct under the City's Equal Employment Opportunity, Anti-Harassment and Non-Discrimination Policy.
- w. Inability to perform all essential job functions, with or without reasonable accommodation, or inability to safely perform all essential job functions, consistent with all Federal and State requirements under applicable disability discrimination laws.
- x. Unauthorized disclosure of confidential information or protected health information.

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

Section 125.250. Resignations — Exit Interviews.

[Ord. No. 7328 §1, 8-28-2006]

The Personnel Officer shall take steps to verify reasons for any resignations. Exit interviews shall be conducted of all resignees and layoffs by the Personnel Officer.

ARTICLE V. Complaints and Grievances

Section 125.255. Manner of Hearing.

[Ord. No. 8722, 9-13-2021^[1]]

All disciplinary action complaints and grievances of employees in the classified service of the City shall be reviewed by the department head, Mayor or his/her designee and/or heard by the Personnel Commission in the manner provided by this Article.

[1] *Editor's Note: Former Article V, Complaints and Grievances, containing Sections 125.255 to 125.295, was repealed 9-13-2021 by Ord. No. 8722. The editor also put the Sections back to their intended numbering by making the next Article start with Section 125.290.*

Section 125.260. When To Be Filed.

[Ord. No. 8722, 9-13-2021]

Complaints and grievances filed by Law Enforcement Officers shall be considered in accordance with Section 590.502, RSMo., and complaints and grievances filed by all other employees shall be filed within seven (7) calendar days of the employee's receipt of the disciplinary action giving rise to the grievance, otherwise such alleged grievance shall be considered not to exist.

Section 125.265. Procedure For Submitting Grievance.

[Ord. No. 8722, 9-13-2021]

- A. Any grievance relating to a disciplinary action of a Law Enforcement Officer shall be handled in accordance with Section 590.502, RSMo. Any grievance of any employee other than a Law Enforcement Officer relating to a disciplinary action by City management or supervision, other than a department head or the Mayor, shall be submitted, in writing, to the department head within seven (7) calendar days of the issuance of the discipline. The written submission to the

department head must include specific circumstances and state the remedial action requested. Such an appeal must be signed personally by the employee, with the original appeal or grievance delivered to the department head. The department head or his/her designee shall investigate and render a decision within ten (10) working days of receipt of the appeal or grievance request.

- B. Law Enforcement Officers who are suspended without pay, demoted, terminated, transferred, or placed on a status resulting in economic loss shall be entitled to a full due process hearing before the Mayor. In all other circumstances and for all other employees, in the event that Subsection (A) does not resolve the problem or the discipline was initially issued by the department head, the employee may forward all written documentation and appeal to the Mayor within seven (7) calendar days of receipt of the department head's decision. Such appeal must be signed personally by the employee, with the original delivered to the Mayor. The Mayor or his/her designee will provide a decision to the employee within ten (10) working days of receipt of the request.
- C. In the event that Subsection (B) does not resolve the problem for any employee other than a Law Enforcement Officer, and the grievance involves a suspension of more than five (5) working days or shifts, employment dismissal or disciplinary demotion with reduced compensation rate, the employee may request an appeal hearing before the Personnel Commission unless an appeal to the Personnel Commission is expressly prohibited under the Personnel Code or City Charter. The written request for a hearing with the Personnel Commission shall be filed with the City's Personnel Officer within seven (7) calendar days from receipt of the decision of the Mayor or his/her designee.

Section 125.270. Citizens Police Review Board — Composition, Duties, And Procedures.

[Ord. No. 8722, 9-13-2021; Ord. No. 8787, 5-9-2022]

- A. Purpose. The purpose of this Section is to provide an accessible, respectful, independent and effective forum for community participation in the resolution of complaints by an independent process for review of actual or perceived misconduct by Police Officers thereby increasing the Police Department's accountability to the community and community trust in the Police Department.
- B. Definitions And Rules Of Construction. The following definitions and rules of construction apply to this Section:

AGGRIEVED PERSON

Anyone who allegedly has been mistreated by a Florissant Police Department Officer or employee.

BOARD

When not otherwise specified, the Citizens Police Review Board.

CITIZEN COMPLAINANT

A person who is not a member of the Florissant Police Department or an employee of the City and who files a complaint with the Police Department or with the Board against a Police Officer.

EXTERNAL CITIZEN COMPLAINT

A written statement by a person who is not a member of the Florissant Police Department or an employee of the City alleging misconduct of a Police Officer involving interaction with the public.

MISCONDUCT

Any improper behavior by a Florissant Police Officer, including any violation of Federal law, State law, City ordinance, City regulation or Police Department policy, guideline, directive, rule, regulation or order in effect at the time of the incident.

NOTICE

Shall be considered given when it is hand delivered or three (3) business days after it is mailed.

POLICE OFFICER

A commissioned Law Enforcement Officer, other than the Chief of Police, who has the power of arrest and who serves in the Florissant Police Department.

C. Establishment; Membership; Qualifications; Terms; And Removal.

1. The Citizens Police Review Board is hereby established.
2. The Board shall consist of seven (7) members appointed by the City Council upon recommendation of the Mayor. Members shall serve without compensation.
3. The City shall actively notify citizens to apply for appointment to the Board, and City Council members and citizens are encouraged to make recommendations to the Mayor about persons who should be considered for appointment to the Board based upon their independent, impartial, balanced views.
4. At least five (5) of the Board members must be registered voters and either a resident of Florissant, or an owner of a business in Florissant, or a leader of a church or religious congregation in Florissant. Board members may not be employed by the City; have served in a law enforcement capacity in the past five (5) years; be a party to any pending litigation against the City, excluding traffic offenses; be a current elected public office holder; or have served as an elected public office holder in the past five (5) years; or be a candidate for elected public office; and the spouses of the foregoing persons. Board members should reflect the cultural and racial diversity of Florissant and demonstrate knowledge of issues pertaining to civil rights and the criminal justice system and police practices. Board members cannot have a serious criminal record. The Police Chief shall obtain a criminal history of all applicants for membership on the Board and advise the City Council of any arrests and any convictions for violations of Federal, State or local law.
5. Three (3) of the members first appointed by the City Council shall serve terms of two (2) years, two (2) shall serve terms of three (3) years, and two (2) shall serve terms of four (4) years. Thereafter, members appointed by the City Council shall serve terms of three (3) years. Vacancies shall be filled for unexpired terms in the same manner as the original appointments.
6. The Board or the Mayor may recommend to the City Council that a Board member be removed from the Board if the member persistently fails to perform the duties of office or has engaged in conduct that is detrimental to the City or the Board.
7. No Board member may serve more than two (2) consecutive terms.

D. Officers; Meetings; Quorum; Rules.

1. The Board shall elect a Chair and Vice Chair from among its members. The term of these officers shall be one (1) year. The Chair shall preside at meetings. The Vice Chair shall preside when the Chair is absent or otherwise unable to preside.
2. The Board should meet at least monthly, and should meet as frequently as possible to perform its duties. When requested by the Board, the Police Chief or the Chief's designee shall attend Board meetings to serve as an informational resource for the Board. The Board

shall provide an opportunity for public comment at each monthly meeting. The Board shall meet semiannually with the Chief of Police to discuss issues of concern and to recommend ways that the police can improve their relationship with citizens. The Board may also make recommendations regarding policies, rules, hiring, training and the complaint process.

3. Four (4) members shall constitute a quorum for conducting business.
4. The Board may establish rules and procedures that do not conflict with this Code or the rules and regulations governing internal affairs investigations.
5. Board members shall follow the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.
6. All closed records provided to the Board shall remain closed records and shall be returned to the City before adjourning any meeting.

E. Administration And Training.

1. The Chief of Police shall be the designated staff liaison for the Board, and a City staff member shall be provided to the Board to perform administrative duties, including providing information to the Board and keeping minutes of the meetings of the Board.
2. An independent contractor that demonstrates knowledge of issues pertaining to civil rights, the criminal justice system and the police practices may be employed part-time to serve as a coordinator to assist the Board in the preparation of the required reports and the preparation of recommendations to the Police Chief. The coordinator may also assist in training of the Board members. The coordinator shall be hired by the Mayor and shall not be a voting member of the Board.
3. New Board members shall participate in orientation and training that includes review of the police professional standard unit's operating policies and procedures and a ride-along with Police Officers. Training shall also include topics suggested by NACOLE in its recommended orientation and training for Board members.
4. After an appointment to the Board but before serving on the Board, Board members shall participate in a ride-along with Police Officers for at least twenty-four (24) hours, with a least eight (8) hours ride-along occurring at night. Thereafter, Board members shall participate in a ride-along with Police Officers for at least sixteen (16) hours per year with at least four (4) hours ride-along occurring at night.

F. Duties. The Citizens Police Review Board shall have the following duties:

1. Review the Police Chief's decisions on alleged misconduct based upon an external citizen complaint and an appeal to the Board, as provided for in this Section.
2. Conduct a jurisdictional review, upon written request, from the decision of the Police Chief that a complainant's allegations do not fall within the requirements set forth in this Section related to complaints.
3. Make recommendations to the Police Chief to consider pursuing a criminal investigation of a Police Officer.
4. Host public meetings and educational programs for Florissant residents and the general public.
5. Review and make recommendations to the Police Chief on police policies, procedures and training.
6. Conduct reviews of the open records of the Police Department relating to any external citizen complaints for compliance with the requirements of this Section.

7. Prepare and submit to the City Council annual reports that analyze citizen complaints, including demographic data on complainants, complaint disposition and investigative findings, but such reports shall not include records or information which are closed under Chapter 610, RSMo. The reports should also describe the Board's community outreach and educational programs. The reports should also set forth any recommendations made on Police Department policies, procedures and training. The reports shall be submitted no later than March 1 for the previous calendar year.

G. Internal Affairs Procedures; Police Officers And Employees Of The Police Department.

1. The Police Chief shall cause Police Department rules and regulations to be established that provide for internal affairs investigations. These rules and regulations must be consistent with the provisions of this Section, Chapter **125** of the Florissant Code, and Section 590.502, RSMo.
2. Police Officers under investigation shall have all of the rights set forth in Section 590.502, RSMo.

H. Complaints; Police Chief Decision On Complaint; Appeals To Board.

1. Any external citizen complaint made against a Police Officer must be in writing and include a written statement outlining the complaint that includes the personal identifying information of the person filing the complaint. Any external citizen complaint may be filed with the Police Department, or the Board only by the following:
 - a. Any person who is an alleged victim of misconduct by a Police Officer; or
 - b. A family member on behalf of a minor child or an attorney of an alleged victim of misconduct by a Police Officer; or
 - c. Any person who witnessed alleged misconduct by a Police Officer.
2. The recipient of the written external citizen complaint shall promptly forward such complaint to the Police Chief. In addition, the Police Officer who is subject to an investigation based upon an external citizen complaint shall be informed, in writing, of the existence and nature of the violation alleged in such complaint, the individuals who will be conducting the investigation and the personal identifying information of the person filing the complaint in accordance with Section 590.502, RSMo. Notice shall be provided to the Police Officer along with a copy of the complaint at least twenty-four (24) hours prior to any interrogation or interview of the Police Officer.
3. External citizen complaints must be filed within ninety (90) days from the date of the alleged misconduct, unless the complainant shows good cause for the delay in submitting the complaint, but in all circumstances, complaints must be filed within one (1) year of the alleged misconduct.
4. The Board shall take no action on a complaint until the Police Chief has made a decision on the complaint, and the Police Chief typically will take no action on a complaint alleging misconduct when the Police Department is treating it as a criminal matter unless and until the investigating department determines that the Police Officer's alleged conduct was not criminal or a prosecutor has declined to prosecute the alleged offense or a prosecution of the alleged offense has concluded.
5. Decision By Police Chief.
 - a. Unless the external citizen complaint has been withdrawn, resolved through mediation or the Police Officer is no longer employed by the City, the complaint investigation process shall be concluded and a decision rendered within ninety (90) days from receipt of the external citizen complaint, unless an extension of time is granted in accordance with Section 590.502.2(11), RSMo. The Police Chief shall decide whether

the complaint is:

- (1) Unfounded (acts complained of did not occur or were misconstrued);
- (2) Not sustained (insufficient facts established to either prove or disprove the acts complained of);
- (3) Sustained (sufficient facts established to prove misconduct); or
- (4) The Police Officer is exonerated (acts complained of occurred but were justified, lawful and proper).

b. If the complaint is sustained, the Police Chief shall take appropriate disciplinary action.

6. Within five (5) days of the conclusion of the administrative investigation, the Police Chief or the investigator shall give written notice of the investigative findings, the decision and disciplinary action, if any, to the Police Officer. The Police Chief shall also promptly give written notice of the decision to the citizen complainant and whether disciplinary action was or was not taken. The notice shall also include information on the Police Officer's right to appeal and the manner of appealing the decision of the Police Chief to the Citizens Police Review Board within ten (10) days of the decision by the Police Chief and, if applicable, the notice shall include information on the Police Officer's entitlement to a full due process hearing before the Mayor in accordance with Section 590.502, RSMo. An appeal to the Citizen Police Review Board or a request for a due process hearing before the Mayor in accordance with Section 590.502, RSMo., shall stay the disciplinary action.
 7. The complainant has the right to appeal the Police Chief's decision to the Citizens Police Review Board unless the Police Officer has exercised the right, if any, to a due process hearing pursuant to Section 590.502, RSMo. An appeal to the Citizen Police Review Board by the complainant when a Police Officer has no right or has waived the right to a full due process hearing, as set forth in Section 590.502, RSMo., must be made in writing and delivered to the City's Communications Manager. The City's Communications Manager must receive the appeal within seven (7) days after the receipt of the notice of the Police Chief's decision. The appeal must be either hand-delivered to the office of the City's Communications Manager or sent to the City's Communications Manager by United States Mail, facsimile machine or electronic mail. Such appeal will stay the disciplinary action.
 8. When an appeal has been filed, the City's Communications Manager shall promptly notify all Board members and the Police Chief. The Police Chief shall promptly forward to each Board member a copy of certain Police Department records pertaining to the complaint, including the complaint, the original police report, if any, and applicable general orders.
 9. The Board shall promptly meet to consider the appeal and shall act upon the appeal within fifteen (15) days of its receipt of an appeal unless the period of time for review by the Board is contradictory to the provisions of Section 590.502, RSMo., and in that event the Board shall act upon the appeal within the timeframe allowed under Section 590.502, RSMo. During the meeting of the Board, additional records will be provided to the Board pertaining to the completed investigation of the complaint, including any memos and recorded interviews, and all such records shall be returned to the City before adjourning the meeting. If the Board does not act within fifteen (15) days of the receipt of the appeal or within the timeframe allowed under Section 590.502, RSMo., the decision of the Police Chief shall be deemed to be affirmed.
- I. Request For Jurisdictional Review.
1. Upon a written request, the Board shall conduct a jurisdictional review from the decision by the Police Chief that a person's allegations do not fall within the requirements set forth in this Section related to complaints, including, but not limited to:
 - a. An appeal of a determination that the complaint or concern was untimely filed, as

defined in Subsection **(H)(3)**.

- b. An appeal of a determination that the person failed to allege misconduct, as defined in Subsection **(B)**.
 - c. An appeal of a determination that the person does not meet the requirements set forth in Subsection **(H)(1)**.
2. Requests for limited review pursuant to this Section shall be filed with the City's Communication Manager within seven (7) days after the person is given notice of the determination by the Police Chief.
 3. When a request for jurisdictional review has been filed, the City's Communication Manger shall promptly notify all Board members and the Police Chief. The Police Chief shall promptly forward to each Board member a copy of the person's allegations, any relevant police or City policies, records relating to any police investigation, and a copy of the Police Chief's written notice.
 4. The Board shall review the records provided to determine if the person timely filed a complaint within the meaning of this Section. The Board shall have the authority to request Police Department records pertaining to the complaint and the investigation of the complaint and the Police Chief shall respond to the Board's request for records within five (5) days by providing such documents or by providing a written explanation to the Board and the Mayor detailing the reasons why the documents will not be produced. In the event the Police Chief does not produce the records requested by the Board, the Board has the power and authority to seek the issuance of a subpoena from a Judge within the 21st Judicial Circuit.
 5. The Board shall promptly meet to conduct its review and shall make a determination within fifteen (15) days of its receipt of the written request. If the Board does not act within fifteen (15) days of its receipt of the written request for jurisdictional review, the decision of the Police Chief shall be deemed to be affirmed.
 6. If the Board agrees with the Police Chief's determination, the Board shall notify the Police Chief, the Police Officer, and the complainant of its determination. If the Board disagrees with the Police Chief and finds that the complainant has timely filed a complaint alleging misconduct that meets the requirements of Subsection **(H)(1)**, the Board shall notify the Police Chief, the Police Officer and the complainant. The Police Chief shall proceed with an investigation of the complaint and the investigation of a Police Officer shall be conducted in accordance with Section 509.502, RSMo.
- J. Board Review Of Police Chief's Decision On Complaints And Recommendation.
1. The Board shall only review the Police Chief's decisions on complaints when an appeal is filed in accordance with Subsection **(H)** of this Section. In so doing, the Board shall review the record of the investigation, including, but not limited to, any and all recorded, unedited interviews.
 2. The Board, as part of its review, may hear comments from the complainant, witnesses to the incident and Police Officers if such persons request that the Board do so.
 3. The Police Chief and all Police Officers shall cooperate with the Board in its review of the Police Chief's decision, but cooperation does not require a Police Officer or a witness to testify or make any statements to the Board.
 4. As part of the Board's review, the Board shall have the authority to request Police Department records pertaining to the complaint and the investigation of the complaint, and the Police Chief shall respond to the Board's request for records within five (5) days by providing such documents or by providing a written explanation to the Board and the Mayor detailing the reasons why the documents will not be produced. In the event the Police Chief

does not produce the records requested by the Board, the Board has the power and authority to seek the issuance of a subpoena from a Judge within the 21st Judicial Circuit.

5. Any person who requests to appear and voluntarily appears before the Board shall be entitled to have an attorney or authorized representative present with them. The attorney or authorized representative shall be permitted to confer with the Police Officer but shall not unduly disrupt or interfere with the interview.
 6. The Board shall provide timely updates on the progress of the review to the complainant and the Police Officer, unless the specific facts of the review would prohibit such updates or the documentation or information is a closed record under Chapter 610, RSMo.
 7. The Board may decline further action on its review of the decision of the Police Chief if it determines that the alleged acts of misconduct are false.
 8. The Board may request the Police Chief to order further investigation if the Police Chief is allowed to do so under Section 590.502, RSMo.
 9. After completing its review, the Board shall report its findings and recommendations to the Mayor and the Police Chief, as set forth below.
 10. If the Board agrees with the Police Chief's decision, in addition to reporting its findings and recommendations to the Mayor and Police Chief, it shall give notice to the Police Officer, together with notice of the Police Officer's right to a full due process hearing, in accordance with Section 590.502, RSMo., if applicable, or the right to appeal the Police Chief's decision as provided for in Subsection **(K)**. The Board shall also give notice to the complainant of the right to appeal the Police Chief's decision as provided for in Subsection **(K)**.
 11. If the Board recommends a disposition of the complaint other than the decision made by the Police Chief, the Police Chief shall have ten (10) business days to reconsider the original decision and either reaffirm or modify it. The Police Chief shall give written notice of the decision upon reconsideration to the Board, the Mayor and the Police Officer. The Police Chief shall also give written notice of the decision to the complainant and whether disciplinary action was taken and such other information to the extent that the information in his/her decision are not closed records under Chapter 610, RSMo. The Police Chief shall also give notice to the Police Officer of the right to seek a full due process hearing in accordance with Section 590.502, RSMo., if applicable or the right to appeal as provided for in Subsection **(K)**. If the Police Chief takes no action within ten (10) business days after the date of the Board's findings and recommendation, the original decision of the Police Chief is automatically reaffirmed, and the Police Chief shall give notice to the Police Officer and the complainant as set forth above.
- K. Appeals To The Mayor. After the Board's findings and recommendation and, the Police Chief's decision after reconsideration, the Police Officer and the complainant shall have the following rights:
1. A Police Officer who is suspended without pay, demoted, terminated, transferred, or placed on a status resulting in economic loss shall be entitled to a full due process hearing before the Mayor in accordance with Section 590.502, RSMo.
 2. A Police Officer may appeal the Police Chief's decision to the Mayor for the Mayor's review if the discipline is other than suspension without pay, demotion, discharge, transfer or placement on a status resulting in economic loss. Such an appeal shall be made by filing a written statement with the Mayor setting forth the employee's reasons for appeal. The request must be filed within twenty-one (21) days after receiving the notice of the right to appeal. The appeal shall be handled in accordance with the provisions of Chapter **125**, Article **V**, of the Florissant Code. The Mayor shall give notice of the appeal to the complainant and afford the complainant the opportunity to discuss the matter with the Mayor.

3. The complainant may not file an appeal of the Police Chief's decision concerning a Police Officer following review by the Board.
- L. Open Records And Meetings.
1. Notwithstanding the provisions set forth herein, all records pertaining to complaints filed against Police Officers or employees of the Police Department alleging misconduct of the Police Officer or employee of the Police Department shall be closed records in accordance with Chapter 610, RSMo.
 2. The Board shall meet in open session except as provided in Subsection **(L)(3)**.
 3. The Board shall meet in closed session to hear statements, discuss and investigate matters:
 - a. That cannot be heard or discussed in an open meeting under State or Federal law; or
 - b. That involve the review of an appeal as provided for in Subsection **(J)**;
 - c. That would involve disclosure of the identity of an officer working undercover.
- M. Obstructing Board Operations. It shall be unlawful for any person, in any manner, to willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent another person from freely, fully and truthfully cooperating with the Board.
- N. Annual Evaluation By Council. Each year, after reviewing the Board's annual report, the City Council shall review the effectiveness of the Board and shall determine whether this Section should be modified or repealed.
- O. Availability Of Police Policies. In accordance with Chapter 610, RSMo. (commonly referred to as the "Sunshine Law"), the Police Chief shall make available to the City Council, employees and the general public, upon request, all Police Department policies, guidelines, directives, orders, rules and regulations except those that would reveal tactics that would endanger the life of any Police Officer or would otherwise be a closed record under Chapter 610, RSMo.

Section 125.275. Hearing Before Personnel Commission — Decision Of Commission Final.

[Ord. No. 8661, 1-11-2021; Ord. No. 8722, 9-13-2021]

- A. Any disciplinary action appealable to the Personnel Commission shall be heard by the Personnel Commission within thirty (30) calendar days of the receipt of such appeal from the Personnel Officer, if at all practicable. The Personnel Officer shall provide the Personnel Commission members with a copy of the employee's appeal within five (5) business days of receiving the employee's appeal, along with copies of the written grievances/appeals and decisions submitted or issued under Subsections **(A)** and **(B)** of this Section, as applicable. No other documentation shall be submitted to the Personnel Commission, except as to scheduling and procedural matters.
- B. At the hearing of such appeals, technical rules of evidence shall not apply. The complainant may be represented by counsel. The Personnel Commission shall endeavor to render its decision affirming or reversing the decision of the department head within thirty (30) calendar days after the hearing, with the department head's decision being affirmed if the department head acted within his/her authority and there is competent evidence to support the decision of the department head, as may have been affirmed or modified by any review by the Mayor. The decision of the Personnel Commission shall be final.

Section 125.280. Grievance Procedure Under Title II Of The Americans With Disabilities Act.

[Ord. No. 8722, 9-13-2021]

- A. This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Florissant. Sections **125.600** and **125.650** of the City's Personnel Code govern employment-related complaints of disability discrimination.
- B. The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.
- C. The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than sixty (60) calendar days after the alleged violation to:

ADA Coordinator/Director of Human Resources City of Florissant
955 Rue St. Francois Florissant, MO 63031

- D. Within fifteen (15) calendar days after receipt of the complaint, the Director of Human Resources will meet with the complainant to discuss the complaint and the possible resolutions. Within fifteen (15) calendar days of the meeting, the Director of Human Resources will respond, in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City of Florissant and offer appropriate options for substantive resolution of the complaint.
- E. If the response by the Director of Human Resources does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within fifteen (15) calendar days after receipt of the response to the Mayor.
- F. Within fifteen (15) calendar days after receipt of the appeal, the Mayor will meet with the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the Mayor will respond, in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.
- G. All written complaints received by the ADA Coordinator/Director of Human Resources, appeals to the Mayor, and responses from these two (2) offices will be retained by the City of Florissant for at least three (3) years.

Section 125.285. (Reserved)

ARTICLE VI. Leave Policies

Division 1. Holidays

Section 125.290. Definition.

[Ord. No. 7328 §1, 8-28-2006]

"Absentees", for the purposes of this Division, are defined as employees who fail to report for and

accomplish assigned work on either the day next preceding or the day next following any holidays provided these are not regularly assigned days off.

[1] *Cross Reference — Definitions and rules of construction generally, §100.020.*

Section 125.295. Generally — Designated.

[Ord. No. 7328 §1, 8-28-2006]

All holidays shall be considered a part of a regular employee's normal workweek and, insofar as service requirements permit, employees (except absentees as defined in Section **125.290**), except commissioned Police Officers, shall be excused without loss of pay on the following designated holidays:

New Year's Day	January first (1st)
Martin Luther King Day	Third (3rd) Monday in January
Washington's Birthday	Third (3rd) Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July fourth (4th)
Labor Day	First (1st) Monday, September
Thanksgiving Day	Fourth (4th) Thursday, November
Friday following Thanksgiving Day	So long as Thanksgiving Day remains a national holiday falling on Thursday
Christmas Day	December twenty-fifth (25th)
One (1) additional day in connection with Christmas, the specific day to be set annually by the Mayor.	

Section 125.300. Observance of Holidays Falling On Saturday or Sunday.

[Ord. No. 7328 §1, 8-28-2006]

When any holiday mentioned in Section **125.295** falls on Saturday, it shall be observed on the preceding Friday; when any holiday mentioned in Section **125.295** falls on Sunday, it shall be observed on the following Monday.

Section 125.305. Compensation For Work On Holiday.

[Ord. No. 7328 §1, 8-28-2006]

Any employee in the classified service of the City, with the exception of professional Police Officers, who is required to work on any holiday shall be compensated for such work at one and one-half (1½) times his/her basic hourly rate.

Section 125.310. Temporary and Emergency Employees.

[Ord. No. 7328 §1, 8-28-2006]

The provisions of this Division shall not be applicable to an employee on a temporary or emergency appointment, and such employees who work on any holiday shall be paid at their basic straight time rates of pay.

Division 2. Vacations

Section 125.315. Generally.

[Ord. No. 8749, 11-22-2021^[1]]

- A. Each full-time employee who has one (1) full year of service with the City shall be entitled to ten (10) working days of vacation with pay per year. Employees having five (5) full years of service shall receive fifteen (15) working days of vacation per year. Employees having ten (10) full years of service shall receive twenty (20) working days of vacation per year. Employees having fifteen (15) full years of service shall receive twenty-five (25) working days of vacation per year. Vacation accruals are based on a standard work schedule of forty (40) hours per week, and are not based on the number of hours actually worked.
- No vacation leave shall be granted a full-time employee until he/she has served six (6) months from the date of his/her employment. At that six-month date, the employee will be credited with five (5) days of vacation. After that six-month date, vacation will accrue to the employee bi-weekly according to the following table:

After Completion of Years of Service	Days Accrued Per Year	Hours Accrued Per Year	Hours Accrued Per Month	Maximum Accrual Balance - vacation hours will not accrue past this limit
6 months**	5**	40**	6.67	
1	10	80	6.67	120
5	15	120	10.00	180
10	20	160	13.33	240
15	25	200	16.67	300
** 6 month period				

- Vacation days are available for use by the employee immediately upon accrual and must be taken in one-half (1/2) hour increments. All vacation days shall be taken on or before December 31 of the year in which the vacation is accrued.
 - Should a full-time employee's vacation hours accrual balance reach the maximum accrual balance, then such employee shall stop accruing vacation until such time as the employee uses vacation hours to reduce the employee's vacation balance below the maximum accrual balance.
 - A full-time employee shall be paid for each day of vacation at his/her basic rate at his/her regularly scheduled pay date.
- [1] *Editor's Note: Former Division 2, Vacations, was repealed 11-22-2021 by Ord. No. 8745. The editor's also changed the numbering to amend it back to the original numbering as it was inadvertently changed in an earlier supplement. This change could effect all numbering past this point, however getting it back in line will bring internal references back into correctness.*

Section 125.320. Pay in Lieu of Vacation.

[Ord. No. 8749, 11-22-2021]

Vacation pay will not be allowed in lieu of vacation, except as follows:

Accumulated vacation and vacation pay on a daily prorated basis, including the last full day worked, will be allowed to full-time employees: (1) with six (6) months or more continuous employment who are terminated for any reason or laid off; (2) who leave the classified service to enter the Armed Forces of the United States provided they furnish satisfactory proof of their military service within a period of thirty (30) calendar days after leaving the City's employ; or (3) as deemed financially or fiscally necessary and with the approval of the Mayor.

Section 125.325. Vacation "Call-Back" — Early Return.

[Ord. No. 8749, 11-22-2021]

- A. Employees may be called back to work during vacation only in cases of emergency declared solely by the Mayor. An employee so called back shall have the choice, as to each day affected:
 - 1. Of giving up one (1) day of vacation and receiving a day's pay at the overtime rate of one and one-half (1 1/2) times; or
 - 2. Of taking a one (1) day extension of his/her vacation and one-half (1/2) of a day's pay at the straight rate, such pay in either case being in addition to vacation pay.
- B. With his/her Department Head's approval, an employee may return to work during any scheduled vacation period and, subject to provisions of this Article, may schedule the balance of his/her vacation at a later date.

Section 125.330. Vacation in Lieu of Leave of Absence, Etc.

[Ord. No. 8749, 11-22-2021]

- A. Any full-time employee of the City who is eligible and is approved for Family Medical Leave (FMLA) will be required to use any paid leave that remains in their leave banks, including vacation, according to the personnel policy, before utilizing unpaid leave. Any full-time employee who is approved for a Leave of Absence must utilize all vacation leave in their banks for their absence. Vacation will not be paid out (cash equivalent) for such leave.
- B. Employees on FMLA or a Leave of Absence will not accrue vacation leave during their absence beyond a three-month period of absence.

Section 125.335. Permanent Part-Time Employees.

[Ord. No. 8749, 11-22-2021]

- A. Employees of the City who are employed annually and regularly for a minimum of one (1) full day per week for fifty-two (52) consecutive weeks in a calendar year shall be designated permanent part-time employees. The City's grievance procedure is not available to such employees.
- B. Each permanent part-time employee who has completed one (1) full calendar year of service with the City shall be entitled to vacation time with pay. Such vacation time shall be considered earned on January 1 of the year following the year in which the permanent part-time employee completes one (1) full calendar year of service with the City, and on each successive January 1, provided that the employee remains a permanent part-time employee for that calendar year. The vacation time shall accrue immediately when earned, in full, and the employee shall be entitled to such leave immediately after accrual.

- C. The amount of vacation leave granted to a permanent part-time employee is equal to the average number of hours worked in a week during the previous calendar year.
- D. All vacations must be taken by such employees on or before December 31 of the year in which the vacation is accrued.

Section 125.340. Scheduling.

[Ord. No. 8749, 11-22-2021]

All vacations referred to in this Division shall be taken at a time when they will not seriously interfere with scheduled operations as determined by the Department Head and the Mayor. Insofar as practicable, the City will schedule all vacations for the period for which employees express a preference, those who have the most seniority being given the first consideration. To the fullest extent practicable and subject to the operating requirements of the department, seniority of service shall apply to the choice of assignment of vacation dates in case of conflict. The most senior employee of a class, shift and department shall be given first choice for one (1) period of his/her vacation, and, after all other less senior employees of that class, shift and department have exercised their first choice, then the most senior employee shall exercise his/her choice for the next period of his/her vacation.

Section 125.345. through Section 125.350. (Reserved)

Division 3. Family and Medical Leave

Section 125.355. Family and Medical Leaves — Generally.

[Ord. No. 7328 §1, 8-28-2006]

- A. Family and medical leaves are available to eligible employees as follows:
 - 1. An employee is entitled to take up to twelve (12) weeks of unpaid leave under this Section in a twelve (12) month period. Leave may be taken for any of the following reasons:
 - a. To care for an adopted, foster care or newborn child;
 - b. To care for the employee's spouse, son, daughter or parent with a serious health condition; and
 - c. Because of a serious health condition that makes the employee unable to work at all or perform the essential functions of the employee's job.
 - 2. An "eligible employee" is an employee who:
 - a. Has been employed by the City of Florissant for at least twelve (12) months; and
 - b. Has worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the requested leave.
- B. For purposes of this Section, "*serious health condition*" means an illness, injury, impairment or physical or mental condition that involves:
 - 1. Any period of incapacity or treatment in connection with or consequent to in-patient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility;
 - 2. Any period of incapacity requiring absence from work, of more than three (3) calendar days,

that also involves continuing treatment by (or under the supervision of) a health care provider; and

3. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or for prenatal care.
- C. The twelve (12) month period during which an eligible employee is entitled to a total of twelve (12) weeks leave under this Section begins on each employment anniversary date for each eligible employee. An eligible employee is only entitled to a total of twelve (12) weeks leave in any twelve (12) month period regardless of the number of qualifying conditions that may arise in any twelve (12) month period.
- D. For any leave taken in accordance with this Section, each employee is required to substitute accrued paid vacation and accrued paid sick leave to the extent available in the following manner:
1. *Sick leave.* For any leave taken under this Section because of the employee's own serious health condition, including birth of a child, the employee is required to substitute all accrued paid sick leave while on leave.
 2. *Vacation.* For any leave taken under this Section for whatever reason, the employee is required to substitute all accrued paid vacation while on leave.
- E. An employee on leave in accordance with this Section during any of the holidays designated in Section **125.295** of the Code will not be compensated for said holiday(s) unless the holiday falls within the accrued paid sick leave or vacation substituted for any portion of the leave, in which case the employee receives his/her regular pay.
- F. A husband and wife who are both employed by the City are permitted to take only a combined total of twelve (12) weeks leave during a twelve (12) month period if the leave is taken: for the birth of a child or to care for the child following birth; for placement of a child for adoption or foster care or to care for the child after placement; or to care for a parent with a serious health condition. Each spouse is entitled to twelve (12) weeks of leave during a twelve (12) month period if the leave is for his/her serious health condition or the serious health condition of the other spouse or child.
- G. An employee's entitlement to leave for the birth or placement for adoption or foster care of a child expires at the end of the twelve (12) month period beginning on the date of the birth or placement.
- H. All employees requesting leave under this Section are required to provide thirty (30) days' advance written notice of the need to take leave if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care of a child, or planned medical treatment for a serious health condition of the employee or of a family member. If thirty (30) days' notice is not practicable under the circumstances, such as because of the lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. The notice under this Section must set forth the reason(s) for the requested leave, the anticipated duration of the leave and the anticipated start of the leave. Notice should be given to the employee's immediate supervisor.
- I. An employee undergoing planned medical treatment must consult with his/her supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly the employer's operations, consistent with the health care provider's medical judgment.
- J. When leave is taken because of the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only upon approval of the employee's department head. When leave is taken to care for an employee's own serious

health condition or for a sick family member, leave may be taken intermittently or on a reduced leave schedule at the employee's request and when medically necessary.

- K. An employee that takes leave under this Section for a spouse, child or parent with a serious health condition, or because of the employee's own serious health condition, must provide written certification of the serious health condition issued by the health care provider for the employee or the employee's ill family member. The certification is due fifteen (15) days after the City's written request for certification directed to the employee. The City will provide a form certification to the employee requesting leave at the time the certification is requested by the City. The certification of a serious health condition must include the following:
1. The date the serious health condition began;
 2. The health care provider's judgment concerning the probable duration of the condition;
 3. The diagnosis of the serious health condition;
 4. A statement of the course of treatment;
 5. An indication of whether in-patient hospitalization is necessary;
 6. A statement that the employee either cannot perform any type of work or cannot perform the essential functions of the employee's job (only when the leave is for the employee's own serious health condition); and
 7. A statement that the family member needs assistance or that the employee's presence would be beneficial or desirable for the care of the family (only when leave is for the purpose of caring for a family member with a serious health condition).
- While on leave, the employee may be asked to periodically report on the status of the employee or family member and when the employee intends to return to work.
- L. Prior to being returned to work following a leave taken under this Section, an employee whose leave was occasioned by the employee's own serious health condition must obtain and present certification from the health care provider that the employee is able to return to work.
- M. For the duration of any leave taken under this Section, the City will maintain the employee's health care coverage on the same basis as coverage would have been provided if the employee had not taken leave. An employee who takes leave under this Section will be able to return to the same job or a job with equivalent status, pay, benefits and other employment terms.
- N. When an employee takes paid leave (i.e., sick leave or vacation) which would otherwise qualify as leave under this Section except that the employee has not specifically requested leave under this Section, the time spent on such a leave will be designated as family and medical leave and be counted towards an employee's total number of weeks to which the employee is entitled hereunder.
- O. Other leaves without pay, that are not governed by this Section, will continue to be governed by Section **125.365** of the Code.
- P. Section **125.345** of the Florissant Code of Ordinances entitled "Vacation in lieu of leave of absence, etc." does not apply in situations where the leave at issue qualifies as leave under this Section.
- Q. Any interpretation of this Section and of the benefits and obligations under the Family and Medical Leave Act of 1993 shall be governed by all regulations issued thereunder.

Division 4. Other Types of Leave

Section 125.360. With Pay.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 7812 §1, 6-28-2011]

A. Leave of absence with pay shall be as follows:

1. *Funeral absence.* In the case of death in the immediate family of a regular full-time employee of the City, there shall be granted a leave of absence with pay not to exceed three (3) regularly scheduled days. "*Immediate family*" is defined as a wife, husband, child, brother, sister, parent or parent-in-law, stepmother, stepfather, stepchildren, grandparents or grandchildren.
2. *Jury duty — time off to vote — time off for official business, etc.* Employees shall be granted time off with pay for required jury duty, time off to vote as required by law, or for any appearance before a court or other public body as part of their City employment. Any such employee shall receive that portion of his/her basic pay which will, together with the compensation for jury duty or other fees, equal his/her total pay for the same period. Time off without loss of basic pay may be authorized in order that regular employees may attend official meetings relating to their duties if such leave is approved by the department head and the Personnel Officer. Time off without loss of basic pay may be granted by a department head for the purpose of allowing a regular employee to engage in official training courses.
3. *Military leave of absence.* Employees who are or may become members of the National Guard or of any reserve component of the Armed Forces of the United States shall be entitled to leave of absence without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which otherwise entitled by applicable Federal or State law for all periods of military services during which they are engaged in the performance of duty or training in the service of the State or of the United States under competent orders. An employee, while on such leave, shall be paid his/her salary for a period not to exceed a total of fifteen (15) calendar days in any one (1) calendar year. Before any payment of salary is made covering the period of the leave, the employee shall file with the Personnel Officer an official order from the appropriate military authority as evidence of such duty for which military leave pay is granted, which order shall contain the certification of the employee's commanding officer of performance of duty in accordance with the terms of such order.

Section 125.365. Without Pay.

[Ord. No. 7328 §1, 8-28-2006]

Insofar as the requirements of the classified service of the City will permit, leaves of absence without pay may be granted upon written request of a regular employee for good cause and for reasonable lengths of time. Application for such leaves shall be in writing, signed by the employee and his/her department head and approved by the Mayor. An employee on such leave shall accrue no benefits, and upon his/her return or upon expiration of the leave he/she shall be restored to his/her former position or to a position in like classification. Notwithstanding this policy, the City retains the right to reconsider any extended leave of absence if such a reconsideration becomes reasonably necessary due to business operation of the City. Employees on military leave will be reinstated in accordance with applicable State and Federal law.

Section 125.370. Absence Without Leave.

[Ord. No. 7328 §1, 8-28-2006]

An absence of an employee from duty, including any absence for a single day or any part of a day,

that is not authorized by a specific grant of leave of absence under the provisions of this Chapter shall be deemed to be an absence without leave. Any such absence shall be without pay and may be subject for disciplinary action. Three (3) days absence, unexplained satisfactorily to the head of the department, may be deemed cause for discharge.

ARTICLE VII. Insurance and Sick Leave

Division 1. Generally

Section 125.375. Predication of Division.

[Ord. No. 7328 §1, 8-28-2006]

The provisions of this Division are predicated upon the City's continued participation in a wage indemnity insurance program.

Section 125.380. Occupational Injury or Illness.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 7599 §1, 6-10-2009]

A. In cases of occupational injury or illness, payments will be made in accordance with the provisions of the State Workers' Compensation law, Section 287.010, RSMo., which says; except that, each occupational injury or illness shall be compensated for from the first (1st) day. In addition to such payments, a supplemental amount, equal to the difference between the employee's basic weekly wage and his weekly compensation allowance shall be paid weekly to such employee. Such supplementary payments shall continue for a period which shall continue for a period of twelve (12) months, unless:

1. The employee returns to work, whether or not in a job classification of like status and pay whether or not in the employ of the City; or
2. The employee dies; or
3. The employee receives a compensation award according to Workers' Compensation regulations or accepts a compromise settlement of his claim; or
4. The employee refuses to return to offered employment after being determined by a physician of the personnel officer's choice to be able to perform the duties of the assigned job without unreasonable risk or physical harm.

Section 125.385. Group Life Insurance Coverage.

[Ord. No. 7328 §1, 8-28-2006]

The City shall provide the opportunity for the purchase of life insurance on the group plan for all regular employees in the classified service of the City.

Division 2. Sickness and Disability

Section 125.390. Eligibility For Benefits — Generally.

[Ord. No. 7328 §1, 8-28-2006]

Every regular full-time employee in the classified service of the City shall, thirty (30) days after having commenced employment with the City, be eligible to receive sickness and disability benefits on account of physical incapacity to work by reason of sickness or accident, or by reason of the necessity to receive any type of medical examination, other than accidental injury or sickness arising out of and in the course of employment for the City.

Section 125.395. Calculation of Benefits and Entitlement To Donate.

[Ord. No. 7328 §1, 8-28-2006]

- A. The following table of eligibility for sickness and disability benefits is based on continuous employment:

Continuous service of employee eligible for sickness and disability benefits at full pay:

30 days, but less than 3 years	5 days per year
3 years, but less than 5 years	10 days per year
5 years, but less than 10 years	15 days per year
10 years and over	20 days per year

- B. Sick leave time shall be accumulated up to a maximum of one hundred twenty (120) days, including sick leave due in the then current year of service.
- C. Any employee entitled to sick leave under this Section, who loses work as a result of sickness, shall be paid his/her regular salary during the time of such sickness, less the amount which the employee receives as a result of any payment made to the employee under any insurance policy paid for by the City covering such sickness.
- D. Any employee who has accumulated sick leave benefits may donate one (1) to five (5) days of sick leave benefits on a voluntary basis to a catastrophic leave pool provided that it is done in writing to the Mayor designating the number of days that are being donated, and an acknowledgment that it is being done voluntarily and with the knowledge that the employee's accumulated sick leave benefits will be immediately reduced by the number of days donated.
- E. At any time a physician's certificate may be required to verify the employee's sickness or injury. Subsequent to an absence of any duration due to sickness or injury, a physician's certificate may be required to verify the employee's ability to return to work prior to assumption of duties by that employee. In addition, any employee may be required to complete any physical agility or other testing program before returning to work.
- F. It is understood that an employee utilizing sick leave benefits pursuant to this policy agrees that he/she will not accept or perform any work for any other employer or engage in any self-employment work activity during his/her leave of absence; if an employee does so, he/she acknowledges that in such circumstances his/her conduct will be deemed to be a violation of the terms of the leave of absence and that employment with the City may be subject to termination.
- G. Sick leave may not be used during any disciplinary suspension.
- H. Nothing contained in this sick leave policy is to be construed as guaranteeing employment status throughout the availability or use of sick leave benefits or upon conclusion of any period of such leave. An employee who is medically unavailable for work for any extended duration may be separated from employment, consistent with applicable Federal and State laws, regardless of whether the employee has exhausted all earned, unused sick leave.
- I. Earned, unused sick leave is not payable upon separation of employment.

Section 125.400. Compensation of Benefits.

[Ord. No. 7328 §1, 8-28-2006]

Full pay and partial pay shall be based on the number of hours per week constituting the employee's normal workweek, not including overtime, and shall be computed at the employee's basic rate of pay in effect at the time the disability began (first (1st) day of absence). The benefits, including any benefits derived under a City-sponsored insurance program, shall at no time exceed the pay which the employee would receive, based on his/her rate of pay and general schedule of hours per week constituting a full week's work, at the time the disability began.

Section 125.405. Notification of Claim.

[Ord. No. 7328 §1, 8-28-2006]

Any claim for disability benefits shall be made by notification on the first (1st) day of absence by the employee, or his/her designated representative, to the employee's immediate supervisor; and the employee shall not be entitled to benefits for time previous to such notice unless delay shall be shown to have been unavoidable and satisfactory evidence of disability is furnished.

Section 125.410. Doctor's Certification of Disability — Generally.

[Ord. No. 7328 §1, 8-28-2006]

The City may request a doctor's certification of the disability at any time it is deemed desirable. In any case in which the absence extends beyond the third (3rd) working day, such certification shall be furnished by the employee or his/her agent. In unusual cases, the Personnel Officer may request a physician of the City's choice to examine an employee on sickness disability.

Section 125.415. Doctor's Certification of Disability — Supplemental Reports — When Employee Not Entitled To Benefits.

[Ord. No. 7328 §1, 8-28-2006]

The Personnel Officer may request supplemental reports from physicians as may be deemed necessary to properly follow the progress of extended disability cases. A disabled employee shall not be entitled to benefits if he/she fails to submit satisfactory evidence of disability or fails upon request to submit to examination by a physician of the City's choice.

Section 125.420. Absence of Disabled Employee From City.

[Ord. No. 7328 §1, 8-28-2006]

A disabled employee wishing to leave his/her employment with the City for an extended period shall obtain from the Personnel Officer written approval of absence for a specified time and shall furnish satisfactory proof of disability while absent; otherwise, no benefits will be paid for such period of absence.

Section 125.425. Payment For Sickness Disability.

[Ord. No. 7328 §1, 8-28-2006]

Payment for sickness disability shall be made in conformance with the method of payment of regular wages and salaries paid by the City and on order of the department head and approved by the Personnel Officer.

Section 125.430. Duration of Benefit Payments.

[Ord. No. 7328 §1, 8-28-2006]

The duration of sick leave benefit payments shall not exceed that specified for the continuous service which the employee had attained as of the time the sickness or disability began (first (1st) day of absence). However, a full-time employee who has exhausted all accrued sick leave benefits and is faced with a catastrophic illness, injury or condition, as verified by competent medical records and documents, may be granted an additional sixty (60) days of sick leave benefits from a catastrophic leave pool provided that the total number of sick leave days for the employee does not exceed one hundred eighty (180) days. The decision to grant additional sick leave benefits from the catastrophic leave pool shall be within the sole discretion of the Mayor based upon competent medical records and documents submitted by doctors of medicine or certified mental health professionals.

Section 125.435. Questions To Be Referred To Personnel Officer.

[Ord. No. 7328 §1, 8-28-2006]

All questions regarding continuous service, rates of pay, eligibility to benefits and other matters shall be referred to the Personnel Officer who shall investigate and give interpretations. In disputed cases the decision of the Personnel Commission shall be final.

Section 125.440. Continual Insurance Coverage For Disabled Employees.

[Ord. No. 7328 §1, 8-28-2006]

Whenever a City employee who has become disabled in the line of duty is covered by any type of life insurance, health and accident insurance, or any other type of insurance, the premiums for which are paid by the City, becomes totally disabled and is so classified by Social Security or by the terms of any insurance contract covering benefits provided by the City, and the premiums for such insurance are not waived by the insurance carrier as a result of such disability, the City shall maintain such insurance coverage until such time as the disability waiver of premiums shall take effect or until such time as the employee by reason of such disability shall become eligible for Medicare or other Federal or State funded programs of health insurance.

ARTICLE VIII. Employees' Code of Ethics

Section 125.445. Principle To Be Accepted.

[Ord. No. 7328 §1, 8-28-2006]

Employees in the classified service of the City shall accept the fundamental principle that the sole function of local government is the efficient provision of facilities and services deemed essential for the kind of urban living desired by the resident population.

Section 125.450. Employees — Agents of Public Purpose, Etc.

[Ord. No. 7328 §1, 8-28-2006]

Employees in the classified service of the City are agents of the public purpose and shall hold office or employment for the benefit of the public.

Section 125.455. Official Duties To Be Faithfully Discharged.

[Ord. No. 7328 §1, 8-28-2006]

Employees in the classified service of the City, recognizing that the public interest is their primary concern, shall faithfully discharge their official duties regardless of personal considerations.

Section 125.460. Appointments, Etc., To Be Based On Merit, Etc.

[Ord. No. 7328 §1, 8-28-2006]

No person in the classified service of the City, or seeking admission thereto, shall be appointed, promoted, reduced or removed on any basis other than merit and fitness for the service or the lack thereof. Any such action shall be taken wholly without favoritism or discrimination.

Section 125.465. Gifts, Etc., in Connection With Appointment, Etc., Prohibited.

[Ord. No. 7328 §1, 8-28-2006]

No person seeking appointment to or promotion in the classified service of the City shall either directly or indirectly give, render or pay any money, service or other thing of value to any person for, or on account of, or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.

Section 125.470. Employees To Treat All Citizens Fairly and Equally.

[Ord. No. 7328 §1, 8-28-2006]

Employees in the classified service of the City shall give fair and equal treatment to every citizen.

Section 125.475. Special Consideration, Etc., Prohibited.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall grant a special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

Section 125.480. Financial Interest in City Contracts or Sales To City Prohibited.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall have a financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, equipment or services. Any employee violating this Section shall forfeit his/her office or employment and be subject to such additional penalties as may be provided by this Chapter or by ordinance.

Section 125.485. Engaging in Business, Personal Interest, Etc., Incompatible With Proper Discharge of Official Duties, Etc., Prohibited.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of his/her official duties.

Section 125.490. Private Interest in Proposed City Legislation To Be Disclosed.

[Ord. No. 7328 §1, 8-28-2006]

An employee in the classified service of the City who has a financial or other private interest in any proposed City legislation shall disclose on the records of the Council the nature and extent of such interest.

Section 125.495. Representation of Private Interests Against City.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall appear in behalf of private interests before any officer, department or agency of the City Government; and no such employee shall represent private interests in any action or proceeding against the interest of the City, in any litigation to which the City is a party, or in any action or proceeding in the Municipal Court in which the City or any agency or any officer or employee of the City in the course of his/her duties is a complainant.

Section 125.500. Gifts From Persons Dealing With City.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall accept any valuable gift, whether in the form of service, loan, thing, promise, or in any other form, from any person which, to his/her knowledge, is interested, directly or indirectly, in any manner whatsoever in business dealings with the City.

Section 125.510. Disclosure or Improper Use of Confidential Information.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall disclose confidential information concerning the property, government or affairs of the City, nor shall he/she use such information to advance the

financial or other private interest of himself/herself or others.

Section 125.515. Certain Private Employment, Etc., Prohibited.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his/her official duties.

Section 125.520. Sales To City, Etc.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall sell or barter anything to the City, or to a contractor to be supplied to the City, or make any contract with the City, or purchase anything from the City other than those things which the City offers generally to the public (for example, utility services), and then only on the same terms as are offered to the public.

Section 125.525. Political Activities - Employees Not To Be Candidates For City Office.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 7676 §1, 1-26-2010; Ord. No. 8020 §1, 1-13-2014]

No employee in the service of the City, except for first responders as addressed in Section 67.145, RSMo., shall continue in such position after becoming a candidate for nomination or election to any City office. This Section does not apply to any elected official of the City.

Section 125.530. Political Activities - Solicitation of Campaign Funds Generally - Participation in Campaign of Candidate For City Office.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 7676 §2, 1-26-2010; Ord. No. 8020 §2, 1-13-2014]

No employee in the service of the City, except for first responders as addressed in Section 67.145, RSMo., shall solicit any monetary contribution to the campaign funds of any candidate for City office, nor shall any employee participate in the campaign of any candidate for City office. This Section does not apply to any elected official of the City.

Section 125.535. Political Activities - Solicitation of Campaign Funds, Etc., From City Personnel.

[Ord. No. 7328 §1, 8-28-2006; Ord. No. 7676 §3, 1-26-2010; Ord. No. 8020 §3, 1-13-2014]

No employee in the service of the City, except for first responders as addressed in Section 67.145, RSMo., shall, directly or indirectly, solicit, receive or be in any manner concerned in soliciting, obtaining or receiving any monetary contribution or assistance, financial or otherwise, for any political purpose whatsoever from any officer or employee of the City. This Section does not apply to any elected official of the City.

Section 125.540. City Property — Unauthorized Use Prohibited — Personal Benefit, Etc., From City Personnel Prohibited.

[Ord. No. 7328 §1, 8-28-2006]

No employee in the classified service of the City shall request or permit the use of City-owned property for any purpose except the conduct of City business; and no such employee shall, directly or indirectly, attempt to obtain any service or benefit from City personnel for the personal affairs of such employee.

Section 125.545. City Property — Responsibility of Employees.

[Ord. No. 7328 §1, 8-28-2006]

Each employee in the classified service of the City is responsible for the proper use and protection of City property entrusted to his/her use. Failure to exercise good judgment in the use and protection of equipment, tools and vehicles so entrusted may be cause for disciplinary action.

Section 125.550. Supplemental Rules.

[Ord. No. 7328 §1, 8-28-2006]

Each department head may supplement the employees' Code of Ethics, as set out in this Article, with provisions which would be uniquely peculiar or applicable only to that department; however, any such additional provisions shall be submitted to the Personnel Commission for approval.

Section 125.555. Enforcement of Article — Violations and Penalties Generally.

[Ord. No. 7328 §1, 8-28-2006]

- A. Any violation of the provisions of this Article may be cause for removal from the classified service of the City.
- B. The provisions of this Article may be enforced in any court of competent jurisdiction and upon conviction of violating or conspiring to violate the provisions hereof, a person shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). The conviction of any employee of such offense shall operate automatically to terminate his/her service. Any employee so removed shall not be reinstated into City service. The conviction of any applicant for City employment of such offense shall automatically disqualify such person from future employment in the classified service.

Section 125.560. through Section 125.595. (Reserved)

ARTICLE IX. General Employment Policies

Section 125.600. Equal Employment Opportunity, Anti-Harassment and Non-Discrimination Policy.

[Ord. No. 7328 §1, 8-28-2006]

- A. It is the policy and practice of the City to provide and promote equal employment opportunities for all applicants and employees. It is the responsibility of all employees to ensure that the concepts of equal employment opportunity and non-discrimination are understood, abided by and carried out by everyone.

- B. It is the policy of the City to hire, train, promote, compensate and administer all employment practices without regard to race, color, sex, pregnancy, age, veteran status, religion, national origin, handicap or disability unrelated to the ability to perform a job. This policy also prohibits "same sex" harassment. In short, discrimination, sexual harassment or harassment on any of the grounds stated above is strictly forbidden and will not be tolerated. The City will take appropriate measures in response to any such incidents which are known by or reported to management or the Personnel Department.
- C. The City believes that every employee has the right to work in an environment free of discrimination, sexual or other prohibited harassment. Such conduct does not advance the purposes of the City; it is also morally wrong and may subject the City to legal exposure. Consequently, any employee who engages in this prohibited conduct will be subject to disciplinary action, up to and including termination.
- D. *Conduct Constituting Prohibited Sexual Harassment.* Under guidelines published by the Equal Employment Opportunity Commission, "unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature" constitute unlawful harassment in the following instances:
1. When submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
 2. When submission to or rejection of such conduct by an individual is used as a basis for any employment decision (e.g. promotion, wage increase, termination) affecting such individual; or
 3. When such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

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

- a. Conditioning a benefit such as a certain salary or promotion on the granting of sexual favors or the establishment or continuance of a personal relationship or to imply to an employee that an award of such a benefit is conditioned upon the granting of sexual favors or the establishment or continuance of a personal relationship.
- b. Stating or implying that another employee's performance is attributable in whole or in part to the sex of that employee.
- c. Stating or implying that a fellow employee's promotion in the City hierarchy has resulted from the granting of a sexual favor or relationship.

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

- E. *Prohibited Discriminatory Joking Or Epithets Based On Race, Ethnicity, Sex, Religion, Age Or*

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

1. It is prohibited for any employee to bring any item to the work premises for purposes of a racial, ethnic, sexual, religious, age-related or disability-related joke or epithet.
 2. It is also prohibited for any employee to use City property, bulletin boards, e-mail or voice mail systems or documents for purposes of a racial, ethnic, sexual, religious, age-related or disability-related joke or epithet.
 3. It is also prohibited for any employee to deface City property or the personal property of anyone else for purposes of a racial, ethnic, sexual, religious, age-related or disability-related joke or epithet.
 4. It is also prohibited for any employee to utter or use any racial, ethnic, sexual, religious, age-related or disability-related jokes or epithets at work or when referring to or about any other person, be they an employee or a non-employee.
- F. *Procedure Upon Occurrence Of Prohibited Conduct.* Any employee who believes he/she has been subjected or exposed to any harassment or other conduct prohibited by this policy has the right to have such activity terminated immediately. Complaints must be made either to the employee's immediate supervisor, department head or to the City's Personnel Officer or Mayor. Complaints shall be treated in a confidential manner to the extent reasonable. Retaliation of any form against anyone who complains pursuant to this policy is strictly prohibited. An investigation shall be made immediately concerning any complaint. If the investigation leads to a determination that the charges are true or there has been any improper conduct, corrective action will be taken immediately. Such action may include termination of employment for anyone violating this policy. Any complaint against the Mayor should be made to the Personnel Officer who shall do a prompt and thorough investigation. A report of such investigation shall be forwarded to the Council for its review and determination of appropriate action to be taken against the Mayor.

Section 125.650. Policy Regarding Reasonable Accommodations For Qualified Individuals With A Disability.

[Ord. No. 7328 §1, 8-28-2006]

- A. *Overview.* The City stands committed to fulfilling its obligations under the Americans With Disabilities Act and all other applicable State and Federal Statutes governing the workplace. It is the policy of the City to hire, train, promote, compensate and administer all employment practices without regard to race, color, sex, age, religion, veteran status, national origin or disability unrelated to the ability to perform a job with or without reasonable accommodation. Discrimination against job applicants or employees because they are disabled is prohibited and will not be tolerated.
- B. *Guidelines.* When dealing with situations involving job applicants or employees with a disability, the City will endeavor to follow these guidelines:
1. It is against the policy of the City to discriminate against qualified individuals with disabilities who, with or without reasonable accommodation, can perform the essential functions of a job.
 2. The City is committed to ensuring that qualified individuals with a disability are not discriminated against in applying for employment and once such individuals have been employed in the workplace. It is the policy of the City, where possible and readily achievable, to make existing facilities used by employees readily accessible to and usable by individuals with disabilities. However, there may be instances where the City is not

aware that an employee has a disability which might impact on an aspect of his/her employment or whether an existing facility is accessible to and usable by individuals with disabilities. It is incumbent upon any job applicant or employee to alert the City or his/her supervisor as to the existence of a disability which the job applicant or employee believes needs to be accommodated so that he/she will enjoy and be afforded equal employment opportunity in the workplace.

3. An individual may be considered disabled if he/she has a physical or mental impairment and the impairment substantially limits one (1) or more of the individual's major activities in life, has a record or history of such an impairment, or is perceived as having such an impairment. The City is committed to making reasonable accommodations in job duties, the work environment, and the application process to enable a qualified person with a disability to enjoy equal employment opportunities, so long as such accommodations do not constitute an undue hardship.
 4. At the same time, the City also has an obligation to provide a safe work environment for all employees and customers. Reasonable precautions will be taken to ensure that an employee's disability, or any attempted reasonable accommodations thereto, do not present a direct threat to the health and/or safety of the individual employee with a disability or to others.
- C. *Procedural Channels.* The employee should advise his/her supervisor of the existence of a disability which the employee believes needs to be accommodated so that he/she will have equal employment opportunities in the workplace. The City will attempt to work with the employee to determine if the employee's disability can be reasonably accommodated. Employees also should advise their department head, the Personnel Officer or the Mayor of any facilities which they believe need to be made accessible and usable by individuals with disabilities. In addition, the employee may contact his/her supervisor, department head, the Personnel Officer or the Mayor if he/she believes that he/she has been discriminated against by reason of a disability. Any complaint of disability discrimination shall be investigated and treated in a confidential manner to the extent reasonable. If the investigation leads to a determination that the charges are true, corrective action will be taken immediately.

Section 125.700. Workplace Violence Policy.

[Ord. No. 7328 §1, 8-28-2006]

- A. *Overview.* The City is concerned about the increased violence in society, which has also filtered into many workplaces throughout the United States, and has taken steps to help prevent incidents of violence from occurring at the City. In this connection, it is the policy of the City to expressly prohibit any acts or threats of violence by any City employee against any other employee in or about the City's facilities or elsewhere at any time. The City also will not condone any acts or threats of violence against the City's employees, customers or visitors on the City's premises at any time or while they are engaged in business with or on behalf of the City, on or off the City's premises.
- B. *Objectives.* In keeping with the spirit and intent of this policy, it is the stated commitment of the City:
1. To provide a safe and healthful work environment;
 2. To take prompt remedial action, up to and including immediate termination, against any employee who engages in any threatening behavior or acts of violence or uses any obscene, abusive or threatening language or gestures;
 3. To take appropriate action when dealing with customers, former employees or visitors to the City's property who engage in such behavior. Such action may include notifying the Police

or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law. The City intends to use all reasonable legal, managerial, administrative and disciplinary procedures to secure the workplace from violence and to reasonably protect employees from harm;

4. To prohibit employees, former employees, customers and visitors from bringing unauthorized firearms or other weapons onto the City's premises; and
5. To establish a procedure for reporting a complaint of workplace violence and investigating any complaint of workplace violence.

C. *Description Of Workplace Violence.* Workplace violence in this policy shall include, but not be limited to, an act or behavior that:

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

D. *Reporting Workplace Violence.*

1. Any employee who feels he/she has been subjected to workplace violence should immediately contact one (1) or more of the persons below with whom the employee feels the most comfortable.
 - a. The employee's department head.
 - b. The Personnel Officer.
 - c. The Mayor.
2. The employee should be prepared to provide the following information:
 - a. The employee's name, department and position title.
 - b. The name of the person(s) committing the alleged violence (including department, if an employee of the City).
 - c. The specific nature of the alleged violence and specific date and time of any and all incidents.
 - d. All witnesses to any incidents.
3. The City will not condone any form of retaliation against any employee for making a report under this policy.

E. *Investigation Of Workplace Violence Complaint.*

1. The Personnel Officer is the person designated by the City to be the investigator of any complaint of workplace violence. The Mayor or his/her designee may also investigate any complaint of workplace violence. If any complaint is directed against the Personnel Officer, the Mayor shall investigate the complaint or determine an appropriate delegate to

investigate the complaint.

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

F. *Obligations Of Employees.*

1. Employees shall report all instances of workplace violence in a timely manner.
2. Employees are obligated to cooperate in any investigation of a complaint of workplace violence including, but not necessarily limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of violence and by fully and truthfully making a written report or verbally answering questions when required to do so during an investigation of a workplace violence complaint.
3. Disciplinary action shall be taken against any employee who fails or refuses to cooperate in an investigation of alleged workplace violence, or who intentionally files a false complaint of workplace violence.

Section 125.800. E-Mail/Voice Mail and Internet Policy.

[Ord. No. 7328 §1, 8-28-2006]

- A. Electronic mail (e-mail) and voice mail are used prevalently for external and internal communications. This is an efficient, cost-effective way of communicating, either internally within an office, between offices or externally with others. By design, these systems permit us to communicate without producing a physical record of the communication.
- B. It is important to be aware, however, that records (either electronic or voice) of these communications are created and may remain in the system. Accordingly, it is critical that employees use appropriate precautions when sending e-mail messages and using voice mail. Both the subject matter and form of e-mail communications should be of a business nature. The content of voice mail communications should, likewise, be business related. When preparing messages, it is best to assume that they may, at some point, be viewed or heard by someone other than the intended recipient(s). All messages created, sent or received using the e-mail system or voice mail remain the property of the City.
- C. Employees using the e-mail system and voice mail for personal purposes do so at their own risk. All passcodes or passwords are the property of the City. No employee may use a passcode or password that has not been issued to that employee or that is unknown to the City.
- D. The City retains the right to review, audit, intercept, access and disclose any business or personal message created, sent or received on the e-mail system or by using voice mail and no employee should have any expectation of privacy regarding any such communications. To ensure that the use of electronic and telephonic communication (voice mail) systems and business equipment is consistent with the City's legitimate business interests, authorized representatives of the City may monitor the use of such equipment from time to time. Such monitoring may include printing or reading all e-mail entering, leaving or stored in these systems or reviewing or monitoring voice mail messages.

- E. Improper use of the City's communications services and equipment will result in discipline, up to and including termination. Improper use includes any misuse as described in this policy as well as harassing, offensive, demeaning, insulting, intimidating, or sexually suggestive written, recorded or electronically transmitted messages.
- F. Internet access should be for business use only during working hours. Internet access for personal use is permissible during non-working hours so long as such use does not involve any inappropriate or offensive material. Internet access is not available for any employee who does not use a City computer as part of the employee's regular and usual duties. All City Internet users need to be aware at all times that the Internet is an open environment that may not be secure. You must govern your use of the Internet accordingly. Information transmitted over the Internet, whether by Internet e-mail or as responses entered on Internet web or other sites, may be non-secure and may be logged or viewed by audiences other than those you intend to address. Activities on the Internet can be traced to the address from which they originate. It is critical that you be mindful of who may view the information on the Internet. It is your responsibility to take precautions to protect privileged and confidential information and to ensure that your Internet activities reflect well on the City. Internet usage for any sexually suggestive, pornographic, lewd or indecent material is absolutely prohibited.
- G. Employees who violate this policy are subject to disciplinary action, up to and including discharge.

Section 125.900. Policy Against Substance Abuse.

[Ord. No. 7328 §1, 8-28-2006]

A. *Provisions Applicable To All Employees And Applicants.*

1. *Purpose.*

- a. It is the policy of the City to maintain a safe, healthy and productive work environment for all employees and the City's residents. To that end, the City will act to eliminate any use, possession, concealment, sale or distribution of illegal or unauthorized drugs and alcoholic beverages which increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or tends to undermine public confidence in the City's workforce. Generally, any substance which may affect the employee's senses, motor functions or alter the individual's perception while working falls within this policy. This prohibition applies during working hours and non-working hours if the off-duty use impacts job performance.
- b. This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of management and employees. All employees covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination. Applicants in violation of this policy will not be hired.
- c. In recognition of the serious duty entrusted to employees of the City and with the knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, the following policy against drugs and alcohol is hereby adopted by the City.

2. *Policy.*

- a. The use, possession, concealment, sale or distribution of unauthorized drug or alcohol is absolutely prohibited. It is City policy that employees shall not: report to work with any detectable amount of an unauthorized drug or alcohol or be under the influence of alcohol or drugs; have the odor of alcohol or drugs on their breath during a regularly

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

- b. The use of medically prescribed medications and drugs is not per se a violation of this policy. However, an employee should notify his/her supervisor, before beginning work, when taking medication or drugs which may interfere with the safe and effective performance of duties or operation of City equipment. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from a qualified physician will be required.
 - c. The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Telephone numbers for the EAP are listed on posters in the workplace, on periodic payroll stuffers and in the employee newsletter. Medical insurance coverage for drug and alcohol treatment is also included in the medical plan offered by the City. Employees wishing to obtain more information on any of these benefits should contact the Personnel Officer, the City's health insurance carrier or the Employee Assistance Program.
 - d. The City reserves the right to search, without employee consent, all areas and property in which the City maintains joint control with the employee or full control. All City vehicles are subject to search by appropriate management personnel. Warrants will be obtained should it become necessary to search areas beyond the City's immediate control.
 - e. Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work. The employee shall be instructed to wait for a reasonable time until an authorized City representative can transport the employee from the work site.
 - f. Violations of this policy will be grounds for disciplinary action, up to and including discharge. Refusal to submit immediately to an alcohol and/or drug analysis when requested by management pursuant to provisions of this substance abuse policy will result in termination.
3. *Employee responsibilities.* An employee must:
- a. Not report to work or be subject to duty while having any detectable prohibited drug or alcohol in his/her system or report to work or be subject to duty while his/her ability to perform any job duties is or has been impaired due to alcohol or drug use, on or off duty;
 - b. Not possess or use or have the odor of alcohol or drugs on his/her breath during work hours, on breaks, during meal periods, while on City property in an official capacity, or while operating any City vehicle;
 - c. Not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or "on call";
 - d. Consent to and submit immediately to reasonable requests for alcohol and/or drug analysis when requested by a department head or his/her designee;
 - e. Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of job duties or operation of City equipment;
 - f. Provide within twenty-four (24) hours of request a current valid prescription for any drug or medication identified when a drug screen/analysis is positive. The prescription

must be in the employee's name; and

- g. Notify the Personnel Officer in writing of any criminal drug statute or ordinances conviction or suspended imposition of sentence for a violation occurring in the workplace no later than five (5) calendar days after such conviction or suspended imposition of sentence.

4. *Management responsibilities and guidelines.*

- a. All management and supervisors are responsible for consistent enforcement of this policy. Any supervisor who knowingly permits a violation of this policy by employees under his/her direct supervision shall be subject to disciplinary action.
- b. Any management or supervisory representative may request that an employee submit to a drug and/or alcohol analysis when there is a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol or is otherwise in violation of any provision of this policy. "*Reasonable suspicion*" is a belief based on objective and articulable facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced or that the employee is otherwise in violation of any provision of this policy. For example, any of the following, alone or in combination, may constitute reasonable suspicion:
 - (1) Slurred speech;
 - (2) Alcohol on breath;
 - (3) Inability to walk a straight line;
 - (4) An accident involving City property;
 - (5) Physical altercation;
 - (6) Verbal altercation;
 - (7) Behavior which is so unusual that it warrants summoning a supervisor or anyone else with authority;
 - (8) Use or possession of alcohol or drugs;
 - (9) Information on use or possession of alcohol or drugs provided either by a reliable and credible source or independently corroborated;
 - (10) Arrest or conviction for a substance abuse offense or being the subject of a criminal investigation into illegal drug possession, use or trafficking;
 - (11) Evidence that the employee has previously tampered with a previous drug test.

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

- c. Drug/alcohol tests shall be required for employees whenever there is a pattern of on-duty accidents, an accident resulting in property damage or any on-the-job injury.
- d. Any supervisor who has reasonable suspicion that an employee is impaired on the job by alcohol or other substance or is otherwise in violation of any term of this policy will, with the approval of the department head, immediately arrange for a substance screening through the Personnel Department. If a screening is required after normal business hours, the supervisor will make direct contact with the facility that has been designated to perform screenings for the City. The following procedures shall be

followed:

- (1) The supervisor should document in writing the facts constituting reasonable suspicion that the employee in question is impaired on the job by alcohol or other substance or is otherwise in violation of any term of this policy.
 - (2) Any supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the City's designated facility where a drug and/or alcohol analysis will be performed.
 - (3) Any supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and consequences of this policy. Such continued refusal will constitute grounds for termination.
 - (4) Supervisors shall not physically search employees.
 - (5) Supervisors shall notify the Police Department when they have reasonable suspicion to believe that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the City.
 - (6) Supervisors shall not confiscate, without consent, prescription drugs or medications from an employee.
- e. *Results of drug and/or alcohol analysis.*
- (1) Upon a negative result, the employee shall return to work.
 - (2) If the test result is positive, the employee will then be given the opportunity, at the employee's expense, to have an additional test performed on the retained specimen. If the additional test shows a negative result, it will be assumed that the individual is not in violation of this policy, and the employee shall return to work. If negative, the City will reimburse the employee for the expense of the additional screen.
 - (3) If both tests indicate a positive result, the employee's department head shall have the authority to determine appropriate discipline including termination, subject to the review or approval by the Mayor or his/her authorized designee. A single offense may result in immediate termination of employment.
5. *Pre-employment substance screening and procedure.*
- a. Prospective employees will be screened for a range of chemical substances. Any employment offer is conditional on a negative substance screening. Refusal to consent to and participate in such testing will automatically disqualify the applicant from further hiring considerations.
 - b. The drug screen may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job. The type(s) of screening and the levels of substances which constitute a positive screen will be determined administratively after consultation with the City's medical services provider(s).
 - c. An applicant whose initial substance screen shows a positive result will be given the opportunity, at the applicant's expense, to have an additional screen performed on the retained specimen. If the additional screen of the same sample shows a negative result, the individual will not be disqualified from City employment on account of the previous substance screen. If the additional screen of the same sample confirms the positive test result, the applicant will be disqualified from consideration for City employment for twelve (12) months.

6. *Severability.* The provisions of this policy are severable and, if any of its provisions shall be held unconstitutional or otherwise invalid by any competent jurisdiction, the decision of such court shall not affect any of the remaining provisions.
- B. *Additional Provisions Applicable To Safety-Sensitive Employees.* All City employees who perform job duties requiring a commercial driver's license (CDL) are also subject to the rules of the Federal Highway Administration (FHA) adopted pursuant to the Omnibus Transportation Employee Testing Act of 1991. A summary of those rules and the City's program/policy is as follows:
1. *Employees covered.* Beginning January 1, 1996, all employees of the City who hold commercial driver's licenses (CDL) and all applicants for positions with assigned duties that require a CDL are covered by the FHA rules and regulations.
 2. *Prohibited alcohol and substance abuse related conduct.* Employees required to have a CDL for their position are subject to the following prohibitions in addition to those defined elsewhere in the City's policy against substance abuse:
 - a. No driver shall report to duty or remain on duty with a blood alcohol concentration of two hundredths percent (0.02%) or greater;
 - b. No driver shall possess or use alcohol, including any medication with an alcohol component, while on duty or while operating a commercial motor vehicle;
 - c. No driver shall be allowed to drive within four (4) hours of using alcohol;
 - d. A driver involved in an accident that requires an alcohol test may not use any alcohol until after the test is completed or eight (8) hours have elapsed;
 - e. No driver shall refuse to submit to any required drug or alcohol test required by post-accident, random, reasonable suspicion or follow-up testing requirements as defined below.
 - f. No driver shall report for duty or remain on duty when using any controlled substances except those a physician has advised that the driver may use which will not adversely affect the driver's performance.
 3. *Drug/alcohol tests required by this policy.* The City is required to administer the following types of tests for persons operating commercial motor vehicles:
 - a. *Pre-employment^[1] testing for drugs.* Offers of employment are made contingent on successfully passing drug screening tests.

[1] *Includes testing when a current employee who is not required to hold a CDL transfers into a position requiring the operation of a commercial motor vehicle.*
 - b. *Post-accident testing.* Drivers will be given drug and alcohol tests within two (2) hours of an accident involving property damage or bodily injury or an accident when the driver is cited for a moving traffic violation. In cases of post-accident testing, the employee will be transported to a medical facility or the City will request and conduct a breath test at the worksite.
 - c. *Random testing.* Drivers must participate in random drug and alcohol test pools. The random test rate of the alcohol testing pool shall be at least twenty-five percent (25%) of the drivers annually and for the drug testing pool at least fifty percent (50%) of the drivers annually. The tests will be spread throughout the calendar year. "Random selection" means that an individual commercial driver may be selected for alcohol and/ or drug testing several times in one (1) calendar year or not at all.
 - d. *Reasonable suspicion testing.* Drivers are subject to drug and/or alcohol testing at any time during, immediately prior to, or immediately after the driver's assigned working

hours, when based upon reasonable suspicion as defined in this policy. In cases of reasonable suspicion testing, the employee will be transported to a medical facility or the City will request and conduct a breath test at the worksite.

- e. *Return to duty and follow-up testing.* Before a worker who has violated the prohibited conduct of this policy may return to work, he/she must take and pass drug and/or alcohol tests. Follow-up tests are to be given at least six (6) times within the first (1st) year after the employee returns to duty following completion of a rehabilitation program.
4. *Testing procedures.* Drug and alcohol testing procedures shall conform to those required by Federal regulations governing the drug and alcohol testing mandated by the Department of Transportation. All drug tests shall be done by a National Institute on Drug Abuse (NIDA) certified laboratory.
 - a. *Specimen collection.* The Personnel Department will instruct job applicants to report to the testing site. Current employees will be instructed by the department head where and when to report for drug and/or alcohol testing. In cases of post-accident or reasonable suspicion testing, the employee will be transported to a medical facility or the City will request and conduct a breath test at the worksite.

The procedure for collecting urine specimens will be designed to ensure the integrity and identity of the urine specimen that is produced. The procedure will also allow for individual privacy unless, in the determination of the City, the laboratory or the Medical Review Officer (MRO), there is reason to believe that an employee may alter or substitute the specimen. Breath alcohol testing will follow Federal procedures to ensure accuracy, reliability and confidentiality.

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

- b. *Nature of tests.*
 - (1) *Drug testing.* Drug testing will be performed on urine samples. The initial test will be done by the Enzyme Immunochemical Assay Method (EMIT) or a similarly approved testing method. All specimens identified as a positive test on the initial test will be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. A specimen will be treated as negative if the result of the initial test or the confirmatory test is negative. All urine samples will be split samples so that if the original specimen test is positive, the employee may request the retained sample be tested. This request must be received by the MRO in writing within seventy-two (72) hours of employee's notice of a positive result. The split sample will be tested at the employee's expense. If the second (2nd) test is negative, the test will be deemed to be negative and the cost of the test for the split sample will be paid for by the City or reimbursed to the employee if already paid by the employee. Job applicants do not have the right to split samples.
 - (2) *Alcohol testing.* Alcohol testing will be done by using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration. Two (2) breath tests are required to determine if a person has a prohibited alcohol concentration. Breath alcohol testing requires the individual to provide a breath sample. Should the initial breath sample have a result of two-hundredths percent (0.02%) blood alcohol content or greater, a confirmation test will be conducted within twenty (20) minutes using an EBT that prints out the results, date and time, a sequential number, and the name and serial number of the EBT to ensure reliability of the results. A positive test will be reported to the City only if the initial

and confirmatory tests measure a blood alcohol concentration at or above two-hundredths percent (0.02%) by weight.

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

5. *Test results.*

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

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

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

- b. *Alcohol tests.* If an alcohol breath test results in a reading of two-hundredths to thirty-nine hundredths percent (0.02 — 0.39%) blood alcohol content, the individual shall not return to duty but shall be taken off duty and not returned to work for at least twenty-four (24) hours. If an alcohol breath test results in a reading of four-hundredths percent (0.04%) blood alcohol content or greater, in addition to the above, the employee must meet with a substance abuse professional (SAP). The SAP will determine what assistance, if any, the employee needs in resolving problems associated with alcohol use and when the employee may return to work.
- c. *Confidentiality.* The results of any positive test shall be kept confidential from the general City work force and public. The results may be known to the employee, test facility, the Medical Review Officer and substance abuse professional and those department heads necessary. The City may use the results to determine the appropriate response to employee drug and/or alcohol use and to support its disciplinary or other actions or to defend the City in a court or administrative hearing.

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

6. *Actions taken in response to test results — refusal to be tested.*

- a. *Refusal/what constitutes refusal.* An employee who refuses to be tested will be treated as having had a positive test. Failure to report to a collection site on a timely basis, sign any required consent form or otherwise fail to fully cooperate with the testing procedure shall be treated as a refusal to be tested. Employees refusing to be tested shall be subject to immediate termination.
- b. *Positive drug test.* An employee whose drug test result is reported to the City as

positive shall be immediately referred to a substance abuse professional for evaluation and may be subject to disciplinary action up to and including dismissal.

c. *Alcohol test.*

(1) An employee whose breath test results in a reading of two-hundredths to thirty-nine hundredths percent (0.02 — 0.39%) blood alcohol content shall be removed from duty and not returned to work for at least twenty-four (24) hours, and all hours not worked shall be recorded as lost time. An employee who has a continuing pattern of breath test results between two-hundredths to thirty-nine hundredths percent (0.02 — 0.39%) blood alcohol content shall be referred to a substance abuse professional for evaluation and may be subject to disciplinary action up to and including dismissal.

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

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

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

7. *City's right to discipline.* The above notwithstanding, the City has the right to take immediate disciplinary action for any violation of this policy, including termination.

8. *Return to work — conditions.* An employee who tests positive for illegal drug/alcohol use cannot return to work until he/she meets all of the following conditions:

a. Successfully completes a City approved rehabilitation program as directed by the substance abuse professional or as required by this policy;

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

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

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

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

9. *Department heads (or supervisors) have the following specific duties.*

a. Department heads or their designees must produce drivers for post-accident drug and alcohol testing within two (2) hours of the accident or explain in writing why the driver was not produced. The driver may be given necessary medical treatment and if such

- treatment prevents normal drug or alcohol testing, the supervisor shall immediately inform the City's Personnel Director.
- b. Whenever drug or alcohol tests are required under this policy, department heads must produce the driver for those tests, and when current impairment is reasonably suspected, the department head or designee shall not allow the employee to drive.
 - c. Observations supporting a department head's reasonable suspicion of drug or alcohol use must be made just before, during or just after the employee operates a commercial motor vehicle. These observations must be reduced to writing within twenty-four (24) hours of the observation.
 - d. Whenever drug or alcohol tests are required by this policy and the employee is not tested within eight (8) hours of notice of the need to test, the department head shall explain in writing why the test or tests were not performed.
10. *Review of test results.* The City will employ a Medical Review Officer (MRO) to review the drug test results. The MRO shall be a licensed physician with knowledge of drug abuse disorders.
11. *Return to work — drug test.* In order to recommend return to work after a positive drug test, the MRO shall ensure the employee has subsequently tested drug free, been evaluated by a rehabilitation program counselor, and ensure the employee is in compliance with rehabilitation conditions.
- a. The MRO shall determine whether and when a return to duty recommendation shall be made for an employee who has failed a drug test or refused to be tested and shall determine the schedule for return to work drug testing.
 - b. Only the Medical Review Officer may review and interpret each positive drug test and, after conferring with the employee, report the results to the City.
12. *Substance abuse professional.* The City will also employ a substance abuse professional (SAP). The SAP shall be a licensed physician (M.D. or D.O.) or a licensed psychologist, social worker, employee assistance professional or an addiction counselor (certified by MHADACCC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.
13. *Return to work — alcohol test.*
- a. In order to recommend return to work after an alcohol test which indicates a blood alcohol content greater than four-hundredths percent (0.04%), the SAP must first evaluate the employee to determine whether the employee has an alcohol problem.
 - b. If it is determined by the SAP that an employee has an alcohol problem which requires assistance, the employee shall be subject to counseling, treatment and follow-up alcohol testing as directed by the SAP. Follow-up testing shall only occur just before, during or just after the employee operates a commercial motor vehicle.
14. *Consequences.* Besides the penalties set out by the City for violations of this policy, the following consequences are required by FHA rules:
- a. No driver may drive if he/she has used a listed drug and no driver may drive within four (4) hours of using alcohol or at any time when an alcohol test indicates an alcohol concentration of four-hundredths percent (0.04%) or greater.
 - b. A driver violating these rules may not return to work until evaluated and released by a substance abuse professional and subsequently tested for alcohol and drugs with negative results.

- c. A driver tested with an alcohol concentration greater than two-hundredths percent (0.02%) and less than four-hundredths percent (0.04%) may not drive or perform other safety sensitive functions for twenty-four (24) hours after the test.
 - d. Federal civil penalties for breach of the Federal rules range between one thousand dollars (\$1,000.00) to ten thousand dollars (\$10,000.00) for each offense. Federal criminal penalties for violations of the Federal rules range between one dollar (\$1.00) and twenty-five thousand dollars (\$25,000.00) for each offense or up to one (1) year imprisonment for each offense.
15. *Prior testing histories.* All applicants for or seeking a transfer to a safety-sensitive position shall be required to provide information on any prior testing as required by applicable Federal law.