

CITY OF HUNTINGTON  
EMPLOYMENT HANDBOOK



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**Office of the Mayor**

Welcome!

On behalf of the citizens of Huntington, I want to thank you for your continued dedication to a career as a public servant. Each of us plays an important part of the success of the City of Huntington. In our work for the City, I am reminded that your worth and my worth as a public servant is measured by the value we add to the quality of life experienced by those who pay our wages, salaries and benefits.

Our team efforts in being responsible stewards of the citizens resources will go a long way in keeping the City in sound shape financially, and it allows us to move forward in a wide array of capital improvement projects that will make Huntington a more lovable place to live - trails and Greenways, accessible sidewalks, removal of blighted properties, more paved streets, and much more. It is going to be a time of exciting, highly visible changes in the appearance of our City.

I am proud to be a part of a highly effective team of public servants - the "We Serve Huntington" team. We serve Huntington best by living out our core values of:

- Demonstrating respect
- Being honest
- Choosing a positive attitude
- Proving trustworthy
- Working together as a team

I don't know about you, but I want to walk away someday and know that together we did something special for the City of Huntington and that we all became better people in the process. Here is to the City team, and a memorable time together!

For the love of Huntington,

Brooks Feters,  
Public servant cleverly disguised as Mayor

## **SECTION 1 - Mission Statement**

Simply stated, **"We Serve Huntington"**.

## **SECTION 2 - Statement to All Employees**

**2.1 Scope of Application.** The policies and provisions contained in this Employment Handbook ("Handbook") shall apply to all City of Huntington ("City") employees to the full extent allowed by law and so long as such policies and provisions do not directly conflict with any applicable requirements contained in one or more of the following which shall control in the following listed order of precedence:

- (a) Preemptive federal and/or state laws and regulations (e.g., FLSA, ADA, FMLA, state statutes pertaining to public safety employees or elected officials, etc.), and
- (b) Preemptive City ordinances approved by the City Common Council, and
- (c) For covered union employees only, contractual requirements expressly set forth in a valid and binding collective bargaining agreement, and
- (d) Policies and provisions formally adopted by City Board of Public Works and Safety either after the revision date shown on this Handbook or for public safety employees.

To accommodate departmental needs, employees shall also comply with operational policies, practices, and procedures established within their departments by supervisors that are not in direct conflict with the provisions in this Handbook or any of the foregoing listed provisions and which are either outside the scope of this handbook or more stringent or detailed.

**2.2 Handbook is not a Contract.** This Handbook is intended to provide general guidelines for many of the employment policies and practices of City. It does not contain all of City's policies affecting its employees. It is not intended to be and does not constitute a contract between City and any of its employees.

**2.3 Changes or Supplements to Handbook.** The provisions of this Handbook have been developed at the discretion of the City Board of Public Works and Safety (referred to elsewhere herein as "City Administration") and, except for its policy of employment-at-will, may be interpreted, modified, suspended, or eliminated in whole or in part, at any time, and with or without notice at the discretion of the City Administration. Changes or supplements to City employment policies and practices may be posted in City Departments or furnished with payroll information. Each employee has a responsibility to read the information that is so posted or furnished. Employees may not post material on the bulletin boards without the approval of the City Human Resources Director. An up-to-date Handbook and copy of current policies and procedures is always available at the office of the City Human Resources Director or the City

Clerk-Treasurer. It is the responsibility of each employee to conform to all current City policies and practices.

2.4 Severability. To the extent that any provision of this Handbook, or the application thereof to any person or circumstance, is determined by a competent authority to be invalid, illegal, or unenforceable for any reason, that provision or part-provision shall, only to the extent required, be deemed to be deleted or modified to conform to applicable legal or contractual requirements, and the remaining provisions shall continue to be fully applicable to the full extent allowed by law.

2.5 At Will Employment. Except to the extent otherwise required by state statute or contract, employment with City is "at will" and can be terminated by either party to the employment relationship at any time and for any reason, with or without cause, and with or without notice. Any oral or written statements, promises, or assurances contrary to the "at will" status of each employee are not binding on City unless expressly and clearly confirmed in writing by the City Board of Public Works and Safety and may not be relied upon by any employee or job applicant.

### **SECTION 3 – Discrimination in Hiring and Employment**

3.1 Equal Employment Opportunity Statement. It is the policy of City to make equal employment opportunities available to all persons without regard to race, sex, age, color, religion, national origin, military status, citizenship status, disability, or any other category protected under federal, state or local laws and regulations to the full extent mandated by such laws and regulations regarding workplace discrimination.

This policy includes any applicable federal and state prohibitions against on-the-job harassment of any individual because of race, sex, religion, age, national origin, military status, citizenship status, or disability, and applies to all phases of City operations including hiring, placement, promotion, demotion, transfer, recruiting, advertising, treatment while working for City, rates of pay or other forms of compensation, selection for training, and termination of work.

City will take appropriate steps to provide reasonable accommodation upon request to qualified individuals with disabilities so long as doing so does not impose an undue hardship. City will also take appropriate steps to provide reasonable accommodation upon request to employees whose religious beliefs or restrictions create a conflict with City's policies, practices or procedures so long as doing so does not cause an undue hardship. Requests for accommodation should be made to the City Director of Human Resources.

3.2 Americans with Disabilities Act ("ADA"). In accordance with the ADA, City shall not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

City encourages and invites applicants and employees to identify themselves as individuals with disabilities in order for City to collect and analyze information for satisfaction of ADA

requirements and determination of appropriate and reasonable accommodations. Employees who believe they have a mental or physical disability and require reasonable accommodation to perform the essential functions of their job should contact the City Director of Human Resources. City will then engage in an interactive process with the individual employee to explore possibilities and what can be done by way of accommodation without imposing an undue hardship upon City, as defined by law.

3.3 Genetic Information Non-Discrimination Act ("GINA"). GINA prohibits employers from requesting or requiring genetic information of employees or their family members, except as specifically allowed by this law. To comply with this law, City asks that employees not provide any genetic information when responding to any request for medical information or in applying for any medical leave under the FMLA or otherwise. As defined by GINA, "genetic information" includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

3.4 Family and Medical Leave Act ("FMLA") Statement. City will not: (1) interfere with, restrain, or deny the exercise of any right provided under the FMLA; (2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA; or (3) discharge or discriminate against any person for his or her involvement in any proceeding under or relating to the FMLA.

Any employee who believes that City has violated his or her FMLA rights should report his/her concerns to the City Director of Human Resources or the Mayor for investigation and resolution. If the employee's concerns are not resolved in compliance with the law, the employee has the right to file a complaint with the U. S. Department of Labor or bring a private lawsuit against City. FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law that provides greater family or medical leave rights.

3.5 Discrimination/Harassment. City also prohibits any discrimination or demeaning language, characterization or conduct by its employees that may harass, intimidate, insult, ridicule, emphasize or characterize another person because of his/her race, color, religion, national origin, sex, age, disability or any other protected category. While it is impossible to list all types of such harassment, they include:

- Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group for any of these reasons;
- Epithets, slurs, or negative stereotyping related to any of these reasons;
- Threatening, intimidating or hostile verbal or physical acts toward an individual or group that relate to any of these reasons; or
- Written or graphic material that denigrates or shows a hostility or aversion toward any individual or group for any of these reasons.

3.6 Sexual Harassment. Also included in City's commitment to provide a workplace free of job-related sex discrimination is a prohibition against sexual harassment. While it is impossible to list all types of sexual harassment, they include unwelcome or unwanted:

- sexual advances, sexual flirtation and requests for sexual favors;
- physical contact of a sexual nature such as touching, pinching, or brushing against the body;
- verbal conduct or remarks of a sexual nature such as sexual innuendoes, suggestive comments, sexual propositions or threats, or jokes of a sexual nature;
- leering, whistling or obscene gestures;
- display of sexually suggestive objects or pictures;
- sexually degrading words used to describe an individual;
- acts of aggression, intimidation, hostility, threats, or unequal treatment based on sex even if not sexual in nature,

when (1) submission to such conduct is explicitly or implicitly a condition of employment, or (2) submission to or rejection of such conduct is used as the basis for employment decisions, or (3) such conduct unreasonably interferes with an individual's job performance, or (4) such conduct creates an unwelcome, intimidating, hostile, abusive or offensive working environment. The prohibition on sexual harassment applies to persons of the same or opposite sex as defined by applicable federal, state or local law.

All of the above provisions relating to equal employment opportunity and discrimination and harassment in Sections 3.1 – 3.6 are for notice purposes and not intended to modify, expand, or dilute the scope or coverage of federal and state prohibitions.

3.7 Complaint Process. Any employee who believes that he or she is a victim of any form of discrimination or sexual harassment should promptly report it to the City Director of Human Resources. If reporting to the City Director of Human Resources would be inappropriate, an employee may make such report to the Mayor or City Common Council President. This manner of reporting is required even if the employee has discussed it directly with his or her supervisor or the individual(s) involved. The following information should be provided when reporting discrimination or sexual harassment claims.

- Date(s), time(s), and location(s) of the incident(s) that took place;
- Description of each incident (e.g., was any physical contact made, what was said and/or done? etc.);
- Name(s) of anyone present during each incident; and
- Names of anyone with whom the employee has discussed the incident(s).

All complaints of discrimination or sexual harassment will be investigated thoroughly, but with appropriate sensitivity to confidentiality. Investigation of a complaint may include interviewing the complaining party as well as other employees and/or witnesses necessary to obtain sufficient information upon which to make an assessment of the situation. While City will make efforts to be sensitive to privacy issues in the course of an investigation, it may be necessary or appropriate

to discuss relevant information with appropriate persons on a need-to-know basis. City will take remedial and corrective action that City determines to be appropriate.

3.8 No-Retaliation Policy. It is against City policy to retaliate against any employee for filing a complaint, reporting, or cooperating in the investigation, or offering evidence of a violation of this policy. Any person who takes such retaliatory action shall be subject to disciplinary action, up to and including termination. However, an employee who knowingly provides false or exaggerated information regarding the complaint is subject to disciplinary action.

3.9 Background Checks. After an applicant has completed the employment application process, and in the event City presents a conditional job offer to the applicant, at that point the applicant may be required to undergo an investigation of the following: criminal records, employment records, driving records and additional records depending on the nature of the position. Additionally, employees that drive City-owned or leased vehicles may be subject to annual driving records checks.

Applicants and employees must aid City in obtaining any of the above information as requested. Failure to provide adequate assistance, incomplete or false information, or unacceptable investigation results are grounds for rescission or revocation of any offer of employment or disciplinary action up to and including termination.

## **SECTION 4 – Employee Classifications**

4.1 “Regular employee” means any employee who has satisfactorily completed a probationary period, is performing the duties of full-time employment with City, and is not otherwise classified as a probationary, part-time, temporary, or seasonal help.

4.2 “Probationary employee” means any employee hired for full-time employment who has not completed sixty (60) calendar days of employment and who is not otherwise classified as seasonal help or a temporary employee. City has the exclusive right to discipline or terminate probationary employees with or without cause during the probationary period.

4.3 “Part-time employee” means any employee who is scheduled to work less than an average of thirty (30) hours per week.

4.4 “Temporary employee” means any employee hired for a specific job of limited duration not to exceed thirty (30) working days.

4.5 “Seasonal help” means employees hired from April 1 to December 31 to cover seasonal increases in the workload.

4.6 “Supervisor” means any employee of any City Department who has the authority, in the interests of the City, to hire, transfer outside the job classifications, suspend, layoff, recall, promote, discharge or discipline other employees, or to adjust their grievances, or effectively



recommend any of the forgoing, including but not limited to the Superintendent and Assistant Superintendent, sometimes referred to as a department head, of each City Department. The City Mayor and the City Administration also have supervisory authority, and may be sometimes referred to herein as "management".

4.7 "Public safety employee" means the police chief or a police officer appointed to the Police Department and the fire chief or a firefighter appointed to the Fire Department.

## **SECTION 5 – Fringe Benefits**

5.1 Fringe Benefits. The term "fringe benefits" include any health, dental, and vision plans; short term and long term disability plans; paid medical leave days; holiday pay; vacation benefits; and a 457 savings plan offered by City. Public Employee Retirement Fund (PERF) benefits are governed by state law.

5.2 Eligibility for Fringe Benefits. Regular employees are eligible for fringe benefits in accordance with the requirements, conditions, restrictions, contributions, and limitations provided for in this Handbook, City ordinances and policies, any collective bargaining agreement, and the applicable plan descriptions and policy terms, all of which may be modified or amended from time to time at the discretion of City.

Part-time employees, temporary employees, and seasonal help are not eligible for fringe benefits afforded regular employees.

5.3 Group Plan Descriptions. City has established retirement plans and group plans for life insurance, accident and sickness insurance, and health insurance for all of its eligible employees and retirees. These plans have the tendency to change frequently and, therefore, will not be detailed in this Handbook. A summary plan description of these benefits shall be available for review in the office of the City Director of Human Resources and City Clerk-Treasurer.

5.4 Change of Employee Status. If an employee is eligible for and enrolled in benefit programs that involve their family, employees must notify the City Human Resources Director immediately whenever there is a change in the following employee information so that benefit programs can be administered:

- Address
- Telephone number
- Number or status of dependents
- Person to notify in case of an accident or illness
- Marital status
- Insurance beneficiary
- Name change
- Military status

## **SECTION 6 – Hours of Work; Unexcused Absences and Tardies; and Exempt Employee Wage Deductions**

6.1 Starting Time and Ending Time for Work. The daily and weekly work and the number of hours per day and per week to be worked will be determined by City Administration to meet work requirements. Each employee will be at their place of work and ready to work at the starting time and will work up until the ending time for work.

All employees are to be at work whenever scheduled. It is the employee's responsibility to advise their supervisor of the reason for any absence, and a supervisor's responsibility to report such information when submitting the time records to the City Clerk-Treasurer. Employees shall advise and obtain permission from their supervisor if they wish to leave during or before the end of any regular work period. An employee who knows they are to be absent should advise their supervisor at least one day before the absence takes place.

6.2 Unexcused Absences and Tardies. An unexcused absence is any absence that is not classified as a tardy and is not excused as provided for in this Handbook. For clarification, leaving work early for any amount of time without excuse (other than written permission from the employee's supervisor) as provided for in this Handbook is an unexcused absence and not a tardy. Also, failure to report to work for mandatory overtime or failure to report to work after accepting overtime is an unexcused absence except to the extent that on-call employee discipline applies. Any time late for work is a tardy. Unexcused absences and tardies will be a matter for disciplinary action.

Each employee shall notify the employee's supervisor of their absence due to illness at least fifteen (15) minutes after the starting time of his/her shift, except in a verifiable medical emergency. Verification of a medical emergency is the employee's responsibility and must be made by a doctor's statement to the supervisor within three (3) days of their return to work. Non-compliance with this subsection shall result in an unexcused absence without pay.

Three (3) days of consecutive absence without calling in will be considered as "quitting without notice" excepting only in rare circumstances where illness or injury prevents that communication from the employee and circumstances are such that phone contact from the immediate family should not be reasonably expected.

6.3 Exempt Employee Wage Deductions. City complies with the salary basis requirements of the Fair Labor Standards Act (FLSA). City does not make improper deductions from the salaries of exempt employees. Exempt employees are non-hourly employees employed in a bona fide executive, administrative, or professional capacity and who are exempt from the FLSA's overtime pay requirements.

There are certain circumstances where deductions from the salaries of exempt employees are permissible. Such circumstances include:

- When an exempt employee is absent from work for one or more full days for personal reasons other than sickness or disability;

- When an exempt employee is absent for one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness;
- To offset amounts received as witness or jury fees, or for military pay; or
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

Also, an employer is not required to pay the full salary in the initial or terminal week of employment; for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act; or for penalties imposed in good faith for infraction of safety rules of major significance. In these circumstances, either partial day or full day deductions may be made.

If you are an exempt employee and believe that an improper deduction has been made to your salary, you should immediately report this information to the City Human Resources Director. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

## **SECTION 7 - Holiday and Vacation Pay**

7.1 Holidays. Except as otherwise provided for herein, each employee shall receive pay for the following eleven (11) paid holidays during each calendar year:

New Year's Day	Labor Day
President's Day	Discovery Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Eve
	Christmas Day

7.2 Rules Governing Holiday Pay. When a holiday falls on a Sunday, the following Monday shall be considered the holiday. When a holiday falls on a Saturday, the prior Friday shall be considered the holiday. If a City designated holiday falls on the employee's scheduled day off, the affected employee shall receive eight (8) hours straight time pay as compensation for the scheduled holiday. An employee who does not work on a scheduled holiday shall receive his regular rate of pay except as elsewhere provided for herein.

If an employee is required to work on December 25 as part of normal shift operations at City Utilities Department, such employee shall be paid at the rate of time and one half (1½) their normal pay rate. This provision does not invoke any call-in procedure for overtime. It is to be paid only for those shifts which have hours that require the employee's presence on duty from 12:01 a.m. December 25 through 11:59 p.m. December 25.

7.5 Vacation Scheduling in City Departments. During the first full week in January of each year, a vacation sheet shall be posted and remain posted until Friday at 3:00 p.m. of the first full week in February. So long as City manpower requirements can be adequately met, vacation requests by employees within this period will be honored by City, by seniority. Once an employee requests a vacation on the sheet, more senior employees may "bump" within ten (10) days of the initial employee request. If no "bump" occurs during the ten (10) day period, the initial request cannot be bumped. Any vacation days not selected during the initial selection period become non-committed days. Employees must give twenty-four (24) hours' notice and receive supervisor permission based on manpower needs to take non-committed days as vacation. In the event a person moves to a new Department during the year, he/she may not have the right to bid for vacation in that Department. However, the City may make efforts to try and accommodate the vacation requests of a transferred employee that were committed to in the former Department.

## **SECTION 8 – Paid Medical Leave**

8.1 Accrual of Paid Medical Leave Days. On January 1<sup>st</sup> of each year, each active employee shall receive one and one half (1½) days paid medical leave. Active employees will also accrue additional medical leave time at the rate of one-half (½) day per month available for use effective the first of the month following such accrual. To be considered an "active" employee for accrual of medical leave purposes, an employee must be actually at work for at least two (2) full days during that month, provided, however, that an employee who was on vacation for an entire month will be considered an active employee for that month if he or she returns to work immediately following the vacation. An employee may accrue no more than fifteen (15) paid medical leave days provided, however, that employees who accrued more than fifteen (15) medical leave days as of December 31, 2013 shall be allowed to keep that number of medical leave days but will not earn additional medical leave days until their unused medical leave days drop below the 15-day medical leave maximum stated above. No employee shall be compensated for days not worked due to illness or injury in excess of his/her individual accrued medical leave.

Employees will not be paid for unused medical leave days on termination, retirement or otherwise under any circumstances.

8.2 Notification for Paid Medical Leave. The employee shall notify the employee's department head or Supervisor of their absence due to illness at least fifteen (15) minutes after the starting time of his/her shift, except in a verifiable medical emergency. Verification of a medical emergency is the employee's responsibility and must be made by a doctor's statement to the department head or Supervisor within three (3) days of their return to work. Non-compliance with this Section shall result in an unexcused absence without pay.

8.3 Rules Governing the Use of Paid Medical Leave Days and Medical Certifications. Paid medical leave days shall be used for actual illnesses or injuries that would keep them from responsibly performing their work for City and shall not be used as for vacation. Medical leave which is three (3) consecutive work days or longer and not FMLA qualified must be supported

by a written statement from a licensed physician within five (5) business days following the day of commencement of the leave. The statement should include the date which the inability to work began and the expected return to work date. Medical certification of inability to work must be provided by the employee to City at least every thirty (30) days. Failure to timely provide the physician's statement shall cause the time off to be considered absent without leave. Requests to extend the medical leave beyond the return to work date must be in writing and supported by a statement signed by the employee's health care provider.

No paid or unpaid medical leave shall be granted in circumstances where the illness or injury was caused by the use of a controlled substance, alcohol, willful intent to injure one's self or another or the commission of a felony.

Please refer to Section 9.5 below regarding substitution or use of paid medical leave days for both non-FMLA qualified leave and FMLA qualified leave.

Employees will submit to reasonable requests by City for medical examinations or re-examinations that are work related and business justified relating to paid medical leave.

8.4 Injury on the Job. An employee injured on the job and unable to continue performing their duties shall receive his/her regular pay for the remainder of the shift on which injured.

## **SECTION 9 – FMLA Leave**

9.1 The provisions in this Section 9 and in Section 8 above and in Section 10 below shall not be in conflict with rights and responsibilities of both the employee and City under the Americans with Disabilities Act (ADA) or the Family and Medical Leave Act (FMLA) which shall control in the event of a conflict. When state and local laws require more protection or benefits, the protection or benefits provided by those laws will apply.

9.2 FMLA and Military Family Medical Leave Entitlements under FMLA. The general notice of rights and responsibilities under the Family and Medical Leave Act is attached as Appendix A.

Eligible employees may be able to take up to 12 weeks of unpaid leave during the Leave Year for the reasons stated in the FMLA Notice (Appendix A). A "serious health condition" is as defined by FMLA. For purposes of this policy, Leave Year is a rolling 12-month period measured backward from the date the employee first commences an FMLA leave.

Eligible employees whose spouse, son, daughter, or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service-member during a single 12-month period. A covered service-member is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness\*.

\*The FMLA definitions of “serious injury or illness” for current service-members and veterans are distinct from the FMLA definitions of “serious health condition”.

9.3 Medical Certification. Medical certification will be required if the leave request is for the employee's own serious health condition or to care for a family member's serious health condition. Failure to provide the requested medical certification in a timely manner may result in denial of the leave until it is provided. Because the City wishes to ensure the well-being of all employees, any employees returning from FMLA leave for his/her own serious health condition will need to provide a fitness for duty statement signed by his/her treating physician. An employee failing to provide a fitness for duty statement will not be permitted to resume work until it is provided.

City, at its expense, may require an examination by a second health care provider designated by City if it has a reasonable question regarding any medical certification or fitness for duty statement provided by an employee.

In light of Section 9.8 regarding GINA, any family medical history information is only required to the extent necessary to make the FMLA medical certification complete and sufficient under FMLA and should not otherwise be provided.

9.4 Maintenance of Health Care Benefits. City will maintain health care benefits for the employee while on FMLA leave, but the employee is responsible for paying any normal monthly contribution. If the employee does not return to work at the end of the leave period, the employee will be required to reimburse City for the cost of premiums paid for maintaining coverage during the leave period unless the employee failed to return because of either:

- The continuation, recurrence or onset of a serious health condition of the employee or a family member, or
- Other circumstances beyond the employee's control in accordance with FMLA regulations.

9.5 Substitution or Use of Paid Leave for non-FMLA or FMLA Leave. For non-FMLA qualified leave or for FMLA qualified leave where the employee does not receive worker compensation or short term disability benefits for the qualification or waiting period, an employee will be required to utilize paid medical leave days for the applicable qualification or waiting period. In such circumstances and if an employee has exhausted all his/her paid medical

leave, then the employee shall be required to utilize accrued vacation for the qualification or waiting period. An employee may not elect to utilize accrued vacation or medical leave during the qualification or waiting period if the employee receives worker compensation or short term disability benefits for that qualification or waiting period. Where worker compensation benefits are not applicable, an employee may elect to utilize accrued vacation or medical leave beyond that qualification or waiting period provided, however, that (a) in no event shall the City pay short term disability benefits and paid leave for the same day and (b) any paid leave which is used during the time when short term disability benefits are available shall count toward the maximum period of time established for short term disability benefits. An employee shall be required to utilize accrued vacation and medical leave after the exhaustion of FMLA leave.

All paid leave (medical leave, vacation, or short term disability) shall count against and run concurrently with unpaid FMLA leave. If an employee fails to return at the end of FMLA leave and medically able to do so, and is not otherwise granted extended medical leave prior to the expiration of FMLA leave as elsewhere provided for herein, the employee will be considered to have voluntarily resigned his/her position with the City.

9.6 Spousal Rule for FMLA Leave. If the employee and his/her spouse both work for City, they are both eligible for leave. In cases other than the employee's own serious health condition, the total leave period for the employee and the employee spouse may be limited to 12 weeks total (combined).

9.7 Intermittent Leave. It may be medically necessary for some employees to use intermittent FMLA leave. City will work with employees to arrange reduced work schedules or leaves of absence in order to care for a family member's serious medical condition or their own serious medical condition. Employees using an intermittent or reduced leave schedule may be required to transfer temporarily to an alternative position which (1) has equivalent pay and benefits, and (2) better accommodates recurring periods of leave.

9.8 GINA Notice. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers from requesting or requiring genetic information of employees or their family members, except as specifically allowed by this law. To comply with this law, City asks that employees not provide any genetic information when responding to any request for medical information or in applying for any medical leave under the FMLA or otherwise. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

9.9 Public Safety Employees. These provisions for paid medical leave shall not conflict with state law requirements for paid medical leave applicable to public safety employees or medical leave benefits policies adopted by the Board of Public Works and Safety specifically covering public safety employees.

## **SECTION 10 – Unpaid Leave of Absence (Non-FMLA)**

10.1 Application for Non-FMLA Unpaid Leave. In special circumstances or for medical reasons where an employee has exhausted paid medical leave and vacation time, and has exhausted unpaid medical leave under the FMLA, an employee may request unpaid leave or additional unpaid leave by submitting a request in writing to the City Human Resources Director at least two (2) weeks in advance and prior to the exhaustion of paid vacation and medical leave and unpaid FMLA leave. The request for additional leave may be denied or granted by City in its sole discretion considering the operational needs of City, the length of the request, the indefiniteness or certainty associated with a return to work date, burdens on other employees, uniqueness of employee's work for City, and other reasonable and proper considerations.

Upon request by City, the requesting employee will provide medical verification to support the request and/or submit to a medical examination which will be at the expense of City.

10.2 Fringe Benefits on Non-FMLA Unpaid Leave. Unless otherwise required by applicable law, an employee who is granted unpaid leave under this Section 10 shall not be entitled to accrue any fringe benefits, longevity (where applicable), or other length of service rights (except seniority upon return to work, if applicable) during any such leave and the following provisions shall apply:

10.2.1 Such unpaid leave shall not affect pre-existing or vested benefits prior to commencement of the additional leave.

10.2.2 City shall have the sole option of treating the additional leave as if it were extended FMLA leave or granting the leave without reinstatement rights or health insurance or setting other conditions to the leave, or any combination of the foregoing, and advise the employee accordingly.

10.2.3 To the extent permitted or allowed by applicable law and the City's short term disability policy, the additional leave which is allowed shall be unpaid provided, however, that (a) if the employee has accrued vacation or medical leave at the commencement of any additional leave, the employees shall be required to first use and exhaust all vacation and medical leave, and compensatory time-off, as part of the additional leave and the remainder of the allowed additional leave shall be unpaid and (b) short term disability benefits, if applicable, shall be suspended during any period for which paid leave is used and such paid leave shall count toward the maximum period of time established for short term disability benefits.

10.2.4 In all cases, the employee shall receive applicable continuation benefits as required by the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

10.3 If an employee has not returned to work after the exhaustion of all available leave, and if additional leave is not granted, the employee is subject to separation from employment with City with recognition of disability benefits, if any, available under plans adopted by City and applicable law (e.g. COBRA rights).



## **SECTION 11 – Bereavement Leave**

Employees shall receive the amount of pay they would have received on a regular eight (8) hour straight time basis for each day necessarily lost during their normal work week not to exceed three (3) days to make arrangements for and attend the funeral of a member of their immediate family. This payment shall not be made for any one or more of such three (3) day period, as the case may be, on which the employee would have been absent from work for any other reason.

Immediate family shall be defined as an employee's current spouse, children (including step children), father and mother (including step-parents), father-in-law, mother-in-law, brother, sister, son-in-law, daughter-in-law, or legal guardian, grandparents (including spouse's grandparents) or grandchild.

A maximum of two (2) days with pay shall be allowed due to the death of a brother-in-law or sister-in-law.

## **SECTION 12 – Military and Jury Duty Leave**

12.1 Military Leave. City shall comply with applicable federal and state laws with regard to employees in the military. Contact the City Human Resources Director for more information about military leave. The general notice of rights under USERRA is attached to this handbook as Appendix B.

12.2 Jury Duty Leave. Each employee shall be granted leave for jury duty. Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Attendance for jury duty must be verified by the applicable court. Employees are expected to work whenever the court schedule permits. Upon receipt of verification of jury duty pay and the time served, the employee shall be paid for the amount of time served in an amount equal to the difference between the employee's base rate and work schedule and the jury duty fee paid by the court system.

## **SECTION 13 – Overtime and Compensatory Time Policy; Longevity Pay**

13.1 It shall be the policy of City to comply with all state and federal laws and regulations regarding compensation of overtime for all employees covered by the provisions of the Fair Labor Standards Act, as amended ("FLSA").

13.2 To the extent that City permits qualified employees to take compensatory time-off in lieu of overtime, the Compensatory Time Policy set forth in Appendix C shall apply.

13.3 Employees hired after December 31, 2012 are not entitled to longevity pay. Employees hired prior to January 1, 2013 may have a longevity pay element in their compensation package according to City policies, contracts, and ordinances adopted from time to time by the City. If longevity pay is applicable, an employee terminated for cause or quitting without giving a

minimum of two weeks advance written notice shall forfeit all unpaid longevity pay. An employee giving such notice or whose services are terminated by the City other than for cause shall receive accrued Longevity Pay on a prorated basis.

#### **SECTION 14 - Travel, Meal, Lodging and Telephone Expense Policy**

14.1. An employee of City who drives or operates a personal automobile out of City, while employed by City and while engaged in conducting business for City, shall receive the sum equal to the amount currently authorized by the IRS per mile for business deduction for each mile the employee drives. The employee shall travel the most direct available route between destinations. The maximum reimbursement for certain other expenditures shall be as follows:

Meal expense - \$50.00 per diem per employee.

Lodging expenses - \$175.00 per night per room

14.2. An itemized receipt for any expense is required before reimbursement will be considered, except for mileage, and any expense which exceeds the maximum must be pre-approved by the City Board of Public Works and Safety in order to be reimbursed in full.

#### **SECTION 15 - Gifts or Gratuities**

The following statutory provisions regarding ethical standards for government officers and employees are as follows:

1. Bribery – I.C. 35-44-1-1 (1)-(4)
2. Official Misconduct. – I.C. 35-44-1-2
3. Conflict of Interest. I.C. 35-44-1-3
4. Profiteering from Public Service. I.C. 35-44-1-7

It is important that City employees maintain high ethical standards to promote the principle that public office is a public trust where government is based upon the consent of its citizens who are entitled to have complete confidence in the integrity of their government. The business of the City should be conducted in such a manner so that the general public will have confidence that the conduct of City's business is always conducive to the public good. As such, specific reference and attention shall be given to the Indiana Code of Ethics for the Conduct of State Business contained in 40 IAC – 2 as a guide to City employees. The reference is intended as a guide only and is not meant to unduly restrict or limit the behavior of City employees during the time when they are not on duty. Each employee retains lawful rights and privileges as a private citizen to interests of a personal or private financial nature, and these rights and privileges will be honored to the extent that they are compatible with an individual's public office or employment.

## SECTION 16 - Access and Search Policy

Employees acknowledge and are advised that they have no reasonable expectation of personal privacy with regard to items of personal property located on City property in or about offices, desks, lockers, and work areas, and also located in privately owned vehicles, duffel bags, handbags, backpacks, and any other similar item that may be brought onto City property by employees on duty. City has the right to access and search the above-mentioned areas and items in the context of significant security concerns or a reasonable suspicion of individual misconduct which is work-related and for any other legitimate purpose. City's right of access and search in the circumstances described above are unaffected by the presence of locking devices, whether owned by City or the individual.

## SECTION 17 - Computer Resource Policy

17.1 Access to computer resources, including computer systems, e-mail, and the Internet ("Computer Resources") is provided to assist City employees to perform their job assignments. Employees are advised and acknowledge that all Computer Resources are the property of City and, as such, employees shall have no reasonable expectation of personal privacy as to information stored in, transmitted by, or received by any of City's Computer Resources.

17.2 The use of Computer Resources should be for official City business. Incidental and occasional personal use is permitted by City, but a personal message will be treated as any other message (i.e., not confidential) and City retains the right to access and read all messages sent over its Computer Resources without regard to content. **Any personal use must contain the following statement: "This is a personal transmission and does not reflect the beliefs or policies of the City of Huntington".**

17.3 Employees may not use City's Computer Resources in any way that may be reasonably found to be insulting, disruptive, offensive, or harmful to morale. Forbidden transmissions to or from the Computer Resources include but are not limited to: sexually explicit messages, pictures, movies, images, cartoons and/or jokes; unwelcome propositions or "love letters"; ethnic and/or racial slurs; and/or messages that may constitute harassment based on sex, race, age, national origin, religious beliefs, and/or disability.

17.4 Computer Resources are subject to periodic unannounced monitoring or inspections for reasons related to productivity and performance management and should be treated like any other shared filing system. All e-mail messages and stored documents are City records and may be accessed and reviewed at any time by City. Backup copies of e-mails and stored documents may be maintained by City. Messages and documents are not made confidential even if the message or document is password protected.

17.5 Violations of City's computer resources policy will result in disciplinary action which may take many forms, from suspension of access privileges up to and including termination of employment depending on the severity and/or number of the violation(s).

## **SECTION 18 - Cell Phone Policy**

City may issue to, or pay for, individual cellular phones for certain City employees to facilitate efficient City operations, and City employees are required to follow the guidelines listed below regarding cell phone usage during work for their own and others safety:

18.1 All employees are required to be professional and conscientious at all times when using cell phones when conducting City business. Cell phones issued by, or paid for by (in whole or in part), City are primarily for City business and shall be governed the same as computers under City's Computer Resource Policy as well as by safe practices and applicable laws and regulations.

18.2 Employees are expected to make every effort to not exceed the current contracted allowed minutes. Cellular phone bills are reviewed when they arrive, any employee who exceeds their contracted allowed minutes is subject to additional usage review.

18.3 In addition to telephone service, many cell phones or cellular devices offer a host of additional functions and/or services including but not limited to text messaging and digital photography. Any costs incurred for use of such functions outside those covered in the current cellular plan shall be the responsibility of the employee.

18.4 Employees in possession of City equipment, including cellular phones, are expected to protect the equipment from loss, damage or theft. At any time upon request, the employee may be asked to produce the phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested (for example, 24 hours) may be expected to bear the cost of a replacement. Employees will be responsible for repair or replacement of broken and or lost equipment or cell phones. Any accessory equipment purchased, other than that provided by City, will be the responsibility of employee.

18.5 City employees will not use cell phones for personal calls or texting except on approved breaks.

## **SECTION 19 - AIDS Policy**

City is committed to maintaining a safe and healthy working environment for all employees. Consistent with this commitment, Acquired Immune Deficiency Syndrome (AIDS) will be considered and treated on an equal basis as any other life-threatening or debilitating disease. This uniform consideration includes City's personnel policies, and its policies regarding health, life insurance, disability, and other benefit programs.

City recognizes that it is the virtually unanimous medical and scientific consensus, including the views of the Surgeon General of the United States and the Centers for Disease Control of the U.S. Public Health Service, that AIDS is not transmitted in the work place by normal occupational, professional, or social contacts. Consistent with this finding, and absent developments based on further medical and scientific research, City will permit employees with

AIDS to continue in the work force: (1) as long as they are capable of performing the responsibilities of their jobs, and (2) as long as their continued employment does not pose a significant risk to themselves or others. Reasonable accommodations will be made to assist employees with AIDS.

Refusal to work by the co-worker of employees with AIDS because of a perceived threat of exposure is without a scientific and medical basis and will be subject to discipline. City encourages all employees to become and stay aware of the facts about AIDS.

## **SECTION 20 - Vehicle and Equipment Safety**

Employees must observe all local, state and federal safety laws in the use and operation of City vehicles and equipment. If an employee has a question or objection(s) to the safety of a piece of equipment, the employee should notify his or her supervisor.

City employees are required to wear seat belts when operating any motor vehicle and either (a) pull over to the side of the road or (b) use a hands-free device while operating a CDL Class A required vehicle.

## **SECTION 21 – Drug and Alcohol Policy**

21.1 This policy outlines the practice and procedure designed to correct instances of identified alcohol and/or drug use in the workplace. This policy continues to apply to all employees and all applicants for employment of City.

This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely and promptly disclose any work restrictions to their supervisor. Employees should not, however, disclose underlying medical conditions unless directed to do so.

### **21.2 Definitions.**

“Illegal Drug” means a substance whose use or possession is controlled by state or federal law.

“Refusal to Cooperate” means to obstruct the collection or testing process; to submit an altered, adulterated, or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate.

“Under the Influence of Alcohol” means a test result showing alcohol concentration equal to or greater than .08.

“Under the Influence of Drugs” means a positive test result for illegal drug use.

### 21.3 Prohibitions.

21.3.1 Whenever employees are working or are otherwise engaged in City related work, activities, or training on or off City premises (including lunch breaks and rest periods), or are operating any City vehicle, they are prohibited from:

- using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia);
- being under the influence of alcohol or an illegal drug as defined in this policy; and
- possessing or consuming alcohol.

21.3.2 A refusal to cooperate in any required drug or alcohol testing by an employee or applicant is prohibited.

Any violation of any of the above prohibitions subjects an employee to immediate discharge. Failure to pass a drug test or refusal to cooperate with testing by an applicant will result in disqualification of further employment consideration.

21.4 Required Testing. Employees will be subject to drug and/or alcohol testing and investigation under the following conditions:

21.4.1 When, in the informed opinion of City management or supervisors, an employee is using illegal drugs or alcohol on City premises or is exhibiting mannerisms or actions which would lead one to reasonably believe that he/she is under the influence of illegal drugs or alcohol.

21.4.2 After a work-related accident or incident whether or not the accident or incident was reportable under OSHA, where (a) a fatality has occurred, (b) immediate outside medical attention is appropriate for any party involved in the accident or incident, (c) there has been significant damage to a vehicle or property of City, or (d) the employee involved in the accident or incident receives a citation.

21.4.3 If the employee is found in possession of illegal drugs or alcohol during work hours.

21.4.4 Mandated drug testing as required by any state or federal laws, rules, or regulations.

21.4.5 Pre-employment drug testing for all applicants for employment with City before beginning work or receiving an offer of employment.

Employees subject to alcohol testing shall be driven to a City designated and qualified testing facility and directed to provide breath specimens. Applicants and employees subject to drug

testing shall be driven to a City designated and qualified facility and directed to provide urine specimens. The testing facility shall make test results available to the City Human Resource Director, who shall offer persons with adverse or positive results a reasonable opportunity to rebut or explain the results. Persons with positive illegal drug test results may also ask the City Human Resource Director to have any split sample specimen sent to another qualified facility to be tested at the employee's own expense. Such requests must be made within 72 hours of notice of test results.

Employees will be paid for time spent in alcohol/drug testing and then suspended pending the results of the drug/alcohol test. Should the initial test results prove to be negative the employee will receive back pay for the times/days of suspension.

21.5 Confidentiality. Information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations shall be kept confidential to the extent required by law. Such records and information may be disclosed among City management and supervisors on a need-to-know basis and may also be disclosed where relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee.

## **SECTION 22 – Employee Conduct and Discipline**

22.1 For Class A violations listed below, employees shall be subject to discipline as follows:

- First Offense - Written Reprimand
- Second Offense - One (1) Day Suspension
- Third Offense - Five (5) Day Suspension
- Fourth Offense - Subject to Discharge

Any violations of the rules on this list shall be cumulative.

### Class A:

1. Gambling, soliciting, distribution of materials, selling of tickets, articles, merchandise, and the like or collection of contributions for any purpose during working hours or upon City property except as is authorized in writing by City.
2. Indecent or immoral conduct, or use of abusive language.
3. Loafing or idleness during scheduled work hours, failure to start work at proper time or stopping work before the end of the work period.
4. Willfully destroying or defacing City property or equipment or the property of other employees.
5. Entry into restricted areas of City property without authorization other than to perform normal work duties.
6. Refusal to cooperate in the orderly adjustment of a grievance.
7. Making false, vicious, or malicious, defamatory or derogatory statements to or about fellow employees or department heads or Supervisors or making untrue or intentionally misleading statements to a department head or Supervisor, during work hours.
8. Failing to notify department head or Supervisor of absence as required in this Handbook.

9. Public discourtesy and/or socially unacceptable action(s) or remark(s) made and/or engaged in during work hours at City facilities or work sites during periods that require compensation for City work related activities. (Written proof required.)
10. Smoking on City property or in unauthorized areas or in City vehicles while working or while on official City business.
11. Excessive use of telephones or cell phones during working hours for personal reasons without permission from the Supervisor.
12. Failure to exercise reasonable care in handling of City tools, equipment, materials, or other property.
13. Failure to immediately report mechanically defective conditions of tools or equipment.
14. Conducting personal business on City work time beyond nominal and infrequent periods of time.

22.2 For Class B violations listed below, employees shall be subject to discipline as follows:

First Offense - One Day Suspension  
 Second Offense - Subject to a Five (5) Day Suspension  
 Third Offense - Subject to Discharge

Any violations of the rules on this list shall be cumulative.

Class B:

1. Intentional or knowing falsification or tampering with, removing or misusing any City record, document, report, or application or copies thereof.
2. Recording another employee's work time record, or permitting someone to record your work time record with intent to defraud City.
3. Abuse or deliberate destruction of property, tools or equipment of City or another employee.
4. Intimidating or otherwise abusing other workers while on duty.
5. Fighting on City property while on duty (any employee directly involved, unless that employee's involvement is strictly self-defense).
6. Permitting any person not an employee to enter or ride in City vehicles without authorization of the Department Head, except in case of emergency.
7. Insubordination, refusal to do assigned work, or failure to obey the work orders of a supervisor.
8. Operation of machines, tools or equipment to which an employee has not been specifically assigned by the department head or Supervisor.
9. Reporting to work with a BAC between .04 and less than .08.
10. An act or failure to act, including horseplay, which endangers the safety or lives of others.
11. Failure to wear safety shoes, safety glasses, or hearing protection while assigned to areas designated for use of such safety measures or violation of any established or posted safety regulation and/or warning including, without limitation, safety rules as referenced in Section 20.
12. Unauthorized purchases at City expense.



13. Unauthorized use of City equipment or property.
14. Failure to report injuries (which are work-related and reasonably require medical attention) or accidents (which involve property damage) immediately to your supervisor or misrepresenting the facts regarding such injuries or accidents.
15. Failure to wear a vehicle safety belt in a City-owned vehicle that is so equipped or in a personal vehicle while on City business when the law requires such use.
16. See Article 17, Section 3 for discipline for refusal or failure to provide accurate and timely information relating to spousal eligibility.

22.3 For Class C violations listed below, employees shall be subject to discipline as follows:

First Offense - Subject to Discharge

Class C:

1. Use, possession, sale or distribution of alcohol or illegal drugs on City property or on City time, or reporting for work under the influence of alcohol or illegal drugs in violation of City policy or refusing drug/alcohol testing as described in more detail in Section 21.
2. Stealing City property or having in your possession any property of City (while off-duty) or another employee without proper authorization.
3. Possession of explosives, firearms, or other weapons while on duty or on City property except in the performance of official duties with the express authorization of the Mayor or the City Board of Public Works and Safety provided, however, that, in accordance with IC 34-28-7-2(b), this provision shall not prohibit an employee from possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of plain sight in the employee's locked vehicle.
4. Conviction of any felony if, in the discretion of City, the nature of the felony offense and related circumstances poses unreasonable risks to City or its employees or its citizens.
5. Physical attack on any City employee or other person while on duty as an employee of City.
6. Engaging in discriminatory conduct in violation of state or federal civil rights laws, sexual harassment, or retaliating against an employee who reports discrimination or engages in state or federally protected conduct.
7. Failure of an employee (whose job duties include operating a City vehicle) to immediately provide written notice to the Office of the Mayor of any loss of, or suspension of, his or her driver's license or CDL license, whether intentional or unintentional, and/or the employee's operation of a City vehicle either without a proper license or on a suspended license.
8. Any combination of four (4) violations of Class A or Class B; or any combination of three (3) violations of Class A or Class B coupled with a 2<sup>ND</sup> violation of a Class D attendance violation.

22.4. For Class D attendance violations, the rules and discipline shall be as follows: During any twelve (12) month period, employees will be subject to the following disciplinary action for any violation of City's attendance policy (i.e. unexcused absences and or tardies):

- 1<sup>st</sup> Violation – Written Warning
- 2<sup>nd</sup> Violation – Three (3) Day Suspension
- 3<sup>rd</sup> Violation – Five (5) Day Suspension
- 4<sup>th</sup> Violation – Discharge

Each day of an unexcused absence is a separate violation. City will not double count a tardy toward a charge of unexcused absence. Attendance information shall be made available to employees any time upon request.

22.5 Except for a Class D attendance violation, if no disciplinary action for any employee is instituted within ten (10) working days from the occurrence and of which City should have reasonably had knowledge, said employee shall not be subject to disciplinary action.

22.6 Violations over one (1) year old will not count against the employee's work record for future disciplinary action.

# EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

## LEAVE ENTITLEMENTS



Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

## ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

## REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

## EMPLOYER RESPONSIBILITIES

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

## ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

# 1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

## www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division







# YOUR RIGHTS UNDER USERRA

## THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

### REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

### RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

### HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

### ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>**. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.



**U.S. Department of Labor**  
**1-866-487-2365**



**U.S. Department of Justice**



**Office of Special Counsel**



**1-800-336-4590**

Publication Date—October 2008

## APPENDIX C

### Compensatory Time Policy

It shall be the policy of the City to comply with all state and federal laws and regulations regarding compensation of overtime for all employees covered by the provisions of the Fair Labor Standards Act, as amended ("FLSA"). This policy shall be distributed to all affected employees and, upon any election by an employee to take compensatory time off, shall form the understanding between the employer and employee regarding compensatory time off. This policy does not contain any contractual rights and may be revised or amended by the City at any time. Compensatory time off rather than paid overtime may be granted on a case-by-case basis at the discretion of department heads after due consideration of the work and workplace needs of their departments and consistent with this policy.

#### General Guidelines

1. All overtime and compensatory time must be pre-authorized by the applicable Department Head. Employees who work unauthorized time without approval may be subject to disciplinary action.
2. Holidays (fixed and floating), Sick Days, Vacation, industrial injury accidents, and absence for jury and witness duty are considered time worked in fulfilling the requirements for overtime or compensation time eligibility.
3. For pay purposes, the workweek begins on Sunday and ends on Saturday.

#### Non-Exempt Employees: Compensatory Time Off

##### (A) Definitions:

- (1) Non-Exempt Employee, as referred to herein, shall mean all City employees not employed as a Professional Police Employee or a Professional Fire Employee, and not otherwise classified as an Exempt Employee.

##### (B) Non-Exempt Employee: Standard Workweek and Overtime

- (1) The standard workweek for a Non-Exempt Employee shall be determined by the City and is usually either 37½ or 40 hours per week.
- (2) Any hours worked by a Non-Exempt Employee in excess of his or her regularly scheduled hours per workweek must have the prior approval of the employee's department head or the department head's designee and be within the department's budgetary limitations, except in the case of an emergency.

(3) Non-Exempt Employees are required to report all hours worked on a personal time sheet that is approved and signed by the employee's department head or the department head's designee. Failure to accurately report hours worked shall result in employee discipline.

(4) If Non-Exempt Employees perform work in excess of 40 hours in a workweek, those employees are eligible to receive compensatory time off at the rate of 1½ hours for each hour of employment in excess of said 40 hours in accordance with subsection (C) herein for any hour (or portion of an hour in quarter-hour increments) worked in excess of 40 hours.

(C) Non-Exempt Employees: Compensatory Time Off

(1) As used within this subsection (C), "department head" shall refer to the department head for the applicable Non-Exempt Employee or that department head's designee.

(2) When a Non-Exempt Employee works more than 40 hours in a workweek, the employee may elect at that time to receive compensatory time off in lieu of overtime pay with the discretionary approval of his or her department head.

(3) Where compensatory time off is taken in lieu of overtime pay, the Non-Exempt Employee shall be entitled to compensatory time off at the rate of 1½ hours of compensatory time off for each hour worked in excess of 40 hours in a workweek.

(4) A Non-Exempt Employee shall not be allowed to accrue compensatory time off in excess of 40 hours in the aggregate. Once a Non-Exempt Employee has reached 40 hours of compensatory time off, all overtime hours worked thereafter shall be compensated by overtime pay until the accrued compensatory time off balance falls below 40 hours.

(5) The use of accrued compensatory time off must be permitted upon employee request to use it unless to do so would unduly disrupt the City's operations and so long as the request is made 24 hours in advance. In the event a department head denies the use of compensatory time off because it would cause undue disruption, the department head shall, upon request, generate written documentation to support the decision.

(6) Under no circumstances may a Non-Exempt Employee take compensatory time off until the employee has earned compensatory time off.

(7) In the City's discretion, the City may elect to payout accrued but unused compensatory time off at any point during the calendar year. In all cases, a Non-Exempt Employee's accrued but unused compensatory time off balances shall be paid out in full upon separation from employment. Accrued compensatory time off hours will be carried forward from calendar year to calendar year up to the stated maximum herein.