



# City of Bay Minette

## Employee Personnel Policy

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To City of Bay Minette Employees:

This Handbook has been prepared as a guide and reference for members of management at all levels of supervisory responsibility. This information is to be used to help guide employer/employee relations. This Handbook has approval of the City Council and Department Heads.

We believe that it is in the best interest of the City of Bay Minette and our employees to have written personnel policies to help the City of Bay Minette meet our mission, to prevent misunderstandings and problems, and to ensure that all employees know what is expected of them. It is essential that all members of management understand the role of these policies in meeting the City's objectives and in limiting our legal exposure.

Any policy, however, is only as good as its implementation. Supervisors and Managers who are in direct contact with, and responsible for, a group of employees are essential to effective policy implementation. You are the individuals who must translate these ideas and principles into action.

Please understand that no supervisor or representative of the City has the authority to make any written or verbal statement or representation, which is inconsistent with these policies without prior approval from the Mayor. We depend upon you for the successful development of a productive, legal and harmonious working environment for our employees.

Accordingly, I request that you thoroughly familiarize yourself with the contents of this Handbook so that all personnel policies of the City of Bay Minette may be administered appropriately.

Robert A. "Bob" Wills  
Mayor

A. Introduction

This Employee Handbook contains information about the employment policies and practices of the City of Bay Minette (“the City”) in effect at the time of publication. All previously issued handbooks and any inconsistent policy statements, or memoranda are superseded.

This Employee Handbook sets forth employment policies and procedures pertaining to all employees of the City. It contains general information and guidelines. The Employee Handbook is not intended to be comprehensive or to address all possible applications of or exceptions to the general information and guidelines. For that reason, if you have any questions concerning the application of a policy or practice or eligibility for any specific benefit, you should address your question or concern to the Mayor or his/her designee. The City expects you to read the Employee Handbook carefully as it is a valuable reference for understanding your job as an employee of the City.

The City reserves the right to revise, modify, delete, or add to all policies, procedures, work rules, or benefits stated in this Employee Handbook or in any other document. All such revisions, modifications, deletions, or additions to this Employee Handbook must be in writing and must be signed by the Mayor or his/her designee. No oral statements or representations can change or alter the provisions of this Employee Handbook.

Some of the benefits describe here are covered in detail in official benefit policy and plan documents from the providers. You should refer to plan documents for specific information since this Employee Handbook only briefly summarizes those benefits. Please note that the terms of the City’s written insurance policies and related documents take precedence over anything concerning insurance contained in this Employee Handbook.

B. Contract Disclaimer

Nothing contained in this Employee Handbook should be construed as creating any contract of employment between the City and any of its Employees or to restrict the right of the City to: (1) refuse or discontinue and/or prohibit the future service of any person when it is considered to be in the best interest of the City; (2) decrease proportionately the compensation of all employees when determined to be necessary; or (3) use independent contractors for performance of work or rendering services.

Further, nothing contained herein shall be construed as preventing the removal of any individual from employment with the City now or in the future, so long as such removal meets the intent of these policies and procedures.

### C. Equal Opportunity

In accordance with applicable law, the City bases all employment-related decisions on principles of equal employment opportunity. In particular, the City:

- Recruits, hires, promotes, reassigns, compensates and trains highly qualified persons without regard to race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, disability, or any other basis prohibited by applicable law;
- Administers all personnel actions such as compensation, benefits, transfers, layoffs, City-sponsored training, education, social and recreational programs, without regard to race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, disability, or any other basis prohibited by applicable law;
- Provides reasonable accommodation where necessary and feasible, and otherwise treats equally, qualified individuals with disabilities; and
- Provides a workplace free of prohibited harassment, including sexual harassment.

### D. Americans with Disabilities Act Policy and Procedure

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with disabilities, the City will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability, who is an applicant or an employee, unless undue hardship would result.

Any applicant or employee who requires an accommodation to perform the essential functions of the job should contact the Mayor or his/her designee and request such an accommodation. The individual with the disability should specify what accommodation he or she needs to perform the job. The request for an accommodation will be evaluated on a case-by-case basis. The City will engage in a good faith interactive process to identify the barriers that make it difficult for the applicant or employee to have an equal opportunity to perform his or her job. The City will identify possible accommodations, if any, that will help eliminate the limitation. If the accommodation is *reasonable* and will not impose an undue hardship, the City will make the accommodation.

### E. E-Verify

To comply with applicable laws of Homeland Security and Immigration, the City of Bay Minette participates in the E-Verify Program and follows E-Verify guidelines.

A. Hiring Process

**1. Selection Criteria**

Employment of individuals will be made on the basis of ability. No question in any test, or in any application form, or by an appointing authority, shall be so framed as to attempt to elicit information concerning race, color, ancestry, national origin, marital status, sexual orientation, political or religious opinions or affiliations of an applicant. No employment to or removal from a position, shall be affected or influenced in any manner by any consideration of race, color, ethnic or national origin, age, sex, sexual orientation, marital status, political or religious opinion or affiliation, or physical or mental disability, when physical and mental disabilities do not affect ability to perform within classification.

**2. Recruitment Notices - Application Requirements**

The Mayor or his/her designee shall prepare recruiting notices for positions by publicizing vacancies, specifying the title and pay of the class, the nature of the work to be performed, the qualifications necessary for performance of the work, the manner of making applications and other pertinent information. Various media of publicity shall be used as might be expected to bring notice of vacancies to as many qualified persons as possible.

Application forms shall require information covering training, experience and other pertinent information. Applicants for positions which are scientific, professional or technical, or the duties of which require special qualifications shall be required to provide documentary evidence of a satisfactory degree of education, training, and/or experience. A background check shall be conducted and made part of the applicant's file. The Mayor or his/her designee shall reject any application which indicates that the applicant does not possess the minimum qualifications required for the position. Applications shall be rejected, or employment terminated, if already hired, if the applicant has made any false statement or omission of any material fact or given wrong or misleading information. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant.

**3. Examination/Employment**

The selection techniques used in the examination process shall be impartial, of a practical nature, and shall relate to those subjects that fairly measure the relative capacity of the persons examined to execute the duties and responsibilities of the position that they seek.

The Mayor or his/her designee, together with the Department Head, shall determine the methods of evaluating the qualifications of applicants. The methods may involve any combination of written test, oral interview, performance test, rating of education, training and experience or other measure of an applicant's ability and qualifications. Each person who takes an examination shall be given written notice of the results thereof and shall be entitled to inspect their examination papers.

Following a conditional offer of employment, a medical examination shall be required, at City expense, and shall be satisfactorily passed prior to commencement of employment to determine if the applicant can perform essential functions of the job with or without reasonable accommodation.

#### 4. Types of Employment

The following types of employment may be either full-time or part-time in relation to work weeks as established by the Mayor or his/her designee:

##### Regular Employment

Regular Employment follows successful completion of a twelve months' probationary period, when applicable, and signifies satisfactory performance of duties and responsibilities in the position to which the employee is assigned.

##### Acting Employment

Acting Employment occurs when a supervisor temporarily assigns an employee to a classification and the employee performs all the duties of a position other than the position the employee normally occupies. Acting employment must be approved by the Mayor or his/her designee.

The employee appointed in an acting capacity shall receive the salary equivalent to the first pay level of the Salary Schedule of the acting position, for at least thirty consecutive calendar days.

Acting employment shall be made on a temporary basis. When the employee is promoted or relieved of the acting employment, the employee shall be reinstated to the former position and the salary adjusted to the salary range of the former position at the appropriate step as if the temporary appointment had not occurred.

#### 5. Personnel Data Defined

##### A. Hire Date

Hire date shall be the first day of employment with the City, **however prospective new hire must report to personnel 3 business days before hire date.**

## B. Review Date

Review date shall be the date of the next regularly scheduled written performance evaluation or another date requested by a supervisor for purpose of conducting a written performance evaluation. Written performance evaluations may be postponed due to a probationary period. The date that the written performance evaluation is postponed to, shall be the review date.

## C. Personnel Files

Questions about material contained within your own personnel file should be directed in writing to the Mayor or his/her designee. If you desire to review your file at any time during your employment with the City, arrangements will be made to allow you to review your file in the presence of the Mayor or his/her designee.

## B. Categories of Employees

### 1. Regular Employees

Regular employees are those hired for an indefinite period of time and who have received a regular employment and can be either full-time or part-time employees. However, Regular part-time employees are not eligible for paid holidays, vacation, leave of absence credits, retirement, health and life insurance, and other compensation benefits.

### 2. Temporary Employees/Contract

Temporary employees are those hired for a definite period of time, not to exceed twelve months and can be either full-time or part-time employees. Temporary employees serve at the will of the City and are subject to termination at any time without cause and have no right of appeal or hearing.

Compensation is set on a per diem or hourly basis. Temporary employees are not eligible for paid holidays, vacation, leave of absence credits, retirement, health and life insurance, and other compensation benefits.

### 3. Probationary Employees

Probationary employees are all employees who are newly hired and regular employees who are appointed to a new position due to promotion. Probationary employees shall be subject to a period of six-month probation. This probation period may be extended in individual cases by the Department Head, with the approval of the Mayor or his/her designee. No probationary period

may be extended more than an additional six months. The work and conduct of probationary employees will be subject to close scrutiny and evaluation. The probationary period shall be considered to be a working test period during which an employee is required to demonstrate fitness for the appointed position by actual performance of the duties of the position. **During the probationary period for newly hired employees, vacation leave is not allowed. Employees on probation due to disciplinary actions are still eligible for vacation.**

An employee shall be retained beyond the end of the probationary period only if the appropriate Department Head affirms that the services of the employee have been found to be satisfactory. Newly hired probationary employees serve at the will of the City and are subject to termination without the right of appeal or hearing.

An employee dismissed during the probation period from a position to which the employee had been promoted and who had previously held regular status may be restored to the former position if it is open, unless the employee is dismissed from the City for cause pursuant to this section. If the former position has been filled, the promoted employee will be dismissed pursuant to this section.

#### **4. Acting Employees**

Acting employees are employees temporarily assigned to a position and who perform all the duties of a position other than the position the employee normally occupies.

#### **C. Promotion and Transfer**

The City encourages employees to apply for promotion to positions for which they are qualified. Promotions and transfers shall be based on the ability, qualifications, and potential of the candidates for the positions, including applicants who are not currently employed by the City. Summaries of positions open within the City are posted in City Hall, the Utility Office, and on department bulletin boards. Employees who are interested in posted positions should contact the Mayor or his/her designee provided they have completed their probationary period.

The employee's qualifications, education and training, past performance, potential, and capacity to assume the increased responsibilities of the position applied for will be evaluated.

Recommendations from their current Department Head as well as past performance evaluations will be considered in making promotions and transfer decisions. The Department Head receiving the transfer will be allowed access to all personnel records before accepting a transfer.

*The City has the sole discretion for deciding who is promoted or transferred to a new position.*



## D. Employment References

The City's policy as to references for employees who have left the City's employment is that the Mayor or his/her designee will disclose only the dates of employment at the City, and the title of the last position held.

Employees and former employees who wish the City to confirm their last rate of pay must sign a release approved by the Mayor or his/her designee. The City will provide additional information only in response to subpoenas or other lawful processes. This information will only be released with a written request.

## IV. COMPENSATION

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### A. Basic Compensation Plan

The "Table of Salary Ranges for Classifications and Positions" and the Salary Schedule shall be established by resolution.

### B. Beginning Compensation

A new employee of the City shall be paid the entry level rate allocated to the class of employment for which the employee has been hired and as stated in the job offering. However, upon recommendation of the Department Head and with the approval of the Mayor or his/her designee, such new employee may be offered the job at a slightly higher salary. The Department Head must provide adequate justification based on knowledge, experience, and skills that the beginning salary of a new employee is warranted about the entry level starting rate, but such rate may not exceed 5% of the entry level rate allocated to that class of employment.

#### 1. Promotional Advancement

When an employee is promoted to a position with a higher salary range, such employee shall be assigned to the entry level rate of the higher classification; provided, however, that if such employee is already being paid at a rate equal to or higher than the entry level rate of the new position, he or she will receive an increase in salary of not less than 5%. If the percentage difference between the ranges will not grant the promoted employee a minimum of 5% salary increase, the promoted employee shall be granted an appropriate increase within the new salary range.

## C. Adjustment in Salary - Reclassification

The salary of an employee in a position that is reclassified shall be determined as follows:

### 1. Same Range

If the position is reclassified to a class that is allocated to the same salary range, the salary shall not change.

### 2. Higher Range

If the position is reclassified to a class that is allocated to a higher salary range, such employee shall be assigned to entry level rate of the higher classification; provided, however, that if such employee is already being paid at a rate equal to or higher than the entry level rate, he or she shall receive an increase in salary of not less than 5%.

### 3. Lower Range

If a position is reclassified to a class that is allocated to a lower salary range, the employee's rate of pay received immediately before the reclassification will remain unchanged. The employee will not receive an increase in pay until the employee has received his or her annual evaluation in the current position. The date for the annual evaluation will be unchanged when a position is only reclassified.

## D. Reduction in Salary

In the event it is necessary to reduce salaries because of budgetary limitations and through no fault of the employee, the salaries of all employees may be reduced by such percentage, as the City Council deems necessary by resolution.

## E. Layoff

The Mayor or his/her designee may lay off an employee because of lack of work, for reasons of economy and efficiency, or budgetary reasons. If approved by the Mayor or his/her designee shall notify the employee in writing of the intended action, with reasons, at least thirty (30) calendar days, if possible, and in no case less than ten (10) working days before the effective date of layoff. A copy of such notice shall be given to the employee affected. If certified as having given satisfactory service, the employee will be given priority based upon seniority within their classification and tenure with the City, for a period not to exceed six months, for reemployment, provided there is a vacancy and the employee is qualified and otherwise suited for the position.

## F. Reduction in salary for unsatisfactory performance or other type of demotion

When an employee is demoted for reasons of unsatisfactory performance or disciplinary action or has their job duties and/or responsibilities reduced, the employee's salary shall be reduced to fit within the lower salary range.

When an employee in good standing is demoted to a position with a lower salary range of pay for reasons other than unsatisfactory performance or disciplinary action, the employee shall remain at the rate of pay received immediately before the demotion until a written evaluation is received.

## G. Department Heads

When the employee under consideration for advancement, reduction, demotion or reassignment is a Department Head, the Mayor or his/her designee shall initiate all actions with approval of the Mayor and City Council.

## H. Workweek and Overtime

Employees will be paid in accordance with applicable law.

### 1. Workweek designated

The official workweek shall begin at 12:01 am Wednesday and end at twelve midnight of the following Tuesday. Generally, the workweek shall be designated as a forty-hour (40) workweek having five (5) workdays at eight-hours per day. A workweek other than standard for departments, divisions within departments and individual department employees may be established, which is different than the workweek as set forth in this section, if requested by a Department Head and approved by the Mayor or his/her designee.

### 2. Overtime - Nonexempt Employees

Department Heads may authorize reasonable periods of overtime work for an employee. Work in excess of forty (40) hours in a workweek shall be considered overtime work. Overtime work performed by an employee shall be compensated by payment at the rate of one and one-half times the employee's regular hourly rate for the workweek in which overtime was worked.

#### *Firefighters and Law-enforcement Employees*

- Firefighter overtime will not be paid until employee has worked over 106 hours during a 14-day period.

- Law-Enforcement overtime will not be paid until employee has worked over 84 hours during a 14-day period.

### **3. Overtime - Exempt Employees**

Salaried employees who are exempt from the overtime and minimum wage requirements under FLSA are paid a bona fide salary for each work week for performing specific jobs, not the number of hours worked. Accordingly, exempt salaried employees are not paid extra for overtime work.

Because exempt salaried employees are paid for performing a specific job, not the number of hours worked, exempt employees are not paid overtime pay. However, exempt employees generally will receive their full salary for any workweek in which any work is performed subject to a limited number of exceptions. Thus, the salary of an exempt employee may be reduced for: (1) absences of a full workday or more for personal reasons, if the employee is not eligible for or has no accumulated sick leave or vacation; (2) absences of less than a full work day for employee's utilizing intermittent leave under the city's Family and Medical Leave policy; and (3) absences of a full workday or more resulting from a disciplinary suspension.

If an exempt employee believes a deduction has been made improperly, the exempt employee should promptly notify the Human Resources Director. The Human Resources Director and Payroll Clerk will promptly investigate the reason for the deduction in question and, if the deduction should not have been made, the City will reimburse the employee for the amount deducted in the next regularly scheduled in the next regularly scheduled paycheck.

### **4. Emergencies, Disasters or Special Events**

In the event of an emergency, disaster or special event, as defined by the appropriate official organization, the Mayor may suspend or modify provisions pertaining to overtime for exempt employees, to include exempt Department Heads for a period time not exceeding 30 calendar days. In the event of such an emergency, disaster, or special event, department heads will be paid at 1-1/2 their regular rate of pay.

The Mayor may also suspend or modify any other policy of the City pertaining to exempt employees, including Department Heads, pertaining to the accrual, carryover or utilization of compensatory time, vacation time, holidays, or other benefits that such exempt employees would otherwise forfeit or lose as a consequence of such emergency, disaster or special event.

In order to implement such authorization, the Mayor shall issue a written directive to the Personnel Officer and copy to employee's Department Head and the City Council setting forth the reason for declaring an emergency, disaster, or special event, specifying the position and the name of the exempt employee, the suspension or modification of the specific benefit or policy, and the period of time it is to be in effect.

#### A. Emergencies, Disasters or Special Events – Additional Information

1. Emergencies, Disasters or Special Events without Official Closing: Emergencies, Disasters or Special Events usually does not warrant closing of City offices. Absence due to Emergencies, Disasters or Special Events requires an employee to make a personal judgment pertaining to his or her safety in traveling to and from work. Loss of work time for this reason is charged to the employee's accrued annual leave. If an employee has no annual leave, then the time is charged as "leave without pay."
2. Official Closings Due to Emergencies, Disasters or Special Events: The Council will decide if City of Bay Minette offices will be closed on normal workdays during Emergencies, Disasters or Special Events. If the Council decides to close one or all of City of Bay Minette offices, full-time employees will be paid storm day in the amount of hours to bring them to their regularly scheduled work hours for the day. Employees who are out on annual, sick or any other type leave or have requested leave for the day of closing must be charged with the leave requested. Closing information will be shared via the City Facebook page, website and media releases.

The Mayor and/or his designee will also determine whether certain "critical emergency service personnel" must report to work during Emergencies, Disasters or Special Events. Such personnel may include department heads as well as employees from essential service departments.

If other employees are needed to assist with services, they will be contacted by a supervisor. If an employee is not required to work during an Emergencies, Disasters or Special Events closing, he or she will receive storm day pay for the regularly scheduled working hours during the period of closing. If an employee is called to work and refuses to come in during the Emergencies, Disasters or Special Events closing, the employee will not receive storm day leave and will be charged with "leave without pay." Employees who have justifiable reasons for not reporting to work may be allowed to file for vacation leave, if approved by their supervisor.

If a full-time hourly (non-exempt) employee is among the critical emergency service personnel who must work, the employee will receive his or her regular wages, plus overtime for the hours actually worked over forty (40) (see *Firefighters and Law-enforcement Employees* at section H.2 of the Employee Personnel Policy) in addition to eight (8) hours of storm day pay per day to exceed forty (40) hours within a work week with the exception of the first and last day of declaration, then the employee will receive storm day leave in the amount of hours from the time the declaration was declared or undeclared to bring them up to the eight (8) hours. Example: Employee works from 8 am to 4:30 pm, emergency declared at 11:00 am. The employee has already worked three (3) hours, so five (5) hours storm day leave will be granted plus all hours actually worked.

If a salaried (exempt) employee is among the critical emergency service personnel who must work, the employee will receive his or her regular wages, plus time and a half for the hours actually worked over forty (40) starting at the time the Council declares the state of emergency in addition to eight (8) hours of storm day leave per day not to exceed forty (40) hours within a work week with the exception of the first and last day of declaration, then the employee will receive storm day leave in the amount of hours from the time the declaration was declared or undeclared to bring them up to the eight (8) hours. Example: Employee works from 8 am to 4:30 pm, emergency declared at 11:00 am. The employee has already worked three (3) hours, so five (5) hours storm day leave will be granted plus all hours actually worked. The exempt employee will not receive supplemental pay for work during any portion of the pay period that is not during the Emergencies, Disasters or Special Events. Per Section H.4. of the Employee Personnel Policy, the Mayor can extend this additional pay for a period of 30 days.

If an employee is not scheduled to work during an Emergencies, Disasters or Special Events closing, the employee will not be paid for the closing.

If an employee is on annual, sick or any other leave with pay during the declared times of closing, he or she will be required to use the previous scheduled leave and will not receive storm day leave with pay.

## **5. Meal**

The normal work schedules include a 30-minute meal break during the workday. Employees are expected to take their meal breaks each day unless a supervisor instructs an employee to work during the designated meal break. If an employee is instructed to work during the designated meal break and receives less than a 30-minute uninterrupted break, the employee will be paid for the entire scheduled meal break. Otherwise, the meal break shall be at least 30 minutes of uninterrupted time away for work duties and employees will not be paid for the time not actually worked.

Department Heads shall schedule meal periods for employees in their Departments so that the Department remains operational throughout. In rare occasions when the meal period is extended, employees must use accrued vacation time or the extended time must be accounted for with approved administrative leave. Extending the workday to account for an extended meal period should be avoided.

Non-exempt firefighters and communication officers are considered “on duty” during mealtimes, meaning that mealtime for these employees is paid time.

Police officers shall have a meal period of 30 minutes, which shall be considered “on duty” meaning that such meal period is paid time.

## **6. Breaks**

Department Heads may, but are not required to, allow employees to take breaks during working hours. All breaks, including smoking breaks, shall last no more than 15 minutes and be limited to one in the morning and one in the afternoon. Department Heads may assign these breaks to run consecutive with their meal break. Breaks may only be taken if the Department's activities are such that the employee's absence will not impair the Department's operations. Break times may not be accumulated and used at a later time.

### **I. Pay Periods**

All employees shall be paid on a biweekly (every other week) basis. The pay period for each pay cycle ends one or two days before the designated payday. If a regularly scheduled payday falls on a holiday, paychecks will be distributed no later than the next regularly scheduled working day. If an employee should need to make changes to payroll record (taxes, address, etc.) it must be submitted to personnel one week prior to end of payroll week.

### **J. Reimbursable Components**

#### **1. Travel Policy**

##### **a. Intent**

From time to time, employees may be required to travel outside of the City to conduct City business or to attend meetings and conferences, or to take part in job related training. It is the intent of this policy to establish an advance reimbursement procedure for employees and officials of the City who travel in the course of conducting business on behalf of the City. Advances and reimbursements will be based on reasonable and customary travel expenses incurred in connection with the business of the City. Advances and reimbursements will be made in accordance with the guidelines below, and those expenses related to the approved activity. Employees should contact the Finance Department if they have questions related to travel and/or to ensure they have the current policies prior to making their travel arrangements.

##### **b. Travel Requests**

All travel requests must be submitted to the Department Head by the employee.

- An itinerary/training seminar registration brochure must accompany the Travel Request, if available.

- The Department Head will review and confirm that budgeted funds are available for the travel request submitted.
- Employees traveling on City business that have not been issued a City credit card may be eligible to receive a cash advance to cover travel expenses.
- If a cash advance is required, the City Clerk will place the travel request on the City Council agenda in the form of a Resolution, for Council approval.
- Travel Request Forms should be submitted in sufficient time to allow for Council approval and processing by Accounts Payable.
- Department Heads, Councilmembers, and the Mayor must submit their Travel Request directly to the City Clerk for inclusion on the next Council agenda.
- Upon approval by the City Council, the Travel Resolution will be forwarded to Accounts Payable for the advance check to be issued, if required.

### **c. Travel Expense Reimbursement**

A Travel Expense Reimbursement Form is to be completed by the employee and submitted to the Department Head for final approval within five (5) working days of returning from business travel. Detailed receipts for all expenditures shall accompany the Travel Expense Reimbursement Form. Department Heads shall submit their Travel Expense Reimbursement Forms to the Finance Department for presentment to the Council. The itemized statement will be approved or disallowed at a regular meeting of the City Council within thirty (30) days after presentment to the Finance Department.

When any sum is advanced, if the officer or employee fails to present and have approved the above required itemized statement, any sum advanced may be deducted from the officer or employee's future pay from the City.

In the event that cash was advanced to the employee for travel expenses and the actual expenses were less than the advance, the employee shall reimburse the City the difference owed no later than the following pay period.

In the event the cash was advanced to the employee for travel expenses and the actual expenses exceeded the advance, the City will reimburse the employee upon approval by the Council at its regularly scheduled meeting, which should occur no more than thirty days after presentment of the completed Reimbursement Form and all applicable receipts to the Finance Department.



- **Meals-** Meal costs will be reimbursed at the actual cost of the meals during the approved travel period upon submission of detailed receipts. All meal receipts should be attached to 8½ by 11 paper, including copies of those purchased with a City credit card.
- **Transportation-** Transportation costs for travel are reimbursable. If transportation by automobile is required for City business, travelers should make use of City-owned vehicles whenever possible. When transportation is by City-owned vehicle, all operating expenses such as gas, oil, and repair bills are allowable. If a City-owned vehicle is not available and a personally owned vehicle is used, the traveler shall be reimbursed at the current year's Internal Revenue Service per mile allowance rate. In the use of personally-owned vehicles, all operating expenses such as gas, oil and repairs are included in the authorized mileage allowance. The actual round-trip mileage must be shown on the Travel Expense Form and multiplied by the established mileage rate if traveling in a personal vehicle. Include also, any other costs expended for transportation, such as car ride fare, car rental, or any other out of pocket expenses involving travel costs. Every effort should be made to utilize the most economical method of transportation. An effort is to be made to check air fares prior to determining mode of transportation. In no case will the amount claimed for mileage exceed the air fare. Plane reservations should be paid in advance with a City credit card. If air travel was used, the air fare should be shown in parenthesis and not included in the total expense for reimbursement purposes.
- **Lodging-** The costs of lodging and meals incurred while traveling on City business is reimbursable if the trip requires the employee to stay overnight. Expenses must be reasonable business class for the area. In most cases, the City's credit card will be used to guarantee lodging reservations and should also be used to pay for the lodging expense. Therefore, an advance will not be given for estimated lodging costs. An exception may be made if there are extenuating circumstances, and in such case, those circumstances should be documented on the advance request by the Department Head. On the Travel Reimbursement Form, the lodging cost that was charged should be shown in parenthesis, and not be included in the total expenses for reimbursement purposes. A copy of the signed credit card ticket must be included with all other receipts to accompany this form.
- **Registration Fees-** Actual cost of the fee for the conference is to be included with the Travel Request. In most cases, this fee must be paid in advance of the conference/seminar, after Council approval.

#### **d. Unreimbursed Expenses**

Reimbursement is not allowed for the following expenses:

- Alcoholic beverages

- Laundry and Cleaning Services
- Entertainment, including hotel movies
- Expenses of spouse or other non-employee, including registration fees other than the fee charged for the employee or the official
- Barber, beauty parlor, shoeshine, toiletries, or spa services
- Loss or damage to personal property
- Fines, forfeitures or penalties
- Additional meal or lodging costs over and above that which has been included in the registration fee
- Local and One-Day travel

#### **e. Local and One Day Travel**

Local travel is considered to be trips within the City and surrounding areas while performing job-related functions and duties. One-day travel is considered to be trips out of the City of less than one day's duration. Expenses in these cases are generally limited to mileage reimbursement, and if necessary, meal reimbursement. It is realized in such cases; it is not possible to obtain Council approval prior to such expenditures. Therefore, a Travel Reimbursement Form is to be used for expenses related to local or one-day travel and receipts associated with the expenses listed to accompany the form.

#### **f. Employee Compensation for Hours Worked**

Regular commuting time between an employee's home and the job site is not compensable. In contrast, time spent by nonexempt employees in traveling away from home on City business during normal working hours is considered hours worked for pay purposes.

## **2. City Credit Card Policy**

### **a. Purpose**

It is the purpose of this policy to ensure credit cards issued to employees of the City are used properly. It is the intent of the City to allow the use of credit cards in order to alleviate the need for an official or employee to obtain a large monetary advance prior to traveling on behalf of the City, reimbursing for an out-of-pocket expense made for the City, and to more efficiently monitor such expenses by the itemized statements received each month.

## b. Accountability and Requirements for Use

- Monthly credit card statements will be forwarded to the credit card holders. The employee is to secure all receipts to an 8 ½ by 11 sheet of paper and attach the receipts to the statement. If proper receipts are not submitted with the statement, the employee may be held responsible for the charge.
- To avoid late penalties, the credit card statement, with all applicable receipts, is to be submitted to the Department Head immediately upon receipt. The Department Head shall sign the statement indicating approval prior to submitting to Accounts Payable for payment. Department Heads shall submit their credit card statements to the Mayor for approval.
- Employees may be held responsible for any late fees incurred on the credit card account if they fail to submit the statement or receipts in a timely manner.
- Using the City credit card for personal use may be grounds for dismissal. Unauthorized expenditures made by an employee on a City credit card will be reimbursed to the City.

## 3. City Vehicles and Personal Vehicles

The City provides City-owned vehicles to certain employees to drive while engaged in City business. As a last alternative, when a City-owned vehicle is not available, the City will reimburse employees for business use of a personal vehicle according to prescribed guidelines. Employees may not drive any City-owned or personal vehicle for City business without the prior approval of the employee's Department Head.

Employees who are required and approved to use personal vehicles for City business purposes will receive a mileage reimbursement equal to the Internal Revenue Service optional mileage allowance for such use. Only mileage while on official City business is reimbursable. A "Travel Reimbursement" form for mileage reimbursement must be filed with the Finance Department at least quarterly. The amount of allowance will be approved by the Mayor and Council with the annual fiscal year budget.

## V. BENEFITS

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### A. Holidays and Holiday Pay

All regular full-time employees of the City shall receive eight (8) hours pay for each holiday.

- **Regular full-time time employees** are those who work a regular 40-hour work week. (Regular full-time employees are those that usually Monday through Friday or 40-hour work week). **Holidays falling on Saturday shall be observed on Friday and Holidays falling on Sunday shall be observed on the following Monday.**

- **Shift Employees** are those employees who work any shift including nights and weekends.  
**Holidays shall be observed on the actual holiday.**

**Designated holidays are as follows:**

- New Year's Day, January 1<sup>st</sup>
- Martin Luther King Day, 3rd Monday in January
- President's Day
- Mardi Gras, the Tuesday before the 7th Wednesday before Easter
- Good Friday
- Memorial Day, the last Monday in May
- Juneteenth Independence Day, June 19<sup>th</sup>
- Independence Day, July 4<sup>th</sup>
- Labor Day, the first Monday in September
- Veteran's Day, November 11<sup>th</sup>
- Thanksgiving Day
- The Friday after Thanksgiving Day
- Christmas Eve, December 24<sup>th</sup>
- Christmas Day, December 25<sup>th</sup>

*Any day declared to be a holiday by proclamation of the Mayor and City Council may also be observed.*

Non-exempt, full-time employees will be paid for the holiday plus one and one-half times their regular rate of pay for any time worked on the holiday up to eight (8) hours. Such time must be preauthorized by the Department Head.

Part-time and temporary employees will be paid at their regular straight-time rate for hours worked on a holiday.

When a holiday falls within a period of paid leave, the holiday shall not be counted as a leave day in computing the amount of leave debited.

An employee who is absent **without leave or approval** on the day immediately preceding or following a holiday shall lose the holiday as well as the pay for that day. Any employee who calls in sick on the day preceding or following a holiday may be required to have a doctor's excuse if absent to be paid for sick day and holiday.

Religious Holidays: If an employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the employee may, with the Department Head's approval, take the day off using vacation or leave without pay.

## B. Vacation

### 1. Eligibility

All regular full-time employees may take vacation with pay after satisfactorily completing the six-month probationary period and nine-month probationary period for Public Safety employees. Vacation benefits shall accrue only during times of active employment, beginning on the first day of the month following the employee's first day of employment. Temporary full-time employees are not eligible for vacation benefits.

### 2. Time Vacation May Be Taken- Approval Required

No vacation may be taken at any time without approval of the employee's Department Head or, in the case of Department Heads, approval of the Mayor or his/her designee. The times during a calendar year at which employees may take their vacations shall be determined by their Department Head or the Mayor or his/her designee with due regard for the wishes of the employee and particular regard for the needs of the City.

### 3. Holidays or Illness During Vacation Leave

Whenever a holiday, as set forth above, falls within an employee's vacation period, the employee shall be entitled to the holiday with pay and it shall not be charged towards vacation leave. Illness during a vacation period shall not be considered as sick leave unless the employee provides a physician's certificate and receives approval from the Mayor or his/her designee.

The maximum number of vacation hours, which may be carried over from September 30 of one year to October 1 of the next year is 120 hours. Any balance of unused annual vacation leave hours above 120 hours can be converted into sick leave on September 30 of each year at the written request of the employee. In cases where City operations make it impractical for an employee to use vacation time, the Department Head may request the Mayor to authorize accrual beyond 120 hours.

### 4. Vacation Accrual

#### Regular Full-Time Employees

0-5 Years	3.08 Hours
5 + Years	4.62 Hours

Fire Department Employees

0-5 Years	4.07 Hours
5 + Years	6.11Hours

Police Department Employees

0-5 Years	3.23 Hours
5 + Years	4.85 Hours

All new regular full-time employees accrue, but may not use, vacation hours until they have satisfactorily completed their probationary period, unless the probationary period results from promotion.

Part-time and temporary employees are not eligible for vacation benefits.

**5. Vacation Payment Upon Termination**

Employees will be paid for unused accrued vacation time which has not lapsed upon termination of employment.

**B. Sick Pay**

**1. Eligibility**

The City provides employees with sick leave from work. Paid sick leave may be used for an employee's absence from work because of: (1) illness or bodily injury not covered by workers compensation; (2) bodily injury or occupational illness covered by workers compensation for which special leave is not granted; (3) attendance upon members of the immediate family whose illness requires the care of such employee; (4) death in the immediate family of the employee. Immediate family is hereby defined to include wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, daughter-in-law, and son-in-law. Where unusually strong personal ties exist, due to an employee's having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case, the employee shall file with his department head a written statement of the circumstances which justify an exception. The department head shall forward the request to the Mayor, or his or her designee, for approval or denial and shall notify the employee of the Mayor's, or his or her designee's, decision.

**2. Accrual of Sick Leave for Full-Time Employees**

Each regular full-time employee accrues 2.30 hours per pay period for each period of continuous service following the employee's start date.

### **3. Accrual of Sick for Part-Time Employees**

Part-time and temporary employees are not eligible for sick leave benefits.

### **4. No Accrual of Sick Leave During Certain Absences**

Employees may not accrue sick leave during unpaid leaves of absence or other periods of inactive service, unless sick leave accrual is required by applicable federal, state, or local law.

### **5. Maximum Sick Leave Accrual**

Each employee's sick leave may carry over to the subsequent fiscal year. Each employee may accrue up to a maximum of 960 hours of sick leave. Once employees reach the maximum accrual amount, they will not accrue any additional sick leave until they use some of their accrued, but unused sick leave, and their accrued but unused sick leave decreases to below the maximum accrual amount. An employee will not receive retroactive credit for any period of time in which they did not accrue sick leave because they had accrued the maximum amount.

### **6. Requests for Sick Leave**

Except as provided in the City's Family and Medical Leave Policy in Section VI, an employee may not use paid sick leave for any reason, other than those reasons as previously defined in this policy under the definition of Sick Leave. When an employee is going to be absent, the employee who needs to take a sick day must, except in emergency circumstances, contact his or her Department Head or the Mayor or his/her designee at least twenty-four hours before the start of their shift. In emergency circumstances, the employee shall notify the Department Head or the Mayor or his/her designee as soon as possible, but no later than one (1) hour after the time set for beginning daily duties.

Any employee who takes three (3) or more consecutive sick days must provide a certification by their health care provider attesting to the employee's or the family members' illness and the employee's fitness to return to work. If the employee's leave of absence is based on a health care provider's certificate, the Mayor or his/her designee may grant or deny the leave of absence and may request, at the City's expense, that the employee be evaluated by a physician of the City's choice to obtain a second opinion on the employee's condition and fitness for duty.

### **7. Termination of Employment**

On termination of employment for any reason, an employee forfeits any accrued but unused sick leave.

## **8. Donation of Sick Leave**

Full time employees are eligible to donate or receive donations of sick leave with prior approval by the Mayor or his/her designee. Employees may only donate the amount of sick leave they have in excess of 80 hours but no more than 40 hours may be donated per fiscal year. Donations must be made in 8-hour increments, and an employee's donated time must leave the donating employee a balance of no less than 80 hours of sick leave.

Sick leave donations cannot be donated by an employee terminating employment less than 30 days prior to termination date. The donation of sick leave will only be given to those who need it due to a qualifying sick leave condition as noted above or for any qualifying event according to FMLA guidelines.

## **9. Conversion of Sick Leave upon Retirement**

Eligible employees may convert unused sick leave to retirement service credit. The converted sick leave will be used in calculating the retirement benefit. The maximum number of days that may be converted per Retirement Systems of Alabama Guidelines is 120 days. The conversion applies only to employees, who after converting unused sick leave days to service credit, meet the minimum qualifications for retirement. Employees cannot convert unused sick leave to retirement credit in order to meet the 10-year vesting requirement, unless otherwise eligible for retirement with the conversion of sick leave. For example, if an employee has reached age 60 or older and sick leave conversion would put you at 10 years or more of service, then the employee will be allowed to convert their sick leave to meet the creditable service requirement. Conversion of unused sick leave may not be used for deferred retirement.

## **C. Medical Benefits**

Employees of the City and their dependents are eligible for group health and dental coverage for themselves and their dependents as may be provided for by the City. Employees are informed of their eligibility date and eligibility to participate in the City's group plan(s) upon date of hire.

### **1. Initial Waiting Periods**

The City's health plans may require an "initial waiting period" to be completed after his/her date of hire for Plan coverage to become effective for employees and their dependents. Waiting periods, if any, may vary in length by Plan. Please refer to the Plan Documents, Summary Plan Descriptions and Evidence of Coverage Document or contact the Mayor or his/her designee for additional information.



D. **Retirement Membership**—Please visit Retirement Systems of Alabama website:

(<https://www.rsa-al.gov/>) or the ERS for additional information.

1. Defined Benefit Program

The ERS is a defined benefit plan qualified under Section 401(a) of the Internal Revenue Code. Since its inception in 1945, the plan has provided disability and service retirement benefits to members and survivor benefits to qualified beneficiaries.

A defined benefit plan provides the employee with a specific benefit at retirement by calculating the retirement benefit based on a formula. Benefits are payable monthly for the lifetime of the member, possibly continuing for the lifetime of the member's beneficiary. *The Code of Alabama 1975*, Title 36, Chapter 27 contains the actual language governing the plan.

2. Mandatory Participation

Participation in the ERS is mandatory if a person is in a position eligible for coverage in a **non-temporary capacity on at least one-half basis earning at least the federal minimum wage**. Once enrolled, the member must continue participation until employment is terminated. Active members of the Teacher's Retirement System (TRS) are not eligible for ERS participation.

Certain officials who meet the above requirements and are elected to office after the adoption of a Constitutional Amendment authorizing participation in ERS are required to participate. Temporary employees with a specific termination date not exceeding one year are ineligible. However, temporary employees employed longer than one year must begin participation in the ERS at the beginning of the second consecutive year of employment. The member will be given the opportunity to purchase the first year of temporary employment.

3. Tier 1 or Tier 2—On April 20, 2020, the City of Bay Minette adopted Resolution 0420-03 to provide Employee's Retirement System of Alabama Tier 1 Benefits to Tier 2 Plan Members in accordance to Act 2019-132.

**Tier 1 Plan Members:** Any member of the Retirement System who had service for which they received credit in the Employee's Retirement System or in the Teacher's Retirement System prior to January 1, 2013.

**Tier 2 Plan Members:** Any member of the Retirement System who first began eligible employment with an Employees' Retirement Systems or Teachers' Retirement System participating employer on or after January 1, 2013, and who had no eligible service in the Employees' Retirement System or Teachers' Retirement System prior to January 1, 2013.

Act 2019-132: Pursuant to Act 2019-132, a Local Unit employer (non-state agency) may elect to provide Tier 1 benefits to Tier 2 employees. Although this act allows Tier 2 employees to receive the same benefits as a Tier 1 employee, the employees' tier status does not change. An employee's eligibility to retire is dependent on the eligibility requirements of the employee's employer. An employee with service credit with an employer that has adopted Act 2019-132 and service credit as a regular Tier 2 employee have a split calculation to determine the amount of the employee's retirement benefits.

4. Member Online Services (<https://mso.rsa-al.gov>)

The RSA Member Online Services (MOS) website offers you a quick way to view their ERS statement, RSA-1 statement, and change their address online. The member will need to register by creating a User ID and Password. MOS also allows members to receive Board election ballots and statements by e-mail via the email preferences selection.

5. Annual Statement of Account

You may view your account statement online using MOS. The purpose of the annual statement is to provide you with information pertaining to your beneficiary, member contributions, accumulated interest, creditable service, and earnings. This also provides you with the opportunity to verify your records and use the information for retirement planning.

6. Designation of Beneficiary

It is very important for members to keep their beneficiary designation current. Failure to do so can result in possible loss of valuable benefits to your survivors. If you wish to change your beneficiary or in the event of marriage, divorce, or the beneficiary's death, file a new beneficiary designation with the ERS.

7. Change of Address

Having your current home mailing address on file with ERS is very important. Many important documents are mailed to each member, such as your Advisor, ERS Board of Control Election ballots, and RSA-1 statements. You may change your address through Member Online Services on the ERS website. You will need to set up a User ID and Password to log in. You can change your address in writing, with signature, either by letter or ADDRESS CHANGE NOTIFICATION form. The change of address form can be obtained from the ERS website or requested from Member Services. Address changes cannot be made through email or over the phone.

## 8. Contributions

### **Tier 1 Member Contributions**

In accordance with Resolution 0420-03, the City of Bay Minette has not increased the member contribution rates for Tier 1 members as provided by Act 2011-66, and as required by Alabama Code 360-27-6.5, the City of Bay Minette has submitted the Employee's Retirement System a plan to increase such rates.

Regular Employees	5%
Full-Time, Certified Local Firefighters Law Enforcement Officers	6%

### **Tier 2 Member Contributions**

In accordance with Resolution 0420-03, The City of Bay Minette adopted the City of Bay Minette's Tier II plan members shall contribute 7.5% of their earnable compensation to the Employees' Retirement System and the City of Bay Minette's Tier II plan members who are firefighters or law enforcement officers, as defined by *Ala. Code 36-27-59(a)*, shall contribute 8.5% of their earnable compensation to the Employees' Retirement System as required by Act 2019-132.

Regular Employees	7.5%
Full-Time, Certified Local Firefighters Law Enforcement Officers	8.5%

### **Employer Contributions**

The employer's contribution rate is established after each annual actuarial valuation of participating agencies.

## 9. Vesting

Vesting means that the member has earned enough service credit to be eligible for a lifetime retirement benefit. Members have a vested status in the ERS after accumulating 10 years of creditable service.

## 10. Termination of Service—Ineligible for Retirement

A member has three (3) options once they terminate employment, prior to retirement eligibility:

- If the member is vested (at least 10 years of service), retirement contributions may be left in the system until eligible retirement age.
- With less than 10 years of service, the member may leave contributions in the system for up to five years. If the member has not returned to employment as a participating member after five years, the account will be terminated and contributions plus any refundable accrued interest will be payable to the member.
- The member may withdraw all retirement contributions and refundable interest. Member's contributions are only refunded at the request of the member upon termination of employment and application for refund.

NOTE: An approved leave of absence does not constitute termination of employment.

To request a refund, contact ERS and request a *NOTICE OF FINAL DEPOSIT AND REQUEST FOR REFUND* form and the *SPECIAL TAX NOTICE REGARDING YOUR ROLLOVER OPTIONS* or download the form from the ERS website.

## 11. Retirement Benefits—**Please notify the Human Resource Director of intent to retire as soon as possible.**

- Service Retirement

Service Retirement benefits are available to members who cease ERS-covered employment and meet minimum service and/or age requirements. The monthly retirement benefit is paid for life without interruption unless there is a return to full-time employment with an ERS or TRS agency, or to temporary employment in excess of the limits.

In accordance with Resolution 0420-03: The City of Bay Minette elects to provide Tier I retirement benefits to its Tier II plan members.

A member is eligible to receive retirement benefits under either of the following conditions:

- The member has at least 10 years of service credit and has obtained the age of 60
- After accumulating 25 years of service credit at any age.

A member is eligible to retire the first day of the month following attainment of age 60 with 10 years of creditable service or the first day of the month following attainment of 25 years of service credit. Members may only retire on the first day of any month they are eligible.

Eligible members may convert unused sick leave days to service credit to meet the minimum requirement for service retirement.

To apply for retirement, request a *RETIREMENT APPLICATION PACKET 1* from ERS or download it from the ERS website. This package includes the *APPLICATION FOR RETIREMENT* and *DIRECT DEPOSIT AUTHORIZATION*.

The application must be received no less than 30 days nor more than 90 days prior to the effective date of retirement. It is the responsibility of the member to notify ERS and the City of Bay Minette Human Resources in writing regarding intent to retire. All correspondence must include full name, Social Security Number or account number.

- Disability Retirement

If the career of an ERS member is cut short because of permanent disability, the member may qualify for monthly disability benefits. To qualify for a disability benefit, the member must have 10 years of creditable service.

- The member must have 10 years of creditable service.
- The member must be in-service. A member is considered in-service if currently working or on official leave of absence for one year, which may be extended for no more than one additional year. A member will not receive service credit for periods of leave without pay. **A member who terminated employment is not eligible to apply for disability retirement.**
- The RSA Medical Board must determine the member to be permanently incapacitated from further performance of duty. The Medical Board bases its determination upon information provided by the member's physician.

Maximum monthly disability retirement benefits are calculated identically to those for service retirement except that additional credit for sick leave cannot be converted to retirement credit.

To apply for disability retirement, request a *REPORT OF DISABILITY* and *DISABILITY RETIREMENT APPLICATION PACKET PART 1* from ERS. The *STATEMENT BY EXAMINING PHYSICIAN* (included in the *REPORT OF DISABILITY PACKET*) and the retirement application must be received by the ERS office no less than 30 days nor more than 90 days prior to the effective date of retirement, which is the first day of a month. The member is responsible for notifying ERS and City of Bay Minette Human Resources Department regarding disability retirement.

A disability retiree will be reviewed once every year for the first five years and once every three-year period thereafter until age 60 to determine whether the retiree remains disabled.

## VI. LEAVES OF ABSENCE

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The City may grant a leave of absence in certain circumstances. Employees should notify their supervisor and/or the Mayor or his/her designee in writing as soon as they become aware that they may need a leave of absence. The City will consider an employee's request in accordance with applicable law and the City's leave policies. Employees will be notified whether their leave request is granted or denied. If the leave is granted, employees must comply with the terms and conditions of the leave, including keeping in touch with their supervisor or the Mayor or his/her designee during the leave, and giving prompt notice if there is any change in their return date.

Employees must not accept other employment or apply for unemployment insurance benefits while on leave of absence. Acceptance of other employment while on leave will be treated as a voluntary resignation from employment at the City. Benefits, such as vacation, will not accrue while employees are on a leave of absence. Upon return from a leave of absence, employees will be credited with the full employment status that existed prior to the start of the leave. Employees will not receive credit for the time during the unpaid portion of any leave, except that they will retain their original date of hire.

### A. Family Medical Leave Policy

The City will grant family and medical leave in accordance with the requirements of federal Family and Medical Leave Act ("FMLA") provisions in effect at the time the leave is granted. No greater or lesser leave benefits will be granted than those set forth in the relevant federal law.

Employees should contact their supervisor as soon as they become aware of the need for a family and medical leave. Employees are expected to provide prompt notice to the City of any change(s) to an employee's return to work date. Accepting other employment, continuing to work in another job, or filing for unemployment insurance benefits while on leave may be treated as a voluntary resignation from employment. The following is a summary of the relevant provisions:

#### 1. Employee Eligibility

To be eligible for family and medical leave benefits, employees must:

1. Have worked for the City a total of at least 12 months
2. Have worked at least 1,250 hours over the previous 12 months
3. Worked at a location where at least 50 employees are employed by the City within 75 miles, as of the date leave is requested.

## 2. Reason for Leave

FMLA Leave is allowed for various reasons. Because an employee's rights and obligations may vary depending upon the reason for the FMLA Leave, it is important to identify the purpose or reason for the leave. FMLA Leave may be used for one of the following reasons:

- (A) The birth, adoption, or foster care of an employee's child within 12 months following the birth or placement of the child ("Bonding Leave") or to care for an immediate family member (spouse, child, or parent) with a serious health condition ("Family Care Leave")
- (B) An employee's inability to work because of a serious health condition ("Serious Health Condition Leave")
- (C) A "qualifying emergency," as defined under the FMLA, for military operations arising out of a spouse's, child's, or parent's active duty or call to active duty as (a) a member of the military reserves or National Guard in support of a "contingency operation" declared by the U.S Secretary of Defense, President or Congress, as required by law; (b) a member of the Armed Forces who is on or is called to active duty in a foreign country ("Military Emergency Leave")
- (D) To care for a spouse, child, parent or next of kin (nearest blood relative) who is (a) an Armed Forces member (including the military reserves and National Guard) undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retire list with a serious injury or illness incurred or aggravated in the line of duty while on active duty that may render the individual medically unfit to perform his or her military duties; or (b) a person who, during the five (5) years prior to the treatment necessitating the leave, served in the active military, Naval, or Air Service, and who was discharged or released therefrom under conditions other than dishonorable (a "veteran" as defined by the Department of Veteran Affairs) and who has a serious injury or illness incurred or aggravated in the line of duty while on active duty that manifested itself before or after the member became a veteran ("Military Caregiver Leave").

### 3. Length of Leave

The maximum amount of FMLA will be twelve (12) workweeks in any 12-month period when the leave is taken for:

- Bonding Leave
- Family Care Leave
- Serious Health Condition Leave
- Military Emergency Leave

However, if both spouses work for the City and are eligible for leave under this policy, the spouses will be limited to a total of 12 workweeks off between the two of them when the leave is for Bonding Leave or to care for a parent using Family Care Leave. A 12-month period begins on the date of your first use of FMLA Leave.

The maximum amount of FMLA Leave for an employee wishing to take Military Caregiver Leave will be a combined leave total of twenty-six (26) workweeks in a single 12-month period. A 12-month period begins on the date of your first use of FMLA Leave. Successive 12-month periods commence on the date of your first use in such leave after the preceding 12-month period has ended. *(Employer may choose which 12-month calculation method to use; rolling 12-month period measured backward from the date an employee uses any FMLA Leave reference in this paragraph is only method that prevents potential stacking at end of one leave year and beginning of next leave year.)*

If both spouses work for the City and are eligible for leave under this policy, the spouses will be limited to a total of 26 workweeks off between the two when the leave is for Military Caregiver Leave only or is for a combination of Military Caregiver Leave, Military Emergency Leave, Bonding Leave and/or Family Care Leave taken to care for a parent.

Under some circumstances, an employee may take FMLA Leave intermittently, which means taking leave in blocks of time, or by reducing your normal weekly or daily work schedule. Leave taken intermittently may be taken in increments of no less than one hour. To the extent required by law, some extensions to FMLA Leave may be granted when the leave is necessitated by an employee's work-related injury/illness or a "disability" as defined under the Americans with Disabilities Act and/or applicable state or local law. Certain restrictions on these benefits may apply.



#### 4. Notice and Certification

##### (A) Bonding, Family Care, Serious Health Condition, and Military Caregiver Leave Requirements

Employees are required to provide:

1. When the need for the leave is foreseeable, 30 days advance notice or such notice as is both possible and practical if the leave must begin in less than 30 days (normally this should be the same day the employee becomes aware of the need for leave or the next business day)
2. When the need for leave is not foreseeable, notice within the time prescribed by the City's normal absence reporting policy, unless unusual circumstances prevent compliance, in which case notice is required as soon as is otherwise possible and practical
3. When the leave relates to medical issues, a completed Certification of Health-Care Provider form within 15 calendar days (for Military Caregiver Leave, an invitational travel order or invitational travel authorization may be submitted in lieu of a Certification of Health-Care Provider form)
4. Periodic recertification (upon request); and
5. Periodic reports during the leave.

Certification forms are available from the Mayor or his/her designee. At the City's expense, the City may also require a second or third medical opinion regarding your own serious health condition. Employees are expected to cooperate with the City in obtaining additional medical opinions that the City may require.

When leave is for planned medical treatment, you must try to schedule treatment so as not to unduly disrupt the City's operation. Please contact the Mayor or his/her designee prior to scheduling planned medical treatment.

##### (B) Military Emergency Leave Requirements

Employees are required to provide:

1. As much advance notice as is reasonable and practical under the circumstances;
2. A copy of the covered military member's active duty orders when the employee requests leave; and
3. A completed Certification of Qualifying Exigency forms within 15 calendar

days, unless unusual circumstances exist to justify providing the form at a later date.

Certification forms are available from the Human Resources Department.

(C) Failure to Provide Certification and to Return from Leave

Absent unusual circumstances, failure to comply with these notice and certification requirements may result in a delay or denial of the leave. If you fail to return to work at your leave's expiration and have not obtained an extension of the leave, the City may presume that you do not plan to return to work and have voluntarily terminated your employment.

## **5. Compensation During Leave**

The City requires you to use accrued vacation and sick leave to cover some or all the FMLA Leave. If you exceed the accrued vacation and sick leave, the remainder of the time will be unpaid. The use of paid time offs will not extend the length of a FMLA Leave.

## **6. Benefits During Leave**

The City will continue making contributions for your group health benefits during your leave on the same terms as if you had continued to work. This means that if you want your benefits coverage to continue during your leave, you must also continue to make any premium payments that you are now required to make for yourself or your dependents. Employees taking Bonding Leave, Family Care Leave, Serious Health Condition Leave, and Military Emergency Leave will generally be provided with group health benefits for a 12-workweek period. Employees taking Military Caregiver Leave may be eligible to receive group health benefits coverage for up to a maximum of 26 workweeks. In some instances, the City may recover premiums it paid to maintain health coverage if you fail to return to work following a FMLA Leave.

If you are on a FMLA Leave but are not entitled to continue paid group health insurance coverage, you may continue your coverage through the City in conjunction with federal COBRA guidelines by making monthly payments to the City for the relevant premium. Please contact the Mayor or his/her designee for further information. Your length of service as of the leave will remain intact, but accrued benefits such as vacation and sick leave will not accrue while on an unpaid FMLA Leave.

## **7. Job Reinstatement**

Under most circumstances, you will be reinstated to the same position held at the time of the leave or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions. However, you have no greater right to reinstatement than if you had been continuously employed rather than on leave. For example, if you would have been laid off had you not gone on leave, or if your position has been eliminated during the leave, then you will not be entitled to reinstatement.

Prior to being allowed to return to work, an employee wishing to return from a Serious Health Condition Leave must submit an acceptable release from a health care provider that certifies the employee can perform the essential functions of the job as those essential functions relate to the employee's serious health condition. For an example, on intermittent FMLA Leave, such a release may be required if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based on the serious health condition for which the employee took the intermittent leave.

## **8. Unlawful Acts**

It is unlawful for the City to interfere with, restrain, or deny the exercise of any right provided by federal family and medical leave (FMLA) law. It is also unlawful for the City to refuse to hire or to discharge or discriminate against any individual for being involved in any proceedings related to family and medical leave.

## **B. Workers' Compensation Leave**

The City provides workers' compensation leave and benefits to employees in accordance with Alabama's workers' compensation laws for job-related injuries. Eligibility and entitlement for benefits shall be determined in accordance with criteria specified in the Ala. Code §25-5-1, *et seq.* (1975). Leaves taken under the workers' compensation run concurrently with family and medical leave under federal law.

### **1. Notice and Certification Requirements**

Employees must report all accidents, injuries, and illnesses - no matter how small - to their immediate supervisor. In addition, employees must provide the City with a certification from a health-care provider.

## **2. Compensation During Leave**

While on workers' compensation leave, an employee is ineligible for paid sick leave benefits, except for the first three lost workdays due to a job-related accident. If the employee loses a total of twenty-one (21) days or more from work as a result of the accident, the worker's compensation insurer may be required to pay the employee for their first three days missed. If this occurs, the employee is responsible for reimbursing the City for the three days of sick leave previously paid to the employee as paid sick leave. Once the City is reimbursed, the three days of sick leave will be returned to the employee's sick leave accruals.

## **3. Benefits During Leave**

If the employee taking workers' compensation disability leave is eligible for leave under the federal family and medical leave laws, the City will maintain the employee's group health insurance coverage for at least 12 workweeks if such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. In some instances, the City may recover premiums it paid to maintain health coverage for an employee who fails to return to work following workers' compensation disability leave. If ineligible under the federal and state family and medical leave laws, employees on workers' compensation disability leave will receive continued coverage on the same basis as employees taking other leaves.

Employees on workers' compensation disability who do not receive continued paid coverage, or whose paid coverage ceases after 12 workweeks, may continue their group health insurance coverage through the City in conjunction with federal COBRA guidelines, if applicable, by making monthly payments to the City for the amount of the relevant premium. Employees should contact the Mayor or his/her designee for further information.

Vacation and sick leave benefits will not accrue during the leave. An employee on a leave of absence will not receive holiday pay. Upon return from Leave of Absence, benefits will resume accruing in accordance with the specific requirements of each benefit.

## **4. Reinstatement**

Under most circumstances, upon submission of a medical certification that an employee is able to return to work from a workers' compensation leave, the employee will be reinstated to his or her same position held at the time the leave began or to an equivalent position, if available. An employee returning from a workers' compensation leave has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if the employee on workers' compensation leave would have

been laid off had he or she not gone on leave, or if the employee's position has been eliminated or filled in order to avoid undermining the City's ability to operate safely and efficiently during the leave, and there are no equivalent positions available, then the employee would not be entitled to reinstatement.

## **5. Temporary Light Duty**

Temporary Light Duty assignments are specially created temporary job assignments for employees injured while working for the City. Such temporary light duty assignments are temporary assignments only, are not vacant or permanent positions within the City's workforce, and are not available to employees on a permanent basis under any circumstances. The availability of temporary light duty assignments depends on the employee's restriction and the needs of the City. The existence of this temporary light duty policy does not in any way guarantee that temporary light duty will be available at any given time, or for any particular employee who request it. Such temporary light duty assignment shall not exceed twelve (12) weeks.

If at any point an employee is medically determined to have sustained permanent restriction, the creation or continuation of a temporary light duty assignment will not be considered. In that event, the City will review the employee's situation separately to determine the appropriate steps to be taken, if any, under the American with Disabilities Act, other applicable law, and other relevant City policies.

If a temporary light duty assignment is available, an employee will be permitted to work in a temporary light duty assignment only after the City receives a written statement from the employee's treating health care provider approving the assignment for the injured employee. The City will review the status of the temporary light duty assignment with the affected employee every 30 days, in light of the City's business needs and the employee's condition to determine if continuation of the assignment is appropriate.

If a light duty assignment is offered by the City and approved by the employee's treating physician, an employee's refusal to accept the offer of light duty may affect the employee's right to workers' compensation under applicable law. However, if the employee's injury qualifies as a serious health condition for the purpose of the Family and Medical Leave Act, such refusal to accept light duty will not change the employee's right under the Act.

## C. Other Types of Leaves of Absences

### 1. Federal Military Leave

Both state and federal law provide employees with the right to take leave in order to serve in the military. At the federal level, military leave rights are governed by the Uniformed Services Employment and Reemployment Rights Act, commonly referred to as USERRA. In addition, Alabama imposes additional obligations on employers with respect to military leaves. USERRA effectively established the "floor" for the protection of employees' rights; states can implement greater protections. As discussed below, Alabama law requires public employers to provide 168 hours of paid military leave.

#### Eligibility for Leave

The City provides unpaid military leaves of absence to employees who serve in the uniformed services as required by USERRA and applicable state law. The uniformed services include the Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, and Commissioned Corps of the Public Health Service and any other category of persons designated by the President of the United States in time of war or emergency. The uniformed services also includes participants in the National Disaster Medical System ("NDMS") when activated to provide assistance in response to a public health emergency or to be present for a short period of time when there is a risk of public health emergency, or when they are participants in authorized training.

Uniformed service consists of the performance of any of the following on a voluntary or involuntary basis: active duty, active duty for training, initial active duty, inactive duty training, full-time National Guard duty and absence from work for an examination to determine fitness for such duty. Total military leave time may not exceed five years during employment, except in special circumstances.

#### Notice of Leave

Advance notice of leave is required, preferably in writing. Please provide your supervisor with as much advance notice as possible of any anticipated leave of absence for military duty or training. Accrued vacation will be paid during military leave at your request. Employees on military leave may elect to continue their health plan coverage at their own expense for up to 24 months or during service, whichever is shorter.

#### Reinstatement

In order to be eligible for reinstatement, the employee must have provided advance notice of the military obligation and have *completed his or her service honorably*. Employees

who are absent from work 30 days or less or who are absent to take a fitness exam must report to work at the beginning of the first regularly scheduled work day following completion of service, after allowing for the safe travel home and 8 hours of rest. If the employee serves 31 to 180 days, he or she must apply for reemployment within 14 days after completing service. If the employee has served 181 days or more, he or she must apply for reemployment within 90 days after completing service.

As with other leaves of absence, failure to return to work or to reapply within applicable time limits may result in loss of reemployment rights. Temporary employees may not be eligible for reinstatement following military leave and reinstatement may not be required for other employees in some circumstances. Full details regarding reinstatement are available from the Mayor or his/her designee.

In general, an employee returning from military leave will be reemployed in the position and seniority level that the employee would have attained had there been no military leave of absence. If necessary, the City will provide training to assist the employee in the transition back to the workforce.

An employee returning from military leave is entitled to any unused accrued vacation benefits the employee has at the time the military leave began. Upon reinstatement, the employee will accrue vacation benefits at the rate he or she would have attained if no military leave had been taken.

## **2. State Military Leave**

As a public employer, the City provides 168 hours of paid military leave for active members of the Alabama National Guard, Alabama Naval Militia, the Alabama State Guard, the National Disaster Medical System, the Civil Air Patrol or any other reserve component of the United States Armed Forces with a military leave on all days that they are engaged in:

- Field or coast defense,
- Training, or
- Other services ordered under federal law.

Alabama law provides employees who are active members of the Alabama National Guard and the National Disaster Medical System with the same rights, privileges and responsibilities set forth in the Federal Soldiers and Sailors Relief Act and the Uniformed Services Employment and Reemployment Rights Act (USERRA), whenever they are called to state active duty or for federally funded duty other than training, in a time of war, armed conflict or emergency proclaimed by the Governor or the President of the United States.

### **3. Funeral or Bereavement Leave of Absence**

Full-time employees may receive up to 24 hours of paid leave for bereavement leave for the death of an immediate family member. Immediate family is hereby defined to include wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law. Where usually strong personal ties exist, due to an employee having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case, the employee concerned shall file with the employee's Department Head a written statement of the circumstances which justify an exception to the general rule. The Department Head shall forward the request to the Mayor, or his or her designee, for approval or denial and shall notify the employee of the Mayor's, or his or her designee's, decision.

Employees are responsible for requesting bereavement leave from their Department Head as far in advance as possible. The City reserves the right to require verification of the need for bereavement/funeral leave.

### **4. Jury Duty Leave**

Full-time employees will receive their regular compensation while serving on a jury. The day after receiving a jury duty summons, the employee must present the summons to his or her immediate supervisor.

The City will not retaliate, or tolerate retaliation, against any employee who takes leave under this policy. The employee must, however, report to work on his or her next regularly scheduled hour after being dismissed from the jury.

### **5. Voting Leave**

The City encourages all employees to fulfill their civic responsibilities and to vote in all public elections. Most employees' schedules provide sufficient time to vote either before or after working hours. If your shift starts less than two (2) hours after the polls open or ends less than one (1) hour before the polls close, you may take up to one (1) hour off of work to vote. **Time off will be without pay.** Employees must request time off to vote from their supervisor at least one day prior to Election Day so that the necessary time off can be scheduled to avoid disruption to normal work schedules.



## **6. Leave for Volunteer Emergency Workers**

Any employee who serves as a volunteer emergency worker may take time off, without pay, to respond to an emergency that occurred prior to the time the employee is scheduled to report to work. The employee must make a reasonable effort to notify the City that he or she will be absent or late to work.

For purposes of this policy, "volunteer emergency worker" means an individual who is not paid for his or her service as a volunteer firefighter, emergency medical technician, rescue squad member, volunteer deputy, or a ham radio operator conducting storm spotter operations for an emergency management association.

The employee must provide the City with a written statement from the supervisor or acting supervisor of the fire department or emergency medical services stating that the employee responded to an emergency and listing the time and date of the emergency.

## **7. Leave for Victims of Crime**

Eligible employees may take time off from work to testify in a criminal proceeding pursuant to a subpoena or to participate in the reasonable preparation of a criminal proceeding. An employee is eligible for leave under this policy if he or she: 1) is a victim of the crime at issue in the proceedings, or 2) is the spouse, parent, child, sibling, or guardian of a victim that was killed or incapacitated. An employee who is accused of the crime or is in custody for the offense is not eligible for time off.

Before an employee may take time off under this policy, the employee must provide his or her supervisor with a copy of the notice scheduling the proceeding. If advance notice is not feasible, the employee must provide appropriate documentation within a reasonable time after the absence. Confidentiality of the situation, including the employee's request for the time off under the policy, will be maintained to the greatest extent possible.

Provided the above requirements are met, an employee may take time off under this policy without fear of loss of employment for doing so.

## **8. Leave Without Pay**

Non-probationary full-time and part-time regular employees may be allowed, under some circumstances, a leave of absence without pay. The employee must first receive approval from their Department Head then submit a written request to the Mayor or his/her designee. The Mayor or his/her designee may grant an employee a leave of absence

without pay for a period not to exceed 90 days. Unless additional unpaid leave is approved by the Mayor or his/her designee, the total leave of absence for any employee in any given year may not exceed 90 days, for one leave of absence or any combination of leaves. During such leave without pay, vacation, sick leave and holiday credits will not be accrued, and the employee will be excluded from all other compensation and fringe benefits, except as otherwise provided by law. Vacation leave must be exhausted prior to taking any leave without pay. An employee who fails to report promptly at the end of the unpaid leave is presumed to have voluntarily resigned.

## **9. Unapproved Leave**

Any absence from work without approved leave shall be grounds for disciplinary action, including, but not limited to, termination of employment.

## **10. Administrative Leave**

On a case-by-case basis, the City may place an employee on Administrative Leave with pay for an indefinite period of time, as approved by the Mayor or to be in the best interests of the City during a pending investigation or other administrative proceeding.

## **11. Discretionary Leave**

Non-covered employees under the FLSA (Exempt employees), are by the nature of their job classifications and responsibilities often required to work in excess of their assigned forty (40) hour workweek. All exempt employees may accumulate a limited amount of compensatory time for any time worked more than 40 hours during any 40-hour workweek. The following limitations will apply:

- a. No more than 80 hours of compensatory time can ever be accrued.
- b. Compensatory time can only be taken with prior consent of the Mayor or his/her designee.
- c. Compensatory time off awarded to an overtime exempt employee shall accrue at the rate of one hour of compensatory time for each hour worked.
- d. Eligible exempt employees may cash out their accrued compensatory time at the end of each fiscal year, up to but not exceeding 80 hours of accrued compensatory time. Compensatory time may not be rolled over into the next fiscal year.

## A. Punctuality and Attendance

### A. Attendance

The City requires regular and punctual attendance from all employees. Employees are expected to report to work every day as scheduled, on time, and prepared to start work. Employees are also expected to remain at work for their entire work schedule, except for meal periods or when required to leave on authorized City business. Late arrival, early departure, or other absences from scheduled hours are disruptive and must be avoided.

Employees who are going to be absent for a full or partial workday or late for work must notify their supervisor or the Department Head as far in advance as possible but at least 48 hours before the start of the workday. Employees who must miss work because of emergencies or other unexpected circumstances must notify their supervisor or the Department Head as soon as possible, but no later than one hour before the start of the employee's scheduled shift or start time. If you call in less than one hour before your scheduled time to begin work, you will be considered tardy for that day. Tardiness also includes reporting to work at any point after the scheduled work time, leaving work early, leaving work before the scheduled meal break or returning to work late from the meal break. In all cases of absence or tardiness, you must provide your supervisor with an honest reason or explanation. You must also inform your supervisor of the expected duration of any absence or reason for your tardiness. Absent extenuating circumstances, you must call in on every day you are scheduled to work and will not report to work.

Absences and tardiness will be considered excused if the employee requested the time off in accordance with the City's policies on vacation and sick leave, received the required approval for the absence, and has sufficient accrued, but unused, time to cover the absence. Absences and tardiness also will be considered excused if the employee requested the time off in accordance with any of the other City policy permitting a leave of absence, received the required approval for the leave, and is in compliance with the leave policy (for example, an employee's absences while he or she is taking approved leave under the City's policy on Bereavement/Funeral Leave generally will be considered excused).

An employee will be considered to have taken an unexcused absence if the employee is absent or tardy from work during scheduled work hours without permission, including full or partial day absences, late arrivals, and early departures.

## **B. Consequences of Unexcused Absences**

The City reserves the right to discipline employees for unexcused absences and tardiness. Discipline may include counseling, oral or written warnings, suspensions, or termination of employment, in the City's discretion. In addition, an employee who has an unexcused absence or tardy will forfeit/reduce his or her accrued vacation or sick leave for the time in which the employee was absent from work.

Even excused absenteeism or tardiness, however, is a ground for discharge if it becomes excessive. Approved leaves of absence, including family and medical leave, military leave, jury duty leave, and bereavement leave will not be deemed an absence and will not be considered in determining whether absenteeism is "excessive."

WITH THE EXCEPTION OF UNUSUAL CIRCUMSTANCES, ANY EMPLOYEE WHO IS ABSENT FROM WORK FOR THREE DAYS WITHOUT NOTIFYING THE CITY WILL BE DEEMED TO HAVE VOLUNTARILY ABANDONED HIS OR HER JOB AND THE EMPLOYEE'S EMPLOYMENT WILL BE TERMINATED.

## **VIII. STANDARDS OF CONDUCT**

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Since it is the policy of the City to recruit highly qualified staff, at a competitive total compensation level, employees shall be responsible for striving to meet the highest performance standards established by the City.

### **1. Dress Code Policy**

All employees are required to promote a professional image throughout all locations of the organization. All employees are expected to maintain high standards of neatness and personal hygiene regardless of where they work. The proper attire helps create a favorable image for the City.

All employees must be properly dressed (including undergarments) and groomed, for their work environment. Hair should be clean, combed, and neatly trimmed and arranged. Shaggy, unkempt hair is not permissible, regardless of length. Extreme hair styles or colors are not appropriate in a business professional environment (purple, blue, green, pink, etc., as well as hats, bandanas, etc.) and are not permitted to be worn during working hours. Hair, beards, and mustaches must be kept professionally neat and clean.

If the supervisor concludes an employee's dress is inappropriate, the employee will be relieved of duty and sent home to change or take appropriate corrective action. The employee will not be compensated during such time away from work, and repeated violations of this policy will be cause for disciplinary action.

## **Uniform Employees**

The City of Bay Minette requires Employees in designated departments to wear uniforms or specialized clothing for safety and to provide a standardized appearance. *These departments include: Animal Control, Custodial, Fire, Grounds and Parks, Police, Public Works, and Recreation.* The dress and grooming of these employees are to be governed by the requirements of safety first, then comfort. Loose fitting or baggy clothing, open-toe, or high heel shoes, and dangling or protruding jewelry should not be worn by employees who work with machinery or equipment with moving parts as such attire may create a safety hazard.

These uniforms are property of the City. Upon dismissal of employment, each employee must return all uniforms issued. Employee will be charged for uniforms that are unusable as a result of employee neglect.

## **Office Employees**

Office employees often have contact with the public and therefore represent the City in their appearance, as well as by their actions. Accordingly, the personal appearance of the office is to be governed by the following standards:

1. Employees are expected to dress in a manner that is normally acceptable in business establishments.
2. Low-cut, tight, or revealing clothing that at any time reveals cleavage, back, chest, stomach or underwear is not appropriate and is unacceptable. Dresses and skirts must be professional length and cannot be shorter than three inches above the knee. Any dress that does not present a business-like appearance will not be allowed.
3. Clothing is not to be torn, tattered, worn, wrinkled, or stained.
4. Dress shoes, sandals or boots are acceptable; however, tennis shoes, crocs or flip flops will not be allowed.
5. Jeans and tennis shoes are permitted on **Fridays only**; this day is designated as casual day.

## **2. Policy against Employee Harassment & Discrimination - ZERO TOLERANCE**

The City is committed to providing a work environment that is free of harassment and discrimination. In keeping with this commitment, the City maintains a strict **zero-tolerance policy** prohibiting all forms of unlawful discrimination and harassment, including sexual discrimination and harassment and discrimination and harassment based on race, color, religion, national origin, age or any other characteristic protected by state or federal law. This

policy applies to all employees of the City, including supervisors and non-supervisory employees. Furthermore, it prohibits unlawful discrimination or harassment in any form, including verbal, physical and visual harassment. It also prohibits retaliation of any kind against individuals who file valid complaints or who assist in a City investigation.

Sexual harassment includes, but is not limited to, making unwanted sexual advances and requests for sexual favors where either (1) submission to such conduct is made an explicit or implicit term or condition of employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Individuals who violate this policy are subject to discipline up to and including the possibility of immediate termination.

Unlawful harassment may take many forms, including:

- Verbal Conduct - epithets, derogatory comments, slurs, or unwanted sexual advances, invitations, or comments
- Visual Conduct - derogatory posters, cartoons, drawings, or gestures
- Physical Conduct - assault, blocking normal movement, or interference with work directed at an employee because of the employee's sex or other protected characteristic
- Use of Computers - the internet and the e-mail system, to transmit, communicate or receive sexually suggestive, pornographic, or sexually explicit pictures, messages, or materials
- Threats and Demands - submit to sexual requests in order to keep one's job or avoid some other loss, and offers of job benefits in return for sexual favors
- Retaliation - having reported unlawful harassment

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. Harassment refers to behavior that is not welcome. It is unlawful for males to sexually harass other males or females, and for females to sexually harass males or other females.

Similar conduct directed at an individual on the basis of race, color, ancestry, religious creed, physical ability, medical condition, age, marital status, sexual orientation, or any other protected classification under applicable law is prohibited.

This policy applies to all phases of the employment relationship, including retirement, testing, hiring, promotion, demotion, transfer, layoff, termination, rates of pay, benefits and selection for training.

Any employee who believes he or she has been discriminated against or harassed by a co-worker or supervisor of the City should promptly report the facts of the incident or incidents and the names of the individuals involved to his or her supervisor or, in the alternative, to the Mayor or his/her designee. It is the responsibility of each employee to immediately report any violation or suspected violation of this policy to one or more of the individuals identified above. Employees who believe that they have been discriminated against or harassed may also file a complaint with the local office of the Equal Employment Opportunity Commission ("EEOC"). The address and phone number of the local EEOC office can be found in the Federal Government section of the local phone directory.

Supervisors should immediately report any incidents of harassment to the Mayor or his/her designee. The Mayor or his/her designee will investigate all such claims and take appropriate corrective action, including disciplinary action, when it is warranted. Employees should feel free to report valid claims without fear of retaliation of any kind. Employees will not be subject to retaliation for registering any complaint of unlawful harassment in good faith, or for participating in an investigation, proceeding, or hearing conducted by the City or the EEOC.

Any employee of the City, whether a coworker or supervisor, who is found to have engaged in prohibited harassment is subject to disciplinary action, up to and including immediate discharge from employment. Any employee, who engages in prohibited harassment, including any supervisor or Department Head who knew about the harassment but took no action to stop it, may be held personally liable for monetary damages. Any supervisor or Department Head who knew about harassment and took no action to stop it or failed to report the harassment to the Mayor or his/her designee may also be subject to discipline, up to and including discharge. The City does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequence of the discharge of one's duties. Accordingly, to the extent permitted by law, the City reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

Any employee who knowingly falsely accuses someone of harassment or otherwise knowingly gives false and misleading information in an investigation of harassment will be grounds for disciplinary action, up to and including termination of employment.

### **3. Policy Against Workplace Violence - ZERO TOLERANCE**

The City recognizes that violence in the workplace is a growing nationwide problem necessitating a firm, considered response by employers. The costs of workplace violence are great, both in human and financial terms. The City believes that the safety and security of city employees are paramount. Therefore, the City has adopted a **Zero Tolerance** policy regarding workplace violence.

Acts or threats of physical violence, including intimidation, harassment, and/or coercion, that involve or affect the City or that occur on city property or in the conduct of City business off City property, will not be tolerated. This prohibition against threats and acts of violence applies to all persons involved in city operations, including, but not limited to, City personnel, contract workers, temporary employees, and anyone else on city property or conducting City business off City property. Violations of this policy, by any individual, will lead to disciplinary action, up to and possibly including immediate discharge, and/or legal action as appropriate.

Workplace violence is any intentional conduct that is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property such that employment conditions are altered or a hostile, abusive, or intimidating work environment is created for one or several City employees. Workplace violence may involve any threats or acts of violence occurring on City premises, regardless of the relationship between the City and the parties involved in the incident. It also includes threats or acts of violence on City premises. Threats or acts of violence occurring off City premises that involve employees, agents, or individuals acting as a representative of the City, whether as victims of or active participants in the conduct, may also constitute workplace violence.

Specific examples of conduct that may constitute threats or acts of violence under this policy include, but are not limited to, the following:

- Threats or acts of physical or aggressive contact directed toward another individual
- Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property
- The intentional destruction or threat of destruction of City property or another employee's property
- Harassing or threatening phone calls
- Surveillance
- Stalking
- Possession of offensive or defensive weapons (firearms, illegal knives, clubs, mace, pepper spray, tear gas, etc.) unless specifically required or authorized and approved by the Mayor or his/her designee
- Veiled threats of physical harm or similar intimidation; or



- Any conduct resulting in the conviction under any criminal code provision relating to violence or threats of violence that adversely affects the City's legitimate business interest.

Workplace violence does not refer to occasional comments of a socially acceptable nature. These comments may include references to legitimate sporting activities, popular entertainment, or current events. Rather, it refers to behavior that is personally offensive, threatening, or intimidating. Employees should feel free to report valid claims without fear of retaliation of any kind. Employees will not be subject to retaliation for registering any complaint of violence in good faith.

Any person who engages in a threatening or violent action on City property may be removed from the premises as quickly as safety permits and may be required, at the City's discretion, to remain off City premises pending the outcome of an investigation of the incident.

When threats are made or acts of violence are committed by employees, a judgment will be made by the City as to what actions are appropriate, including possible medical evaluation and/or possible disciplinary action. City employees who engage in threats or violence, direct, indirect, implied, or actual, against coworkers or any other person concerning City business, may be subject to legal action by law enforcement authorities as well as disciplinary action by the City, up to and including termination of employment.

Once a threat has been substantiated, it is the City's policy to put the threat maker on notice that he/she will be held accountable for his/her actions and then implement a decisive and appropriate response. The City will thoroughly document such incidents. Such documentation may include a narrative of the incident including names and other appropriate identification of the parties involved, verbal comments made or descriptions of the violent behavior, witness names, and witnesses' statements.

Under this policy, decisions may be needed to prevent a threat from being carried out, a violent act from occurring, or a life-threatening situation from developing. No existing policy or procedure of the City should be interpreted in a manner that prevents the making of these necessary decisions.

**Important Notice:** The City will make the sole determination of whether, and to what extent, threats or acts of violence will be acted upon. In making this determination, the City may undertake a case-by-case analysis in order to ascertain whether there is a reasonable basis to believe that workplace violence has occurred.

#### **4. Smoke-Free Workplace**

The City is a smoke-free workplace. Smoking and the use of smokeless tobacco (*i.e.*, chewing tobacco, snuff, etc.) are prohibited in all buildings belonging to the City. Smoke-free workplace signs are posted at all building entrances.

Smoking and the use of smokeless tobacco are not permitted outside the front entrance of any City building. Smoking is limited to a reasonable distance (*e.g.*, 20 feet or more) outside of a City building to ensure that environmental tobacco smoke does not enter the building through entrances, windows, ventilation systems or any other means.

Likewise, the use of smokeless tobacco is permitted at a reasonable distance outside of a City building. Permissible outside smoking areas and tobacco use areas are established by each Department Head.

Smokeless tobacco residue shall be disposed of properly in trash receptacles containing trash liners. Smokeless tobacco residue shall not be left in cans, bottles, paper cups, etc. in the workplace or in City vehicles. There shall be no spitting of tobacco juice on walls, floors, furniture, parts bins, vehicles, equipment, or on any other property belonging to the City.

All employees are expected to comply with all aspects of this policy. Violations will be subject to disciplinary action up to and including discharge. Smoking and the use of smokeless tobacco in City vehicles are prohibited.

#### **5. Maintaining a Drug & Alcohol-Free Workplace**

The City recognizes that drug and alcohol abuse, both in the workplace and off the job, are subjects of immediate and profound concern. The problems created by this abuse are extremely complex and there are no easy or absolute solutions. It is well recognized, however, that the use of illegal drugs and the abuse of alcohol, whether on or off the job, may adversely affect an employee's judgment and job performance, jeopardize the safety of that employee, other employees, and the public; and undermine the City's operations and public confidence in City services. Moreover, the use of illegal drugs is inconsistent with law-abiding behavior expected of all citizens. Therefore, the City has determined that it is necessary to strive to maintain a workplace which will be drug and alcohol free. It is the sincere desire and goal of the City that through the implementation of the provisions of this policy, the employees of the City will be provided with a safer and more desirable place to work and the citizens of the City of Bay Minette will continue to receive reliable service. This policy requires pre-employment testing, random testing, reasonable cause testing, post-accident testing and follow-up testing.

## *CBD/CANNABIDIOL*

CBD, short for cannabidiol, is a chemical compound from the Cannabis sativa plant, which is also known as marijuana or hemp, according to the US National Library of Medicine. It's a naturally occurring substance that's used in products like oils and edibles to impart a feeling of relaxation and calm. Pure CBD oil does not contain the psychoactive ingredient THC found in marijuana that gives a high effect to a user. CBD can be an oil, but also as an extract, a vaporized liquid, creams, and infused beverages.

CBD oil is not regulated by the FDA, meaning that consumers truly do not know what they are getting when they buy a CBD oil product. A recent report found that 43% of CBD oils tested had more THC in them than labeled.

Therefore, if an employee or applicant is using a CBD oil or extract in any form, they must understand that they might test positive on a drug screen for residual THC in their urine. Such a situation would be considered a violation of the City of Bay Minette Drug and Alcohol Policy."

### **Policy and Procedures for Drug & Alcohol-Free Workplace Substance**

The *City of Bay Minette* recognizes that our employees are our greatest asset. Our goal is to provide the best possible product and service to our customers. Our employees are the key to achieving this goal. It is important that every employee of the City understand the dangers of substance use and be aware of state and/or federal requirements concerning substance use. The City's policy and procedures are not a contract of employment. The City reserves the right to depart from this policy and procedures where management deems it is appropriate, and all employees are at-will employees. Except where specifically prohibited by law, the guidelines contained within the policy and procedures will be informed of any changes.

### **POLICY OBJECTIVES**

1. To create and maintain a safe, drug-free working environment for all employees.
2. To encourage any employee with a dependence on or addiction to alcohol or other drug to seek help in overcoming the problem.
3. To reduce problems of absenteeism, tardiness, carelessness, and/or other unsatisfactory matters related to job performance.
4. To reduce the likelihood of incidents of accidental personal injury and/or damage to customers, visitors, or property.
5. To minimize the likelihood that City property will be used for illicit alcohol and/or drug activities.

6. To protect the reputation of the City and its employees within the community. Substance use can be a serious threat to the City, its employees, and customers. Though the percentage of substance abusing employees may be relatively small, practical experience and research indicate that appropriate precautions by the City are necessary. It is the belief of the City that the benefits derived from these policy objectives will outweigh the potential inconvenience to employees. The City earnestly solicits the understanding and cooperation of all its employees in the implementation and enforcement of this policy.

As a condition of employment, employees must abide by the terms of *City of Bay Minette Substance Use Policy* and must notify *City of Bay Minette* in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such convictions.

The City requires that all employees report to work without any detectable presence of alcohol or a drug metabolite in their body systems. Employees shall not report for work or remain on duty except when the use is pursuant to the instructions of a physician who has advised the employee that the substance will not adversely affect the employee's ability to perform the job tasks in a safe manner.

No employee shall use alcohol while on duty. The City prohibits employees from using, possessing, manufacturing, distributing, or making arrangements to distribute drugs or alcohol while at work or on City property.

Outside conduct of a substance use related nature which affects an employee's work, the City's relationship with any customer, or reflects negatively on the City is prohibited.

The City requires that all employees be ready to submit, at any time an employee is on duty or at any time an employee may be called to be on duty, to drug and/or alcohol testing to determine the presence of prohibited substances. Employees may be required to submit to the following types of testing, as defined in *City of Bay Minette Substance Use Policy*: Routine-Fitness for Duty if required, Reasonable Suspicion, Post Accident, Post Rehabilitation (Follow-up) and Random. An employee's refusal to submit to a requested specific substance use test or failure to cooperate with such testing shall constitute an act of insubordination and may subject the employee to disciplinary action, up to and including termination.

To assist us in providing a safe and healthy workplace, a resource file of information on various means of employee assistance in this community, including but not limited to drug and alcohol use programs, is maintained in the Human Resources department. This information will be distributed to employees for their confidential use.

## Policy

### 1. General Policy

Practical experience and research have proven that even small quantities of narcotics, abused and non-abused prescription drugs or alcohol may impair judgment and reflexes. Even when not readily apparent, this impairment can have serious results, particularly for employees operating vehicles or potentially dangerous equipment. Drug-using employees are a threat to co-workers and themselves and may make costly errors. For these reasons, City of Bay Minette has adopted a policy that all employees must report to work without any detectable presence of alcohol and/or any detectable drug metabolite, unless used as prescribed by a physician. This policy will be enforced to provide a safe workplace for all employees. Employees should understand that a positive drug or alcohol test is not a prerequisite to disciplinary action, if this policy or any other work rule has been violated.

### 2. Definitions

- A. **Alcohol** is ethyl alcohol or spirits of wine, from whatever source or by whatever process prohibited.
- B. **Breath Alcohol Concentration (BrAC)** is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.
- C. **Confirmation Test or Confirmed Test** is a second analytical procedure used to identify the presence of a specific drug or metabolite or alcohol in a specimen. The confirmation test shall be different in scientific principle than that of the initial test procedure. The confirmation method shall be capable of providing requisite specificity, sensitivity, and quantitative accuracy.
- D. **Drugs** as used in this policy include illegal use of controlled substances, drugs which are not legally obtainable, or the improper use of prescriptions. Unless otherwise stated, this term refers to amphetamines, cannabinoids, phencyclidine (PCP), methadone, opiates, cocaine, methaqualone, barbiturates, benzodiazepines, propoxyphene, or a metabolite of any of these substances.
- E. **Evidential Breath Testing Device (EBT)** is used for alcohol testing, which has been approved by the National Highway Traffic Safety Administration (NHTSA) and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."
- F. **Medical Review Officer (MRO)** is a licensed physician (medical doctor or doctor of osteopathy), certified by either the American College of Occupational and Environmental Medicine or the American Association of Medical Review Officers, responsible for receiving laboratory results generated by an employer's drug testing program. The MRO shall have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history, and other relevant biomedical information.

- G. **Prescription Medication** (Prescription Drug) is a drug or medication lawfully prescribed by a physician for an individual and taken by that individual in accordance with the prescription.
- H. **Safety Sensitive Functions** usually include positions that involve any of the following: national security; health or safety; functions that require a high degree of trust and confidence; operation of company vehicles, machinery, or equipment (the mishandling of which may place fellow employees or the general public at risk or serious injury, or the nature of which would create a security risk in the workplace); or the handling of hazardous material.
- I. **Substance** is drugs or alcohol.
- J. **Substance Test or Test** is any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence of a drug or alcohol.

### **3. Drug Use/Distribution/Possession:**

All employees are prohibited from possessing, distributing, manufacturing, or having a detectable presence of any drug substance, abused prescription drugs or any other mind altering or intoxicating substances in their system while at work or on duty.

### **4. Alcohol Use/Possession:**

All employees are prohibited from possessing, drinking, or having a detectable presence of alcohol in their body while at work or on duty. Evidential breath testing device (EBTs) on the National Traffic Highway Safety Administration Conforming Products List will normally be used to determine BrAC. When using EBTs, the Department of Transportation (DOT) 49 Code of Federal Regulation (CFR) Part 40 procedures shall be followed in administering and documenting the BrAC test.

### **5. Off-Duty Conduct:**

Off-duty use of drugs, alcohol or any other prohibited substances which results in impaired work performance, which may include absenteeism, tardiness, poor work performance, damage to the employer's reputation, or inferior quality of work, is prohibited.

### **6. Prescription Medications:**

Employees who are on prescription medications from their doctor that may impair the function of their duties, should advise their immediate supervisor or Human Resources of the situation. The safety of each employee is the major concern.

## 7. Substance Use Testing Program:

A. Conditions for which testing shall be conducted.

- I. Pre-Employment Testing shall be required of all applicants that receive an offer of employment. Prior to testing, the applicant shall be afforded the opportunity to voluntarily sign a Substance Use Testing Consent Form. If the applicant refuses to sign the previously named consent form, consideration for employment shall be withdrawn. If an applicant tests positive for the use of drugs or alcohol, consideration for employment shall be withdrawn. The applicant has five days to contest or explain a confirmed positive test after written notification or such result from the employer. It is the current use of alcohol and drugs, not the past history that prevents the applicant from being accepted for employment.
- II. Reasonable Suspicion Testing shall be required when it is believed that an employee is using or has used drugs or alcohol in violation of City of Bay Minette policy. Testing shall be based upon specific objectives and articulable facts and reasonable inferences as identified on the "Reasonable Suspicion Report Form." Such facts and inferences may be based upon, but not limited to, the following:
  - Direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance use.
  - Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
  - A report of substance use provided by a reliable and credible source.
  - Evidence that an individual has tampered with any substance use test during his or her employment with the current employer.
  - Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the premises of the employer or while operating the employer's vehicle, machinery, or equipment.
  - Causing or contributing to a workplace accident.

The supervisor requesting testing shall complete, explain in detail the circumstances and evidence warranting testing, and sign the "Reasonable Suspicion Report Form" at the time testing is requested, if feasible, but within 24 hours of testing in any event. The supervisor should have the corroboration of another supervisor, when possible, before the employee is requested to be tested. In the absence of another supervisor, another employee may be requested to witness the observation and the "Reasonable Suspicion Report Form."

If use is suspected, the employee will be transported to the collection site for testing. Under no circumstance shall the employee be permitted to drive if the employee appears to be impaired, disoriented or confused.

- III. Routine Fitness-For-Duty Testing may be part of all scheduled medical examinations for all employees.
- IV. Post-Accident Testing shall be conducted when an employee causes or contributes to any accident resulting in injury requiring more than simple first-aid treatment, damage to company property in excess of \$500.00 damage, or when the employee causes or contributes to a loss-time accident. For alcohol testing, the employee shall be tested within eight-hours of the accident. Drug testing shall be conducted within 32 hours of accident.
- V. Post-Rehabilitation Testing shall be conducted at least once a year during a two-year period after an employee returns to work upon the completion of rehabilitation related to substance use. If an employee voluntarily requests rehabilitation, Post Rehabilitation Testing may not be required, but any employee who receives rehabilitation as a result of a required employer substance use test shall be subject to Post Rehabilitation Testing.
- VI. Random Testing is optional at the employer's discretion. If the employer opts, then testing should be conducted on a quarterly basis. All employees, regardless of position, should be subject to random testing. The employer should pre-select a percentage of the total work force that will be tested over the course of a year. This percentage should be stated in the employer's policy and the number of employees selected for testing should equal that percentage at the end of the year.

#### B. Specimen Collection and Analysis

Specimens shall be collected in a manner that will afford the individual privacy yet be reasonably calculated to prevent substitution or adulteration of the specimen. The donor will be given the opportunity, after specimen collection, to record any information considered relevant to the test, including current or recently used prescription or nonprescription medication or other medical condition, on the back of the donor's copy of the chain of custody control form.

The employee/applicant shall observe the collector prepare the chain of custody control form and the specimen for shipment. The employee/applicant shall initial and/or sign the appropriate labels and control form for transporting the specimen as verification of the collector preparation of the control form and specimen.



Taylor Laboratories will analyze all specimens. All initial tests having a positive result shall be confirmed. The laboratory will forward the results of all tests to the Mayor or his/her designee, as the City of Bay Minette medical review officer (MRO).

The MRO will attempt to contact the donor within 72 hours of notification to ascertain if there is a medical reason for a positive result. If the MRO cannot contact the donor within 72 hours, the test will be reported to the City as positive. The employee/applicant may request another analysis of the original specimen at his or her own expense. If a medical reason caused a positive test result and would not affect the employee's ability to perform his or her duties, the MRO will report the test to the City as a negative.

### C. Sanctions

An employee who voluntarily admits to a drug or alcohol problem prior to being requested to submit to a substance use test may not be terminated for requesting help. The employee has five days to contest or explain a confirmed positive test after written notification of such result from the employer.

Any employee testing positive for substance use may be disciplined, up to and including termination.

To assist us in providing a safe and health workplace, a resource file of information on various means of employee assistance in the community, including but not limited to drug and alcohol abuse programs, is maintained in the Human Resources Department. This information will be distributed to employees for their confidential use.

**Any employee who refuses to submit to testing or who refuses to cooperate shall be terminated.**

According to Code of Alabama, 1975 Section 25-5-51:

1. No compensation shall be allowed for an injury due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs if the intoxication or impairment caused or contributed to the accident.
2. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test.

## 8. Education and Training

A. All employees shall semiannually receive one hour of education which will include at a minimum the following subjects:

- I. An explanation of the disease model of addiction;

- II. The effects and dangers of commonly abused substances in the workplace; and
  - III. City of Bay Minette policy and procedures regarding substance use.
- B. Supervisors shall receive an additional two hours of annual training which will include at a minimum the following subjects:
- I. How to recognize signs of employee substance abuse;
  - II. How to document and corroborate signs of employee substances abuses; and
  - III. How to refer substance abusing employees to the proper treatment providers.

## **9. Confidentiality of Information**

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received through City of Bay Minette substance use testing program shall be held as confidential communications by the City of Bay Minette, MROs, laboratories, drug and alcohol rehabilitation programs, employee assistance programs, and their respective agents. These communications may be used or received in evidence, obtained in discovery, or disclosed in any civil or administrative proceeding. However, information on test results shall not be released or used in any criminal proceeding against the employee or applicant. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed voluntarily by the individual that was tested, unless the release is compelled by an agency of the state or a court of competent jurisdiction or unless deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding.

## **IX. Electronic Mail/Internet Policy**

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### **1. Purpose**

The City has technical resources which include desktop and portable computer systems, fax machines, Internet and Web access, electronic mail (e-mail), electronic bulletin boards, and its intranet; these enable employees to quickly access and exchange information. When used properly, we believe these resources can greatly enhance employee productivity and knowledge. These new tools are similar to other city equipment such as facsimiles, file cabinets, photocopiers, and telephones. The goal of this policy is to maximize and ensure the proper usage of these resources.

This policy applies to all technical resources owned or leased by the City, and used on or accessed from city premises, or used for city business. This policy also applies to all activities

using any city-paid accounts, subscriptions, or other technical services, such as Internet and web access, and email, whether or not the activities are conducted from city premises.

As you use the City's technical resources, it is important to remember the nature of the information created and stored there. Because they seem informal, e-mail messages are sometimes offhand, like a conversation, and not as carefully thought out as a letter or memorandum. Like any other document, an e-mail message or other computer information can later be used to indicate what an employee knew or felt. You should keep this in mind when creating e-mail messages and other documents. Even after you delete an e-mail message or close a computer session, it may still be recoverable or even remain in the system.

## **2. Acceptable Uses**

The City's technical resources are provided for the benefit of the City and its clients or customers, visitors, vendors, and suppliers. These resources are to be used while conducting city business. They are to be reviewed, monitored, and used only in that regard, except as otherwise provided in this policy.

Employees are otherwise permitted to use the City's technical resources for occasional, non-work purposes with permission from their direct supervisor. Nevertheless, employees have no right of privacy as to any information or file maintained in or on city property or transmitted or stored through the City's computer, e-mail, or telephone systems.

## **3. Prohibited Uses**

The City's technical resources should not be used for personal gain or the advancement of individual views. Employees who wish to express personal opinions on the Internet are encouraged to obtain a personal account with a commercial Internet service provider and to access the Internet without using the City's resources. Employee postings will not be permitted on the City's intranet or electronic bulletin board.

**Social media is prohibited (Facebook, twitter, etc.) unless you are posting on the City's behalf.** Conducting business for non-city business using city resources is strictly prohibited. Your use of the City's technical resources must not interfere with your productivity, the productivity of any other employee, or the operation of city technical resources.

You should not send E-mail or other communications that either mask your identity or indicate that they were sent by someone else. You should never access any technical resources using another employee's password. Similarly, you should only access the libraries, files, data, programs, and directories related to your work duties. Unauthorized review, duplication,

dissemination, removal, installation, damage or alteration of files, passwords, computer systems or programs, or other property of the City, or improper use of information obtained by unauthorized means, is prohibited.

Sending, saving, or viewing offensive material is prohibited. Messages stored and transmitted by computer, email, or telephone systems must not contain content that may be considered offensive to any employee. Offensive material includes, but is not limited to, the following:

- Sexual comments, jokes, or images
- Racial slurs
- Obscene or suggestive messages or offensive graphic images
- Illegal activities
- Threats
- Slander
- Defamation
- Political endorsements
- Comments, jokes, or images that would offend someone on the basis of his or her race, color, creed, sex, age, national origin or ancestry, physical or mental disability, veteran status, parentage, marital status, medical condition, sexual orientation, as well as any other category protected by federal, state, or local laws.

Any use of the Internet or intranet to harass or discriminate is unlawful and strictly prohibited by the City (see Harassment Policy).

Violators will be subject to discipline, up to and including termination. Transmitting any materials in violation of any Federal, State, or local law, ordinances or regulation is prohibited.

(A) Exemptions to the Public Records Law

Materials that are exempt from Public Records Law should NOT be entered on the Internet, including addresses, phone numbers, social security, and other personal information. Also included are certain documents involving personnel matters and legal documents. Before any E-mail is released pursuant to a public records request, any exempt information must be deleted from E-mail and the requestor notified of the deletion.

#### **4. Access to Information**

The City asks you to keep in mind that when you are using the City's computers you are creating city documents using a city asset. The City respects the individual privacy of its employees. However, that privacy does not extend to an employee's work-related conduct or to the use of city provided technical resources or supplies.

The City's computers, email, or telephone systems, and the data stored in them are to remain properties of the City. As a result, computer data, messages, E-mail messages, and other data are readily available to numerous persons. If, during your employment, you transmit work on the computer system and other technical resources, your work may be subject to the investigation, search, and review by others, per this policy.

All information, including email messages and files, created, sent or retrieved over the City's technical resources is the property of the City, and should not be considered private or confidential. Employees have no right to privacy as to any information or file transmitted or stored through the City's computer, email, or telephone systems.

Any electronically stored information that you create, send to, or receive from others may be retrieved and reviewed when doing so serves the legitimate business interests and obligations of the City. Even when a file or message is erased or a visit to an internet/web site is closed; it is still possible to recreate the message or locate the web site.

The City reserves the right to monitor your use of its technical resources anytime. All information, including text and images, may be disclosed to law enforcement or to other third parties without prior consent of the sender or the receiver.

The public's access to information is governed by the Public Records Act and compliance is administered by the Public Information Officer and the City Attorney.

#### **5. Retention Period for Public Records**

Retention of most email records falls within the following categories:

a. Retain until Administrative Purpose is Served:

- Routine announcements, information concerning notices of seminars, queries regarding processes, and general information regarding programs;
- General information files used in daily functions of the administrative area;

- Meeting notices, minutes, statistical records, files and recipient's inter-department memoranda.

b. Retain for three fiscal years:

- General correspondence, senders' inter-department memoranda, and most fiscal and budget records

Retention schedules are based on a record's information content, not its format. E-mail that falls into the category of "retained until an administrative purpose is served" may be deleted on a daily basis. E-mail that has long retention period, such as correspondence of senders' memoranda, must be kept through a three-year retention period. Electronic information that falls within the Public Records Act shall be retained in accordance with the Act as determined by the City Attorney.

## **6. Copyrighted Material**

You should not copy and distribute copyrighted material (e.g., software, database files, documentation, articles, graphic files, and downloaded information) through the email system unless you confirmed in advance from appropriate sources that the City has the right to copy or distribute the material. Transmitting any materials in violation of any federal, state, or local laws, ordinances or regulations is prohibited; failure to observe a copyright may result in disciplinary action by the City and legal action by the copyright owner. Any questions concerning these rights should be directed to the Mayor or his/her designee.

## **7. Confidential Information**

E-mail and Internet/web access are not entirely secure. Others outside the City may monitor your email and Internet/web access. For example, Internet sites maintain logs of visits from users; these logs identify the company, and which person used the service. If you work using these resources requires a higher level of security, please ask your supervisor or the Mayor or his/her designee for guidance on securely exchanging or gathering information from sources such as the Internet or World Wide Web.

All employees should safeguard the City's confidential information, and that of customers and others, from disclosure. Do not access new E-mail messages with others present. Messages containing confidential information should not be left visible while you are away from your work area. Email messages containing confidential information should be reviewed by the City Attorney and include the following statement in all capital letters at the top of message: CONFIDENTIAL: UNAUTHORIZED USE OR DISCLOSURE IS STRICTLY PROHIBITED.

## **8. Security of Information**

Although you may have passwords to access computers and E-mail systems, these technical resources belong to the City. They are to be accessible by the City and are subject to inspections by the City with or without notice. The City may override any applicable passwords or codes to inspect, investigate, or search an employee's files and messages. All passwords must be made available to the Mayor or his/her designee upon request. You should not provide a password to other employees, or to anyone outside the City; you should never access any technical resources using another employee's password.

E-mail communication or any other files or data stored or exchanged on the City's systems are not to be encrypted or encoded without the express prior written permission from the Mayor or his/her designee and your supervisor. The Mayor or his/her designee will advise you to deposit any password, encryption key or code, or software with the Mayor or his/her designee so that encrypted or encoded information can be accessed in your absence.

## **9. Software Policies**

Employees are prohibited from installing software on any City technical resource without the express prior written permission from the Mayor or his/her designee.

Involving the Mayor or his/her designee ensures that the City can manage the software on city systems, prevent the introduction of computer viruses, and meet its obligation under any applicable software licenses and copyright laws. Computer software is protected from unauthorized copying and use by federal and state law; unauthorized copying or use of computer software exposes the City and the employee to fines and may lead to imprisonment. Therefore, employees will not load personal software onto the City's computer system and may not copy software from the City for personal use.

## **10. Employee Responsibilities**

Each employee is responsible for the content of all text, audio, or images that they place or send over the City's technical resources. Employees may access only files or programs, whether computerized or not, that they have permission to enter.

Violations of any guidelines in this policy may result in termination of access to the Internet and may also result in disciplinary or legal action, up to and including termination of employment, and/or criminal or civil penalties or other legal action against the employee.

Each employee is responsible for notifying their supervisor if they observe violations of this policy.

### **11. Mayor or his/her designee Responsibilities**

The Mayor or his/her designee will determine through investigation any violation to policy and appropriate disciplinary action.

The Mayor or his/her designee will work with supervisors to deliver disciplinary action.

## **X. Driver Authorization, Performance and Safety**

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Ability and willingness to drive safely are extremely important for those employees who are required to drive in the performance of duty. It is necessary to reduce the City's risk liability to a minimum level. In order to reduce the City's liability, the City shall maintain the Motor Vehicle Responsibility and Collision Policy and participate in the U.S. Department of Transportation Federal Motor Carrier Safety Administration Drug & Alcohol Clearinghouse for Commercial Vehicle Operators.

### **A. CITY OWNED TAKE HOME VEHICLES**

City owned vehicles shall be assigned to employees by the Department Head and approved by the Mayor, or his or her designee, according to the transportation needs of employees as dictated by their City assigned duties and responsibilities. All vehicles will be properly marked with the City logo other than an exception made for "unmarked" police vehicles.

Due to the nature of 24-hour call out status, at the request of the Department Head, the Mayor, or his or her designee, may authorize an employee to drive a City owned vehicle to the employee's home at night if the employee is subject to call-out and the vehicle is necessary for his/her call-out use. City-owned vehicles should not be utilized for personal purposes, i.e. trips to church, movie, a restaurant, or a grocery store, unless they qualify as limited personal usage. Limited personal usage shall be defined as stops on the way to and from home that does not increase the number of miles the vehicle is driven by greater than 15 miles.

In the interest of public safety, it is recognized that command level personnel in both the Police and Fire Departments who are assigned use of a City vehicle for 24-hour call out status will be allowed to use their City vehicle for all purposes. Provided, however, non-City personnel are prohibited from driving city vehicles. Command level employees are required to procure at their personal expenses; provide proof of; and maintain in-force, non-owned car coverage, in the form and amount as determined to be reasonable by the City.



Except as expressly set forth herein, non-City personnel are prohibited from driving or riding in a City vehicle, except that non-City personnel may be permitted to ride in a City vehicle under the following limited circumstances: (1) when use of the vehicle is in the performance of authorized City business; or (2) when authorized, in writing by the Department Head or City Administrator. In the event exception (2) in the preceding sentence is applicable, such authorization shall be conditioned upon such City personnel procuring at their personal expense; providing proof thereof; and maintaining in-force for so long as such authorization remains in effect, non-owned car coverage, in the form and amount as determined to be reasonable by the City.

Vehicle use pursuant to this policy shall otherwise be in accordance with administrative procedures, as established by the Mayor.

## B. Motor Vehicle Responsibility and Vehicle Collision Policy

### 1. Responsibility

Employees who are assigned a city-owned, a city-leased, and/or a privately owned motor vehicle must meet the following requirements:

- Possession of an appropriate, valid Alabama motor vehicle operator's license;
- Have no physical impairment which precludes driving with or without reasonable accommodation;
- If a privately owned vehicle is used, then employee must provide the City with a copy of a certificate of insurance showing minimum liability insurance coverage as required by state law.

### 2. Motor Vehicle Record Check

Motor vehicle record checks shall be made with the Alabama Department of Public Safety in the following instances:

- New driver authorizations;
- Renewals of driver authorizations;
- Whenever deemed necessary by the Mayor or his/her designee.
- All record checks shall be deemed confidential material.

### 3. Cancellation

An authorized driver's driving privilege shall be deemed to be automatically canceled if a motor vehicle record check on the employee reveals that such driver has a suspended or revoked license, or when such employee retires, terminates, is discharged or whenever the privilege is no longer necessary for job functions. If an authorized driver receives three (3) or more tickets in a five (5) year period, driving privilege will be revoked. This could result in termination.

### 4. Poor Driving Performance

When an employee is required to drive in the performance of duty, failure to drive safely must be a matter of concern to the appropriate Department Head. Poor driving, as other poor performance, can be a basis for discipline pursuant to the section on Discipline set forth below. The Mayor or his/her designee shall review and analyze all employee accidents in order to control and minimize the risk liability of the City. To assist Department Heads to identify poor drivers, the following shall be considered as evidence of poor driving performance:

a. Repeated Non-Serious Accidents

There are instances where an authorized driver has a record of two or more on-the-job, non-serious, preventable vehicle accidents in the past twelve months, which are accidents that do not result in injuries to persons or where property damage total is less than two hundred fifty dollars (\$250.00).

b. Serious Preventable Accidents

This is defined as any time an authorized driver has one or more preventable, on-the-job, vehicle accidents resulting in injury or death, or property damage exceeding two hundred fifty dollars (\$250.00).

c. Safety and Wireless Communication Device use

All employees must put safety first when using a cell phone or any other wireless communication device - whether City-provided or not - while working for the City. Employees must comply with any applicable federal, state or local law that prohibits the use of cell phones or text messaging while driving or that requires the use of a "hands-free" device. Even when state or local law imposes no limitation, employees should never text message or send or read e-mail when driving while on-duty. Employees also should refrain from using their cell phone or other wireless

communication device while driving except in urgent circumstances and then only when weather and traffic conditions permit. Employees who wish to use their cell phone or other wireless communication device while in their vehicle should pull off the road as quickly as safety permits and engage in conversation while their vehicle is in park.

Employees who are charged with traffic violations, or are in an accident, resulting from the use of their personal or company-issued cell phone while driving during work time will be solely responsible for all liabilities, fines, and other adverse consequences that result from the traffic violation.

d. Seat Belts

If provided, seat belts must be worn at all times when driving or riding in a City vehicle.

e. Recklessness or Complaints

This is an occasion when one or more valid citizen complaints or from other city employees against an authorized driver for alleged improper driving appear to show acts more serious than a simple failure to exercise due care. These complaints shall normally be validated and investigated by the Mayor or his/her designee with findings reported to the appropriate Department Head for action or disposition that is in accordance with this policy.

f. Vehicle Collision Policy

1. If any employee is involved in a vehicle collision, they are required to call the City of Bay Minette Police Department to conduct a report and investigation, as well as to contact their Department Head. The Department Head is to notify the City Administrator as soon as safely possible.
2. The Department Head and the Employee will follow Municipal Workers Compensation Medical Protocol if the employee is injured.
3. The Department Head will refer the employee to the North Baldwin Urgent Care or North Baldwin Infirmary for a drug test.
4. If the vehicle is inoperable, it shall be towed to the City of Bay Minette's Public Works Department.
5. The Department Head and the Employee will provide written statements to the Human Resources Director concerning the accident and any injuries for personnel and insurance claim documentation purposes.

## XI. CONFLICTS OF INTEREST

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The City expects all employees to conduct business according to the highest ethical standards of conduct. Employees are expected to devote their best efforts to the interest of the City. Business dealings that appear to create a conflict of interest or give the appearance of impropriety are unacceptable.

The purpose of this policy is to identify those activities which are not consistent with high standards of public service and contrary to the best interests of the City, and to protect employees and the City from potential conflicts of interest.

All City employees are subject to these provisions. Activities considered to be a conflict of interest include, but are not limited to, the following:

- Failure to comply with the Alabama Ethics Law (*Ala. Code §36-25-1 et seq. (1975)*) regarding filing of annual statements of economic interests and/or engaging in any activity shall be considered a violation of Alabama Ethics law.
- The use of one's position and influence to promote business with any company in which he/she has financial interest.
- The use of one's position to contract, or influence contracting, with businesses for personal gain or to benefit friends, relatives, or associates.
- Investments, which might appear to be speculative in real property or business, in the immediate vicinity of a City project site.
- Ownership exceeding one percent (1%) in a public company holding a contract with the City.
- Involvement in a non-City business activity or employment (moonlighting) which reflects badly on the City.
- Political activities that interfere with an employee's ability to perform his/her duties or violate City, state, and/or federal laws
- Accepting gifts of value from a customer or vendor, or potential customer or vendor, beyond nominal gifts such as inexpensive holiday gifts.

If further guidance is needed, the employee and/or Department Head should consult with the Mayor or his/her designee.

### **1. Outside Employment**

An employee must not have any outside employment, profession, occupation or activity for financial gain, without first obtaining approval from his or her Department Head and

the Mayor or his/her designee. The employee is required to assure the City, in writing, that the outside employment, profession, occupation or activity for financial gain does not involve a conflict of interest or appearance of impropriety, and does not interfere with city duty or the recall to city duty on an after-hours basis or in the event of a city emergency. This provision does not apply to elected officials.

## **2. Former Employees**

It shall be improper for any former employee or former city official to appear as a compensated representative at any time before the City Council, or any of its commissions, boards or agencies, by which he or she was formerly employed in connection with any case or other matter with which such person was duly connected in a policy-making capacity while employed with the City for two years following the termination of said employment with the City. Such officer or former employee may be released from the obligation imposed by this section upon the submission of a written request to the City Council in advance of his or her proposed appearance including a certification that, while an officer or employee of the City, he or she took no action or obtained no information which would prejudice their conduct or presentation, while an officer or an employee, or at the time of the said presentation. Such a waiver request submitted to the City Council will include a recommendation from the Mayor or his/her designee.

## **3. Political Activity**

City employees are encouraged to participate fully and actively in the political process, except as restricted by law. In general, employees are restricted only in their political activities in campaigns for City office and their on-the-job political activities for any candidate for any office.

The Mayor or his/her designee will advise employees who have questions concerning their rights and the applicable restrictions. No employee shall be penalized in any way for participating or not participating in permitted activities.

## **4. Nepotism**

Members of an employee's immediate family (i.e., current spouse, child, parent, legal guardian, brother, sister, grandparent, grandchild, or mother-, father-, sister-, brother-, son-, daughter-, grandparent-in-law, significant other, or any "step" relation) will not be hired or promoted after the effective date of this policy under the following circumstances:

- Where the two parties would jointly control the expenditure or audit of City funds;
- Where the two parties would be employed concurrently in any one department of the City;
- Where the two parties directly or indirectly would exercise supervisory, appointment, or dismissal authority or disciplinary action over one another;
- Where the immediate family member has access to the employee's confidential information, including payroll and personnel records; or
- Where one immediate family member of an employee is serving as an elected or appointed official;

Exceptions to this policy shall be granted upon the recommendation of the Department Head and upon approval of the Mayor and City's Council.

Individuals employed before adoption of this specific policy and procedures shall be exempt from these provisions only as they relate to their current position.

Consenting romantic relationships between a supervisor and a subordinate may lead to unhappy complications and significant difficulties for all concerned. Any such relationship is contrary to the best interests of the City; therefore, the City strongly discourages such relationships. If a consensual romantic relationship between a supervisor and a subordinate should develop, it shall be the responsibility and mandatory obligation of the supervisor to disclose the existence of the relationship to his/her Department Head and the Mayor or his/her designee.

Employees who become family members or establish a romantic relationship may continue employment as long as there is no supervisory relationship or a conflict of interest. Likewise, employees who become family members or establish a romantic relationship shall not interfere with the job performance of the other employee, disrupt operations, or attempt to interfere with the supervisor's direction of the employee.

If employees become immediate family members or establish a romantic relationship where there is a conflict of interest or the potential for adverse impact on the City, the City will make reasonable efforts to transfer one of the employees. If transfer is not feasible, the employees shall select which one shall resign. If the employees cannot make a decision, the City in its sole discretion shall decide which employee will be retained.

## 5. Use of City Equipment, Systems and Stationary

The City's facilities, communication services, and equipment are provided for the City's business. Any personal use of copy machines, computers, facsimile machines, supplies, postage, couriers, and long-distance telephone services shall be reimbursed to the City.

All City engraved or printed stationary, envelopes and other work materials are for city approved business only. These materials must not be used for personal correspondence or non-city business matters.

## XII. Rules of Conduct

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In order to promote the common good and the welfare of the City and its employees, the City has established rules of conduct generally accepted in municipal governments, business, and industry. The rules of conduct listed below are not intended to be all-inclusive or comprehensive. Disciplinary actions also may be issued for other types of infractions and will be determined by the circumstances of each situation.

Engaging in the activities listed below shall result in disciplinary action ranging from reprimand to discharge depending on the nature of the offense and the circumstances:

- Fighting or committing an assault or any other violation of the City's Workplace Violence Policy.
- Threatening, purposely intimidating, coercing, harassing, or interfering with fellow employees, supervisors, or other management personnel in the performance of their job duties.
- Conviction of a criminal offense or of a misdemeanor involving moral turpitude.
- Disorderly, indecent, immoral, or illegal conduct or conduct unbecoming of a public employee.
- Violations of the City's Harassment Policy.
- Using abusive or threatening language or conduct toward the public or co-workers or the abusive public criticism of a superior or other City official.
- Possession, consumption, or being under the influence of alcohol or illegal drugs while on duty and/or on the City's premises, as well as any other violations of the City's Drug-Free Workplace and Substance Abuse Policy and Procedures. Any City employee off duty but on an on-call status must also comply with this regulation.

- Insubordinate conduct, refusal or failure to follow lawful orders, direction, or instructions given by a supervisor; failure to follow instructions in a timely manner; and/or failure to perform assigned work activities.
- Unsatisfactory job performance of a deliberate, repeated, or continuous nature. Failure or inability to produce the quality and the quantity of work required.
- Lying or deliberately falsifying any City records or giving false information for inclusion in City records to include, but not limited to, job applications, absence and leave reports, time reports, accident records, and workers compensation records.
- Making or spreading slanderous or malicious statements concerning any employee, City officials, the City in general, or any of its Departments.
- Gambling on City premises and/or during working hours. For the purpose of this policy, selling chances on prizes for charitable causes and school programs will not be considered gambling; however, this activity should have formal authorization.
- Unauthorized absences or abuse of leave privileges, including but not limited to, excessive tardiness and/or absences; job abandonment or absence without notification for three or more consecutive workdays; unauthorized absence from the job during working hours or leaving the department or work location without authorization; failing to report an absence within two hours of starting time; failing to return from a leave of absence as scheduled; fraudulent use of sick leave, FMLA leave, worker's compensation leave, or disability leave benefits.
- Theft of City property.
- Abuse, misuse, destruction, negligence, or unauthorized use of City property, tools, equipment, or the property of other employees.
- Horseplay, littering, loafing, roaming, loitering, or sleeping on the job.
- Violating safety rules, policies and regulations including but not limited to, the failure to wear personal protective equipment as required; working in a manner that endangers one's own safety or the safety of co-workers; failure to follow established work procedures; creating or contributing to unsanitary conditions; failing to report any occupational injury or accident promptly.
- Violation of the City's Conflict of Interest Policy or engaging in activities which give the appearance of impropriety.
- Violation of the City's Vehicle and Driving Policy.
- Solicitation of any type by employees on City property, unless specifically authorized by the Department Head or Mayor.



- Disclosure of confidential City information or personal employee information without proper authorization.
- Failure to observe parking and traffic regulations on City property.
- Violation of any duly adopted City personnel policy or ordinance and/or state/federal law or regulation governing public employment.

### XIII. Disciplinary Action

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The primary purpose of discipline is:

- To correct performance and behavior
- To ensure fairness and consistency throughout the organization; and
- To provide accurate and complete written documentation of poor performance, policy violations, and corrective actions.

Supervisory personnel will strive for high standards of performance in their various Departments and will fairly and impartially implement disciplinary measures when necessary. Due process procedures shall be strictly adhered to in all disciplinary procedures. Every effort shall be made to determine why an employee failed to observe proper conduct or violated policy before discipline is issued.

Discipline shall fit the offense. Disciplinary action for repetitive offenses or performance problems should be of increasing severity, leading finally to dismissal.

All disciplinary action shall be prompt and decisive. Employees who do not perform satisfactorily, or who cannot meet established standards, or who violate City policies will be disciplined in a just and expedient manner. Such discipline shall be implemented in a manner that respects both the rights of the individual and the obligation of the City to serve its citizens.

The immediate supervisor and/or the Department Head shall initiate disciplinary actions. If the disciplinary action is severe, final approval shall be vested in Department Heads and the Mayor after a due process hearing.

For unsatisfactory performance of duties, policy violations, or other just causes, an employee, regardless of employment status, may be subject to any of the following disciplinary actions by his/her immediate supervisor and/or Department Head:

## **1. Reprimand**

A reprimand is a formal written disciplinary action for misconduct, inadequate performance, or repeated lesser infractions.

## **2. Suspension with pay not to exceed three (3) working days.**

This action requires Department Head action and approval by the Mayor. A suspension with pay shall only be used in the most extreme circumstances such as when an employee must be removed from the workplace immediately. A due process hearing is required but may be conducted after the suspension or during the period of suspension.

For unsatisfactory performance of duties, policy violations, or other just causes an employee, regardless of employment status, may be subject to any of the following in disciplinary actions by the Mayor or his/her designee:

## **3. Suspension without pay for a period not to exceed thirty (30) days.**

This action requires a due process hearing prior to issuing a disciplinary notice. The Mayor shall conduct the due process hearing. Following the due process hearing, the notice of suspension requires Department Head action with the Mayor's written concurrence.

## **4. Paid Administrative Leave Pending Investigation.**

The Mayor or his/her designee may immediately suspend an employee with pay by placing the employee on an administrative leave with pay. Immediate suspension with pay is authorized when the employee's continued presence at the work site could have detrimental consequences. Administrative leave with pay is also authorized, pending investigation into charges of misconduct on the part of the employee. If the charges against the employee are substantiated by the investigation, appropriate disciplinary action may be taken in accordance with the procedures set forth in this section.

## **5. Demotion and/or Reduction in Pay.**

A demotion is a severe disciplinary action which may result in a reduction in pay, a reduction in classification, or both.

## 6. Discharge.

A discharge requires Department Head action with Mayor's concurrence and signature after a due process hearing. Grounds for dismissal are listed under the section entitled "Rules of Conduct." The grounds for dismissal listed under "Rules of Conduct" are not exclusive. The Mayor shall conduct the due process hearing.

For all disciplinary actions, the Department Head or Mayor or his/her designee shall insure that the employee is provided written notice of the discipline signed by the Department Head. The disciplined employee shall be furnished a copy of the notice, which shall include, but is not limited to, the following:

- The reason(s) for the disciplinary action;
- Policies violated or performance problems;
- The type of disciplinary action to be taken; and
- The date, time, and place of such action.

If the discipline involves a suspension without pay, demotion, or discharge, the employee will be given written notice prior to the effective date of the action and provided a due process hearing in accordance with established procedures set forth below. Notices for severe actions, such as suspension without pay, demotion, or dismissal will also require the Mayor's concurrence and signature.

All disciplinary actions (including oral reprimands) shall be recorded and filed in the employee's personnel record. A copy of the record shall be included in the employee's personnel file.

## XIV. [Disciplinary Procedures for Suspension without Pay, Demotion, Reduction in Pay, or Discharge](#)

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### 1. Applicability

The procedure in this section applies to regular employees who may be subject to suspension without pay, demotion, reduction in pay, or discharge. These procedures do not apply to temporary employees or to employees during their probationary period after hire, reinstatement or re-employment.

## **2. Notice**

The Mayor or his/her designee shall inform the regular employee in writing of the proposed disciplinary action at least ten (10) working days before the effective date of the disciplinary action, except that the disciplinary action may be immediate if the Mayor or his/her designee determines that a ten-day notice would not be in the best interest of the City and its citizens or the suspension is a minor one of less than ten (10) days.

The notice shall include a statement of the proposed action, the reasons for the action, a copy of the charges, if any, and a copy of the materials, if any, upon which the proposed action is based. The notice shall state that the employee has the right to respond, either orally or in writing, to the charges made, and shall state that the employee has the right to request a review within ten (10) calendar days of the employee's receipt of notice of the proposed disciplinary action. Unless the employee timely responds and requests a review, the proposed disciplinary action will be imposed on the date specified in the notice without a review. If the suspension is immediate, the City will provide the facts or notice supporting the suspension within a reasonable time.

## **3. Pre-Disciplinary Review Request**

Any regular employee subject to suspension, demotion, reduction in pay or discharge has the right to request an informal review before the Mayor or his/her designee in order to respond to a proposed suspension, demotion, reduction in pay, or discharge. The review request shall be in writing, subscribed by the employee, and filed with the authority initially imposing discipline and with the Mayor or his/her designee, within ten (10) working days of the employee's receipt of notice of the proposed disciplinary action.

## **4. Pre-Disciplinary Review**

As soon as practical after receipt of the employee's request for a pre-disciplinary review, the employee shall be provided notice, in writing, of the date, time and place of the pre-disciplinary review. This will be closed to the public. Continuances of time set for the review are not favored by the City and will be granted only upon showing of good cause.

At the review, the employee shall have the opportunity to refute the charges against him. The employee may do so orally or by written memorandum or letter. No witness testimony shall be permitted at this stage of the disciplinary proceedings. The pre-disciplinary review is an opportunity for the employee to give his or her "side of the story" before the decision is made

to impose discipline. The pre-disciplinary review shall be informal. Legal counsel may attend but shall not be allowed to participate in the review.

The Mayor or his/her designee shall chair the review. The chair may affirm or modify the proposed action by decreasing the severity of the action proposed or may reverse the action proposed.

If the findings and decisions are to impose discipline, the disciplinary action shall be imposed at the time specified in a written notice to the employee following the review. A copy of the final decision shall be sent to the Mayor or his/her designee. The decision shall be final and conclusive in the absence of an appeal. There shall be no further appeal for suspensions without pay for ten (10) days or less.

## **5. Appeal to Personnel Committee**

Within five (5) calendar days of receipt of the final decision, the employee shall have the right to appeal the decision to the Personnel Committee. The employee must prepare a written appeal request addressed to the Human Resources Director. The employee's written appeal request must contain the following information:

- A request to appeal the decision to the Mayor
- A statement of the specific personnel rules, regulations, policies, or procedures that have been violated or misapplied, with the dates and descriptions of such violations or misapplication
- The specific remedy being sought
- The Notice of Disciplinary Action
- The Mayor or his/her designee's Written Decision

The Personnel Committee shall be composed of three members who are appointed by the Mayor with approval of the City Council. Personnel Committee members shall serve until removed by the Mayor with approval of the City Council or until a member dies or resigns. Personnel Committee members may be removed for any reason deemed sufficient by the Mayor with the approval of the City Council. The City Clerk shall contact the members of the Personnel Action Committee to schedule the Post-Decision Hearing.

The hearing before the Personnel Committee will be closed to the public in compliance with the Alabama Open Meetings Act. The hearing shall be informal. The Committee is not required to follow rules of discovery, rules of procedure or rules of evidence applicable in any court or

administrative proceeding. The employee shall have the right to appear and testify, to present testimony of witnesses, to present documents, to question witnesses offered by any other party, and to be represented by legal counsel. The City shall have the same rights in responding to the employee's appeal.

If the employee fails to attend the hearing or to notify the Human Resources Director that, for good cause, he or she will be unable to attend the hearing as scheduled, the Personnel Committee shall dismiss the employee's appeal. A court reporter may be retained by the City to record the post-disciplinary hearing. Within fifteen (15) calendar days after the date of the post-disciplinary hearing, unless the time is extended for good cause by the Personnel Committee, the Personnel Committee shall issue a written decision. The decision shall state the discipline imposed, the reason(s) for the discipline, and the vote of the Personnel Committee. The decision shall not recite the evidence presented or identify of witnesses who testify at the hearing. The decision shall be by a majority vote. The Personnel Committee's decision may approve, disapprove or modify the disciplinary action imposed by the City. The Human Resources Director shall deliver a copy of the decision to the employee.

The Personnel Committee shall not have any authority to review any decision implemented by the Mayor, with the approval of the City Council, based upon budgetary or other financial constraints, including but not limited to, a decision to terminate an employee's employment due to a job elimination or reduction in force, a pay adjustment, or a job reassignment.

#### XV. [Disciplinary Procedures NOT Involving Suspension, Demotion, Reduction in Pay, or Discharge](#)

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It is the desire of the City to adjust grievances informally and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be grievances that will be resolved only after a formal appeal and review. Accordingly, the following procedure is established:

Any employee of the City shall have the right to grieve under this provision any disciplinary action not involving suspension, demotion, pay reduction or discharge, or any dispute concerning the interpretation or application of the City's written personnel rules and regulations, except in instances where the right of appeal is specifically prohibited by these rules.

##### **Step 1. Information Discussion:**

An employee who has a problem or complaint shall first discuss the matter with the employee's immediate supervisor within seven (7) working days. If the grievance involves an

employee's immediate supervisor, the grievance should be presented to the next level of supervisors. The supervisor shall make inquiries into the facts and circumstances of the complaint and attempt to resolve the matter within seven (7) working days.

**Step 2. Written Grievance:**

If the employee does not believe the problem has been satisfactorily resolved, the employee shall have the right to file a formal grievance to the Department Head. The grievance shall be in writing and filed within fourteen (14) working days from the date the employee first brought the problem to the attention of the supervisor. The Department Head shall make a separate investigation and inform the employee in writing of the Department Head's decision and the reason therefore within seven (7) working days after receiving the employee's grievance.

**Step 3. Review/ Appeal Procedures:**

If the employee is dissatisfied with the Department Head's decision, within seven (7) working days following receipt of the decision of the Department Head, the employee may request in writing a review by the Mayor or his/her designee. The Mayor or his/her designee shall make an investigation and conduct such hearing as he or she deems necessary and shall within fourteen (14) working days after receipt of the employee's request for a review, inform the employee in writing of his/her decision. The decision of the Mayor or his/her designee shall be final.

Employees shall be assured freedom from reprisal for using the grievance procedures.