

# *CITY OF RACINE*



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COMMON COUNCIL

June 24, 2013  
AS APPROVED BY THE FINANCE AND PERSONNEL  
COMMITTEE

# *EMPLOYEE HANDBOOK*

# CITY OF RACINE EMPLOYEE HANDBOOK

## TABLE OF CONTENTS

Article 1	<u>Introduction</u>	
Section 1.01	Authorization .....	1
Section 1.02	Compliance with Policies, Rules and Standards of Conduct .....	1
Section 1.03	Applicability .....	1
Section 1.04	Scope.....	2
Section 1.05	Amendments .....	3
Section 1.06	Conflicting Policies.....	3
Section 1.07	Distribution .....	3
Article 2	<u>Employment Status</u>	
Section 2.01	Employment Classifications .....	4
Article 3	<u>Employment Policies and Procedures</u>	
Section 3.01	Equal Employment Opportunity Policy.....	6
Section 3.02	Anti-Harassment & Retaliation Policy .....	6
Section 3.03	Reasonable Accommodation Policies.....	10
Section 3.04	Job Postings .....	13
Section 3.05	Physical Examinations .....	13
Section 3.06	Fitness for Duty .....	13
Section 3.07	Testing .....	14
Section 3.08	Residency Requirement .....	14
Section 3.09	Background Checks .....	15
Section 3.10	Nepotism Policy.....	15
Section 3.11	Rehiring Former Employees .....	15
Section 3.12	Promotions.....	16
Section 3.13	Short-Term Temporary Assignments .....	16
Section 3.14	Performance Evaluations .....	17
Section 3.15	Layoff/Bumping/Recall .....	17
Section 3.16	Furloughs .....	19
Section 3.17	Separation from Employment.....	20
Section 3.18	Personnel Records.....	21
Section 3.19	Union Activity .....	22
Article 4	<u>Wage and Salary Policies and Procedures</u>	
Section 4.01	Work Schedules .....	23

Section 4.02	Time Keeping .....	23
Section 4.03	Pay Policy .....	23
Section 4.04	Direct Deposit .....	24
Section 4.05	Pay for Non-Exempt Full-Time Employees .....	24
Section 4.06	Pay for Non-Exempt Part-Time Employees .....	24
Section 4.07	Pay for Exempt Full and Part-Time Employees .....	24
Section 4.08	Compensation for Interim Appointments .....	24
Section 4.09	Overtime .....	25
Section 4.10	Compensatory Time.....	26
Section 4.11	Payroll Deductions.....	27
Section 4.12	Final Pay .....	27

Article 5      Employee Benefits

Section 5.01	Federal and State Tax Implications.....	28
Section 5.02	Rest Periods .....	28
Section 5.03	Holidays .....	28
Section 5.04	Vacation Leave .....	29
Section 5.05	Sick Leave .....	31
Section 5.06	Casual Days .....	32
Section 5.07	Family Medical Leave .....	32
Section 5.08	Extended Sick Leave of Absence .....	41
Section 5.09	Personal Leaves of Absence .....	41
Section 5.10	Military Leaves of Absence.....	41
Section 5.11	Funeral Leave .....	42
Section 5.12	Jury Duty .....	42
Section 5.13	Witness/Subpoena Policy .....	42
Section 5.14	Emergency Weather Closings.....	43
Section 5.15	Health Insurance .....	44
Section 5.16	Domestic Partners.....	46
Section 5.17	Employee Assistance Program .....	46
Section 5.18	Dental Insurance .....	46
Section 5.19	Flexible Benefits/Section 125 Plan.....	46
Section 5.20	Life Insurance .....	46
Section 5.21	Wisconsin Retirement Fund.....	47
Section 5.22	Deferred Compensation .....	47
Section 5.23	Employee Travel Expense Reimbursement Policy .....	47
Section 5.24	Mileage Reimbursement Policy .....	49
Section 5.25	Tuition Reimbursement Policy .....	50
Section 5.26	Worker's Compensation .....	52
Section 5.27	Unemployment Compensation .....	52
Section 5.28	Prescription Safety Glasses.....	52
Section 5.29	Steel Toed Safety Shoes .....	53

Article 6      Employment Policies

Section 6.01	Rules of Conduct .....	54
Section 6.02	Attendance/Tardiness Policy .....	54
Section 6.03	Prohibited Activity.....	55
Section 6.04	Workplace Violence and Weapons Prohibition.....	57
Section 6.05	Drug Free Workplace Policy .....	60
Section 6.06	City Drug and Alcohol Policy .....	61
Section 6.07	Drug and Alcohol Policy – D.O.T. Covered Employees .....	67
Section 6.08	Residency.....	80
Section 6.09	Vehicle/Driving Policy .....	81
Section 6.10	Computer Hardware and Software Policy .....	83
Section 6.11	Social Media Policy .....	85
Section 6.12	Ethics Policy (Sections 2-576 – 2-585, Municipal Code.....	87
Section 6.13	Confidentiality .....	95
Section 6.14	Dress and Personal Appearance (Non-Uniformed Personnel).....	96
Section 6.15	Safety Policy Manual.....	98
Section 6.16	Political Activity .....	98
Section 6.17	Smoking Policy.....	99
Section 6.18	Tobacco Use .....	99
Section 6.19	Changes in Employee Information .....	99
Section 6.20	Secondary Employment.....	99
Section 6.21	Fundraising Activity .....	100
Section 6.22	Employee Personal Relationships.....	100
Section 6.23	Electronic Communications and E-Mail Policy .....	102

Article 7      Discipline and Grievance Procedure

Section 7.01	Purpose, Discipline, and Definitions .....	114
Section 7.02	Filing of Complaint, Hearings, and Decisions.....	116

Appendix

- A. Handbook Acknowledgement

## ARTICLE I INTRODUCTION

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### ***Section 1.01 AUTHORIZATION***

The following Employee Handbook was adopted by the City of Racine Common Council pursuant to the authority granted under State Statutes. The Human Resources Department shall be responsible for the day-to-day administration of the Employee Handbook.

### ***Section 1.02 COMPLIANCE WITH POLICIES, RULES AND STANDARDS OF CONDUCT***

The City of Racine has established these policies and its rules of conduct in furtherance of the effective operation of the City and to provide high quality service to all Racine citizens, those persons interacting with the City, and visitors. The City expects all employees to demonstrate professional, competent and reasonable behavior, and to continually serve, both on-duty and off-duty, as positive examples of the high quality personnel affiliated with the City and consistent with the high expectations of the public.

The purpose of these policies is also to reduce misunderstanding, promote uniformity of policy throughout the City, and provide employees with a clear outline of benefits and responsibilities. These policies recognize the value of City employees and outline the duties and responsibilities of employees. They are offered to help employees understand what is expected of them in an effort to create a workplace that makes it possible for employees to maximize their potential and achieve professional growth.

Compliance with the policies, rules and general expectations of conduct is important in order to fulfill these objectives. Failure to comply with the policies spelled out herein is taken seriously by the City. Violations of these policies, rules, and general expectations of conduct can subject an employee to discipline, up to and including discharge.

### ***Section 1.03 APPLICABILITY***

This handbook applies to all employees of the City of Racine who are not represented by a union. This handbook also applies to all employees of the City of Racine who are represented by a union or who are members of a collective bargaining unit to the extent this handbook is not in conflict with the collective bargaining agreement between the City of Racine and such collective bargaining unit. Specifically, as of the date of approval of this handbook, it applies to all employees of the City of Racine except those employees in the following collective bargaining units: Racine Police Association, Local 320 International Association of Fire Fighters, and Local 67 AFSCME (DPW/Parks, City Hall Clerical Unit, and Police Department Clerical Unit). Further, as of the date of approval of this handbook, it applies to the Staff Officers of the Racine Police Department and the Staff Officers of the Racine Fire Department, to the extent it does not conflict with the memoranda of agreement between the City of Racine and those two employee

associations, and it fully applies to all non-represented employees working in the Racine Police Department and Racine Fire Department.

This handbook only applies to employees of the City of Racine. It does not apply to persons employed by the Racine Public Library, the Racine Wastewater Utility, or the Racine Water Utility.

#### ***Section 1.04 SCOPE***

This handbook sets forth employment policy guidelines, rules of conduct and guidance regarding general expectations of professional behavior and conduct which employees are expected to follow.

NONE OF THE STATEMENTS, POLICIES, PROCEDURES, RULES, OR REGULATIONS CONTAINED IN THIS HANDBOOK CONSTITUTE A GUARANTEE OF EMPLOYMENT, A GUARANTEE OF ANY RIGHTS OR BENEFITS, DO NOT CREATE OR GRANT COVERED EMPLOYEES WITH A PROPERTY INTEREST IN THEIR EMPLOYMENT OR TENURE RIGHTS OF ANY KIND AND DOES NOT CONSTITUTE A CONTRACT OF EMPLOYMENT, EXPRESS OR IMPLIED. UNLESS SPECIFICALLY REQUIRED BY STATUTE, ORDINANCE, OR LAW, THE CITY'S EMPLOYMENT RELATIONSHIP WITH EMPLOYEES IS "AT WILL" AND EMPLOYMENT MAY BE TERMINATED AT ANY TIME FOR ANY REASON, WITH OR WITHOUT CAUSE AND WITH OR WITHOUT NOTICE AT THE OPTION OF THE CITY OR THE EMPLOYEE. A CONTRACT BETWEEN AN EMPLOYEE OR GROUP OF EMPLOYEES AND THE CITY SHALL NOT EXIST UNLESS A WRITTEN AGREEMENT BETWEEN THE EMPLOYEE OR GROUP OF EMPLOYEES AND THE CITY HAS BEEN APPROVED BY THE CITY OF RACINE COMMON COUNCIL AT A DULY NOTICED MEETING OF THE COMMON COUNCIL.

Notwithstanding anything else contained in this handbook, the City of Racine possesses the sole right to operate City government, and all management rights repose in it. The rights retained and exercised by the City include, but are not limited to, the following:

- A. To direct all operations of City government.
- B. To maintain efficiency of City governmental operations.
- C. To change existing methods or facilities or to introduce new or improved methods or facilities.
- D. To hire, promote, transfer, assign, and retain employees in positions with the City and to suspend, demote, discharge, and take other disciplinary actions against employees.
- E. To lay off or furlough employees or otherwise relieve employees of their duties due to lack of work, lack of funds, budgetary, or other reason.
- F. To establish work rules and schedules for employees.
- G. To schedule overtime work as appropriate in the manner most advantageous to the City.
- H. To determine the methods, means, facilities, and personnel by which City governmental operations are to be conducted.
- I. To contract out for goods or services.
- J. To take whatever actions are necessary to comply with Federal, State, or local law.

- K. To take whatever actions are necessary to carry out the functions of City governmental operations in emergency situations.

### ***Section 1.05 AMENDMENTS***

No Employee Handbook can anticipate every circumstance or question about policy. As time goes on, the need may arise to alter, modify, change or eliminate policies described in this handbook. The City reserves the right to revise, supplement or rescind any policies or portion of the Employee Handbook from time to time as it deems appropriate, with or without prior notice. Employees will, of course, be notified of such changes as they occur. Supplements to this handbook will be issued to update or revise present rules or policies as deemed necessary.

### ***Section 1.06 CONFLICTING POLICIES***

The policies contained in this handbook may cover subjects addressed in other sources, such as collective bargaining agreements, State or Federal laws, City ordinances and resolutions, or Police Commission or Library Board rules and or policies. Should any provision of this handbook conflict with a valid collective bargaining agreement to which the City is a party, the terms of the collective bargaining agreement shall control to the extent that these policies are in conflict with the terms of the collective bargaining agreement. These policies do not grant any additional benefits over and above or in addition to any employment contract.

Employees should be aware that their Department may have policies that supplement these policies. Employees are expected to follow both the policies in this handbook and their Department's policies. This handbook will control to the extent that the handbook policies are in conflict with Department policies.

Most employee questions should be answered in this handbook. If there are any questions regarding the handbook or matters that are not covered in it, employees are asked to discuss them either with their supervisor, Department Head, or Human Resources Department.

### ***Section 1.07 DISTRIBUTION***

This Employee Handbook should be distributed to every current and future City employee. City employees should maintain a current copy of this booklet and become familiar with its contents. Employees shall be required to individually acknowledge receipt of a copy of this handbook by signing and dating the Acknowledgment of Receipt form found at the end of this handbook. A copy of the Employee Handbook will be posted on the City's Intranet under the Human Resources Department.

## ARTICLE II    EMPLOYMENT STATUS

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### *Section 2.01    EMPLOYMENT CLASSIFICATIONS*

An employee is defined as a person who works for the City of Racine for compensation in the form of wages and excludes the Mayor, members of the Common Council, members of any Board, Committee, or Commission appointed by the Mayor and confirmed by the Common Council, the Municipal Judge, and Volunteers. For the purposes of this handbook, employees of the City will be classified as follows:

- A. Regular Full-Time – This employee is hired into regular full-time position and works a normal shift of usually eight hours per day, five days per week. This type of employee is entitled to all the usual and normal City benefits as outlined in this handbook.
- B. Regular Part-Time - This employee is regularly scheduled to work at least 30 hours but fewer than 40 hours per week during a calendar year. Regular Part-Time Employees are eligible for Wisconsin Retirement System (WRS) benefits, other benefits to which regular part-time employees are entitled to as described in this handbook include Holiday Pay, Vacation Leave, Sick Leave, and Health Insurance on a pro-rated basis, calculated on the basis of the number of hours compensated in a 12 month period divided by 2,080.
- C. Other Part-Time – An employee who works fewer than 30 hours per week on a year-round basis, or who does not work on a year-round basis. This includes, but is not limited to, Seasonal Employees, Temporary Employees, Student Employees, Interns, and Limited Term Employees. Other Part-Time Employees are eligible for WRS benefits provided they are scheduled to work a minimum of 1,200 hours per year, or 600 hours per year if hired before July 1, 2011, and are expected to be re-employed for the following year. Other Part-Time Employees are not entitled to any other City benefits.
- D. Regular Seasonal Employee – Any employee who has been hired on a full-time basis, for a definite period of time during a definite time of the year. This type of employee is not entitled to the normal City benefits except where eligible under the Wisconsin Retirement System and holiday pay.
- E. Temporary Employees – Any employee who has been hired on a limited full-time or part-time basis, usually for an indefinite period of time normally extending not more than six months at any one time. This type of employee is not entitled to the normal City benefits except holiday pay if the employee regularly works for 30 hours per week or more.
- F. Student Employees – Any employee who has been hired on a limited full-time or part-time basis, usually for an indefinite period of time normally extending not more than four months at any one time. Student employees can only work one four month period per year. This type of employee is not entitled to the normal City benefits except holiday pay if the employee regularly works for 30 hours per week or more.

- G. Interns – Unlike Student Employees, an Intern is a student who can either be in a paid or unpaid status, under the regulations of the Fair Labor Standards (FLSA). Unpaid Interns are not considered employees and are not entitled to benefits. Paid Interns, while considered employees, also are not eligible for normal City benefits.
- H. Exempt – An employee whose position meets the overtime exemption tests established by the FLSA and State law. These employees are paid on a salary basis and exempt from overtime pay requirements including compensatory time. This means that exempt employees are not entitled to, and will not receive, overtime pay or compensatory time off. No person who is employed as an exempt employee should assume that his or her work schedule is limited to 40 hours per week.
- I. Non-Exempt – An employee whose position does not meet FLSA and State law overtime exemption tests. Non-Exempt employees are paid on an hourly basis and are eligible for overtime pay.
- J. Represented – Individuals who are represented by a labor association and covered under a collective bargaining agreement with the City.
- K. Non-Represented – Individuals who are not covered by a collective bargaining agreement.
- L. Volunteers – Individuals who are not considered City employees and are not entitled to benefits. Volunteers are covered under the City’s liability insurance policy and worker’s compensation. Status as a volunteer must be accepted by the City.
- M. Limited Term Employees – Individuals who work more than 30 hours per week for a period of time less than one year. These employees are entitled to WRS benefits.
- N. Public Safety Employee – Any employee who is employed in a position that is classified as a protective occupation participant under any of section 40.02 (48) (am) 9., 10., 13., 15., or 22, Wis. Stats.
- O. General Employee – An employee who is not a public safety employee.

An employee may be classified as more than one type of the foregoing categories.

## ARTICLE III EMPLOYMENT POLICIES AND PROCEDURES

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### ***Section 3.01 EQUAL EMPLOYMENT OPPORTUNITY POLICY***

The City of Racine is an Equal Opportunity/Affirmative Action employer functioning under an affirmative Action program. It is and will continue to be the policy of the City that there shall be no discrimination against any employee or applicant for employment because of age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status, or any other protected status. This policy includes, but is not limited to, the following: recruitment and employment, promotion, demotion, transfer, compensation, selection for training including apprenticeship, layoff, termination, and any other coverage that may apply. This policy is consistent with the requirements and objectives as set forth in City Ordinance No. 62.27. Also, it affirms the City's commitment to continue to implement all State and Federal laws, executive orders, rules, regulations, and policies that apply to Equal Employment Opportunity/Affirmative Action, as set out in Title VII of the Civil Rights Act of 1964 and other applicable law.

Supervisors and managers shall ensure that the provisions of this policy are met. It is also the duty of every employee to help create a job environment that promotes equal opportunity. Any incident or situation that is believed to violate this policy should be brought to the attention of the City's Affirmative Action Officer. Anyone found to have engaged in any violation of this policy, or to have retaliated against anyone for reporting discrimination or for cooperating with an investigation, will be subject to disciplinary action, up to and including termination.

### ***Section 3.02 ANTI-HARASSMENT & RETALIATION POLICY***

It is the policy of the City of Racine that all employees have the right to work in an environment free of all forms of harassment and retaliation. The City of Racine will not tolerate, condone, or allow harassment or retaliation by any employee or non-employee who conducts business with the City. The City of Racine considers harassment, discrimination and retaliation of others to be a serious form of employee misconduct. Therefore, the City shall take direct and immediate action to prevent such behavior and to remedy all reported instances of harassment, discrimination and retaliation. A violation of this City policy can lead to discipline up to and including termination. This also applies to repeated violations, even if "minor," resulting in greater levels of discipline as appropriate.

#### **A. Definitions:**

1. Harassment – Harassment on any basis (race, sex, age, disability, marital status, arrest record, etc.) exists whenever submission to harassing conduct, whether explicitly or implicitly, is a condition of employment; submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual; and, such

conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment.

2. Hostile Work Environment – Workplace conditions or harassment by co-workers, managers, supervisors, etc. under which employees cannot perform their job without feeling harassed or threatened. A hostile work environment may consist of but is not limited to:
  - a. Verbal abuse and/or derogatory comments for whatever reason;
  - b. Displaying derogatory or offensive materials;
  - c. Physical contact, intimidation or violence against an employee;
  - d. Vulgar or lewd jokes;
  - e. Horseplay, pranks, passive aggressive acts or other such action;
  - f. Disparate treatment of employees without a reasonable basis; and,
  - g. Imposition or enforcement of unreasonable work rules for the sole purpose of exerting power over them.
3. Verbal Harassment
  - a. Sexual innuendoes, degrading or suggestive comments;
  - b. Repeated requests for dates or unwelcome sexual flirtations;
  - c. Jokes of a sexual nature;
  - d. Degrading words used to describe an individual;
  - e. Obscene and/or graphic descriptions of an individual's body; and,
  - f. Threats that job, wages, assignments, etc. could be affected if the individual does not agree to a suggested sexual relationship.
4. Non-verbal Harassment
  - a. Sexually suggestive or offensive objects or pictures;
  - b. Inappropriate usage of voicemail, e-mail, the internet or other such sources as a means to express or obtain sexual material or comments;
  - c. Printed or written materials including offensive cartoons, suggestive or offensive sounds, whistling, catcalls or obscene gestures; and,
  - d. Treating an employee differently than other employees when they have refused an offer of sexual relations.
5. Physical Harassment – Unsolicited or unwelcome physical contact of a sexual nature, which may include touching, hugging, massages, kissing, pinching, patting, or regularly brushing against the body of another person.
6. Unwelcome – Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome, even if the victim voluntarily engages in or permits it to avoid adverse treatment.

7. Retaliation – Any adverse action taken against an employee or job applicant because of protected conduct, such as filing a harassment or discrimination complaint, participating in an investigation of such a complaint, or requesting a protected leave of absence or reasonable accommodation.

B. Prohibited Activity and Responsibility:

1. Sexual Harassment – The City protects both males and females from sexual harassment by prohibiting unwelcome sexual advances, requests for sexual favors, and other physical, verbal or visual conduct based on sex as defined in Section A above.
2. Harassment – Any form of unwelcome conduct, whether verbal, physical, or visual, that is based on a person’s protected status, including sex, color, race, ancestry, religion, national origin, age, physical handicap, disability, marital status, sexual orientation, arrest record, or any other protected status or characteristic defined by State or Federal law. Harassment that is based on a person’s protected class, as defined in Section 3.01 above, will be considered misconduct subject to disciplinary action by the City.
3. Retaliation – Generally, any materially adverse action taken against an employee or applicant “because of” protected conduct is prohibited. “Protected conduct” means opposing a practice made unlawful by an applicable employment discrimination statute or filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under such applicable statute. The scope of retaliation goes beyond workplace-related or employment-related actions and includes conduct that would dissuade a reasonable worker from making or supporting a charge of discrimination. The significance of any given act of retaliation may depend upon the particular circumstances, but must be considered “materially adverse,” thus separating significant from trivial harms that normally will not deter discrimination victims from filing a complaint. Examples of conduct that may be considered retaliation include:
  - a. Discharge;
  - b. Demotion or not promoting;
  - c. Reduction in pay;
  - d. Reassignment of job duties;
  - e. Significantly diminishing an employee’s responsibilities;
  - f. Unwarranted negative performance evaluations;
  - g. Increased scrutiny of an employee’s work; and,
  - h. Isolating or shunning an employee.

Any employee who believes that he or she is being retaliated against shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee. Where it is not practical to do so, the employee may instead file a complaint with another supervisor, the Human Resources Department, the City Attorney, the City

Administrator, or the Mayor. Evidence of retaliation is considered a separate violation of this policy and is subject to discipline up to and including termination.

4. Supervisory Responsibilities – Each supervisor shall be responsible for preventing harassment, discrimination, and retaliation by:
  - a. Monitoring the work environment on a daily basis for signs of harassment or retaliation;
  - b. Training and counseling all employees on what constitutes harassment, sexual harassment, and retaliation, types of prohibited conduct, and how to file a complaint;
  - c. Intervening if an incident of harassment, sexual harassment, or retaliation is observed, even if it occurs outside his/her line of supervision; and,
  - d. Taking immediate action to prevent retaliation towards the complaining party or witnesses and to eliminate the hostile work environment where there has been a complaint of harassment, pending an investigation.
  
5. Employee Responsibilities – Each employee is responsible for assisting in the prevention of harassment and retaliation by the following acts:
  - a. Refraining from participation in actions that could be perceived as harassment or retaliation;
  - b. Reporting acts of harassment or retaliation to a supervisor; and,
  - c. Encouraging any employee who confides that he or she is being harassed, discriminated, or retaliated against to report these acts to a supervisor.

Failure of any employee to carry out the above responsibilities will be considered in any performance evaluation or promotional decisions and may be grounds for discipline.

6. Complaint Procedures – The City of Racine is committed to maintaining a workplace free of illegal discrimination, harassment, and retaliation. The City cannot prevent or stop harassment or retaliation of which it is unaware. Therefore, the following actions are required:
  - a. Any employee encountering harassment or retaliation is encouraged, but not required to, inform the offending person verbally or in writing that his or her actions are unwelcome and offensive;
  - b. Any employee who has unsuccessfully attempted to terminate the harassment or retaliation by his or her own means and believes that he or she is being harassed shall report the incident(s) as soon as possible to his or her supervisor so that steps may be taken to protect the employee from further harassment or retaliation;
  - c. The supervisor or other person to whom a complaint is given shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment or retaliation, any witnesses to the incident(s) and the date(s) on which it occurred;

- d. An employee should utilize the City's internal reporting procedure first, but if after utilizing this procedure the complainant does not feel the complaint has been adequately addressed, the employee may file a complaint with either the State of Wisconsin- Equal Rights Division or the Equal Employment Opportunity Commission, or both.
- e. The internal investigation authority shall be responsible for investigating any complaint alleging harassment, discrimination or retaliation;
- f. There shall be no retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint;
- g. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances; and,
- h. Employees accused of harassment and/or retaliation may file a grievance/appeal in accordance with City procedures when they disagree with the investigation or disposition of a harassment or retaliation claim.

### ***Section 3.03 REASONABLE ACCOMMODATION POLICIES***

The City of Racine is committed to complying with all the relevant and applicable provisions of the Americans with Disabilities Act (ADA) and State law. The City will make reasonable accommodation wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential duties and assignments connected with the job and provided that any accommodations made do not impose an undue hardship on the City.

- A. Title I: It is the policy of the City to ensure that all citizens have an equal opportunity to participate in and receive the benefits of the services, programs, or activities of the City. The City is required to ensure all programs and activities are accessible, but are not required to make each and every facility accessible as long as all programs are readily accessible. There are several means by which the City can make its programs readily accessible to and usable by disabled individuals, including redesigning equipment, reassigning services or programs to alternative, accessible buildings, and altering existing facilities or building new facilities.
- B. Title II: In compliance with the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, the ADA Amendments Act of 2008, and the Wisconsin Fair Employment Act, the City of Racine prohibits discrimination against qualified individuals with disabilities in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. The City is committed to providing accommodations for eligible employees and applicants with documented disabilities.

#### **1. Job Application Process**

- a) All applicants for City positions must have accessibility to all steps in the selection process and are protected from disability related questions that could potentially screen them out of the application process. Reasonable accommodation will be provided to qualified applicants during the selection process, which may include supplying an interpreter or reader, to ensure that all applicants have accessibility to all phases of the process.
- b) Pre-offer physicals are prohibited by the City, as are inquiries regarding the existence of an applicant's disability or the nature and severity of the disability. After an offer of employment has been extended, it may be conditioned on the results of a medical examination. The information received during a medical exam will be held confidential, but a supervisor must be told of any restrictions or necessary accommodations. If the existence of a disability is revealed during the medical exam, an offer of employment may not be withdrawn unless the reason is job related and consistent with business necessity and no reasonable accommodation can be made or the disability poses a direct threat to the health and safety of the applicant, other employees or the general public and which cannot be eliminated by reasonable accommodation.
- c) The City is committed to making reasonable accommodation in the application process, job duties, and the work environment in compliance with equal employment opportunity, as long as such accommodations do not constitute an undue hardship on the City.
- d) If an applicant or employee believes they have been discriminated against in employment on the basis of a disability, he or she may file a complaint through the City's harassment complaint procedure, or he or she may file a formal complaint with the Wisconsin Equal Rights Division of the Department of Workforce Development and/or the Federal Equal Employment Opportunity Commission.

## 2. Procedure for Requesting an Accommodation

- a) An employee who believes that he or she needs a reasonable accommodation to perform an essential function of their job should make that request through their direct supervisor, the ADA Coordinator or Human Resources Manager.
- b) When a request for accommodation is received by the supervisor or when it is apparent that a reasonable accommodation may enable a disabled individual to perform the essential functions of the position, the employee will be directed to submit a "Reasonable Accommodation Request Form" with appropriate supporting documentation to his or her direct supervisor and the Human Resources Manager for consideration.

- c) All requests for accommodation shall be responded to in a timely fashion, after the supervisor has engaged in the “interactive process” with the employee requesting the accommodation.
- d) The City reviews all requests for accommodation on a case by case basis and may provide a reasonable accommodation that allows the qualified individual with a disability to achieve the same level of job performance as other similarly skilled employees. The City is not obligated to provide an accommodation that causes an undue hardship on the City.
- e) All requests and documentation will be kept confidential and in a separate file.

### 3. Definitions

- a) “Disability” as defined under the Americans With Disabilities Act of 1990: A qualified individual who has a physical or mental impairment that substantially limits one or more major life activities;
- b) “Disability” as defined under the Wisconsin Fair Employment Act: A physical or mental impairment that makes achievement unusually difficult or limits the capacity to work;
- c) Direct Threat to Safety: A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation;
- d) Essential Job Function: Those activities of a job that are the core to performing the position that cannot be modified;
- e) Interactive Process: The process by which an agent of the employer and individual requesting accommodation engage in, to discuss physical or mental abilities and limitations as they relate to the job’s essential functions and to determine possible job accommodations;
- f) Major Life Activities: Caring for one’s self, walking, sitting, standing, speaking, etc.;
- g) Qualified Individual with a Disability: A person who meets legitimate skill, experience, or other requirements of the position that he or she holds and who can perform the essential functions of the position with or without reasonable accommodation;
- h) Reasonable Accommodation: Any modification or adjustment to a job or the work environment, such as job restructuring, modifying tests, modifying equipment, etc., that will enable an employee with a disability to perform the essential job functions; and,
- i) Undue Hardship: An action that is excessively costly, extensive, substantial, or disruptive or that would fundamentally alter the nature or operation of the business.

### ***Section 3.04 JOB POSTINGS***

Any job vacancy due to retirement, quit, death, new position or for whatever reason that the City decides to fill may be announced and posted in each department as the Human Resources

Department deems appropriate, and advertised in the local media, the internet, and all other sources likely to yield qualified candidates. The posting shall set forth the job title, duties and qualifications desired, rate of pay, work location or assignment, shift, place and manner of making applications, closing date for receiving applications and other pertinent information. The City attempts to select applicants to fill vacancies who are best suited for the position as determined by their character as well as their qualifications in keeping with our Affirmative Action program. When in the interests of the City, the City may attempt to fill the position from within the organization, though external candidates may also be considered. However, there is no requirement that positions are filled from within or that internal candidates are considered before considering external candidates.

### ***Section 3.05 PHYSICAL EXAMINATIONS***

All full-time regular employees must pass a physical examination and a five panel drug test before they can begin their employment with the City. The pre-employment physical will be given by a physician of the City's choosing and is intended to measure the individual's physical capabilities in terms of the job to be performed. The City will provide the examination at no expense to the prospective employee. An employee may have this examination waived by providing recent and appropriate physical examination results from his or her private physician. This will be done at the employee's own expense.

Part-time or temporary employees are required to complete an Affidavit of Health form supplied by the Human Resources Department. The City reserves the right to require a pre-employment physical examination to the same extent as required for full-time employees and/or re-evaluate any employee's physical condition at any time as it relates to their job assignments.

### ***Section 3.06 FITNESS FOR DUTY***

A department head may request a medical or psychological evaluation when: (1) an employee's conduct creates a reasonable belief that a threat to the health or safety of the employee, co-workers, the public, or to City property, exists; or (2) there is objective evidence that the employee cannot effectively perform the essential job functions of his/her position. An appointment will be scheduled with a physician/psychologist upon agreement by the employee to attend an evaluation.

Employees who cooperate in attending a "Fitness for Duty Evaluation" will be placed on administrative leave status, until such time as the report of results is received from the physician, recommendations are reviewed and work or leave status is re-evaluated. There will be no cost to the employee for the evaluation or any other evaluations or tests that the physician or psychologist may recommend. Employees will be required to sign a release to grant the physician or psychologist access to the employee's medical records. Results of the exam will be forwarded to the Human Resources Department, and will be reviewed with the department in question only as necessary. The information will be treated with the highest degree of confidentiality, and a copy of the report will remain in a confidential medical file within the Human Resources Department. A copy of the report will be made available to the employee upon request to the Human Resources Department. The employee will have the option to present

this report to his/her personal physician(s) for review and rebuttal, if the employee does not agree with the opinion.

If an employee chooses not to attend a City authorized "Fitness for Duty Evaluation," the employee will either be placed on sick leave or leave without pay status, until the employee provides medical documentation from his/her personal physician/psychiatrist at his/her own expense that states that the concerns noted by the employee's department have been reviewed, the essential functions of the employee's position have been reviewed, and that the employee is 'fit for duty' and does not pose a threat to one's self or someone else. The City maintains the right to request a 2nd opinion and have the employee sign a release granting full access to the employee's medical records.

### ***Section 3.07 TESTING***

The City reserves the right to establish reasonable testing procedures to be used to determine the ability of the employee to do the essential duties of the job. For internal candidates applying for a promotion, lateral pay grade job, or lower paying position, they shall be required to test for all openings except when the employee has already taken and passed the test(s) required for the position within the prior four years. There shall be no re-taking of any failed test unless it is for a new or re-posted position. Once a candidate begins a test, there is no stopping for any reason and requests to re-take a test will not be granted. Racine County Workforce Development Center will be the official testing agency for most tests required for City of Racine jobs.

### ***Section 3.08 RESIDENCY REQUIREMENT***

Although residency within the City limits of Racine is preferred for City employees, City Ordinance sec. 19-91 states that only Administrative Managers must reside within the Racine City limits (see Ordinance sec. 19-91 for complete details and exceptions). All other employees may live anywhere in the State of Wisconsin. All employees must maintain said residencies during their employment with the City.

### ***Section 3.09 BACKGROUND CHECKS***

Prospective employees of the City of Racine may be subject to a background check. Depending on the nature of the position and the applicants applying for the position, the City may conduct varying levels of background screening to determine whether candidates for employment, promotion, assignment or transfer are suitable for the position they desire to obtain. Information that may be obtained or requested includes information relating to references, past employment, work habits, education, judgments, liens, criminal background and offenses, character general reputation and driving records. The City may also obtain information from a consumer reporting agency. Before denying an extension, assignment, promotion, or other benefit of employment, based in whole or in part, on information obtained in the consumer credit report, the City will provide a copy of the report and a description in writing of the applicant's rights under the Fair Credit Reporting Act.

As part of the application process, new applicants seeking employment will be required to sign an employment application that constitutes the employee's full waiver and release of any liability related to the background investigation. The application form also notifies the applicant that any false statements may be grounds for not employing or for dismissing the applicant after beginning employment. Applicants who refuse to sign the employment application will not be considered for employment.

### ***Section 3.10 NEPOTISM POLICY***

It is the City's policy that relatives of persons employed by the City may be hired, promoted, assigned or transferred into positions only if they will not be working for or supervising a relative. This policy will be broadly interpreted in a manner that addresses the issue of inequitable consideration in decisions concerning work assignments, transfer opportunities, performance evaluations, promotions, demotions, disciplinary actions, and discharge. For the purpose of this policy, a relative is defined as spouse, parent, grandparent, child, brother, sister, brother-in-law, sister-in-law, father-in-law, mother-in-law, stepparent, stepbrother, stepsister, stepchild, aunt, uncle, niece, or nephew. A supervisor is defined under this policy as a person who directs or has authority to direct the activities of, or has the authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of, employees under his/her purview.

### ***Section 3.11 REHIRING FORMER EMPLOYEES***

Former employees may be considered for re-employment on a full-time or part-time basis for approved/budgeted open positions under the following general provisions:

1. Employees who have performed satisfactorily and who have terminated their employment under favorable circumstances with the City may be rehired. However, the City is under no obligation to rehire any former employee who voluntarily resigned from his/her position or who was administratively separated due to the end of a temporary or seasonal assignment, unless otherwise provided.
2. The City does not re-employ employees who were terminated for cause or who resign involuntarily. Records of former employees who were terminated involuntarily, however, will be reviewed by Human Resources to determine the circumstances of the termination.
3. Regular full-time employees who are rehired shall not receive credit for previous City service for either promotional or layoff purposes unless otherwise provided within this handbook.
4. Former employees who are being considered for reinstatement will be required to take a pre-employment physical and undergo background and reference checks that are similar to those required for new employees.

### ***Section 3.12 PROMOTIONS***

When position vacancies exist above the entrance level, in most cases they shall be posted on the bulletin board outside the Human Resources Department at City Hall and announcements of such vacancies shall also be sent to all departments as the Human Resources Department deems appropriate for posting. Employees wishing to be considered for a vacancy must contact the Human Resources Department within the prescribed time limits set for a particular opening and must submit a current résumé. In order to be considered qualified for a promotion, the performance evaluation from the employee's most recent evaluation period must indicate that the employee's performance was satisfactory or better.

Employees who post or transfer to different positions shall serve a 30-day evaluation period to determine if they are satisfied with the job or if the department head is satisfied with their performance. Employees may return or be returned to the previous job within this 30-day period.

Notwithstanding anything else contained herein, employees who post or transfer to an equal or lower paying position shall be required to remain in said position for a period of 18 months if awarded said position. It should also be noted that some jobs by their nature may require employees to remain in the job for an extended period of time up to three years before transferring out. New employees during their first six months of employment are precluded from applying for new positions.

### ***Section 3.13 SHORT-TERM TEMPORARY ASSIGNMENTS***

An Administrative Manager or his designee shall have the right to make temporary changes on a day-to-day basis in the assignment of personnel within and between all departments or divisions under the jurisdiction of the Administrative Manager. Employees, upon proper notification when possible, shall immediately report to the reassigned temporary position and thereafter perform the work shift of that division for the duration of the reassignment. In the event an employee is temporarily assigned to a lower pay rated job, he/she shall continue to receive the pay rate of his/her regular job. If an employee is temporarily assigned to a higher pay rated job for eight continuous work hours or more, he/she shall receive the rate of pay of the incumbent in the position so assigned or 10% more than his/her current rate of pay, whichever is less, except when the employee is being trained. An employee will continue to earn his/her current rate of pay until trained and determined to be qualified by the Administrative Manager (or his designee) at such time he/she shall then receive the lesser of the two higher rates.

### ***Section 3.14 PERFORMANCE EVALUATIONS***

Annual performance evaluation reports shall be part of any performance evaluation program to assist in assessing work effectiveness, to suggest constructive action for improvement, and to provide feedback in areas of performance. Performance evaluation reports shall be conducted by an employee's supervisor and a copy shall be placed in the employee's Human Resources personnel file. Performance evaluation reports shall be considered in the decisions affecting

placement, employee status, salary adjustments, promotions, demotions, dismissal, re-employment, training, and other job related actions.

Some of the job factors that are reviewed include: accuracy, quality of work, quantity of work, dependability, adaptability, job knowledge, organization, judgment, initiative, cooperation, ability to get along with others, attitude and attendance. It is the employee's responsibility to improve his or her performance. The practices for departments or positions for the evaluation process may vary. Employees receiving a poor performance evaluation shall be put on a Performance Improvement Plan by the employee's supervisor.

### ***Section 3.15 LAYOFF/BUMPING/RECALL***

- A. Layoff: The city in its discretion shall determine whether layoffs are necessary. The City may lay off an employee because of shortage of funds, shortage of work, discontinuance of services, changes in organizational unit; or for any other reasons, which do not reflect discredit on the service of the employee. Duties performed by laid off employees may be reassigned to other employees already working or holding positions in appropriate job classifications.
- B. Bumping: In any situation where an employee is displaced as a result of job elimination, budget reduction, layoff or for any other reason, the affected employee may exercise his/her seniority in the following manner:
1. The employee may bump a less senior employee in the employee's own immediate department/division (as defined by Executive Order of April 28, 1981, adopting the official Administrative Organization Chart) if he/she has the minimal objective qualifications to perform the job and the administrator of the department approves the bump.
  2. The Administrative Manager shall consider the following factors, in consultation with the Human Resources Manager, in making his/her determination to approve the bump, in order of their delineation: seniority; the effect of the bump on the operation of the department; previous evaluations of the employees' affected, and the employees' respective educational backgrounds. No one factor shall be conclusive. Notwithstanding anything else contained herein, no employee with a poor performance evaluation the performance evaluation from the employee's most recent evaluation period shall be qualified to bump. There shall be no appeal from the decision of the Administrative Manager.
  3. Successfully completes an examination if any has been established for the position and the exam is determined by the Administrative Manager and the Human Resources Manager to be necessary to establish the employee's ability to perform the duties of the new position.

4. The Human Resources Manager may request a physical examination from a physician of the City's choosing to evaluate an employee's physical ability to perform the necessary job tasks.
5. For purposes of layoff and bumping only as it relates to this section, departmental seniority shall be defined as that time of continuous service performed under the same administrative manager organizational structure as defined by Executive Order of April 28, 1981.
6. If at any time the department head determines that performance is unsatisfactory, said employee shall be placed on layoff status. The decision by the employer not to retain an employee shall be final. However, such terminated employee shall retain recall privileges.
7. Employees whose positions are being eliminated or an employee being displaced shall be given written notice of the action not less than seven calendar days prior to the effective date. Employees shall have forty-eight hours after receiving notice to exercise whatever options may be available to them. If a decision is not made within the 48-hour period, said employee shall be deemed to have been laid off by the City.
8. An employee who displaces into a position in an equal or lower job classification shall be placed at the salary step which most closely corresponds but does not exceed the employee's salary at the time of displacement.
9. Administrative Managers and/or Mayoral appointments shall not be displaced by the provisions contained herein.
10. Employees serving on a limited term, temporary, or an initial probationary period, shall be terminated without displacement or recall rights should they be displaced or laid-off.

C. Recall Provisions:

1. Employees who are laid off or displaced shall be placed on a recall list for a period equal to their seniority but no more than eighteen months maximum, after which time all recall rights are terminated. Should a vacancy occur in a position authorized to be filled from which an employee was laid off or displaced, said employee shall be recalled in order of their departmental seniority. Should a new position be created from which no employee was laid off, employees on a recall list may apply for the position but the City retains sole discretion in selecting the candidate from either the recall list or outside sources.
2. Employees to be recalled shall be notified by mail addressed to the most recent address appearing on the Human Resources Department's records. Laid off employees shall notify the Human Resources Department of any change of

address. Employees so recalled shall notify the City of their acceptance or rejection within seven calendar days of the date of the recall letter and report for work within 10 calendar days from the date of the recall letter. Failure to notify or failure to report or the refusal of an offer of re-employment shall terminate an employee's right to recall.

3. An employee on layoff status shall not lose credit for seniority accumulated at the time of layoff nor shall continuous service be considered interrupted if the employee is recalled within eighteen months of layoff. An employee recalled within 18 months of layoff shall be credited with sick leave accumulated as of the date of layoff.
4. Employees shall be granted the option of remaining in the group health insurance plan in accordance with the COBRA Act of 1986 from the effective date of layoff (according to policy provisions) provided the employee pays to the City of Racine the full premium. Employees shall be granted the option to remain in the group life insurance plan based on salary for up to 18 months from the effective date of layoff, provided the employee pays the full premium.

### ***Section 3.16 FURLOUGHS***

Voluntary or mandatory employee furloughs involve placing employees in temporary non-duty, non-pay status for budgetary reasons as authorized by the Common Council. A furlough differs from a normal layoff in that employees continue to work on a fairly regular basis, with the City or individual departments scheduling employees to have certain days off. For example, a City department may elect to furlough a non-exempt employee by asking or requiring him/her to take off one or more days without pay.

### ***Section 3.17 SEPARATION FROM EMPLOYMENT***

#### **A. Categories of Separation:**

1. Resignation with Notice is a voluntary permanent separation initiated by the employee. It is required that an employee give a minimum of a two working week written notification to his or her supervisor and the Human Resources Department prior to leaving City employment. The employee will be paid all proper compensation up to his or her final day of employment. In addition, the City will pay any accrued but unused vacation on a pro-rata basis and compensatory/overtime. Failure to provide the proper notification will result in a prorated vacation severance payment and the loss of consideration in future employment opportunities with the City of Racine. City employees resigning at the start of the new year must work at least one day in the new year to receive a vacation severance payment. The City reserves its right to terminate the employee before that date.

2. Retirement is separation from employment with the City, either with or without notice, under the provisions of the Wisconsin Retirement System (WRS). As of January 1, 2013, employees *who retire* with a two week working notice or on disability shall be entitled to a sum equal to fifty percent (50%) of his/her daily wage for each of the first one hundred and forty (140) days of accumulated paid sick leave days to his/her credit.
3. Total Disability is separation from employment with the City, due to total physical or mental impairment, under the provisions of the WRS. The City will pay any accrued but unused vacation and compensatory time/overtime as provided by the terms of this manual.
4. In case of the Death of the employee, the employee's estate may be eligible to receive earned but unused vacation, sick leave and compensation time/overtime as provided by the terms of this manual.
5. Resignation without Notice is a voluntary permanent separation initiated by the employee without providing a written two week notice prior to leaving. The employee will be paid all proper compensation up to his/her final day of employment, but the employee will only receive severance benefits of pro-rated vacation and any unpaid compensation time/overtime. The City reserves the right to terminate the employee before that date.
6. Discharge is a permanent separation initiated by the City due to unsatisfactory work performance or misconduct including violations of the work rules. A department head or supervisor shall not terminate an employment relationship prior to consulting with the Human Resources Manager or the City Attorney. The employee will be paid all proper compensation up to his/her final day of employment and any accrued but unused vacation.
7. Layoff can be a temporary or permanent severance of the employee's position with the City due to a reduction in the work force. Employees who are laid-off shall receive, as a severance gratuity, pay equal to the amount of vacation time he/she would be entitled to in the calendar year. If recalled in that same year, the employee would not be eligible for vacation for that year. Employees recalled subsequent to the calendar year they are laid-off would receive pro-rated vacation based on their years of service and the number of full months worked in such subsequent year. Accrued sick leave will be retained, but no further accumulation will be allowed during the period of layoff.
8. A Furlough is not a severance of the employee's position or a separation from employment.

**B. Final Paycheck:**

Every effort will be made to send employees who resign or are terminated his or her final paycheck on his or her next regularly scheduled payday. Retirees expecting a payout of

sick leave and/or accrued vacation upon retirement should anticipate receiving their payout by their second regularly scheduled payday after retirement.

C. Return of Property, etc.:

Upon separation, the employee must return all property, records and complete required forms prior to receiving final payment for compensation or payment for any accrued vacation or sick leave as may be required by this manual. When an employee separates employment from the City of Racine, the owning department supervisor shall complete an "Employee Separation Worksheet" found on the Human Resources page of CORI at the time they receive notice. The completed worksheet shall be forwarded in its electronic format to the Human Resources Department. The employee should return their City P-Card to the Purchasing Department no later than one (1) week prior to his or her last day worked, and shall return his or her City cell phone and or pager no later than the last day worked. The employee's network access, security and accounts shall be terminated on the last day of work.

D. Use of Accrued Vacation and Sick Leave Upon Termination:

Employees who terminate their employment with the City of Racine and still have unused, accrued vacation and sick leave will not be allowed to extend their time on the payroll in an attempt to use up the remaining, unused vacation and sick leave. Employees are expected to work during the last two weeks after giving two week's written notice, after which time the City will then pay the unused vacation and/or sick leave payout in a lump sum check.

**Section 3.18 PERSONNEL RECORDS**

A. Maintenance of Records:

The Human Resources Manager shall be responsible for the maintenance of the official personnel files for all City employees. These files shall be confidential and contain the complete employment history of each employee during employment with the City. The personnel files shall contain, but are not limited to, the following information: employment applications, medical records, dates and records of injuries, commendations, education and special training received, reprimands, performance evaluations, wage data, promotions and other relevant personnel documents. The privacy of employee personnel files will be governed and administered in accordance with Federal and State law.

B. Employee Rights:

Employees are permitted to inspect and copy (at a minimum fee of 25 cents per page) any material which is contained in their personnel file or on the Human Resources Department's computerized filing system, OnBase, provided that they submit a written request to the Human Resources Department.

C. Modifying Personnel File Information:

If factual information is demonstrated to be incorrect by the employee, it will be corrected. If an employee disagrees with certain items in his/her file, he/she may submit a concise statement of disagreement for inclusion in his/her personnel file.

***Section 3.19 UNION ACTIVITY***

A. Union Business:

No employee covered in this handbook will be discriminated against because of membership in or activity in connection with any union. The City will not discourage membership in a union. Unions shall provide written notification to the Human Resources Department within 10 business days following the election or selection of union officers or representatives.

No union activities, other than collective bargaining, shall ordinarily be permitted on City time. All other union business shall be transacted outside normal working hours, unless pre-approved, in writing, by an employee's department head or Administrative Manager.

B. Bulletin Boards:

The City agrees to provide bulletin board space for the unions' use. The bulletin boards are to be used by the union for notices only of the following: Union meetings, Union elections, Union appointments, Union recreational and social events, unemployment compensation information, and other materials of non-political nature.

Upon written demand from the City, unions shall promptly remove from such bulletin boards any material which is in any way a violation of this selection. The City will retain ownership of the bulletin boards. In the event a Union fails to remove materials in violation of this section, the City reserves the right to remove said materials.

## **ARTICLE IV      WAGE AND SALARY POLICIES AND PROCEDURES**

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The purpose of wage and salary policies and procedures is to fairly allocate each position to an appropriate grade or classification in such a way as to maintain equity between positions while taking into consideration factors such as education, experience, problem solving, work environment, supervisory responsibilities and other related factors contributing to the nature of the position. It also sets initial hiring rates and salary ranges, procedures for increases, as well as promotions and reclassification guidelines. The development and administration of the compensation program is the responsibility of the Human Resources Department, subject to approval of the City Administrator, with final approval of major adjustments remaining with the City Council.

### ***Section 4.01    WORK SCHEDULES***

Work schedules for City employees, due to the special nature of City departmental operations, vary throughout the City. The Administrative Manager for each department shall schedule the workweek (including regularly scheduled Saturday and Sunday work) for all shift employees, regular, seasonal and temporary employees. Generally, the regular workweek for full-time City employees will be 40 hours of actual work, excluding all meal periods. With the approval of the City Administrator and the Human Resources Department, Administrative Managers may vary hours of work or meal periods for employees, but must explain working hours, lunch periods and work breaks upon hire and thereafter as they may change from time to time. Payroll and Human Resources must be notified of any ongoing variance in an employee's hours.

No person who is employed as an exempt employee, defined in Section 2.01, should assume that his or her work schedule is limited to 40 hours per week.

### ***Section 4.02    TIME KEEPING***

Except for members of the Fire Department, all other City employees' attendance will be maintained by utilizing the Time Management System (TMS), either by individually entering data into the system or by clocking in/out of the system using a clock-swipe card, which supervisors will be responsible for reviewing records, editing them, or entering missing time records. As applicable based upon the employee's exempt or non-exempt status, records in the system shall reflect days and hours worked, overtime hours worked, all absences, including personal time, sick leave, holidays, vacation time, compensatory time, and other types of leaves permitted as set forth in this handbook.

### ***Section 4.03    PAY POLICY***

Employees shall be compensated at the rate established by the Common Council and shall be paid on a bi-weekly basis. Payday is the Friday following the completion of the two-week pay period. When the normal Friday payday is a designated non-work day, employees will be paid

on the work day preceding the regular payday.

***Section 4.04 DIRECT DEPOSIT***

All employees shall be paid by direct deposit to their financial institution on the day of a regular pay date at no cost to them.

***Section 4.05 PAY FOR NON-EXEMPT FULL-TIME EMPLOYEES***

A non-exempt full-time employee shall be paid his/her hourly rate times the number of hours worked. Time earned shall be calculated to the nearest tenth of an hour.

***Section 4.06 PAY FOR NON-EXEMPT PART-TIME EMPLOYEES***

A non-exempt part-time employee shall be paid his/her hourly rate times the number of hours worked. Fringe benefits, however, are paid on a pro-rated basis. Time earned shall be calculated to the nearest quarter hour.

***Section 4.07 PAY FOR EXEMPT FULL AND PART- TIME EMPLOYEES***

Exempt employees are paid on a “salary basis,” meaning an employee paid a proportionate amount of his/her annual salary based on the number of paydays in the calendar year (usually 26 pay periods per calendar year), that cannot be reduced because of variations in the quality or quantity of the employee’s work. By law, a salaried employee’s pay can only be reduced in the following circumstances:

1. Unpaid family and medical leave for FMLA time greater than one day where the employee elects not to substitute any accrued leave time;
2. Any workweek or workday in which no work is performed (unless the employer cannot supply any work to do), and no deductions from an accrued leave bank occur;
3. Disciplinary suspensions for workplace conduct (which does not include performance or attendance issues) pursuant to a written policy applicable to all employees; and,
4. As otherwise permitted by law.

***Section 4.08 COMPENSATION FOR INTERIM APPOINTMENTS***

Appointment of personnel to a higher pay rate on an interim basis occurs when it is necessary to either fill a vacancy or add additional duties to an employee’s job for an extended period of time. Any such assignment must be approved by the City Administrator before it can be put into place. The amount of pay for the assignment shall be at the rate of pay of the position so assigned or 10% above the employee’s current rate of pay, whichever is less.

#### ***Section 4.09 OVERTIME***

Overtime for non-exempt employees shall only be worked by an employee at the direction of, and with the prior authorization of, the Department Head. Any employee working overtime hours without such pre-authorization will be subject to discipline, up to and including termination. It shall be the responsibility of every Department Head to assign overtime work only when emergencies or other compelling circumstances prevent the reasonable accommodation of additional work through the reassignment of work priorities or through the rescheduling of hours within the same workweek.

- A. Non-Exempt Employees: Non-exempt employees shall be compensated for actual time worked to a maximum of a 40-hour work week, after which time full-time regular employees required to work additional hours in excess of 40 hours per week shall be paid overtime compensation, either in wages or compensatory time off, depending upon the position and as determined by the employee's department head and subject to the provisions of the Fair Labor Standards Act. For purposes of computing overtime, vacation, holiday, and sick time within a given workweek shall not be considered hours worked. The hourly pay rate for authorized overtime worked by any non-exempt employee shall be one and one-half times the regular hourly wage rate.
- B. Non-Exempt Employees – Holidays: Except for non-exempt employees who work rotating shifts, overtime for work on an actual holiday will be paid at two times the employee's regular salary.
- C. Emergency Overtime: Employees are required to work emergency overtime. An emergency for the purpose of this section shall constitute an unforeseen occurrence (including, but not limited to all weather problems) requiring immediate action to provide necessary City service. The Employer shall offer the emergency overtime hours to employees working the immediate previous shift. Emergency overtime is hereby defined as overtime not known at least 72 hours in advance. In the event that no employee on the previous shift volunteers to work, the Employer shall have the right to require the least senior employee, on a rotating basis, and working the previous shift to work four hours of emergency overtime contiguous to his/her previous shift. To fill the remaining four hours of emergency overtime, the Employer shall utilize the provisions contained in this section by contacting employees on the shift following such emergency overtime, with the right to require the least senior employee on a rotating basis scheduled to work the remaining four hours of emergency overtime. In the event the Employer is unable to fill any remaining overtime because the Employer is unable to reach an employee working the shift following said emergency overtime, the Employer shall, in reverse order of seniority, call employees to work the remaining overtime. One documented call will be made to every person within the specific classification with a message left when possible. If no one is contacted, the person assigned to the first four hours will be required to work the entire shift.

- D. Non-Emergency Overtime: Non-emergency overtime shall be posted as available to all employees in the classification needed. If no one signs up for available overtime, the posted overtime shall become emergency overtime within 72 hours of the needed overtime.
- E. Employees on Standby Pay: Certain positions at the City require that employees be available to work other than his/her regular work hours, especially on weekends and holidays. Any employee receiving a call to work outside of normal work hours shall receive the standby pay as established by the employee's department. Assignment to standby duty will be rotated among those employees who have volunteered for the duty and who have been trained to perform the job. All employees who are on standby are required to report when called or will forfeit standby pay for the day. Standby pay shall only be paid to an employee once per day.
- F. Exempt Employees: Exempt employees shall not earn overtime pay or be entitled to compensatory time off.

#### ***Section 4.10 COMPENSATORY TIME***

- A. Non-Exempt Employees: Non-exempt full-time employees may elect compensatory time off in lieu of overtime pay, subject to Department Head approval. Compensatory time-off shall be granted at the rate of one-and-one half hours for each one hour of overtime worked. Employees may accumulate and use up to 24 hours of compensatory time each calendar year.

Employees must seek permission to use compensatory time from the Department Head. Employees who have requested the use of compensatory time will be permitted to use such time within a reasonable period after making the request if use of the time does not unduly disrupt the operations of the department or cause the department to incur any overtime expense. Likewise, each employee who has accrued compensatory time off may be required to use the compensatory time within a reasonable period after receiving notice to do so. Compensatory time does not carry-over from one year to the next. Non-exempt employees shall be paid for any compensatory time not used by December 31 of each calendar year.

- B. Exempt Employees: Employees who are defined as exempt employees shall not receive additional compensation for time worked beyond eight hours per day or 40 hours per week. It is understood that exempt employees may be required to work in excess of eight hours per day or 40 hours per week in order to perform the duties of their positions. As such, no hour for hour accounting of compensatory time for exempt employees will be kept. However, compensatory time off may occasionally be granted to exempt employees by his or her Administrative Manager in order to provide some measure of compensation for those hours worked in excess of 40 hours per week. However, some work beyond eight hours per day or 40 hours per week is expected to be performed by exempt employees without the expectation of additional compensation.

#### ***Section 4.11 PAYROLL DEDUCTIONS***

Automatic payroll deductions shall be made as required by applicable State and Federal law. The following items are among the deductions that may be made from an employee's gross pay, although not all are applicable to every employee and some are paid by the City: Federal income taxes, State income taxes, FICA (Social Security), Medicare, charity deductions, deferred compensation program deductions, wage assignments, health insurance deductions, life insurance deductions, and deposits to credit unions or other financial institutions.

#### ***Section 4.12 FINAL PAY***

Upon the death, disablement, or retirement of an employee, the employee, spouse or employee's estate, shall be paid by check, at the rate of pay in effect upon termination, for his/her earned but unused or unpaid vacation entitlement, salary, sick leave (in most cases only 50% of up to 1120 hours) and compensatory (non-exempt only). Employees terminated for cause or who resign their positions are entitled to salary, compensatory time if non-exempt, and pro-rated vacation.

## ARTICLE V      EMPLOYEE BENEFITS

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### *Section 5.01    FEDERAL AND STATE TAX IMPLICATIONS*

Employees should be aware that certain benefits, like tuition reimbursement or cell phone reimbursement, may be subject to State and/or Federal tax. The City assumes no responsibility as to items taxed or as to the amount of such taxes.

### *Section 5.02    REST PERIODS*

Employees may be permitted to take two 15-minute work breaks in an eight-hour shift, one during the first four hours, the second during the final four hours, as designated by the Department Head. Work breaks not taken are lost. Work breaks cannot be accumulated or used to extend lunch periods or to shorten the work day. The Department Head may refuse to permit a work break due to heavy departmental work load, although Department Heads shall not as a matter of routine refuse to permit an employee or employees to take work breaks.

### *Section 5.03    HOLIDAYS*

#### A. Schedule:

The following ten days are designated as paid holidays for full-time employees:

1. New Year's Day
2. Spring Break
3. Memorial Day
4. Independence Day
5. Labor Day
6. Thanksgiving Day
7. Thanksgiving Friday
8. Christmas Eve Day
9. Christmas Day Observance
10. New Year's Eve

In addition to the above listed holidays, regular full-time employees will be entitled to an additional floating holiday. Said holiday can be taken in an 8-hour increment only, and with at least three workdays advance permission from the employee's supervisor. The City reserves the right to determine how many employees may be allowed off on the floating holiday at any one time. New employees must be regular employees for at least six calendar months in their first calendar year of regular full-time employment before they are entitled to the floating holiday that year.

Employees who are not regular full-time employees should refer to Section 2.01 to determine their status in regard to holiday pay.

- B. **Work Before and After Holiday:** Employees shall be paid at their regular base rate of pay for the above mentioned holidays, provided, however, to be entitled to such pay, the employee must work the full workday preceding and the full workday following the particular holiday unless on an excused absence.
- C. **Work on Holidays:** In the event an emergency should make it necessary for an employee to work during a holiday, the employee will work at his/her regular work rate for said period and in addition receive his/her holiday pay.
- D. **Eligibility:** All employees eligible for holiday pay must be employed for 30 calendar days before being eligible for holiday pay.
- E. **5-2/5-3 Employees:** The provisions set forth above do not apply to employees working on a 5-2/5-3 work schedule since their schedules are designed to include the holidays designated in this Article. They shall be entitled to the floating holiday as noted above.

#### ***Section 5.04 VACATION LEAVE***

Qualified City employees shall be entitled to a vacation with pay in accordance with the following:

- A. **First Year Employees:** During the first calendar year of employment, new employees shall earn vacation at the rate of one-half day per full month of employment up to November 1, not to exceed five workdays. (Example: An employee who starts work on August 1, 2013, is entitled to one and one-half days' vacation in the calendar year 2013). Employees who commence work on or after November 1 are not permitted any vacation time off during that calendar year.

Thereafter, time in service on or before December 31 of each year shall be used as the basis for computing the length of vacation to which each employee is entitled. First-year employees must work one full year from their date of hire before they are entitled to their full vacation accrual. (Example: An employee who starts work on August 1, 2013, would be on the payroll as of December 31, 2013, and would therefore be entitled to a full vacation allotment for 2014, provided the employee remained on the payroll until August 1, 2014, one full year after date of hire). First-year employees who terminate or are terminated before completion of one year from their date of hire shall receive prorated vacation based on the number of full months worked from the previous December 31, which number shall be placed as the numerator in a fraction whose denominator is the number 12. Employees who terminate or are terminated before the completion of six months of employment are not eligible for the payment of earned vacation.

- B. **Other Employees:** The vacation schedule shall be as follows:
  - 1. Ten workdays after one year of continuous employment;

2. Fifteen workdays after seven years of continuous employment;
3. Eighteen workdays after 14 years of continuous employment;
4. Twenty workdays after 18 years of continuous employment;
5. Twenty-five workdays after 23 years of continuous employment.

Time in service on or before December 31 of each year shall be used as the basis for computing the length of vacation to which each employee is entitled during the calendar year (Example of computing the 15 workdays entitlement: An employee who starts work on February 20, 2006, and is on the payroll as of December 31, 2012, would be entitled as of January 1, 2013, to an allotment of 15 vacation days even though the employee has yet to reach his/her seven year anniversary date. Should an employee leave employment with the City before reaching their anniversary date, such additional vacation days, if used, will be paid back to the City).

Employees who terminate their employment during the calendar year are entitled to their full scheduled vacation allotment, provided they submit a two working week written notice of termination. Failure to provide a written notification shall result in their vacation being prorated based on the number of full months worked from the previous December 31, which number shall be placed as the numerator in a fraction whose denominator is the number 12. Also, employees who are terminated for disciplinary reasons will also receive vacation on a prorated basis. Vacations must be scheduled and taken during the calendar year in which they are earned and cannot be accumulated or carried over from year to year except as provided in paragraph C below.

- C. Carryover: In the event an employee cannot take a vacation regularly scheduled for the last week in December because he/she is called back by the City, the unused portion of this vacation for that week shall be carried over into the next year. Vacation permitted to be carried over must be used within the first three months of the New Year. Otherwise, vacation that is not scheduled and taken by the end of the year will not be carried-over and it will also not be paid out.
- D. Vacation Week: A vacation week for a full-time employee shall consist of 40 hours at the employee's regular base rate of pay. If a holiday falls within a calendar week of vacation, the employee shall have the right to take a four-day vacation.
- E. Division of Vacation: Vacations must be scheduled in periods of one calendar week, except that up to one week may be scheduled in one-day increments. However, vacation periods of one week or more, including the holiday vacation weeks specified in paragraph D, will be given priority in the selection process.

- F. Method of Selection: Vacation periods shall be selected by Department or Division by the employees prior to April 1 of each year, unless the needs of the Department or Division require an earlier time period. Selection of the dates shall be by departmental seniority. Changes of vacation dates may be made after April 1 only by mutual agreement of the department head and the employee.
- G. Retirement/Disability: Employees who retire under the Wisconsin Retirement Plan, or employees who are unable to work due to a disability, prior to December 31 shall be entitled to any unused scheduled and earned vacation not taken during the calendar year of retirement or disability.
- H. Death: The survivors of an employee who dies prior to December 31 shall be entitled to any unused earned vacation not taken by the employee during the calendar year of death.

### ***Section 5.05 SICK LEAVE***

- A. All regular full-time employees, and regular part-time employees on a pro-rata basis, are eligible for sick leave for personal or family illness, or for a qualified Family Medical Leave event. Sick leave accumulates at the rate of one day per full calendar month of employment (maximum of 12 days per year) up to a total cumulative maximum of 150 days in the leave account. Sick leave may be accumulated on a pro-rated basis for regular part-time employees who are filling regular full-time positions and who work at least an average of thirty hours per week. Part-time employees are not entitled to sick leave under any other circumstances.
- B. Usage: Employees shall make every reasonable effort to schedule medical appointments at the least disruptive time in accordance with departmental needs, so as not to conflict with the work schedule of the day. Those employees utilizing their sick leave due to personal illness must notify their department no later than 30 minutes after the start of business in the morning or afternoon. If sick leave becomes exhausted due to severe illness, injury, or other physical incapacity, the employee shall charge further absenteeism to compensation time, casual days or vacation, before using leave without pay.
- C. Notification: Employees who are absent due to illness for more than three consecutive working days are required to furnish a certificate of illness signed by a licensed physician upon request, and a release to return to work signed by a licensed physician in some cases before they can return to work. Additionally, at the discretion of the Department Head, the employee may be required to submit a physician's certificate to confirm that an employee was ill and be eligible for sick pay for leave taken immediately before or after a holiday, weekend, or vacation for periods of fewer than three days. If such a certificate is not forthcoming, any pay granted for such leave may be deducted from the next paycheck.

- D. Eligibility: Eligibility to use sick leave shall begin after the completion of six months of actual service following hire, but accumulations shall be retroactive to the time of regular employment.
- E. Severance Benefit: Upon death, retirement on pension, or total disability, the employee or survivor shall be paid a sum equal to 50 percent of the regular daily wage of the first 140 days of accumulated sick days. Employees who are resigning may not use sick leave after submitting their resignation notice except if on a Family Medical Leave or in cases of disability.
- F. Donating Sick Leave: Employees may not donate sick leave days to another employee of the City who is absent due to a severe illness, injury, or other physical incapacity, and who has exhausted his or her accumulated sick days, vacation days, holidays, and compensatory time.
- G. Abuse of Sick Leave: Abuse of sick leave shall result in disciplinary action, including discharge in the event of continued abuse.

#### **Section 5.06 CASUAL DAYS**

Casual days will be granted as follows: Employees are eligible for up to four casual days per year as determined by the amount of accumulated sick leave in their account on January 1 of the current year. An employee who has accumulated 320 hours (40 days) is entitled to one casual day, 480 hours (60 days) is entitled to two casual days, 640 hours (80 days) is entitled to three casual days and 800 hours (100 days) is entitled to four casual days. Casual days, like vacation, must be taken during the calendar year and cannot be accumulated or carried forward to the next year and will not be considered for severance pay purposes. The scheduling of casual days shall be mutually agreed upon by the employee and the department head. Casual days may be added onto the beginning or the end of a vacation period, provided it is done at the same time vacation is selected. Otherwise, casual days shall be taken in conformance with the provisions of this section and one week's approval from the Department Head or Administrative Manager before any can be taken. Such approval shall not be unreasonably withheld.

#### **Section 5.07 FAMILY MEDICAL LEAVE**

The State and Federal Family and Medical Leave Acts (FMLA) provide eligible employees with up to 12 work weeks of protected leave each year for specified family and medical reasons. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers and minimizes the potential for employment discrimination.

**Note:** *The eligibility and entitlements are defined differently under Federal and State law. This policy basically reflects Federal law; however, if an employee is eligible for provisions in the State law, these will be discussed with each individual separately. Federal and State law will run concurrently. An employee must qualify under Federal law to be entitled to the 12 weeks of leave. The employee must qualify under Wisconsin law to be eligible for the Wisconsin leave entitlement. Satisfaction of one law's eligibility requirements does not necessarily mean the*

*employee has satisfied the requirements of the other. If an employee qualifies for Federal family and medical leave and for leave under State law, leave used counts against the employee's entitlement under both laws. If an employee is entitled to leave under only one law, his or her leave used counts against the entitlement under that law. Notwithstanding anything else contained herein, if there are any conflicts between this section and Federal or State law, the provisions of Federal and/or State law will be controlling.*

A. Eligibility:

For Federal FMLA purposes, employees are entitled to FMLA benefits if they:

1. Have been employed by the City of Racine for at least 12 months; and
2. Have worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave.

For State FMLA purposes, employees are entitled to FMLA benefits if they:

1. Have been employed by the City of Racine for at least 52 weeks; and
2. Have worked at least 1,000 hours during the 52 consecutive weeks prior to the start of the FMLA leave.

B. FMLA Qualifying Events and Amount of Leave:

Eligible employees may take up to a total of 12 work weeks of FMLA leave in a calendar year for the following qualifying events:

1. The birth of a child and to care for the newborn child;
2. The placement with the employee of a child for adoption or foster care and to care for the newly placed child;
3. To care for the employee's spouse, child, or parent with a serious health condition (Note: Under Wisconsin FMLA, an employee may take up to two work weeks for a domestic partner, a parent-in-law and domestic partners' parents);
4. For a qualifying exigency arising out of the fact that an employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty as a member of the Armed Forces (including a member of the National Guard or reserves) and being deployed to a foreign country;
5. For the employee's own serious health condition that renders the employee unable to perform his/her job.

Twelve weeks of family leave can be utilized by an employee whose spouse, child, or parent has been called to active duty to make arrangements for child care, make financial and legal arrangements, attend counseling, attend official ceremonies or programs where the military requests participation of the family

member, to attend to farewell or arrival arrangements, or to attend to affairs caused by the missing status or death of a service member.

Eligible employees may take up to a total of 26 work weeks of FMLA leave in a calendar year to care for a spouse, child, parent, or next of kin who is a member of the Armed Forces who suffered an injury or illness while on active duty that renders the person unable to perform the duties of the member's office, grade, rank, or rating. FMLA may also be used to care for a family member who was a member of the Armed Forces any time during the period of five years preceding the date on which the veteran undergoes treatment, recuperation, or therapy.

If an employee takes paid sick leave for a condition that progresses into a serious health condition, the City may designate all or some portion of the related leave as taken under this policy to the extent that the earlier leave meets the necessary qualifications.

Leave qualifying for both Wisconsin and Federal FMLA leave count against an employee's entitlement under both laws and will run concurrently. Qualified leave taken under Worker's Compensation will also run concurrently with Wisconsin and Federal FMLA leave.

C. Leave Duration :

An eligible employee can take up to 12 work weeks of leave during any 12 month period. The City will calculate the twelve month period using the calendar year. Each time an employee takes a leave, the City will compute the amount of leave the employee has taken under the policy and subtract it from the 12 weeks of leave available, and the balance remaining is the amount the employee is entitled to take at that time.

D. Husband & Wife :

If a husband and wife both work for the City and each wishes to take a leave for the birth, adoption, or placement of a child, or to care for a parent or child with a serious health condition, the husband and wife, combined, may only take a total of 12 weeks of leave.

E. Non-continuous or Intermittent Leave:

Employees are permitted to take leave on an intermittent (blocks of time) or reduced work schedule:

1. When it is medically necessary to care for a family member with a serious health condition or because of the employee's serious health condition;
2. When it is necessary to care for a family member or next of kin who suffered an injury or illness while on active duty;

3. To care for a newborn, adopted or foster child. Federal FMLA leave for the birth or placement of a child for adoption or foster care may not be taken in non-continuous increments unless approved by the City. Under the Wisconsin FMLA, the last increment of leave for the birth or adoption of a child must begin within 16 weeks of that birth or placement.

Medical or family caretaking leave should be planned so as not to unduly disrupt the City's operations.

The City allows for intermittent leave to be taken in no less than one hour increments or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In *all* cases, the leave may not exceed a total of 12 weeks in a 12 month period.

When requesting an intermittent leave or reduced work schedule, the Administrative Manager AND the employee must mutually agree to the schedule before the leave begins. If this is not possible, the employee must prove the use of the leave is medically necessary.

F. Requesting a Leave:

An employee requesting leave under this policy must complete a *Family and Medical Leave of Absence Request Form* and forward it to the Human Resources Department.

The employee must request the leave at least 30 days in advance. If it is not possible to Give 30 days' notice, the employee must give as much notice as practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the City's operations.

If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the commencement of the leave may be delayed or denied until at least 30 days from the date the City receives the notice. Failure to provide timely notice allows the City to count any absences during the delay as non-FMLA absences and apply the attendance policy.

While on leave, employees are required to report periodically to their supervisor regarding the status of the medical condition and their intent to return to work.

Calling in "sick" is not enough to trigger the FMLA requirements. When an employee seeks leave due to a particular FMLA-qualifying condition for which the City has previously provided FMLA leave to the employee, the employee must specifically reference either the qualifying reason for the leave or the need for "FMLA leave."

G. Certification of the Serious Health Condition:

If the requested leave is for a family member's or the employee's serious health condition, the employee must submit medical certification from the employee's or the family member's health care provider. The employee must respond to this requirement within 15 days or provide a reasonable explanation for the delay.

Certification of the serious health condition shall include: The date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For leave for an employee's own serious health condition, the certification must include a statement that the employee is unable to perform work of any kind or is available for light duty (list restrictions and recommend accommodations). (Note: The Human Resources Department has a *City of Racine Family and Medical Leave Health Care Provider Certification* form which may be attached to the response for FMLA for completion by the health care provider).

If the medical certification is insufficient or incomplete, the employee will be provided with a list of what information is still needed and will have seven days in which to provide the information. If the employee does not provide the information within seven days, the leave can be denied.

The city also reserves the right, once the leave begins, to ask for the attending physician to complete a *City of Racine Family and Medical Leave Health Care Provider Certification* form periodically regarding the employee's status and intent to return to work. Recertification may be requested no more often than every 30 days in most cases. However, recertification may be required at any time if an extension to a leave is requested, circumstances described in the last certification have changed (such as a pattern of absences around an employee's scheduled days off), or the City receives information casting doubt on the employee's stated reason for an absence or the continuing validity of the last certification (such as an employee observed engaging in activities that are inconsistent with a need for time off due to the certified condition).

If the employee plans to take intermittent leave or work a reduced work schedule, the certification must also include dates and the duration of treatment and a statement of medical necessity for taking an intermittent leave or work a reduced schedule.

The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second physician, which the City will select.

If necessary to resolve a conflict between the original physician and second opinion, the City will require the opinion of a third physician. The City and employee will jointly select the physician and the City will pay for the opinion. This third opinion will be considered as binding and final.

#### H. Use of Paid or Unpaid Leave:

Under Wisconsin law, an employee has the option to substitute accrued, but unused vacation, comp time, or sick leave to remain in a paid status. However, under Federal law, the city may require substitution of vacation, comp time, or sick leave.

The city will allow an employee to take up to two weeks (10 days) of unpaid leave. For the remainder of the leave, the city will require the substitution of available accrued vacation, comp time, and/or sick time.

*Note: Police and Fire personnel – where holidays are an accrued benefit, may substitute holiday pay during a FMLA leave or holiday substitution may be required.*

**I. Employment Status & Benefits During the Leave:**

While the employee is on leave, the City will continue the employee's benefits as set forth in this employee handbook.

Other benefit deduction(s): While on paid leave, benefit deductions (such as AFLAC, etc.) will continue through payroll deductions. While on an unpaid leave, the employee is responsible for the payment of other benefit premiums when required by making arrangements with the Payroll Department for timely payment. If payments are not made, the City will discontinue these benefits during the leave or will recover the payments at the end of the leave period.

**J. Employment Status After the Leave:**

An employee who takes leave under this policy will be able to return to the same job or to a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority (provided the employee is physically capable of performing the job).

**K. Return to Work:**

An employee returning from FMLA for their own serious health condition must provide a fitness for duty certification/physician's statement releasing the employee back to full or restricted duty. If returning to restricted duty, the return to work slip should indicate the limitations and suggested accommodations, as well as the duration of the restrictions. You may be asked to have your physician complete an *Attending Physician Report Form* which allows your physician to be specific on the restrictions.

**L. Definitions:**

1. *Child* –Biological, adopted, or foster child, stepchild, legal ward or, under the Federal FMLA, the child of a person having day-to-day care of the child, or a child of a person standing "in loco parentis," who is under 18 years of age or 18 years of age and older and incapable of self-care because of a serious health condition.

2. *Spouse* – Husband and wife (does not include unmarried partners).
3. *Domestic Partner* – Covered under Wisconsin FMLA, includes same-sex couples who are registered in their county of residence and same-sex and opposite-sex couples who are not required to register. To qualify as registered domestic partners, the couple must be at least 18 years of age and capable of consenting to the relationship, may not be married to or in a domestic partnership with another individual, must share a common residence, must not be more closely related than second cousins and must be members of the same sex. To qualify as domestic partners without registration, the couple must be at least 18 years of age and capable of consenting to the relationship, must not be married to or in a domestic partnership with another individual, must share a common residence, must not be related in a way that would prohibit marriage under Wisconsin law, must consider themselves to be members of each other's immediate family and must agree to be responsible for each other's basic living expenses.
4. *Immediate Family Member* – The employee's child, spouse, or parent (does not include brothers or sisters, and, under Federal law, does not include parents-in-law).
5. *Covered Service Member* - (a) A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient treatment status, or is otherwise on the temporary disability retired list, for a serious injury or illness; (b) or a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.
6. *Next of Kin* – Used with respect to an individual, means the nearest blood relative of that individual.
7. *Parent* – Biological parent, foster parent, adoptive parent, stepparent or legal guardian of an employee, or parent-in-law or domestic partners' parent under the Wisconsin FMLA.
8. *Qualifying Exigency under Military Leave* – A non-medical activity that is directly related to the covered military member's active duty or call to active duty status. For an activity to qualify as an exigency, it must fall within one of seven categories of activity: short-notice deployment (leave permitted up to seven days if the military member receives seven or less days notice of a call to active duty), military events and related activities, certain temporary childcare arrangements and school activities (but not ongoing childcare), financial and legal arrangements, counseling, rest and recuperation (leave permitted up to five days

when the military member is on temporary rest and recuperation leave), and post-deployment military activities.

9. *Incapable of Self-Care* - The individual requires assistance or supervision to provide self-care in three or more of the *activities of daily living* (i.e. grooming, hygiene, bathing, dressing, eating) or *instrumental activities of daily living* (i.e. cooking, cleaning, shopping, utilizing public transportation, paying bills, maintaining a residence, using telephones and directories, and using a post office).
10. *Serious Health Condition* – An illness, injury, impairment, or physical or mental condition that involves:
  - a) Inpatient care in a hospital, hospice, or residential medical care facility; or
  - b) A period of incapacity of more than three consecutive calendar days including any subsequent treatment or period of incapacity relating to the same condition that requires in-person treatment by a health care provider at least once within seven days of the first date of incapacity and requires either a regimen or continuing treatment under the supervision of a health care provider or a second in-person visit to the health care provider for treatment within 30 days of the first day of incapacity;
  - c) Any period of incapacity due to pregnancy or prenatal care;
  - d) Chronic conditions requiring treatment by a health care provider at least twice per year that continue over an extended period of time and may cause episodic incapacity rather than a continuing period of incapacity (i.e. asthma, diabetes, epilepsy, etc.).
  - e) Permanent or long-term conditions requiring supervision for which treatment may not be effective {i.e. Alzheimer’s, severe stroke, or the terminal stages of a disease);
  - f) Multiple treatments by or under the supervision of a health care provider either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatment such as cancer (chemotherapy), severe arthritis (physical therapy), or kidney disease (dialysis).
  - g) In the case of a member of the Armed Forces (including a member of the National Guard or reserves), means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or existed before the beginning of the member’s active duty and was

aggravated by service in the line of duty on active duty in the Armed Forces and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. In the case of a veteran who was a member of the Armed Forces at any time during the period of five years preceding the date on which the veteran undergoes treatment, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty and that manifested itself before or after the member became a veteran.

M. Steps for Applying for a Leave:

1. The employee should discuss the situation with his/her immediate supervisor and the Human Resources Department.
  - a) If the precipitating event is foreseeable, the employee shall notify the City at least 30 days prior to the leave.
  - b) If the precipitating event was unanticipated, the employee shall notify the City as soon as practicable.
2. Complete the Family and Medical Leave of Absence Request form and forward it to his/her immediate supervisor, who will then sign it and have the employee send the copy to the Human Resources Department.
  - a) All requests MUST include an anticipated start and ending date.
3. The Human Resources Department will provide a Response to Request for Family and Medical Leave confirming the approval/denial of the leave, as well as salary and benefit information.
4. The employee is responsible for notifying his/her immediate supervisor AND Human Resources of any changes in his/her leave status.
5. The employee is responsible for providing recertification of status or leave reports as specified in the Response to Request for Family and Medical Leave form or when otherwise requested.
6. The employee is responsible for providing evidence of fitness for duty to certify the employee is capable of returning to work with restrictions or full duty. Delays in turning in this certification may result in delays in returning the employee to duty and pay status.

### ***Section 5.08 EXTENDED SICK LEAVE OF ABSENCE***

Employees who are absent from work due to illness or injury (not job related), and who have exhausted any sick leave accumulation, vacation, holiday and/or casual time they may have accrued, and are not entitled to Family Medical Leave, may be eligible for an extended sick leave of absence during which the employee would no longer be paid or earn accrued benefits, but would continue to receive health and other insurance coverage while on medical leave on the same terms as if the employee continued to work. An employee must pay his share of the premium(s) through payroll deduction or by direct payment on the first of the month. Exceptions to this requirement may be made on a case-by-case basis if mutually agreed upon by the employee, the employee's supervisor, and the Human Resources Department. Specifically, the City would continue to pay all applicable insurances (such as health and life insurance) until the employee returned to work.

The extent of, and circumstances surrounding, an extended sick leave of absence must be reviewed and approved by the Human Resources Department. Each case of an extended sick leave of absence shall be decided and judged on its individual merits and no case shall be deemed as setting a precedent for any other case. Extended sick leaves of absence will be periodically reviewed and evaluated, but in all instances will continue no longer than one year. In order to return to work, an employee must have a valid "Fitness for Duty" statement signed by a treating physician. If this statement is not received the employee's return to work will be delayed until it is received. An employee who does not return to work from leave at the designated time will be considered to have voluntarily terminated his/her employment.

### ***Section 5.09 PERSONAL LEAVES OF ABSENCE***

Only serious compelling reasons shall be considered for granting a request for leave of absence (i.e., verifiable severe family or personal problems, employer approved educational leaves, etc.). Request for leave must be submitted to the employee's immediate supervisor at least 30 calendar days before the commencement of the leave unless a dire emergency prevents this procedure from being followed. Employees shall make arrangements with the Human Resources Department to pay fully for health and other insurance premiums if their leave will extend more than five working days. All other fringe benefits shall be suspended for the duration of the leave except the employee's seniority date.

### ***Section 5.10 MILITARY LEAVES OF ABSENCE***

Employees requiring leave due to voluntary or involuntary service in the uniformed services shall be granted time off, reinstatement and health insurance continuation and any other rights or benefits that are available to employees on nonmilitary leaves of absence, whether paid or unpaid, in accordance with applicable State law and the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

### ***Section 5.11 FUNERAL LEAVE***

The Employer shall grant employees pay for lost time up to three days in case of death in the immediate family, defined as mother, father, sister, brother, husband, wife, son, or daughter. In case of death of a mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandmother, grandfather, or grandchildren, one day will be allowed. Paid funeral leave will not be granted for step-relatives.

In order to receive credit for the paid days off, whether one day or three days, an employee must provide documentation which establishes that the deceased is related to the employee, and a signed document showing that the employee attended the funeral services. Acceptable documentation usually comes in the form of an obituary column from a newspaper and a form signed by a funeral director or a priest/minister verifying attendance at the funeral parlor and/or church services. As to when funeral leave begins is a matter of common sense in that, for example, three days off should be taken contiguously and include the day when the employee attended the funeral services. Funeral leave shall not be permitted simply to allow an employee time off for personal reasons or to attend to other matters related to the decedent's death. Variations to this policy will be dealt with on a case by case basis. In no case will funeral leave be granted at any time other than immediate to the decedent's death and funeral.

Supervisors shall liberally permit vacation time, or unpaid time off, to permit employees to attend funerals of immediate, or other-than-immediate, family members in cases where an employee is not entitled to funeral leave.

### ***Section 5.12 JURY DUTY***

Employees shall be granted time off with pay for reporting for jury duty upon presentation of satisfactory evidence of such duty or service; on condition, however, that they endorse their jury duty check less travel allowance over to the City Treasurer's Office. Employees shall be required to report to work if excused from jury duty in the regular workday or forfeit pay provided in this paragraph. Leave will not be paid for days when benefited employees are not scheduled to work.

### ***Section 5.13 WITNESS/SUBPOENA POLICY***

It is recognized that an employee may be called upon to testify in a court or other legal proceeding concerning an incident or occurrence in which the employee was a direct participant or as a bystander/witness arising out of their scope of employment with the City. It is also recognized that an employee may be called upon to provide specialized information or based on specialized training or experience, referred to as an "Expert Opinion," in an official capacity as a representative or authority of the City.

Testifying is defined as 1) providing a statement, whether written or oral, in response to in-court or deposition testimony; and 2) research and/or document review, preparation, creation, or collection in response to in-court or deposition testimony.

Any requests and/or subpoenas for testimony received by an employee will be disclosed by the employee to their Supervisor and/or Administrative Manager immediately upon receipt. Any such request or subpoena believed to arise or be based on the employee's scope of employment requires notice to the City Attorney's Office immediately. (Exception: Sworn Police Officers under subpoena from the District Attorney, Public Defender, or Municipal Court shall comply with Department operating policy).

A. Compensation:

This policy sets forth the conditions upon which an employee WILL or WILL NOT receive wages/compensation for "testifying."

1. An employee WILL NOT be compensated for testifying in any action or proceeding against the City unless the employee has been directed by City management to testify.
  - a. An employee may choose to use eligible paid time off to testify in such situation if the time off is approved by their supervisor pursuant to the paid time off policy in effect for the particular shift, division or department.
2. An employee required and/or directed by their Administrative Manager to testify on behalf of the City in any action or proceeding WILL be compensated.
3. An employee required to testify on a day or during a time period that does not occur within the normal working day or shift WILL be considered "on the clock" and in all other ways considered to be acting within the scope of their employment, unless such testimony is not qualified for compensation under paragraph 1, above.
4. An employee must provide an independently verifiable account of the time spent testifying or waiting at the location of any court or legal proceeding before testifying. Failure to provide this account within 15 days of the date upon which the testifying occurred may result in the loss of eligibility for compensation. A written statement from the employee's Department Head shall be considered sufficient.

**Section 5.14 EMERGENCY WEATHER CLOSINGS**

It is the general policy of the City of Racine that all City facilities remain open despite unfavorable weather conditions. Employees who are permitted to leave work, or are unable to come to work due to weather related conditions while the City facilities are open, shall have the

option of using vacation, casual time, compensatory time, or leave without pay, depending on the options available to the particular employee.

Only the Mayor shall have the right to close down non-emergency operations, in which instance, employees would be paid for time not worked. The Mayor may delegate this responsibility to the City Administrator.

### ***Section 5.15 HEALTH INSURANCE***

#### **A. Medical Coverage Effective January 1, 2013:**

The City will provide group health insurance to regular full-time employees and to regular part-time employees who work more than 30 hours per week. Such health insurance shall become effective on the first day of the calendar month following the date of hire. General employees hired prior to January 1, 2013 will pay via payroll deduction 7.5% of the premium equivalent for the coverage type (single or family) selected by the employee. General employees hired on or after January 1, 2013 will pay 10% of the premium equivalent. Applicable benefits including deductibles and coinsurance are as set forth in the Summary Plan Description available from the Human Resources Department.

An eligible employee may elect to waive health insurance coverage and will receive a monthly payment of \$50 via payroll for the period of time that the employee does not receive the benefit. An employee who does opt out may elect to receive coverage during an open enrollment period each year.

#### **B. Wellness Incentive:**

Employees, employees' spouses, retirees and retirees' spouses covered by the City health insurance plan who complete the wellness program requirements will be eligible to receive an incentive payment. An employee or retired employee shall be eligible for a \$200 wellness incentive payment. Employees' spouses and retirees' spouses shall be eligible for a \$100 wellness incentive payment. Employees and retirees will be eligible for no more than two payments per family per year. Wellness program requirements and incentives may be modified, by policy, at the city's discretion. Such payment shall be made by check and is taxable income subject to normal payroll deductions.

#### **C. Fitness Center Reimbursement:**

The city will reimburse employees and retirees who are covered by the City's health insurance plan for 50% of the annual membership fee for a fitness center up to a maximum of \$200 per employee or retiree. Such payment shall be made by check and is taxable income subject to normal payroll deductions.

#### **D. Health Insurance for Retired Employees:**

An employee who elects to retire and is at least 55 years of age and has the combination of age and years of service totaling 75 may remain in the City's health plan and is required to pay the premium contribution in effect at the time of retirement. Retired employees will receive the same insurance benefits as active employees and will be subject to the same plan changes as active employees. Employees hired on or after January 1, 2007 will not be allowed to remain in the health plan upon reaching the age of Medicare eligibility. Upon the death of the retired employee, the surviving spouse and dependents may remain in the group policy and must continue to make the premium contribution. This privilege shall terminate if the surviving spouse remarries. This privilege shall also terminate for the dependent survivors when they no longer meet the age and eligibility requirements for coverage under the policy. This privilege shall not exist for persons with eligibility for the City's health plan pursuant to his or her own employment.

Retirees are required to enroll in Medicare B and the City will continue to provide insurance and pay for Medicare B. Employees hired on or after January 1, 2007 are not eligible for Medicare B payments.

Any retiree who takes employment with any other Employer providing medical-hospital insurance coverage equivalent to the City's plan shall be taken off the City's coverage while so employed. The retiree shall be reinstated under the City's plan upon notice that employment with such subsequent employer has been terminated.

For employees who become inactive due to a work or non-work related disability (as determined by the Wisconsin Retirement System), or upon the death of any active employee, premium contributions shall be as follows:

Age	Years of Service	Policy
Any age	15 & over	Coverage continues at rate at retirement
Any age	10 thru 14	Employee pays half of full premium equivalent
Any age	5 thru 9	Employee pays full premium equivalent

Upon the death of an active or disability-retired full-time employee, the surviving spouse and dependents may remain in the group policy under the conditions set forth above which were in effect at the time of the employee's death or disability retirement. This privilege will terminate if the surviving spouse remarries, becomes eligible for insurance through his or her own employment, or is eligible for Medicaid or Medicare. This privilege shall also terminate for the dependent survivors when they no longer meet the age and eligibility requirements for coverage under the policy.

The above disability provisions shall not apply if the disability is incurred due to performing services while working for the City.

E. COBRA:

The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified spouses and dependents the opportunity to continue health insurance coverage under the City's plan when a "qualifying event" would normally result in the loss of eligibility. Under COBRA, the employee or dependent pays the full cost of coverage. Written notice of COBRA rights and obligations is provided to employees and dependents.

#### ***Section 5.16 DOMESTIC PARTNERS***

For purposes of all benefits granted by the City of Racine to City of Racine employees arising from their employment, the State-registered domestic partner of an employee shall be treated identically as a spouse of an employee, except where prohibited by law.

#### ***Section 5.17 EMPLOYEE ASSISTANCE PROGRAM***

The Employee Assistance Program (EAP) is a program designed to provide professional counseling services to City employees and their immediate family members. The services provided are confidential and up to four visits are free of charge. The City is not notified that employees have used the service.

#### ***Section 5.18 DENTAL INSURANCE***

Full time and regular part time employees shall be entitled to the benefits of group dental coverage which provides for full or partial payment of employee and family dental care. The choice to participate in the dental plan is voluntary. Employees shall pay via payroll deduction the full amount of the premium for the coverage plan selected. Dental coverage shall become effective on the first day of the calendar month following the successful completion of one full calendar month of employment. Employees may change their coverage selection or enroll in or cancel coverage during an annual open enrollment period. Applicable benefits are as set forth in the Summary Plan Description available from the Human Resources Department.

#### ***Section 5.19 FLEXIBLE BENEFITS/SECTION 125 PLAN***

Eligible employees can elect to participate in the Flexible Spending Account and Dependent Care Account. These plans allow employees to pay for health care and dependent care expenses with pre-tax dollars. There are rules governing maximum amounts of payroll deductions and reimbursement procedures. A form must be completed each year during the open enrollment period for enrollment in the plans.

#### ***Section 5.20 LIFE INSURANCE***

Eligible full time and part time employees will be provided with Basic Life Insurance under the Wisconsin Public Employers Group Life Insurance Program administered by the Department of Employee Trust Funds. The City shall pay 100% of the premium for the basic coverage. The amount of insurance in force is equal to the amount of earnings reported to the Wisconsin

Retirement System in the previous calendar year rounded up to the next higher thousand. Additional insurance is available and shall be paid for by the employee via payroll deduction.

Spouse and dependent coverage is available to employees covered by the Basic plan and provides term insurance for an employee's spouse, domestic partner, and/or dependent(s). Coverage is at the employee's option and shall be paid for by the employee via payroll deduction.

### ***Section 5.21 WISCONSIN RETIREMENT FUND***

Employees hired prior to July 1, 2011 and who were expected to work a full year and at least 600 hours were automatically enrolled in the Wisconsin Retirement System (WRS), the City's pension program, effective on the date of hire.

Employees hired on or after July 1, 2011 and who are expected to work a full year and at least 1200 hours shall automatically be enrolled in the Wisconsin Retirement System effective on the date of hire.

Once enrolled in the WRS, an employee must remain in the system while employed and be subject to its rules and regulations even if his/her hours fall below 600 or 1,200 hours per year.

Employees (except Police and Fire by law, though Police and Fire hired on or after July 1, 2011 are non-exempted, and Non-Represented Police and Fire employees may voluntarily pay their WRS share) shall contribute a percentage of earnings on a pre-tax basis to the Wisconsin Retirement System. The contribution rates can change from year to year as established by the WRS.

The City will also contribute to the Wisconsin Retirement System for each employee enrolled in the fund, based on figures supplied by the WRS.

Additional information regarding the Wisconsin Retirement System is available from the Department of Employment Trust Funds (ETF).

### ***Section 5.22 DEFERRED COMPENSATION***

Employees may elect to defer a specified amount from each paycheck into a Deferred Compensation plan. The amount deducted from each paycheck shall be deposited by the City to the account of the employee for accumulation and earning under the deferred compensation plan provided by the agency selected by the employee. Deferred compensation is fully funded by the employee, the City makes no contributions.

The City will periodically allow recognized deferred compensation program agencies to meet with employees to assist them in determining their voluntary participation, by facilitating any predetermined payroll deduction, and by keeping records of such deductions.

### ***Section 5.23 EMPLOYEE TRAVEL EXPENSE REIMBURSEMENT POLICY***

All employees, elected officials, and members of commissions and committees who are directed or authorized to travel beyond the borders of the City, and the community in which they live, on behalf or in the service of the City shall be entitled to reimbursement for lodging, meals, transportation, communications and miscellaneous expenses upon submission of such expenses on an Expense Report along with receipts. Expenses incurred by employees will be reimbursed if they are necessary, reasonable, and of standard quality, reported and supported in proper detail, and approved by the employee's supervisor.

A. Normally Allowable Items:

1. Lodging (receipt required);
2. Meals;
  - a. *Out-of-Town* - Except breakfast on date of departure and dinner on date of return, unless due to unusually early departure or late return.
  - b. *In Town* – When hosting on a matter of City business;
3. Transportation Costs – Shall include cost of air, rail, bus, taxi, auto rental, mileage, parking and tolls;
4. Communication – Telephone and postage. One personal long distance phone call home, if away three consecutive days; and,
5. Miscellaneous – Tips, etc.

B. Items Usually Not Allowable:

1. Personal entertainment;
2. Personal clothing, toiletries or barbershop/salon;
3. Personal travel accident and auto insurance;
4. Spousal travel;
5. Excessive expenditures in any category;
6. Liquor; and,
7. Reimbursement for cellular phone calls.

C. Employee Expense Reporting:

1. Travel Fund Advance – A request is presented to the Finance Department, properly signed and authorized by the Administrative Manager, for approval before undertaking an out-of-town trip.
2. Expense Reporting –
  - a. The Weekly Expense Report is to be completed in all pertinent detail for each week's expenses. It should be submitted at the end of the trip, and no later than five days after return along with a Request for Payment Form.
  - b. There must be a written explanation of any irregular or unusually large expenditure.
  - c. Receipts are required for lodging, auto rental, any items exceeding \$10.00, transportation and other items when available.
  - d. Indicate appropriate department and account to be charged.
  - e. The Weekly Expense Report, along with a Request for Payment Form, shall be signed by the employee prior to its approval by his/her department supervisor, and then sent to the Finance Department for final approval and payment.

#### ***Section 5.24 MILEAGE REIMBURSEMENT POLICY***

Employees are encouraged to use City owned vehicles when traveling on City business if vehicles are available. When City owned vehicles are not available, the following rules will apply:

1. Except as set forth below, mileage for the use of an employee's personal vehicle on official City business shall be reimbursed at the allowable IRS rate (see the Finance Department for the current rate).
2. Employees who utilize their personal vehicles on travel assignments are responsible to carry liability insurance on said vehicle of no less than \$100,000 bodily injury per person, \$300,000 bodily injury per occurrence, \$50,000 property damage, and \$100,000 per person and \$300,000 per accident uninsured motorist protection. The City's insurance coverage will be secondary to the employee's insurance coverage. Proof of Insurance will be on file in the Human Resources Department and will be updated annually.
3. The mileage reimbursement for attending authorized functions shall begin and end at City Hall.
4. Elected Officials and employees will not be reimbursed for mileage incurred to attend scheduled Council meetings.

5. Employees will not be reimbursed for mileage incurred driving to or from City Hall for work.
6. All mileage shall be documented showing date, destination, and mileage.
7. Except as set forth below, no auto allowances other than mileage shall be paid as of January 1, 2013.

In order to perform their daily duties, employees in the following positions are required to have their personal vehicles available, properly registered, in good working condition, and properly insured:

Health Department  
Sanitarians  
Department of City Development  
Housing Technician  
Department of Public Works  
Building Inspectors  
UNIT Members  
Electrical Inspector  
Plumbing Inspector

Such employees shall be paid a monthly sum, to be determined on an annual basis by the City Administrator in consultation with the Finance Director, for all personal vehicle usage within the geographic area necessary for the employee to perform his or her ordinary duties. Such employees shall not be required to track their mileage, unless otherwise required for internal, departmental purposes, and shall not otherwise be reimbursed for miles traveled. Notwithstanding anything else set forth herein, such employees shall be reimbursed at the IRS rate for all miles travelled outside the geographic area necessary for the employee to perform his or her ordinary duties and for all miles travelled outside Racine County on City business.

#### ***Section 5.25 TUITION REIMBURSEMENT POLICY***

The City of Racine has instituted an Employee Tuition Reimbursement Program to assist in the professional growth and development of City employees. This tuition reimbursement program will not be a total solution to the City's future needs; however, if we look especially to our leadership, this will give us one more weapon in our arsenal in attempting to secure qualified individuals for our leadership and other positions. This program, along with departmental specific training and on-the-job experience will assist in propelling us forward.

##### **A. Definitions:**

1. *Qualifying Program* means a collegiate degree program, Associate Degree or higher, or a formal Graduate-level certificate program. Reimbursement shall not be made for any purely religious program of study, including but not limited to, a

program leading to ordination in any religion. However, if individual classes regarding or involving religion are part of an overall non-religious course of study or program, reimbursement may be made for such classes.

2. *Accredited Institution* means a college or university that is formally recognized by an appropriate accrediting body or agency as having met a predetermined standard or criterion.
3. *Degree* means a title awarded by an accredited institution following successful completion of a course of study or period of research.
4. *Graduate-level Certificate Program* means a course of study, in a post-Baccalaureate setting, leading to the award of a graduate certificate, or equivalent, in a specialized program awarded by an accredited institution.

B. Applicability:

To qualify for a tuition reimbursement, an employee must be regularly employed, either part-time or full-time, by the City of Racine 30 days prior to the beginning of a semester or the commencement of a course and must remain so employed until 30 days after the employee receives the final grade report for the course or courses. Library employees are not eligible for this program.

To qualify for a tuition reimbursement, an employee must be enrolled in a qualifying program leading to a degree, or a Graduate-level certificate program, from an accredited institution.

Maximum reimbursement is to equal \$1,000.00 per year, or 80% of the employee's total tuition cost, whichever is lower.

Full-time employees may receive the full reimbursable amount.

Part-time employees may receive pro-rated reimbursements based upon the average hours worked per week in the year prior to the reimbursement.

Reimbursement is made for tuition only. It does not apply to books or other fees or costs.

In order to qualify, the student must achieve a final grade of "C" or better.

Notice that an employee intends to participate in the Employee Tuition Reimbursement Program shall be submitted to the Human Resources Department 30 days prior to the beginning of a semester or the commencement of a course. If unavoidable circumstances prevent such advance notice, requests shall be submitted as soon as practicable, but in no case after the commencement of a class for which reimbursement shall be requested.

An employee is required to provide proof of enrollment in the form of official notification signed by the selected institution's registrar or other similar proof, including computer registration verification. The employee must also provide adequate verification that the program in which the employee is enrolled leads to a degree or to a Graduate-level Certificate Program.

An employee is required to pay his or her tuition as required by the accredited institution. Within 30 days after the employee receives the final grade report for the course or courses, the employee shall submit the final grade report and receipt indicating that the employee has paid the tuition in full to the Human Resources Department. The reimbursable portion shall then be paid to the employee as soon as practicable.

C. Administration:

The tuition reimbursement program is administered by the Human Resources Department. All documentation and information shall be forwarded by the employee to the Human Resources Department so that a determination can be made (a) whether the employee is enrolled in an accredited institution and qualifying program and (b) whether tuition reimbursement is payable. Any employee who disagrees with the Human Resources Department's determination may appeal through the employee's Administrative Manager to the City Administrator. The Administrative Manager shall make a recommendation as to disposition, and the City Administrator shall make a decision. The City Administrator's decision is final.

**Section 5.26 WORKER'S COMPENSATION**

All who work for the City of Racine are covered by Worker's Compensation if they sustain a work related injury. The City is self-insured for Worker's Compensation. Employees who lose time from work because of occupational injury or disease will receive timely Worker's Compensation payments from the City in accordance with Wis. Stat. § 102.43. The City reserves the right to terminate employment based on reasonable considerations involving the employee's ability to perform the essential duties of his/her job and medical prognosis.

When an employee is injured on the job, the following procedure is to be followed:

1. One copy of the First Report of Injury Form WC-12 and the City Employee First Report of Injury Form RWC-03 must be sent to the Human Resources Department. A copy of each should be retained in the employee's department. The Human Resources Department will send a copy to the third party administrator and to the Department of Industry, Labor and Human Relations if required.
2. If the employee requires medical attention, the employee must submit to the medical provider City Form RWC-04, which authorizes treatment, release of medical records and provides for proper billing. This form must be signed by the employee and witnessed by

a supervisor. If medical treatment is delayed beyond the day of injury, a copy of the RWC-04 must be sent to the Human Resources Department.

3. It is the supervisor's responsibility to notify the Human Resources Department if an employee misses time off the job beyond the day of injury. Further, it is City policy to provide light duty whenever possible when it is consistent with medical restrictions. The Human Resources Department must be kept informed of light duty and notified when the employee returns to work.

### ***Section 5.27 UNEMPLOYMENT INSURANCE***

City employment is covered by Wisconsin Unemployment Insurance laws.

### ***Section 5.28 PRESCRIPTION SAFETY GLASSES***

The City will pay one-half the cost of an initial pair of prescription safety glasses (safety lenses and safety frames only) for employees who by the nature of their job are required to wear them. The City will contribute one-half the cost of replacement prescription safety glasses (safety lenses and safety frames only) due to job related breakage to a maximum of one pair every three years. An employee must present a receipt that clearly shows the description and cost of safety lenses and safety frames submitted for reimbursement.

### ***Section 5.29 STEEL TOED SAFETY SHOES***

For those full-time regular employees (excluding Police and Fire) who by the nature of their job are required by their supervisor to wear steel toed safety shoes, the City shall reimburse employees for half the cost of one pair of City approved steel toed safety shoes purchased for each subsequent year. Reimbursement is dependent upon submission to their department of an original receipt of purchase for each pair.

## **ARTICLE VI      EMPLOYMENT POLICIES**

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### ***Section 6.01    RULES OF CONDUCT***

The City of Racine has established a certain number of rules, which it has and shall add to over time, to govern conduct while at work. Any employee who violates any City policy, procedure, rule, or regulation, whether written or unwritten, shall be subject to disciplinary action which may include verbal warnings, written warnings, suspension with or without pay, work restrictions, termination or any other form of discipline deemed necessary. The nature of the discipline will depend upon the nature and severity of the violation and the surrounding circumstances.

The following are rules of conduct employees of the City of Racine are expected to adhere to in the course of their employment. Individual departments may have work rules that differ from these and employees are expected to know and follow those policies as well.

### ***Section 6.02    ATTENDANCE/TARDINESS POLICY***

Regular attendance, reporting for work on time, and working to the end of the work period is expected of each employee. Unsatisfactory attendance, including reporting late, or quitting early, may be cause for disciplinary action up to and including discharge.

1. **Reporting Absences/Tardiness:** An employee who is absent from work must call his/her immediate supervisor or the Department Head as possible, but no later than one-half (1/2) hour after the established starting time. The employee must indicate an anticipated return to work date at that time. If the return to work date changes, you must immediately notify your supervisor or Department Head of the new date. Employees must personally call in each day they are absent unless previous arrangements are made with their supervisor to cover such situations such as surgery, hospitalization, long recuperation, or similar circumstances. Employees who fail to notify their supervisor or Department Head of an absence or tardiness may result in discipline. Employees who miss work due to tardiness will not be paid for lost time nor will they be allowed to make the time up.
2. **Leaving During Working Hours:** Other than Administrative Managers, Department Heads and supervisors, all other employees must obtain permission from their supervisor or Department Head prior to leaving during work hours, unless the need to leave is due to an emergency. Failure to notify a supervisor/Department Head in a nonemergency situation may result in disciplinary action.
3. Employees who are absent from work due to illness or injury for three consecutive work days will be required to submit a certificate of illness signed by a licensed physician upon request, and a release to return to work signed by a licensed physician in some cases prior

to being permitted to return to work. If the employee's time off was a covered FMLA absence, then return to work provisions under the FMLA policy will apply.

4. In the case of suspected abuse of sick leave, or to determine fitness for duty, the City may request a doctor's excuse or fitness for duty certification at any time.
5. The employment relationship shall be broken and considered a resignation if an employee:
  - a. Is absent from work for three (3) consecutive workdays without notification ;
  - b. Fails to report to work within ten (10) days after having been recalled from layoff;  
or
  - c. Fails to report for work at the termination of an authorized leave of absence.
6. FMLA absences are considered approved time off and not counted against an employee for disciplinary purposes.

### ***Section 6.03 PROHIBITED ACTIVITY***

Rules of conduct are not for the purpose of restricting the rights and activities of employees, but are intended to help employees by defining and protecting the rights and safety of all persons. Employees of the City of Racine are expected to conduct themselves in a courteous and efficient manner toward the public and their fellow employees. The following is a partial list of prohibited activity which may result in disciplinary action ranging from oral or written reprimands to immediate discharge, depending upon the specific form of conduct and/or number of infractions:

1. Threaten, intimidate, interfere, or abuse (physically or verbally) others.
2. Sexually harass or intimidate others.
3. Lie, cheat, steal, or give false or incomplete information; or otherwise misrepresent his or her authority in the performance of assigned tasks.
4. Insubordination, including disobedience or failure to carry out assignments or instructions.
5. Unauthorized use, possession, or removal of City property and/or equipment.
6. Excessive absenteeism or tardiness.
7. Inattention to duties including sleeping, loafing, or wasting time during working hours.
8. Restricting production or interfering in the work of others.

9. Failure to perform duties at a reasonable level of productivity.
10. Fighting, gambling, horseplay, practical jokes, or indulging in other activity which create a disturbance or hazard.
11. The use of profane, obscene, or abusive language or actions.
12. Reporting for work while under the influence of alcoholic beverages or non-prescribed drugs.
13. Possession or consumption of alcoholic beverages or non-prescribed drugs during working hours or on City property.
14. Unauthorized possession of concealed weapons prohibited by law.
15. Negligence in performing assigned tasks.
16. Performing personal work on City time including receiving or making personal telephone calls of a non-emergency nature during working hours.
17. Absence from employee's department without supervisor's permission; entering other departments without permission unless such action is in performing of work duties or in accordance with procedures for handling of grievances.
18. Leaving the job without permission during regularly assigned working hours including before specified quitting time.
19. Theft or attempt to steal City of Racine property or money, sabotage or destruction of equipment or property, fraud or embezzlement, will be subject to immediate and appropriate disciplinary action including termination. The City shall be the sole judge of sufficiency of evidence. The foregoing includes the submission of fraudulent claims for reimbursement under the City's mileage reimbursement policy.
20. Falsification or misrepresentation of personnel records or any other City records.
21. Failure to immediately notify supervision or the Human Resources Department of a change in address or telephone.
22. Failure to comply with health, safety, and sanitation rules and regulations.
23. Falsification of another employee's time and attendance record.
24. Violation of any other commonly accepted rule of conduct normally associated in an employer-employee relationship.

## ***Section 6.04 WORKPLACE VIOLENCE AND WEAPONS PROHIBITION***

The purpose of this policy is to address the issue of potential workplace violence, prevent workplace violence from occurring to the fullest extent possible, and set forth procedures to be followed when such violence has occurred.

### **A. Policy:**

1. The City of Racine is committed to providing a safe workplace for its employees and a safe environment for the citizens of the community, and has a zero tolerance policy toward any threats, threatening behavior, acts of violence or any related conduct which disrupts another's work performance or the organization's ability to execute its mission.
2. Any person who carries unauthorized concealed or unconcealed weapons or who makes threats, exhibits threatening behavior, or engages in violent acts on City owned or leased property may be removed pending an investigation. Off-site threats toward City employees or citizens carrying out official City business, which can include threats made via phone, fax, electronic or conventional mail, or any other communication medium, is also a violation of the City's policy.
3. Employees are prohibited from carrying or possessing concealed and/or unconcealed weapons to the worksite, while on duty, or in any City-owned vehicle, and at any time. On duty includes any authorized or unauthorized breaks or meal periods and while performing any services or duties on behalf of the City of Racine. Exceptions to this policy would be:
  - a. Firearms stored in an employee's personal vehicle, even while on City business, and do not apply if the firearm is in an employee's personal vehicle driven or parked in a parking facility;
  - b. Concealed and/or unconcealed weapons which are authorized by the Chief of Police to be carried by any City of Racine police officer while on duty, or work tools or implements authorized to be used by an employee in the performance of their duties that could fall under the definition of a weapon.
  - c. City law enforcement officers or other law enforcement agencies may bring firearms to the worksite if authorized by the Chief of Police.
4. Violations of this policy will lead to disciplinary action that may include dismissal, arrest, and prosecution.
5. Employees are responsible for notifying their supervisor or Human Resources of any threats which they have witnessed, received, or have been told that another

person has witnessed or received. Employees should also report any behavior they have witnessed which they regard as threatening or violent when that behavior is job related or might be carried out on City owned or leased property.

6. Each employee who receives a protective or restraining order which lists City owned or leased premises as a protected area is required to provide their agency designee with a copy of such order.

B. Definitions:

1. Workplace Violence includes, but is not limited to, intimidation, threats, physical attack, domestic violence or property damage and includes acts of violence committed by City employees, clients, customers, relatives, acquaintances or strangers against City employees in the workplace.
2. Intimidation is engaging in actions that includes but is not limited to stalking or behavior intended to frighten, coerce, or induce duress.
3. Threat is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communication the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional or future.
4. Physical Attack is unwanted or hostile physical contact such as hitting, fighting, pushing, shoving or throwing objects.
5. Domestic Violence is the use of abusive or violent behavior, including threats and intimidation, between people who have an ongoing or prior intimate relationship. This could include people who are married, live together or date or who have been married, lived together or dated. Property damage is intentional damage to property and includes property owned by the City of Racine, employees, visitors or vendors.
6. Weapon is anything included in Wisconsin State Statutes 939.22 (10) and 941.295 (4) which is capable of producing death or great bodily harm.

C. Coverage:

This policy applies to full-time and part-time employees with permanent, probationary, trainee, contract, time-limited permanent or temporary appointment. This policy applies to the conduct of an employee while functioning in the course and scope of employment as well as off-duty violent conduct that has a potential adverse impact on a City of Racine employee's ability to perform the assigned duties and responsibilities.

D. Prohibited Actions and Sanctions:

1. It is a violation of this policy to:
  - a. Engage in workplace violence as defined by the policy;
  - b. Use, possess, or threaten to use an unauthorized weapon during a time covered by this policy, and
  - c. Misuse authority vested to any employee of the City in such a way that it violates this policy.
2. A violation of this policy shall be considered unacceptable personal conduct as provided in the Disciplinary Action, Suspension and Dismissal Policy. Acts of violence, as defined herein, may be grounds for disciplinary action, up to and including dismissal. An act of off-duty violent conduct may also be grounds for disciplinary action, up to and including dismissal.

E. Authorized Exceptions to the Policy:

An employee may possess a weapon if possession is:

1. In compliance with Wisconsin City, State or Federal law,
2. Used by an employee who is a certified law enforcement officer,
3. Required as a part of the employee's job duties'
4. Connected with training received by the employee in order to perform the responsibilities of their job.

F. Support and Protections:

The City of Racine shall make efforts to protect victims of workplace violence by offering reasonable security measures. The City shall accommodate, whenever possible and appropriate, victims of violence who need adjustments to their work schedule, location or working conditions in order to enhance their safety. Management is expected to offer support to victims of workplace and domestic violence, which should include encouragement to use the services of the City's Employee Assistance Program (EAP). In addition, management shall use their discretion to grant a victim leave time for medical, court, or counseling appointments related to trauma and/or victimization, with such options as flex scheduling, vacation leave, sick leave, and leave without pay.

#### G. Reporting Responsibilities and Retaliation:

1. All City employees have a responsibility to notify the police department of the presence of a concealed or unconcealed weapon in all places where such weapons are prohibited.
2. All City employees have a responsibility to notify their immediate supervisor of any intimidating, threatening behavior, or acts of violence that they witness on the part of employees, former employees, customers and strangers, or have been told that another person has witnessed or received.
3. All reports of violence and threats of violence will be handled in a confidential manner, with information released only on a need-to-know basis. Management shall be sensitive and responsive to the reporting employee's fear of reprisal.
4. This policy prohibits retaliation against any employee who, in good faith, reports a violation of this policy. Every effort will be made to protect the safety and anonymity of anyone who comes forward with concerns about a threat or act of violence.

#### H. Responsibilities of the City of Racine:

The City of Racine shall create and maintain a workplace designed to Prevent and manage workplace violence. This shall be done by developing a comprehensive workplace violence prevention and management program. The City shall provide training for supervisors and managers so that they will be recognize signs of potential workplace violence, be able to communicate a procedure for reporting policy violations, offer support for victims as well as provide consequences to perpetrators of workplace violence, and understand their legal obligation to act.

#### I. Inspections:

In order to pursue its investigation of incidents of workplace violence, the City reserves the right to enter or inspect employee work areas including, but not limited to, desks and computer storage media, with or without notice. Under conditions approved by management, telephone conversations may be monitored, voice mail messages may be retrieved, and email messages checked.

### ***Section 6.05 DRUG FREE WORKPLACE POLICY***

It is the policy of the City of Racine to provide a drug-free workplace for all of its employees. The City requires that employees neither use nor be under the influence of drugs, intoxicants, alcohol, narcotics or any other controlled substance(s) and that a zero tolerance standard shall prevail in the workplace. The City recognizes the importance of maintaining a safe, efficient and healthful workplace, as well as the social responsibility to provide assistance to its employees to

the extent possible. Therefore, employees are expected to report to work free from any alcohol or controlled substances that could inhibit their ability to perform their duties.

A. Reporting of Drug Conviction:

As required by the Drug Free Workplace Act, Public Law 100-690, Title V, Subtitle D, all City employees are hereby notified that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, alcohol or drug paraphernalia is strictly prohibited in the workplace. Furthermore, this law makes it a condition of employment that all City employees abide by the Drug and Alcohol Free Workplace Policy. The employee must notify the City (your immediate supervisor or the Human Resources Director) of any drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction. Within ten (10) days of receiving such notice of conviction, the City will notify the appropriate federal contracting or granting agency as required. The Federal law requires this action.

An employee's failure to abide by the terms of the above paragraph will result in disciplinary action up to and including termination of employment. The actual action taken will be based upon the seriousness of the offense, the employee's past employment record, and the employee's willingness to participate in drug or alcohol abuse assistance or rehabilitation program.

***Section 6.06 CITY DRUG AND ALCOHOL POLICY***

The City recognizes that the use and/or abuse of illegal drugs and/or alcohol, as well as the abuse of prescribed medications, can have a significant impact on the workplace in terms of safety, worker's compensation claims, sick pay benefits, absenteeism and productivity. The City also recognizes the legal duty to provide a safe workplace. Moreover, the City is concerned about the health and well-being of those employees who use and/or abuse drugs and/or alcohol. In all cases where on-duty impairment an employee by alcohol or drugs is suspected, it shall be there responsibility of the employee's supervisor to assure that the employee safely returns home after any actions under this section are taken.

A. Policy Statement:

It is the City's policy that employee use, manufacture, distribution, possession or sale of illegal drugs at any time, and on the job use of or impairment by drugs and/or alcohol is prohibited. The City will subject its employees to drug and/or alcohol testing as set forth in this policy.

This policy supplements the City's D.O.T. (Department of Transportation) drug and alcohol testing policy covering employees who have a CDL (Commercial Driver's License) and are regularly or occasionally operating a commercial motor vehicle as defined by D.O.T. regulations and will apply to situations not covered under that policy. For employees covered under the D.O.T. drug and alcohol testing policy, in the event a

more restrictive provision applies under the already existing policies, the more restrictive provision will apply.

B. Types of Testing:

1. Pre-Employment Testing – Every applicant for full-time or seasonal employment will be required to undergo and pass a drug test before he/she may commence employment at the City. Each job applicant will be advised that a drug test will be required as a part of a pre-placement examination and that any job offer is contingent upon successful passage of that test.
2. Reasonable Suspicion Testing – If at any time the City determines there is reasonable suspicion that an employee is under the influence of drugs and/or alcohol, the employee will be required to submit to a drug and/or alcohol test. Reasonable suspicion will be determined by two supervisors, if available. However, one supervisor may determine whether there is reasonable suspicion if no other supervisor is immediately available or the supervisor determines circumstances dictate the determination by one supervisor. Reasonable suspicion will be based upon observable actions, alone or in conjunction with other factors including, but not limited to:
  - a. Dangerous or accident-prone conduct;
  - b. Decreased job performance which is unexplained;
  - c. Unexplained increased absenteeism;
  - d. Complaints from coworkers and other problems with interpersonal relations;
  - e. Drug-related signs such as paraphernalia;
  - f. Reduced short-term memory; and,
  - g. Physical symptoms such as bloodshot eyes, dilated pupils, stuffy or runny nose, anxiety, breath and body odor from alcohol, and/or inability to concentrate.
3. Post-Accident Testing – If an employee is involved in an accident while on duty, the City may require post-accident testing. The City will require testing if any of the following have occurred:
  - a. The employee was performing a safety- sensitive function as defined under the City’s D.O.T Drug and Alcohol Policy;

- b. An accident involving bodily injury or fatality;
  - c. An accident involving significant property damage; and,
  - d. A citation is issued to the employee under State or Local law for a moving traffic violation arising from the accident.
4. Random Testing – Pursuant to the Omnibus Transportation Employee Testing Act of 1991, all employees required to hold commercial driver’s licenses shall be required to participate in random drug and alcohol testing. Testing shall be conducted in accordance with City policy.
  5. Return-To-Duty Testing – Any employee found to have violated this policy will be required to test prior to returning to duty, and then randomly thereafter, for a one year period.

C. Disciplinary Procedures:

Any employee who tests positive for any illegal drugs or controlled substances, except medication taken as prescribed, will be subject to discipline up to and including discharge. No employee who tests positive for any illegal drugs or controlled substances, except medication taken as prescribed, will be allowed to work until that individual has successfully completed assessment and/or treatment as described below and has been certified by a qualified physician as free from the use of drugs, or in the case of a positive suspicion test for prescribed drugs, that there is no impairment. In the event of a reasonable suspicion test for alcohol, an employee will be subject to discipline up to and including discharge as the result of a positive test for alcohol which reveals a blood alcohol content of .04 or greater. Where more restrictive standards are already established under the City’s D.O.T Drug and Alcohol Testing Policy, these standards will apply for purposes of discipline.

D. Employee Consent to Testing:

Each employee or applicant directed for testing will be required to submit to testing. If the employee or applicant refuses to complete and sign the chain of custody form at the collection site or if the employee/applicant refuses to provide the specimen for testing, such refusal will constitute grounds for termination. Providing an adulterated sample will result in immediate termination.

E. Supervisor’s Role/Responsibilities:

1. The supervisor or supervisor representative is to transport the employee to the collection site for drug and/or alcohol testing immediately, but no later than eight (8) hours after having determined that there is reasonable suspicion to believe that the employee is using or is under the influence of alcohol or drugs. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours after the

supervisor makes such reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test. The supervisor or his/her representative is to wait at the clinic with the employee until the breath test has been completed or the urine sample has been taken, and then return the employee back to the employment site.

2. Once the alcohol testing has been completed and a positive confirmatory test result has been received, the employee will not be permitted to drive his/her own vehicle home at that time. The employee must make alternative transportation arrangements in order to leave the employment site.
3. The employee is to be advised not to report for work as he/she will be placed on administrative leave without pay. If the urine test has been administered, the City will contact the employee once the test results are known and a decision has been made as to the employee's status.
4. The results of the drug or alcohol testing will be sent directly to the Human Resources Department. When the results are obtained, the employee's supervisor and department head will meet with the Human Resources Manager to determine the appropriate course of action to be taken. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or discipline action with anyone who does not need to know.
5. Once the test has been completed and the employee has been sent or taken home, the supervisor must submit a written report to the Human Resources Manager outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within 24 hours of the testing. This information will assist the Human Resources Department in assessing the appropriate discipline to be considered.

F. Collection of Specimens:

Specimens to be tested will be urine in the case of a drug test and breath in the case of a test for alcohol where there is reasonable suspicion of alcohol use or impairment on the job. The City respects its applicants and employees and therefore subscribes to the collection protocol set forth by the Department of Health and Human Services (DHHS) which protects the privacy and confidentiality of the donor. This protocol allows for the submission of the specimen under closely structured conditions but behind either a closed door or privacy partition.

G. Custody and Control Form:

All specimens will be processed and monitored by way of an approved Custody and Control form which is used to track the specimen from point of submission to point of destruction. Employees will be required to sign the chain of custody form. Failure to do so will result in discipline up to and including discharge.

H. Laboratory Aspects of Drug Testing:

In order to assure our applicants and employees the greatest accuracy and confidentiality, all drug testing is to be conducted by a laboratory certified by DHHS and will be conducted in two parts: a) screening for five classes of drugs by EMIT testing procedures (amphetamines, benzoylecognine – cocaine, opiates, PCP, THC-marijuana, and (2) confirmation by GC/MS. However, the City reserves the right to perform tests for other illegal substances as well. No specimen will be considered “positive” until it has been confirmed at the cut-off levels established by DHHS. In the event that no such levels have been established for that drug, the City will rely on the laboratory and its consultants to establish a forensically accepted level.

I. Reporting Results:

All positive drug test results will be first reported to the Medical Review Officer (MRO). If the specimen is positive, the MRO will attempt to contact the employee at the daytime number provided at the time of the urine submission for the purpose of discussing the test results. Should the MRO fail to make contact on that attempt, he/she may contact the City to ask for assistance in reaching the employee. If the MRO does not make contact within an additional maximum of five days or if the result appears to create immediate safety concerns, the MRO may disclose the results to the City prior to speaking with the employee. The City reserves the right to immediately remove that employee from active duty until such time as the MRO is able to make contact and provide a final result. If the employee is able to provide substantiation of legitimate use when reached by the MRO, the positive result will be reported the City as negative. If no legitimate reason for the positive result is found, that positive result will be provided to the City.

J. Prescription Medications:

Nothing in this policy prohibits the appropriate use of prescription medication legally prescribed by a licensed physician. However, it is the employee’s duty to discuss any effects which that medication may have on one’s ability to safely perform his/her job and to inform the City of any adverse effects. Failure to do so may result in discipline up to and including discharge.

K. Employee Assistance:

1. In the Event of a Positive Test -

The City has a primary interest in the safety, health, and well being of its employees as well as the public and support those who make a commitment to

resolving their substance abuse problems. In the event of a positive test, the City may offer the employee an opportunity to enter a treatment program in lieu of termination. If the City determines that a treatment option will be offered, the City will provide a list of Substance Abuse Professionals (SAP) available to the employee for assessment and/or treatment. Although such assessment and/or treatment is conducted at the sole expense of the employee or his/her insurance carrier, the City requires that certified SAPS actively involved in the substance abuse field be utilized.

An employee who is allowed and selects treatment will comply with all requirements of that program to completion before he/she will be allowed to return to work. Failure to do so or failure to make every effort at rehabilitation will constitute grounds for termination. The City will request updates from the treating professional to assure the ongoing compliance with the recommended treatment. Further, as a condition of return, the employee will be required to submit, on demand, a urine sample for analysis for a period of up to sixty (60) months. The number and frequency of such specimens is determined by the City at its sole discretion. A positive test during or following the monitoring period will result in immediate termination without further consideration of future employment. The City may, at its sole discretion, elect to offer special consideration to any individual who comes forth voluntarily as opposed to those who are detected through the regular testing process. Reinstatement after a positive test, if permitted at all, will be permitted only one time. Reinstatement, if permitted will be conditioned upon the individual signing an agreement acknowledging that he/she will be terminated upon a subsequent violation of this policy.

2. Voluntary Treatment – Employee Assistance Program –

Consistent with the City's philosophy that its employees are its most valuable resource, the City is willing to recognize and provide assistance to those employees whose use of alcohol or controlled substances may be the result of a problem such as alcohol or chemical dependency. Accordingly, the City encourages all employees who may have a problem with alcohol or substance abuse to voluntarily come forward and work with the City in resolving the problem. To accomplish this goal, the City offers an Employee Assistance Program (EAP) which employees may use for referral, counseling, and consultation. Employees who voluntarily come forward and admit to a substance abuse problem will be referred to the EAP for the purpose of undergoing an assessment and the development of an appropriate treatment and rehabilitation program. However, participation in the City's EAP does not protect the employee from discipline for violations of this policy, including the right to determine the appropriate level of discipline to impose.

3. Confidentiality –

Results of all drug/alcohol tests will be kept separate from personnel files and treated as confidential information and access to such results shall be limited. Results will not be communicated to others outside of the employee's direct supervisory chain except where necessary in connection with any rehabilitation or use of the EAP in relation to the drug/alcohol test.

### ***Section 6.07 DRUG AND ALCOHOL POLICY – D.O.T. COVERED EMPLOYEES***

The City of Racine recognizes that the use and/or abuse of alcohol or controlled substances by drivers of commercial vehicles presents a serious threat to the safety and health of the driver and the general public. It is the policy of the City of Racine that its employees who perform safety sensitive functions should be free of alcohol and drugs. In order to further the City's goal of obtaining an alcohol-free and drug free transportation system, and to comply with the Omnibus Transportation Employee Testing Act of 1991, the City of Racine implemented a drug and alcohol testing program which is designed to help reduce and avoid traffic accidents and injuries to our employees and the general public, to discourage alcohol and substance abuse, and to reduce absenteeism, accidents, health care costs, and other alcohol and drug-related problems. In all cases where on-duty impairment an employee by alcohol or drugs is suspected, it shall be there responsibility of the employee's supervisor to assure that the employee safely returns home after any actions under this section are taken.

#### **A. Purpose:**

The Department of Transportation (DOT) and the Federal Highway Administration (FHWA) have issued Federal Regulations (49 CFR Parts 40 and 382) implementing the provisions of the Federal Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and controlled substance testing of drivers who are required to have a commercial driver's license. These Regulations include detailed procedures for breath alcohol testing and urine drug testing of employees in safety-sensitive positions. The purpose of this policy is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by drivers of commercial motor vehicles. Consequently, the City of Racine has established the following alcohol misuse and drug prevention program, as well as the subsequent enforcement of violations, for its employees conducting safety-sensitive job functions (Employees should also refer to the City's "Drug and Alcohol Policy," which addresses the strict enforcement of workplace controlled substances and alcohol usage).

#### **B. Coverage:**

For purposes of this policy, the City of Racine and the DOT strictly prohibit the use of alcohol and/or controlled substances by its employees and volunteers with Commercial Drivers Licenses (CDL) who are actually performing, ready to perform or immediately able to perform, or ceasing to perform, the following safety-sensitive job functions:

1. Operation of a commercial motor vehicle;

2. Repair and maintenance of a commercial motor vehicle that requires road testing the vehicle on a public highway;
3. Supervisors and managers on stand-by duty to perform a safety sensitive job.

C. Prohibited Conduct:

City policy and federal regulations prohibit employees from engaging in the following conduct:

1. Using, possessing, dispensing, distributing, or receiving alcohol, intoxicants, illegal drugs or other controlled substances on City premises, or while engaged in City business;
2. Reporting to work under the influence of alcohol, intoxicants, illegal drugs, or other controlled substances in their system;
3. Reporting to work under the influence of a prescription drug, unless the employee's physician determines that the use of the prescription drug will not adversely affect the employee's ability to perform a safety-sensitive position. Note that the federal regulations include prescription medications containing alcohol in the substances banned from use in the workplace. Therefore, employees should not report for duty while taking prescription medication if such medication contains any measurable amount of alcohol;
4. Consuming any amount of alcohol, intoxicants, illegal drugs, or other controlled substances while on duty or within four (4) hours of reporting for duty; or
5. Refusing to undergo or cooperate in any required alcohol or controlled substances testing required by this policy;
6. Knowingly disregarding the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates as the City is dedicated to assuring a fair and equitable application of this substance abuse policy;
7. Providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution.

Any employee who violates any of the rules set forth above shall be subject to discipline, up to and including termination.

D. Required Tests:

Refusal to take a required test shall result in removal of that employee from his or her assignment(s) which, in turn, may result in discipline, up to and including discharge.

Testing must be conducted in the following situations:

1. Pre-employment - Any individual not currently employed by the City who is applying for a safety-sensitive position, shall be required to undergo drug and alcohol testing after a conditional offer of employment has been made.

Prior to the first time an existing employee performs safety-sensitive functions for the department (i.e., new position, job transfer, promotion, new duties, etc.), the employee shall be required to undergo testing for alcohol and controlled substances. A positive test will result in a disqualification from further consideration for the vacancy or eligibility list.

2. Reasonable Suspicion Testing –
  - a. In a situation where an employee is either acting in a impaired manner or the supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the supervisor may, but need not, seek a corroborating opinion from another supervisor or manager prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.
  - b. Once the employee has been removed from the job, the supervisor shall contact the Human Resources Department. If contact cannot be made at that time, the supervisor shall proceed through the next step of this procedure and make contact with the Human Resources Department as soon thereafter as possible.
  - c. The supervisor shall then transport the employee to the collection site for drug and/or alcohol testing immediately, but no later than eight (8) hours of having observed the behavior. If the drug or alcohol test is conducted more than two (2) hours, but less than eight (8) hours after the supervisor determines there is a reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances, the supervisor will complete a report explaining the reason for delay in conducting the drug or alcohol test. The supervisor shall wait at the clinic with the employee until the breath test has been completed or the urine sample has been taken.
  - d. When a breath alcohol test has been used and a positive confirmatory test result has been received (0.02 percent or above), the employee will be discouraged from driving his/her own vehicle home at that time. The employee should make alternative transportation arrangements in order to leave the collection site or employment site.

- e. Once the drug or alcohol testing has been completed, the employee shall be advised not to report for work, as he/she will be placed on administrative leave without pay. If a blood alcohol or urine test has been administered, the City will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
  - f. The results of the drug or alcohol testing will be sent directly to the Human Resources Department. When the results are obtained, the employee's supervisor and department head will meet with Human Resources to determine the appropriate course of action to be taken. This is a confidential process. Testing results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor will not discuss the suspected reason for a referral or discipline action with anyone who does not need to know.
  - g. Once the test has been completed and the employee has been sent home, the supervisor will submit a written report to the Human Resources Director outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within 24 hours of testing.
3. Random Testing – This test is used in order to eliminate risks associated with illegal or unauthorized drug and alcohol use. Random alcohol and drug testing will be conducted at any period in which an employee is ready to perform or immediately available to perform, is actually performing, or has completed performing safety-sensitive duties. The employee shall be randomly selected for testing from a “pool” of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year.

The selection of employees for random testing shall be administered by an outside agency using a scientifically valid method. This method will be a computer software-based random selection program that is matched with employee social security numbers. A quarterly list of confidential numbers will be generated and forwarded to the Human Resources Department in order that it may contact the employee's supervisor for testing arrangements. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

In the event an employee tests positive for either alcohol or controlled substances, the employee shall be subject to disciplinary action up to and including discharge.

4. Post-Accident Testing – Federal requirements mandate that as soon as practicable after an accident involving a commercial motor vehicle where:

- a. The accident involved the loss of human life, or
- b. The employee receives a citation under State and local laws for a moving traffic violation arising from an accident (49 CFR, Part 382.303).

The City shall test safety-sensitive employees, who may have contributed to an accident for alcohol and controlled substances.

The alcohol breath test must be administered within two (2) hours following the accident and the drug test must be administered within 32 hours of the accident.

An employee who is subject to post-accident testing shall remain readily available for such testing or will be deemed by the City to have refused to submit to testing.

5. Return-to-Duty/Follow-up Testing - This test is used to maintain abstinence and prevent relapse by employees during and after drug treatment. The City shall ensure that before an employee returns to duty requiring the performance of a safety-sensitive job function after engaging in conduct prohibited in this policy, the driver shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 percent and verified negative result for controlled substance use. In any event, an employee shall not be allowed to return to duty without first having participated in some form of treatment/rehabilitation or education and been evaluated by a Substance Abuse Professional (SAP) to determine the employee's fitness for duty.

Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the City shall ensure that the employee is subject to unannounced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse professional. Consequently, the employee shall be given at least six (6) random tests during the 12 month period after returning to duty with the possibility of follow-up testing for up to 60 months after the employee returns to duty.

E. Test Procedures:

The City will use a qualified provider to perform alcohol and drug testing, which will be done on both urine and breath. All drug and alcohol testing shall be conducted in conformance with the procedures and rules established by the Federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations.

The qualified provider will handle taking the sample (in standard collection kits) on a 24 hours basis, utilizing different collection sites when necessary based on the time of day. The qualified health provider will be responsible for ensuring proper transportation from

the collection site(s) to a Department of Health and Human Services (DHHS) certified laboratory. Specimen collection shall not be done anywhere but at a City authorized collection site unless specifically authorized by the Human Resources Department.

F. Alcohol Testing:

Employees shall be required to submit to breath testing using an approved evidential breath testing (EBT) device. A state-certified breath alcohol technician (BAT) shall administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City will take action based only upon the positive results of the confirmation test (0.04 percent or greater). All procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the federal law and federal regulations.

1. PREPARATION FOR BREATH ALCOHOL TESTING

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug and alcohol testing under the federal law. These procedures are binding and are subject to change in the event the FHWA or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- a. When the employee enters the collection site, the BAT will require him or her to provide positive photographic identification (i.e., driver's license).
- b. The BAT will explain the test procedure.
- c. Employees will be required to complete and sign various forms used to document the testing process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- d. Employees will be instructed to blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates that an adequate amount of breath has been obtained.
- e. If an employee tests positive during the screening test, he/she shall not eat, drink put any object or substances in his or her mouth and, to the extent possible, not belch during the 20 minutes waiting period before the confirmation test is conducted.
- f. Refusal by an employee to complete and sign the test form, to provide an adequate amount of breath without a valid medical explanation, or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test shall be considered a disciplinable offense, up to and including termination.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

## 2. RESULTS OF A POSITIVE TEST

Any employee who tests positive for alcohol concentrations of 0.02 or higher shall be subject to discipline, up to and including termination.

If a confirmation alcohol test measures 0.04 or greater, the City is required to:

- a. Remove the employee from the safety-sensitive position;
- b. Before returning the employee to employment, retest to verify that the employee's alcohol concentration is below 0.02;
- c. Refer the employee to the City Employee Assistance Program representative, who will provide the employee with a list of available substance abuse professionals (SAP) from which to choose for assessment of an alcohol problem and a determination of whether participation in a treatment/rehabilitation program or education is necessary; and,
- d. The employee will subsequently be given at least six (6) random tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039 percent, the employee will be removed from the safety-sensitive position and either be retested or removed from his/her position for a minimum of 24 hours.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee must submit to the examination. The test will be considered enforceable for purpose of this policy, if the testing officer is a qualified BAT, and that the EBT that was used for the test has been certified by the State of Wisconsin.

### G. Controlled Substances:

The City has established its anti-drug program through its Drug Free Workplace Policy, which strictly prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace. Furthermore, any abnormal conduct that may create a reasonable suspicion that an employee is under the influence of a controlled substance is addressed in the "Reasonable Suspicion Testing" section described previously in this policy.

For purposes of this policy, the City will utilize, according to federal requirements, a five-panel drug screen consisting of the following drugs: Tetrahydrocannabinol

(Marijuana drug), Cocaine, Amphetamines, Opiates (including heroin), and Phencyclidine (PCP).

The City reserves the right to expand the above list if additional drugs are required under federal mandates, or to impose the reasonable suspicion standards of this policy.

Drug testing is conducted by analyzing an employee's urine specimen (through a DHHS certified testing lab). This procedure shall include the use of a split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a certified lab. Only the "primary" specimen bottle is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours from the time of notification of a positive test result to request the split specimen be retested at the same lab or be sent to another certified laboratory for analysis, at the employee's expense. An employee who fails to notify the City within 72 hours after receiving notice of a positive test result of his/her desire to have the split specimen tested shall be deemed to have waived his/her right to seek testing of the split specimen.

In some cases, the employee may be unable to provide a urine specimen. After a reasonable waiting period, the employee will be directed to drink up to 40 ounces of liquid, distributed reasonably through a period of up to three (3) hours, or until the employee has provided a new urine specimen, whichever occurs first. If the employee refuses to drink fluids as directed or to provide a new urine specimen, the collection site shall terminate the collection and notify the City of Racine that the employee has refused to submit to testing. The City of Racine shall direct any employee who does not provide a sufficient urine specimen to obtain, within five business days, an evaluation from a licensed physician acceptable to the City's MRO concerning the employee's ability to provide an adequate amount of urine. This physician, who must have expertise in the medical issues associated with the inability to provide an adequate urine specimen, shall determine that:

the employee has, or with a high degree of probability, could have, a medical condition that precluded the employee from providing an adequate amount of urine. The employee's failure to provide an adequate amount of urine shall not be deemed a refusal to take a test, as long as the medical condition includes an ascertainable physiological condition (e.g., a urinary system dysfunction) or a documented pre-existing psychological disorder, but does not include unsupportable assertions of "situational anxiety" or dehydration, or is unable to make the determination that the employee could have a medical condition and that the employee's failure to provide an adequate amount of urine shall be regarded as a refusal to take a test.

In either circumstance, the physician shall complete a medical evaluation form provided by the City of Racine (see Appendix A), or through other means of documentation, and send it to the City's MRO for review. Upon receipt of this form and any other

documentation, the City's MRO must review those findings and either cancel the test if there is an acceptable medical explanation for the "shy bladder," or report in writing to the City's designated employer representative a "Refusal to Test," if there is no acceptable medical explanation for the "shy bladder."

In the case of employees who have a documented long-term or permanent medical condition that makes it impossible for them to provide an adequate urine specimen, the DOT has issued separate procedures for these employees, and only when they submit to a pre-employment, return-to-duty or follow-up test:

If an individual has a documented long-term medical condition that means he/she cannot successfully take a pre-employment, return-to-duty or follow-up drug test, the MRO should direct that the individual undergo a medical evaluation by a physician to determine if the individual displays any signs or symptoms of drug abuse. The evaluating physician may administer a blood or other test for drugs in conducting the medical examination. If the examination yields no evidence of drug abuse, the individual is considered to have a negative drug test, and is thus qualified for safety-sensitive duty.

#### 1. PREPARATION FOR DRUG TESTING

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug testing under the federal law. These procedures are subject to change in the event the FHWA or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions:

- a. When the employee enters the collection site, the employee will be required to provide positive photo identification (i.e., driver's license), and empty his/her pockets and display the contents to the collector. If the collector sees items that could be used to adulterate or tamper with a specimen, the donor must leave those items outside the toilet area. If the collector discovers items brought with the intent to adulterate a specimen, the collector may conduct the collection under direct observation.
- b. Circumstances, if any, which require direct observation or re-collection of a specimen, shall be stated to the employee. Direct observation is required if:
  1. previous specimen was Invalid and there is no medical explanation;
  2. a previous Positive, Adulterated, or Substituted result was canceled because the split specimen test could not be performed;
  3. the collector observed materials brought by the donor with the intent to alter the specimen;
  4. the specimen temperature is out of range; or
  5. the specimen appears to have been altered.

- c. The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated “donor” bathroom.
- d. The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).
- e. If the test result of the primary specimen is positive, the employee may, within 72 hours of notice of a positive test result, request that the Medical Review Officer (a licensed physician employed by the health service provider who is responsible for receiving and interpreting laboratory test results) direct that the split specimen be tested in the same or a different DHHS certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.
- f. An employee shall be removed from the safety-sensitive position pending the result of the test of the split specimen.
- g. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.
- h. Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign the test form(s) shall be regarded as a refusal to take the test.
- i. Refusal by an employee to complete and sign the test and chain of custody forms, to provide an adequate amount of urine, or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including termination.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

## 2. RESULTS OF A POSITIVE TEST

Any employee who tests positive for controlled substances shall be subject to discipline, up to and including termination. As with an alcohol misuse violation, the City is required to act upon a positive drug test result in the following manner:

- a. Remove the employee from the safety-sensitive position. This removal shall only take place after the employee has been allowed to meet or speak with a Medical Review Officer (MRO) in order to determine that the positive drug test did not result from the unauthorized use of a controlled substance;

- b. Refer the employee to the City Employee Assistance Program representative, who will provide the employee with a list of available substance abuse professionals (SAP) from which to choose for assessment and subsequent compliance with recommended rehabilitation;
- c. Employee must be evaluated by a substance abuse professional, who is required to recommend some form of treatment/rehabilitation and/or education, and the employee must comply with the SAP's recommendations. Reports from the SAP on assessment, treatment/rehabilitation and compliance with the SAP's recommendations must be provided to the designated employee representative (DER) for the City of Racine.
- d. After the SAP's follow-up evaluation on the fitness of the employee to return to work, and prior to returning to duty, the employee must have a negative result on a return-to-duty drug test. The City of Racine, and not the SAP or MRO, has the sole authority whether to return the employee to safety-sensitive duties.
- e. Follow-up testing to monitor the employee's continued abstinence from drug use will be required.

### 3. REFUSING TO TEST

Any employee found by the Medical Review Officer to have "refused to test" shall be subject to discipline, up to and including termination. Refusal to test shall be deemed as one of the following nine circumstances:

- a. failure to remain until the testing process is complete;
- b. failure to provide a specimen;
- c. failure to permit direct observation of urination, when required;
- d. failure to provide sufficient specimen volume without a legitimate medical condition preventing adequate urination;
- e. failure to appear for testing within a reasonable time;
- f. failure to undergo a medical examination when directed;
- g. failure to cooperate with any part of the testing process;
- h. submission of a specimen that the Medical Review Officer verifies as adulterated or substituted.

#### 4. RESULTS OF A NEGATIVE-DILUTE TEST

On occasion, an employee's test result from one of the various tests required by the City of Racine under DOT guidelines will be reported as a negative-dilute. A negative-dilute result (Creatinine between 5 and 20 and Specific Gravity between 1.001 and 1.003), means that the urine specimen provided by the donor is a valid urine specimen, but is very dilute, either from intentional "water loading" (consuming large quantities of water just prior to providing the specimen), or because of medications, diet, or medical conditions. In cases such as these, the City will require a re-collection of a urine specimen from the employee (and not under direct observation), and will accept that result as final, even if it also results in a negative-dilute specimen.

#### 5. INVALID TEST RESULTS

An invalid test result occurs when the DHSS certified laboratory performing the test for some reason cannot complete its analysis of the specimen. There may be an interfering substance (this should not be confused with an adulterated or substituted specimen) or some other difficulty that prevents the testing from proceeding at the laboratory. If there is no medical explanation for the invalid result, the MRO will cancel the test and the City will do the following:

- a. Order an immediate re-collection under *direct observation*.
- b. Not attach any consequences to this result since it is a "non-result."
- c. Give no notice to the employee and send him to the collection site immediately.
- d. Have the collector re-collect using the same reason for the collection as the original test.

If there is a medical explanation for the invalid result, such as a legal prescription, the test will be cancelled and no re-collection will be performed, except when a negative test result is required for a pre-employment, return-to-duty, or follow-up test.

#### 6. ADULTERATED OR SUBSTITUTED SPECIMENS

A specimen is considered as adulterated when:

- a. A substance is found in human urine that is not expected to be there.
- b. A substance that is normally found in human urine is found in concentrations that are not consistent with normal human urine (For example, a Creatinine level of 400 mg/dl).

- c. The physical characteristics of the specimen are outside of what one could expect in normal human urine (e.g., smell of bleach, blue color, etc.).

A substituted specimen, on the other hand, is a urine sample so dilute or so concentrated that it is inconsistent with human urine.

When a specimen is reported as adulterated or substituted, the MRO must treat that result like a positive test result. The MRO must interview the donor, and give the donor the opportunity to present medical evidence of why the specimen met the criteria for being reported as adulterated or substituted. If the MRO finds no valid medical explanation for the adulteration or substitution, the MRO will report the result as a Refusal to Test with remarks identifying the adulteration or substitution criteria. The donor is entitled to request an analysis of the split specimen to re-confirm the adulteration or substitution findings.

#### H. Employment Assessment:

Any safety-sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in this policy, shall be referred by the City's EAP representative to a Substance Abuse Professional (SAP), with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAP shall evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Assessment by a substance abuse professional or participation in the City's Employee Assistance program does not shield an employee from disciplinary action or guarantee employment or reinstatement with the City. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. Employees shall be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program, but only if they go for treatment.

#### I. Prescription Drugs:

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work-related duties. It is the responsibility of the employee to inform their physician of the type of safety-sensitive function that they perform in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of their duties or operation of City equipment.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It

must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing city business is prohibited.

J. Confidentiality of Records:

The City respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this Policy and the identity of any employee participating in the City's EAP or other assessment or treatment program will not be revealed by the City to anyone except as required by law. The City shall release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records. However, the lab or testing agency may disclose information related to a positive drug or alcohol test of an individual to: the individual being tested; the City; the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas.

When the Medical Review Officer has reason to believe that the employee may be medically unqualified under a DOT agency rule, or believes that the continued performance of safety-sensitive duties by the employee poses a significant safety risk, it is mandatory for the MRO to release medical information to the City or other relevant third party. In all other cases, the MRO will not reveal individual test results to anyone unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the City, without an authorization, relevant information as to whether the employee is qualified to perform safety-sensitive functions or whether the employee has tested positive for alcohol or a controlled substance. The City will not release the information on the employee's qualification to perform safety-sensitive functions to a third party without first obtaining the tested employee's written authorization and consent, except to the decision maker in lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test, or as required by law, including court orders or subpoenas.

All records related to drug and alcohol tests of individual employees shall be maintained in individual files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those city employees who have a legitimate need to review the records of a particular employee.

***Section 6.08 RESIDENCY***

Although residency within the city limits of Racine is preferred for City employees, City Ordinance # 19-91 states that only Administrative Managers must reside within the Racine City limits. All other employees may live anywhere in the State of Wisconsin but must maintain said residencies during their employment with the City.

## ***Section 6.09 VEHICLE/DRIVING POLICY***

In order to establish and maintain a high level of professionalism in the operation of motor vehicles and equipment within the scope of employment and office, which applies to all City employees and elected officials, the City has created the following standards:

### **A. Use of Personal Vehicle on City Business:**

1. Requires prior approval (except elected officials) of the appropriate administrative manager;
2. The employee must provide proof of insurance yearly to the Human Resources Department showing that he/she has the following minimum acceptable limits: \$100,000 liability per person and \$300,000 per occurrence, \$50,000 property damage coverage, and \$100,000 per person and \$300,000 per accident uninsured motorist protection. Reimbursement for mileage shall not be paid if an individual is not in compliance with this requirement;
3. Employees and officials providing their own vehicle to be used on City business will be reimbursed on a per mile basis at a rate determined by the City. All maintenance, operating, insurance and other expenses are the responsibility of the employee and elected official. The employee's or elected official's insurance shall be considered primary.
4. If the employee's or elected official's regular vehicle is out of service or otherwise unavailable, it is the employee's or elected official's responsibility to provide an alternate vehicle;
5. Motorcycles and/or mopeds shall not under any circumstances be used to conduct City business and are not eligible for mileage reimbursement;
6. It is the responsibility of an employee to immediately inform his/her supervisor of any restriction, suspension or revocation of driving privileges that would affect his/her legal ability to operate a vehicle on City business. Failure to comply with this requirement shall result in disciplinary action up to and including termination. An elected official whose driving privilege is restricted, suspended or revoked shall not use his vehicle on City business; and,
7. An employee's failure to comply with City policy, loss of driving privileges or fraudulent reporting of vehicle use could result in disciplinary action or loss of the privilege to operate a vehicle on City business. The City may review the driving records of employees who are required to drive in the course of their employment.

B. Use of City Owned Vehicles:

The operation of a City-owned vehicle is a privilege that may be withdrawn at any time at the sole discretion of the City. An employee or elected official shall not operate a City vehicle of any type unless he/she complies with the following:

1. Maintains a valid Wisconsin Driver's License at all times and maintains a satisfactory driving record. An employee shall immediately report to his/her supervisor any loss or restriction of driving privileges. Failure to immediately inform the supervisor of any restriction, suspension or revocation of driving privileges will result in disciplinary action up to and including termination;
2. Performs all required maintenance and equipment checks in accordance with department policy and keeps the windows and interior clean at all times; and,
3. Does not authorize non-City employees to operate or ride in a City vehicle without departmental permission.

C. Pre-Employment Driving Standards:

In order to meet the minimum requirements for employment with the City for a position that requires the operation of a motor vehicle, the following uniform standards will apply:

1. A candidate must possess a valid and appropriate Wisconsin Driver's License before an offer of employment can be made;
2. A candidate for a position requiring a Commercial Driver's License (CDL) shall possess a valid CDL before starting employment; and,
3. Conviction of traffic offenses that reasonably relate to the use of a vehicle for City business may result in rejection of an applicant for City employment.

D. Vehicle/Equipment Operator's Orientation Checklist:

The department is responsible for training new and existing employees regarding the proper use, maintenance and operation of City vehicles and equipment. The following items shall be covered thoroughly during employee orientation:

1. Proper use of the vehicle and/or equipment;
2. Procedures for operating the vehicle and/or equipment on the roadway;
3. Backing procedures;

4. City policy regarding the wearing of seatbelts;
5. The prohibition of smoking in City vehicles and the City policy regarding the prohibition regarding non-employee passengers;
6. General instructions regarding parking vehicles, procedures to be followed when involved in a motor vehicle accident or in the event of vehicle/equipment breakdown, and proper care and maintenance of vehicles; and,
7. A road test except as otherwise provided by department policy.

E. Vehicle and Equipment Care and Maintenance Responsibilities:

1. Administrative Managers are responsible for the proper working condition of City vehicles assigned to their department at all times and the proper orientation and training of employees to operate the vehicles/equipment;
2. Supervisory Personnel are responsible for instructing subordinates in the proper operation and preventative maintenance procedures for the City owned vehicles/equipment assigned to their area; and,
3. Employees are responsible for the daily inspection and care of City vehicles/equipment operated by them.

F. Accident Monitoring and Review Policy and Procedure:

All accidents involving City vehicles or equipment shall be promptly reviewed. Employees are responsible for immediately reporting accidents to his/her immediate supervisor. Supervisors should investigate and secure a copy of the Police Report, if any, within three working days. The Administrative Manager shall review all vehicle accidents involving City vehicles and/or personnel under his/her control and make recommendations to the supervisor and the employee within five days, if possible.

***Section 6.10 COMPUTER HARDWARE AND SOFTWARE POLICY***

This policy establishes the requirements and responsibilities to the City's computer systems by all City officers, officials, employees, and contractors/vendors who use City computers.

A. Computer Use Policy and Procedure Requirements:

1. Computer equipment, including software, hardware, and related services, owned or leased by the City must be safeguarded from damage, abuse, loss and degradation due to inappropriate use.
2. No person shall load computer games, screen savers or background software onto City equipment.

3. No person shall remove computer hardware, software, peripheral equipment, or documentation from City premises without express permission from the Information Systems Director and only for the purpose of performing City business. Equipment that is portable and on a list of authorized portable devices may be removed from City premises upon permission from the requestor's department or administrative manager.
4. No person shall, for personal use, copy software data, files, etc., owned or licensed by the City, unless authorized by their department head or administrative manager to do so (and allowed by licensing agreements) to perform City business using their personal computer. With their supervisor's authorization, employees may exchange work-related, non-executable data files between their personal and City computer.
5. Because of the risk of computer viruses, defective programs, and corrupted data, no person shall use a computer file from a non-City source without first scanning the file for viruses, or install or copy personally owned or licensed files or programs to City owned computer equipment beyond the employee's permission level without the approval of the Director of Information Systems.
6. No employee shall engage in unauthorized personal business during work time or unauthorized or improper use of City property or equipment. Any such action may result in discipline up to and including dismissal. Use of computer equipment for purposes other than City business during work time, except as otherwise authorized by City policy, shall be considered an offense subject to such discipline. This includes, but is not limited to, the use of computers and related devices, and on-line services, including the Internet, etc.
7. All computer passwords used at the City must remain secret and no person shall give his or her password to any other person for any reason nor shall the password be posted at a workstation.
8. All City hardware shall be installed by an authorized Information System employee or designated vendor. No person shall take apart, install, relocate or remove any hardware on any computer or peripheral device for any reason, except as specifically authorized to do so.

**B. Computer Software Licensing and Use Policy Requirements and Procedures:**

1. No person shall load software or run software on City computers or network servers without specific written approval of the Information Systems Director. Unless specifically authorized in writing by the vendor or developer, no person shall copy any software or documentation for any reason. All software shall be registered with the Information Systems Department and no person shall run

public domain software on any City computer or network server until its source has been determined and it has been checked for viruses.

2. Unauthorized copying or use of computer software is not considered to be within the scope of employment. Authorized persons shall use City software only in accordance with the applicable license agreements. No software shall be run on City computers or network servers for production purposes unless used in this manner. Unlicensed software may be run for up to 30 days for the purpose of testing/evaluation if done with the knowledge and consent of the Information Systems Director and the vendor, developer, or reseller. If not licensed, the software shall be removed at the end of the 30 day period.
3. The City and all its authorized officers, officials, employees, contractors and vendors shall cooperate fully with any governmental agency that is legally authorized to conduct software audits.
4. Persons who make or knowingly use illegal copies of computer software are subject disciplinary action up to and including dismissal, and may also be liable for civil damages of up to \$100,000 and criminal penalties, including fines and imprisonment.
5. If the City is sued or fined because of unauthorized copying or use of software by any person, it may seek repayment from such person of any and all costs, fees and fines. Under no circumstances shall the City be liable for any costs, fees or fines for any person who is sued or fined individually under such circumstances.
6. Information System authorized personnel only are permitted to load software on City computers and network servers.
7. All persons using a City computer shall audit the software residing on their computer to ensure compliance with the license agreements for that computer. Information System personnel shall audit the software residing on network servers at least annually to verify licensing agreements. Unlicensed software, other than that legally being tested/evaluated shall be removed immediately.
8. Violations of this policy should be reported to the Information Systems Director.

### ***Section 6.11 SOCIAL MEDIA POLICY***

This policy is intended to provide City of Racine employees with guidelines for appropriate online activity involving social media. In general, the City views social media, which by way of example includes, but is not limited to, social networking (Facebook, LinkedIn), blogs and micro-blogs (Twitter, Blogger), content-sharing sites (Scribd, SlideShare) and image-sharing sites (Flickr, YouTube), positively and respects the rights of employees to use social media as a medium of self-expression. The City recognizes the importance of participating in online conversation and communities and supports our employees' responsible involvement in these

rapidly growing technologies. The nature of the Internet is such, however, that what you “say” online will be captured forever and can be transmitted endlessly to the public without your consent or knowledge. If an employee chooses to identify himself or herself as an employee of the City when utilizing such media, some readers may view the employee as a representative or spokesperson of the City. In light of this possibility, when employees participate in online and digital social media, it is important that they understand and adhere to the City’s Social Media Policy.

The following Guidelines should be utilized by employees when referring to the City, its programs or activities, its residents or customers/clients, or other employees in any online medium, and applies to all forms of social media including blogs, Facebook, MySpace, LinkedIn, Twitter, YouTube and Wikipedia. These Guidelines also apply to any comments that employees may leave on others’ blogs or Facebook pages, edits to wikis, responses to tweets, or posting on message boards or forums.

A. Guidelines:

1. Employees are personally responsible for the content they publish unless his/her job responsibilities are related to maintaining the City’s formal online presence. In the event you are promoting the City, its products or services, even anonymously, you must use only truthful statements and you must clearly disclose that you are a City employee. Federal law requires that an employee endorsing or promoting his/her employer must disclose the name of the organization with whom they are employed.
2. Employees may not post anything in social media in the name of the City or in a manner that could reasonably be attributed to the City without the prior written authorization from a City supervisor or manager. If employees do disclose their affiliation with the City (for example, in an online profile), they must use an appropriate disclaimer to make clear that they are speaking only on behalf of themselves and not on behalf of or as an agent of the City. An example of a disclaimer would be: *The opinions and viewpoints expressed are those of the author and do not necessarily represent the position or opinion of the author’s employer.*
3. Employees may not disclose any confidential information, or the confidential information of a third party, obtained in the course of their employment. Confidential information is defined as information disclosure which is prohibited by federal, state, or local law, personal health information of others, non-public law enforcement records, attorney-client privileged information, or other similar types of information.
4. Employees should respect all copyright laws. As a general rule, you should not distribute or incorporate material that you have retrieved or copied from another website or publication, unless your usage of such material meets the legal definition of “fair use.”
5. Employees may not use social media to harass or intimidate other employees, residents, customers/clients, or other third parties in violation of the City’s

Affirmative Action Policy or Anti-Harassment and Discrimination Policy. Behaviors that constitute harassment and intimidation include, but are not limited to, comments that are derogatory with respect to race, color, religion, gender, sexual orientation, disability, or any other protected characteristic under the law, sexually suggestive, humiliating, or demeaning comments or threats.

6. Posting, uploading, or sharing any recording, images (including audio, pictures, and videos), or other information in any online posting taken in the workplace without express advance authorization is prohibited.
7. Disparaging the City's services, clients, executive leadership, employees, or strategy, promoting or endorsing violence, making false or misleading statements, or promoting illegal activity, is strictly prohibited.
8. During work time, employees are prohibited from writing, posting, or otherwise contributing to social media unless such activity is requested by the City and is directly related to, or necessary, for an employee's performance of his/her job responsibility.
9. Employees have an ongoing duty to report any violations of this policy by any other employees. The City considers the duty to report to be a critical component of its efforts to ensure the safety of its employees and to preserve the City's reputation and goodwill in the community.
10. Nothing in this Social Media Policy should be construed or interpreted as interfering or impacting employees in the exercise of their rights under any federal, state, or local laws governing the relationship between employers and employees.

B. Monitoring:

1. The City may monitor the Internet and City equipment for employee compliance with this policy and to enforce other City policies.

C. Disciplinary Action:

1. If City employees fail to abide by this policy and its guidelines, or any other of the City's policies while online, violators may be subject to legal or disciplinary action by the City, up to and including termination.

***Section 6.12 ETHICS POLICY (SECTIONS 2-576 - 2-585, MUNICIPAL CODE)***

A. Purpose (Sec. 2-576):

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the best interest of the people, the community and the

government and in the proper channels of governmental structure; that public offices and employment not be used for personal gain, and that the public have confidence in the integrity of its government. To assist in attaining these goals, there is established a code of ethics for all City of Racine ("city") officials, including members of boards, committees, commissions, the mayor and employees, whether elected or appointed, paid or unpaid.

B. Policy (Sec. 2-577):

- a. The purpose of this code is to establish guidelines for ethical standards of conduct for all city officials and employees by setting forth those acts or actions which are incompatible with the best interests of the city and by requiring such officials and employees to disclose personal interests, financial or otherwise, in matters affecting the city.
- b. Nothing contained in this code is intended to deny to any individual the rights granted by the United States Constitution, the constitution of this state, the laws of this state or labor agreements between the city and its bargaining units.

C. Definitions (Sec. 2-578):

The following definitions shall be applicable in this code:

- a. *Anything of value* means any money or property, favor, gift, service, payment, advance, forbearance, loan or promise of future employment, including, but not limited to, remuneration, tickets, passes, lodging, travel, recreational expenses and admission offered and provided by persons doing business or interested in doing business with the city. "Anything of value" does not include compensation and expenses paid by the City of Racine, fees and expenses which are permitted and reported under Wis. Stats. §19.56, political contributions which are reported under chapter 11 of the state statutes, or hospitality extended for a purpose unrelated to public business by a person other than an organization.
- b. *Associated* (when used with reference to an organization) includes any organization in which an individual or a member of their immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least ten percent of the outstanding equity or of which an individual or member of their immediate family is an authorized representative or agent.
- c. *Board* means the board of ethics created by this code of ethics ordinance.
- d. *Business* means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.

- e. *Candidate for elective office* means any person who files nomination papers and a declaration under Wis. Stats. § 8.10 for the purpose of appearing on the ballot for election to an office in the City of Racine or any person nominated for a city office in an election through the write-in process and who files a declaration pursuant to Wis. Stats. § 8.10.
- f. *Confidential information* means written material or oral information related to city government, which is not otherwise subject to the public records law and which is expressly designated or marked as confidential.
- g. *Conflict of interest* means a public official's act or failure to act in the discharge of his/her official duties which could reasonably be expected to produce or assist in producing a substantial economic or personal benefit for such official, his/her family or an organization with which he/she is associated.
- h. *Economic interest* means any interest that will yield directly or indirectly a monetary or other material benefit to the public official or to any person employing or retaining the services of the public official, or any member of the family of said public official, except as permitted by Wis. Stats. § 946.13.
- i. *Financial interest* means any interest which would yield, directly or indirectly, a monetary or other material benefit to the public official or his/her spouse or to any person employing or retaining the services of the public official or his/her spouse.
- j. *Gift* means the payment or receipt of anything of value without valuable consideration.
- k. *Immediate family* means any individual related to a public official as spouse or legal dependent for federal income tax purposes.
- l. *Income* means the meaning given under the Federal Internal Revenue Code.
- m. *Incompatibility* means a conflict between one's official responsibilities and personal or economic interest which would prevent the public official from the complete and proper discharge of his/her official duties.
- n. *Organization* means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual, body politic or charitable entity.
- o. *Person* means any natural person, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, joint venture, trust, or other legal entity recognized as such by the laws of the state.
- p. *Privileged information* means information obtained under government authority which has not become a part of the body of public information.

- q. *Public official* means any person holding an elected city office and candidates for elected city office, or any person holding an appointed city office, including all city department heads, administrative managers, all city employees, and all citizens appointed by the mayor or common council to advisory boards, or commissions, and elected officials, and appointed members of committees and panels who are not elected.
- r. *Statement of economic interest* means the factual statement filed pursuant to the provision of this chapter which contains the information set forth in Section 2-579.
- s. *Valuable and sufficient consideration* means payment or compensation of an amount equivalent to the actual value of any item received. If the actual value cannot be determined, payment or compensation of a reasonable value is acceptable.

D. Financial Disclosure and Certification (Sec. 2-579):

- a. *Statement of economic interests and certification.* Except as otherwise provided herein, all city officers (except the municipal judge), candidates for city elective office, the city administrator, administrative managers, the finance director, the assistant commissioner(s) of public works, the deputy city clerk/treasurer, the deputy city attorney and the chief of operations of the water/wastewater utilities shall file a statement of economic interests, which shall contain the type of information required in Wis. Stats. § 19.44(1), and shall be provided subject to the conditions contained in Wis. Stats. §§ 19.44(2), (3), and (4). A city officer who serves without salary upon appointment by the mayor or common council, except members of the redevelopment authority, shall not be required to file a statement of economic interests but shall file a signed certification that he or she has received a copy of the laws and ordinances relating to conduct prohibited in the state and city code of ethics, that he or she has read such provisions and agrees to abide by the applicable standards of conduct.
- b. *Filing statement.* Individuals required to file a statement of economic interests shall file the statement with the board within the time specified in Wis. Stats. § 19.43(1) or (2), as applicable, or, if a candidate for elective city office, Wis. Stats. § 19.43(4).
- c. *Form to be provided.* The city clerk shall, by March 1 of each year, provide the statement of economic interests form to all persons required to file the statement, excepting candidates for elective city office, along with a notice to complete and return the form by March 31 of that year. The city clerk shall provide the form to candidates for elective city office at the time the candidate files his campaign registration form. The city clerk shall provide the certification form, along with a copy of the applicable state laws and city ordinances, to those persons required to

file the certification specified above upon the initial appointment of such persons to the board, commission or committee. The city clerk shall also provide the certification form to those board, commission and committee members not required to file the statement of economic interests but who are serving as an appointed member on February 1 of the given calendar year.

- d. *Preservation of records.* The city clerk shall preserve the statements of economic interests for a period of six years from the date of receipt, except that:
  - a. Upon the expiration of three years after an individual ceases to be a city public official the clerk shall, unless the former official otherwise requests, destroy any statement of economic interests filed by him and any copies thereof in the city clerk's possession.
  - b. Upon the expiration of three years after any election at which a candidate for elective city office was not elected, the city clerk shall destroy any statements of economic interests filed by him as a candidate and any copies thereof in the city clerk's possession, unless the individual continues to hold another position for which he is required to file a statement, or unless the individual otherwise requests.
  - c. *Disclosure.* The city clerk shall make statements of economic interests available to the public under the conditions for public inspection contained in Wis. Stats. § 19.55.

E. Penalties for failure to disclose economic interests (Sec. 2-580):

- a. *Candidates.* The city clerk is directed to omit the name of any candidate for elective city office from an election ballot who has not timely filed his statement of economic interests with the city clerk in accordance with this article.
- b. *Officers and employees.* The city clerk shall advise the finance director of any officer or employee who is required to file a statement of economic interests and fails to do so in accordance with the requirements of this article. The city treasurer is directed to withhold the salary and compensation of all kind from any such person until the officer or employee complies with this requirement. If the statement of economic interests or the certification of an officer who serves without salary is not received by the city clerk within the time required, the city clerk will provide written notice of such delinquency to the officer. If the statement or certification is not filed with the city clerk within 30 days after the date the notice is served or mailed by the city clerk, then the appointment of the officer shall be terminated by the appointing authority.

F. Prohibited conduct (Sec. 2-581):

- a. *Violation of work rules.* Appointed officials and employees shall adhere to the rules of work and performance standards established for their positions. Officials and employees shall not exceed their authority or breach the law or ask others to do so. They shall cooperate with public officials and employees from other governmental bodies, agencies, or jurisdictions unless prohibited by law from doing so. They shall not disclose confidential information or privileged information gained in the course of, or by reason of his/her official position or official activities.
- b. *Use of office for private gain.* No public official may use their public position or office to obtain financial gain or anything of substantial value for the private benefit of themselves or their immediate family, or for an organization with which they are associated. This includes the acceptance of free or discounted admissions to athletic or other entertainment events. A local public official is not prohibited from using the title or prestige of their office to obtain campaign contributions that are permitted and reported as required by Wis. Stats. ch. 11.
- c. *Offering or receiving anything of value.* No person may offer or give to a public official, directly or indirectly, and no public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the official.

A candidate for office or a public official may not utilize their vote to influence or promise to take or refrain from taking official action on matters under consideration or upon condition that any person make or refrain from making a political contribution or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under Wis. Stats. § 11.05, or any person making a communication that contains a reference to a clearly identified public official or candidate for public office.

- d. *Taking action affecting a matter in which an official has financial interest.* A public official may not take any official action that substantially affects a matter in which the official, a member of their immediate family, or an organization with which the official is associated has a substantial financial interest. Nor, may the official's office be used in a way that directly or indirectly produces or assists in the production of a substantial benefit for the official, or one or more members of the official's immediate family, or an organization that the official is associated with.

However, a public official is not prohibited from taking any action concerning the lawful payment of salaries, employee benefits or reimbursement of actual and

necessary expenses. Nor is the official prohibited from taking official action with respect to any proposal to modify city ordinances.

- e. *Bribery*. Public officials and employees are prohibited from accepting any money, property or other personal advantage they are not authorized to receive by anyone who promises this with the intention of influencing the public official or employee's conduct regarding any matter in which law is pending.
- f. *Misconduct in office*. Public officials and employees are prohibited from:
  - a. Intentionally failing or refusing to perform a known mandatory, nondiscretionary, ministerial duty of their office or employment within the time or in the manner required by law.
  - b. Performing an act knowingly in excess of their lawful authority or one in which they know they are forbidden by law to do in their official capacity.
  - c. Whether by act of commission or omission, exercising a discretionary power in a manner inconsistent with the duties of their office or employment or the rights of others and with intention to obtain a dishonest advantage for themselves or another.
  - d. Intentionally falsifying an account, record book, return, certificate, report or statement in the officer or employee's official capacity.
  - e. Intentionally soliciting or accepting anything of value, known by the officer or employee to be greater or less than is fixed by law, for the performance of any service or duty.
  - f. Using city property in a manner that is prohibited by policy, or that causes unnecessary costs, congestion, disruption or damage to city property, or other inappropriate uses which include, but are not limited to:
    - 1) Intentionally or unintentionally permitting the use of city property, equipment or vehicles by unauthorized persons;
    - 2) Using city logos or titles to misrepresent materials as official or misrepresenting, either implicitly or explicitly, personal views or comments as an official city policy or position;
    - 3) Using property owned by the city or services paid for with city funds for personal gain or to maintain or support a private business.
    - 4) Violating any portion of the city's "computer hardware and software policy."

- g. *Nepotism*. Public officials and employees are prohibited from:
  - a. Using their public office to obtain employment for the official's spouse or a dependent relative. However, if the official is not involved in the hiring, promotion or conditions of employment, a qualified spouse or dependent may be hired or promoted.
  - b. Advocating for or hiring or promoting, or exercising jurisdiction, supervision or direction over someone the official is related to as a parent, grandparent, child, grandchild, sibling, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew or spouse.
- h. *Incompatibility of offices*. No official or employee shall engage in or accept private employment or render service, for private interest, when such employment or service conflicts with the proper discharge of his or her official duties or would tend to impair such official's or employee's independence or judgment or action in the performance of such duties, unless otherwise permitted by law and unless disclosure is made as herein provided.
- i. *Conduct prohibited by state law*. Except as specifically provided in this chapter, the provisions of all applicable Wisconsin Statutes, including, but not limited to, Wis. Stat. §§ 19.41—19.59, 66.0501, 125.51, 946.10, 946.12 and 946.13, are adopted and by reference made a part of this code and shall apply to public officials whenever applicable. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this code.

G. Action upon conflict of interest (Sec. 2-582):

- a. If any city officer or employee who, in the discharge of official duties, is required to take an action that is prohibited by this article, and which would result in a conflict of interest, such city officer or employee:
  - a. Shall not take such action.
  - b. Shall prepare a written statement describing the matter requiring action or decision, and the nature of the possible conflict of interest with respect to such action or decision.
  - c. Shall deliver copies of such statement to the ethics board and to his immediate superior, if any.
  - d. In the case of an alderman, may deliver a copy of such statement to the mayor and common council.

- 1) The city clerk shall cause such statement to be printed in the official proceedings and, upon request, such alderman shall be excused from voting, deliberating and taking other actions on the matter on which a possible conflict exists.
- 2) If the city officer or employee is not an alderman, his superior, if any, shall assign the matter to another employee who does not have a possible conflict of interest. If the city officer or employee has no immediate superior, he may seek advice from the ethics board to remove himself from influence over actions and decisions on the matter on which the possible conflict exists.
- 3) The board shall review the statement describing the matter requiring an action or decision and the nature of the possible conflict of interest, and may advise the city officer or employee. Any person subject to this article may request of the board written advice regarding the propriety of any matter to which he is or may become a party. Written advice issued under this subsection shall be confidential except that it may be subpoenaed by any court of record or the common council or committee thereof. No person, except the person who initially requested preparation of the statement, may make the contents of any written advice or other records of the board public. It shall be prima facie evidence of intent to comply with this article when a person refers a matter to the board and abides by its written advice.
- 4) A city officer or employee may request the board to obtain an advisory opinion from an impartial attorney on the application of this article to a given set of circumstances, real or hypothetical, or the board may request such an opinion on its own motion.
- 5) Nothing in this section prohibits an alderman from making decisions concerning reimbursement of expenses, salaries or salary-related benefits of aldermen.

### ***Section 6.13 CONFIDENTIALITY***

Because of an employee's responsibilities at the City, an employee may have access to confidential City, resident, personnel, or other sensitive information that is not releasable to the public. This may include information concerning a resident's financial status or tax situation, employee records including disciplinary history, and the City's business practices including purchasing and negotiating strategies. This sensitive information cannot be disclosed to any personnel who do not have a legitimate business need to know such information or to persons outside the City organization without the determination of the City Administrator or Department Heads as designated and authorized by the Administrator. All employees are responsible for protecting the confidentiality of this information.

**Section 6.14 DRESS AND PERSONAL APPEARANCE (NON-UNIFORMED PERSONNEL)**

- A. Dress Code – Maintaining and projecting a professional business-like appearance to citizens, visitors, co-workers, and the public at-large is important to the image of the City of Racine. As representatives of the City, all employees are expected to dress in a professional manner that also assures their safety and ability to perform their jobs. An employee's dress and grooming should be appropriate to his or her work situation. This includes refraining from wearing inappropriate attire, such as revealing or provocative clothing to the workplace and to other functions and activities that are directly or indirectly related to the City of Racine. The City has therefore established a standard for employee dress, grooming, and personal hygiene to ensure a productive and safe work environment as well as to maintain a City-wide professional image. The City has the exclusive right to determine and establish standards of dress, grooming, and personal hygiene dictated by need, exposure to the public, safety, modesty, and common sense in the workplace and at other functions and activities that are directly or indirectly related to the City of Racine.

The City recognizes that personal appearance is a form of self-expression. The City makes no effort to control or dictate employee appearance, except where it conflicts with City policy or operations, health and safety, or interferes with another employee's ability to perform his or her job. Requests for reasonable accommodation (i.e. Title VII, ADA) will be considered on a case-by-case basis. Employees must exercise good hygiene at all times.

City management has the discretion to determine whether an employee's dress and appearance complies with this policy. Employees who do not comply with the Dress and Personal Appearance Policy will be sent home to change. Non-exempt employees (those employees subject to the minimum wage and overtime requirements of the Fair Labor Standards Act) will not be compensated for any work time missed because of failure to comply with this policy. Repeated non-compliance with the Dress and Personal Appearance Policy will result in disciplinary action up to and including discharge.

1. *Normal Business Attire:* Each work day, employees are expected to dress in a business-like manner consistent with the department in which the employee works. This *may* require men to wear suits or jackets, dress shirts, and ties and women to wear pantsuits, skirts and blouses, dresses or other attire appropriate to their work situation. Jogging suits and shorts are never acceptable. Jeans, tennis shoes, and sweatshirts are not acceptable except where the employee is required to leave the office to conduct inspections or perform other work where there is likelihood that dress clothes or shoes may be ruined. Those whose duties require them to remain within an office environment may not wear jeans, tennis shoes, or similar clothing. All offensive tattoos must be covered at all times. To the extent possible, all tattoos above the collar bone must be covered by hair or clothing at all times. Waists and abdomens must be covered, and the obvious or overt display of cleavage is not

permitted. Except for reasonable ear piercings, employees shall not wear facial piercings while on duty.

2. *Optional Casual Days:* Fridays and occasional work days immediate to Friday Holidays are designated as Optional Casual Dress Days. Individual Administrative Managers may decline to permit his or her department to participate in casual days.

Employees who participate in the Sunshine Club's monthly donation program may wear casual attire on Optional Casual Days. Employees are asked to dress appropriately and use common sense when selecting apparel. For example, blue jeans and blue denims are allowed as casual attire provided they are neat, clean and not torn, patched, or shredded.

However, casual attire such as beach sandals, slippers, bare feet, "flip flops," or dangerous footwear, athletic wear, including sweatpants and jogging suits, short-shorts, biking shorts, anything with spandex, backless sundresses, tank or halter tops, hip-huggers, flannel pants and pajamas, mini-skirts, shorts, skirts or dresses shorter than six inches above the knee, sweatshirts, sleeveless shirts, strapless, spaghetti-strapped, off-the-shoulder, low-cut, sheer, halter, backless, short, or midriff-revealing tops, or tops with plunging necklines (waists and abdomens must be covered, and the obvious or overt display of cleavage is not permitted), t-shirts, tube tops, or muscle shirts, dangerous jewelry, dirty, torn, or ripped clothing, clothing that reveals undergarments, tight-fitting clothing, and shirts with inappropriate sayings/pictures are not permitted. Hats, caps, sweatbands, bandanas, or helmets are not acceptable while in the office. Religious headwear is permitted. All offensive tattoos must be covered at all times. To the extent possible, all tattoos above the collar bone must be covered by hair or clothing at all times. Except for reasonable ear piercings, employees shall not wear facial piercings while on duty.

Business attire may be required on casual dress days based on business requirements.

- B. Identification Badge Wear – Except where it would cause a safety hazard or directly interfere with an employee's ability to perform her or his work as determined by an Administrative Manager, City-issued identification badges must be worn by all employees at all on-duty times in an easily visible spot at or above the waist. The employee's picture, name, and current title or department must be facing outward so the employee may be easily identified by name. Any employees engaged in direct service to, or involvement with, members of the public shall wear identification badges at all times while performing his or her duties. Belt clips will be supplied by the employer. Employees may also wear identification badges on neck lanyards.

An Administrative Manager may, in writing, with a copy to the City Administrator, determine that the wear of identification badges would interfere with the ability of employees to perform his or her work in specific job classifications, or while performing specific duties. Notwithstanding this exception, all employees shall be required to wear

identification badges while engaged in customer service or while dealing with members of the public.

Uniformed employees who are required to wear a badge or identification badge as part of their uniforms are exempt from this additional requirement.

### ***Section 6.15 SAFETY POLICY MANUAL***

The City of Racine is committed to providing a safe and hazard free work place for all employees. The City will provide safe working equipment, personal protective equipment when needed, and first aid treatment and medical treatment if required. At the same time, it is expected that employees shall, as condition of continued employment, abide by the standards established in the *City of Racine Safety Policy Manual*.

These rules are intended to specify the general standards by which employees shall perform their jobs. However, these rules are not exhaustive and individual department rules may apply. Violation of safety rules or standards will result in disciplinary action. Recommendations or suggestions regarding the addition or modification of these safety rules should be made to your supervisor. As used in these rules, shall is interpreted to mean "required" while should is interpreted to mean "recommended, but not required".

Management reserves the right in its discretion to supplement, alter, modify, amend, or rescind these rules from time to time as necessary. It is not intended that these rules will modify, amend, or in any way contravene the provisions any of our labor agreements, or Work Rules. Any grievances arising out of the interpretation of these rules are subject to the grievance procedure.

These rules were developed to apply to employees at all levels of employment. The intent was to develop rules that fulfilled the desired goal of providing a safer work place. The ultimate success of this effort will depend upon the continued cooperation of employees and administration.

### ***Section 6.16 POLITICAL ACTIVITY***

Employees will not be discriminated in favor or against because of political contribution, permitted political activity or neutrality. Employees may not engage in any form of political activity on-the-job. Employees may not engage in political activity off-the-job to such an extent that it interferes with doing his/her job.

### ***Section 6.17 SMOKING POLICY***

It is the policy of the City that any City employee who continues to smoke during working hours will limit such smoking only during the employee's normal break(s) or lunch period. Failure to comply will subject the employee to discipline up to and including termination.

### ***Section 6.18 TOBACCO USE***

No employee will be permitted to use tobacco while in a City building or in any City-owned vehicle. Failure to comply will subject the employee to discipline up to and including termination.

### ***Section 6.19 CHANGES IN EMPLOYEE INFORMATION***

It is the responsibility of all employees to report any kind of changes such as address, telephone number or personal data such as marital status, number of dependents, etc. to the Department Head within 30 days of such change. Employees who change direct deposit instructions for their paychecks must advise the Payroll Department within five (5) days of making such change so that the paycheck may be processed correctly.

### ***Section 6.20 SECONDARY EMPLOYMENT***

Employment with the City by regular part-time and regular full-time employees should be considered the employee's primary employment. Secondary employment with other entities must not conflict, whether real or implied, with the duties of the employee. The City has priority call on the services of its employees regardless of any conflict with secondary employment. An employee who engages in secondary employment must clearly define himself or herself as an employee of the secondary employer and not act or treat himself or herself as an employee or agent of the City. Employees must still comply with all policies, rules and general expectations of conduct when engaging in off-duty behavior regardless of such secondary employment. The City may terminate the employment of an employee whose secondary employment may interfere with the performance of his or her work, where a conflict, whether real or implied exists, where the interests of the City are impacted as a result of the secondary employment, or where such employment or conduct negatively affects the image of the City or its employees. An employee will not be permitted to work for another employer while on a leave of absence or while absent for illness from the City. *An employee who holds secondary employment while employed by the City must notify his or her supervisor of such secondary employment.*

Employees who engage in outside employment shall not conduct any business related to such employment on City premises or during hours in which such employees are working for the City or advertise the outside employment either directly or indirectly on City premises during work.

### ***Section 6.21 FUNDRAISING ACTIVITY***

The City participates in the annual United Way fund drive. The Sunshine Club is a sanctioned activity that is open to any City of Racine employee. It is important that employees, especially subordinates, not be subjected to the subtle pressure that exists to give to fundraising activities. Employees are not required to participate in any fundraising activities. This includes, but is not limited to, fundraising for charities other than the annual United Way fund drive, sale of items for school or scouting fundraisers, and similar activities.

## **Section 6.22 EMPLOYEE PERSONAL RELATIONSHIPS**

The City of Racine strongly believes that an environment where employees maintain clear boundaries between employee personal and business interactions is most effective for conducting business. Although this policy does not prevent the development of friendships or romantic relationships between coworkers, it does establish very clear boundaries as to how relationships will progress during working hours and within the working environment. Individuals in supervisory relationships or other influential roles are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information, and their ability to influence others.

- A. During working time and in working areas employees are expected to keep personal exchanges limited so that others are not distracted or offended by such exchanges and so that productivity is maintained.
- B. During non-working time, such as lunches, breaks and before and after work periods, employees are not precluded from having appropriate personal conversations in non-work areas as long as their conversations and behaviors could in no way be perceived as offensive or uncomfortable to a reasonable person.
- C. Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate by a reasonable person while anywhere on City premises, whether during working hours or not.
- D. Employees who allow personal relationships with coworkers to affect the working environment will be subject to the appropriate provisions of the City's disciplinary policy. An employee's failure to change such behavior and maintain work performance and environment is viewed as a serious disciplinary matter.
- E. Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this private-conduct principle, however, is romantic or sexual relationships between supervisors and subordinates, which are never appropriate.
- F. Supervisors, managers, executives, or anyone else in sensitive or influential positions must disclose the existence of any relationship with another coworker that has progressed beyond a platonic friendship. Disclosure may be made to the immediate supervisor or the Human Resources Manager. This disclosure will enable the organization to determine whether any conflict of interest exists because of the relative positions of the individuals involved.
- G. Where problems or potential risks are identified, the organization will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure that the parties involved no longer work together on matters where one is able to influence the other or take action for or regarding the other. Matters such as hiring, firing, promotions, performance management, compensation decisions, financial

transactions, etc. are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage. In some cases other measures may be necessary such as transfer to other positions or departments. Refusal to accept reasonable alternative positions, if available, will be deemed a voluntary resignation.

- H. Continued failure to work with the organization to resolve such a situation in a mutually agreeable fashion may ultimately be deemed insubordination and therefore serve as cause for discipline, up to and including, termination. The organization's disciplinary policy will be consulted to ensure consistency, however, before any such extreme measures are undertaken.
- I. The provisions of this policy apply regardless of the sexual orientation of the parties involved.
- J. Where doubts exist as to the specific meaning of the terms used above, employees should consult their supervisors and make judgments on the basis of the overall spirit and intent of this policy.
- K. Notwithstanding anything else contained in this policy, there are certain positions for which very close personal and romantic relationships with fellow employees are never acceptable. This includes such relationships between supervisors and subordinates. In addition, because of the sensitive nature of personal employee information available to members of the Human Resources Department, it is never appropriate for members of the Human Resources Department to have close personal and romantic relationships with any other City employee.
- L. Any employee who feels they have been disadvantaged as a result of this policy, or who believes this policy is not being adhered to, should make their feelings known to the Human Resources Manager or other designated individual.

### ***Section 6.23 ELECTRONIC COMMUNICATIONS AND E-MAIL POLICY***

#### **I. ELECTRONIC COMMUNICATION**

##### **A. PURPOSE**

To better serve our citizens and give our workforce the best tools to do their jobs, the City of Racine continues to adopt and make use of new means of communication and information exchange. This means that many of our employees have access to one or more forms of electronic media and services, including, but not limited to, computers, e-mail, telephones, cellular telephones, pagers, voice mail, fax machines, external electronic bulletin boards, wire services, on-line services, the Internet, and the World Wide Web.

The City of Racine encourages the use of these media and associated services because they can make communication more efficient and effective and because they are valuable sources of information. However, all employees and everyone connected with the City should remember that electronic media and services provided by the City are City property and their purpose is to facilitate and support City business. No expectation of privacy in regards to use of the City's electronic communication systems should be expected by the employee in any respect related to accessing, transmitting, sorting or communicating information via the system.

This policy cannot lay down rules to cover every possible situation. The purpose of this policy is to express the City of Racine's philosophy and set forth general guidelines governing the use of electronic media and services. By adopting this policy, it is the City's intent to ensure the electronic communication systems are used to their maximum potential for business purposes and not used in a way that is disruptive, offensive to others, or contrary to the best interest of the City of Racine.

1. The following procedures apply to all electronic media and services that are:
  - a. Accessed on or from City premises;
  - b. Accessed using the City's computer equipment or via the City's paid access methods; or
  - c. Used in a manner that identifies the individual as acting for or on behalf of the City of Racine; or in any way identifies the City of Racine.

2. Organizations affected:

This policy applies to all of the departments, offices, boards, commissions, committees, employees and contracted and consulting resources of the City of Racine.

## **B. POLICY**

It is the policy of the City of Racine to follow this set of procedures for the use of electronic communication media and services.

References:

Electronic Communications Privacy Act of 1986 (18 U.S.C. §§ 2510 - 2711);  
Wis. Stats. §947.0125.

## **C. PROCEDURES**

1. Access and Authority

- a. Each Department Head shall determine which employees in their department shall have access to the various media and services,

based on business practices and necessity and which shall have authority to communicate on behalf of the department.

- b. The provisions of this Policy shall apply to the use of City owned/provided equipment and/or services from home or other locations off City premises. City owned equipment (e.g. laptops) may be removed from City premises solely for City work related purposes pursuant to prior authorization from the Department Head.

## 2. Prohibited Communications

- a. Electronic media cannot be used for knowingly transmitting, retrieving or storing any communication that is:
  - i. Personal business on City time (e.g. sports pools, games, shopping, correspondence, or other non-business-related items/documents), except as otherwise allowed under #3 below;
  - ii. Discriminatory or harassing;
  - iii. Derogatory to any individual or group;
  - iv. Obscene as defined in Wis. Stats. § 944.21;
  - v. Defamatory or threatening; or
  - vi. Engaged in for any purpose that is illegal or contrary to the City's policy or business interests.
- b. For the protection, integrity and security of the City's System, electronic media shall not be used to download or transfer software, unless authorized by the Information Systems Director.

## 3. Personal Use

- a. Except as otherwise provided, electronic media and services are provided by the City for employees' business use during City time. Limited, occasional, or incidental use of electronic media (sending or receiving) for personal non-business purposes is permitted as set forth below:
  - i. Personal use is limited to breaks, lunch or immediately before/after work;
  - ii. Personal use must not interfere with the productivity of the employee or his or her co-workers;
  - iii. Personal use does not involve any prohibited activity (see Section B, b-f);
  - iv. Personal use does not consume system resources or storage capacity on an ongoing basis;
  - v. Personal use does not involve large file transfers or otherwise deplete system resources available for business

purposes.

- b. City telephones and cellular phones are to be used for City business. However, brief, limited personal use is permitted during the work day. Personal long distance calls are only permitted with the use of a personal 1-800 calling card, or with the understanding that such calls must be reimbursed to the City, as per policies set forth in the City of Racine Employee Handbook.
- c. Employees should not have any expectation of privacy with respect to personal use of the City's electronic media or services.

#### 4. Access to Employee Communications

- a. Electronic information created and/or communicated by an employee using e-mail, word processing, utility programs, spreadsheets, voice mail, telephones, Internet and bulletin board systems, desktop faxes, and similar electronic media may be accessed and monitored by the City of Racine. The City respects its employees' desire to work without surveillance. However, the City of Racine reserves and intends to exercise the right, at its discretion, to review, monitor, intercept, access, and disclose all messages created, received or sent over the electronic communication systems for any purpose including, but not limited to: cost analysis; resource allocation; optimum technical management of information resources; and detecting use which is in violation of City policies or may constitute illegal activity. Disclosure will not be made except when necessary to enforce the policy, as permitted or required under the law, or for business purposes.
- b. Any such monitoring, intercepting and accessing shall observe any and all confidentiality regulations under Federal and State laws.

#### 5. Security/Appropriate Use

- a. Employees must respect the confidentiality of other individuals' electronic communications. Except in cases in which explicit authorization has been granted by the Information Systems Director, employees are prohibited from engaging in, or attempting to engage in:
  - i. Monitoring or intercepting the files or electronic communications of other employees or third parties;
  - ii. Hacking or obtaining access to systems or accounts they are not authorized to use;
  - iii. Using other people's log-ins or passwords; and

- iv. Breaching, testing, or monitoring computer or network security measures.
- b. No e-mail or other electronic communications can be sent that attempt to hide the identity of the sender or represent the sender as someone else.
- c. Electronic media and services should not be used in a manner that is likely to cause network congestion or significantly hamper the ability of other people to access and use the system.
- d. Anyone obtaining electronic access to other organizations', business', companies', municipalities' or individuals' materials must respect all copyrights and cannot copy, retrieve, modify, or forward copyrighted materials except as permitted by the copyright owner.

Employees must understand that the unauthorized use or independent installation of non-standard software or data may cause computers and networks to function erratically, improperly, or cause data loss. Therefore, before installing any new software or data, users should seek assistance of the Information Systems Department. Users must never install downloaded software to networked storage devices without the assistance and approval of appropriate personnel.

Most of the City's computing facilities automatically check for viruses before files and data which are transferred into the system from external sources are run or otherwise accessed. On computers where virus scanning takes place automatically, the virus scanning software must not be disabled, modified, uninstalled, or otherwise inactivated. If you are uncertain as to whether the workstation you are using is capable of detecting viruses automatically, or you are unsure whether the data has been adequately checked for viruses, you should contact the Information System Department's Help Desk.

Anyone receiving an electronic communication in error shall notify the sender immediately. The communication may be privileged, confidential and/or exempt from disclosure under applicable law. Such privilege and confidentiality shall be respected.

## 6. Encryption

Employees should not assume electronic communications are totally private. Employees with a business-need to encrypt messages (e.g. for

purposes of safeguarding sensitive or confidential information) shall submit a written request to their supervisor and their Administrative Manager. When authorized to use encryption by their supervisor and their Administrative Manager, employees shall use encryption software supplied to them by the Information Systems Department. Employees who use encryption on files stored on a City's computer must provide their supervisor with a sealed hard copy record (to be retained in a secure location) of all of the passwords and/or encryption keys necessary to access the files.

#### 7. Participation in on-line forums

- a. Employees should remember that any messages or information sent on City provided facilities to one or more individuals via an electronic network (for example: Internet mailing lists, bulletin boards, and on-line services) are statements identifiable and attributable to the City of Racine.
- b. The City of Racine recognizes that participation in some forums might be important to the performance of an employee's job. For instance, an employee might find the answer to a technical problem by consulting members of a newsgroup devoted to the technical area.
- c. Employees shall include the following disclaimer in all of their postings to public forums:

*“The views, opinions, and judgments expressed in this message are solely those of the author. The message contents have not been reviewed or approved by the City Attorney’s Office”.*

- d. Employees should note that even with a disclaimer, a connection with the City of Racine exists and a statement could be imputed legally to the City. Therefore, employees should not rely on disclaimers as a way of insulating the City from the comments and opinions they contribute to forums. Instead, employees must limit their discussion to matters of fact and avoid expressing opinions while using the City's systems or provided account. Communications must not reveal confidential information and must not otherwise violate this or other City policies.
- e. Employees must receive authorization from their Department Heads prior to participating in an on-line forum. The employees shall be required to review the provisions of this section before they receive such authorization.

## 8. Policy Violations

Employees who abuse the privilege of City facilitated access to electronic media or services risk having the privilege removed for themselves and possibly other employees, are subject to discipline, up to and including termination, and may be subject to civil liability and criminal prosecution.

## II. E-MAIL POLICY

### A. PURPOSE

The City of Racine provides certain employees with systems to send and receive electronic mail (e-mail) so they can work more productively. E-mail gives employees a useful way to exchange ideas, share files, and keep in touch with colleagues, whether they are located in the next room, another City building, or thousands of miles away.

The City of Racine's e-mail system is a valuable business asset. The messages sent and received on the e-mail system, like memos, purchase orders, letters, or other documents created by employees in the course of their workday, are the property of the City of Racine and may constitute public records. This policy explains rules governing the appropriate use of e-mail and sets out the City's rights to access messages on the e-mail system. No expectation of privacy in regards to use of the City's e-mail system should be expected by the employee in any respect related to accessing, transmitting, sorting or communicating information via the system.

#### 1. Organizations affected:

This policy applies to all City departments, divisions, offices, boards, commissions, committees, employees and contracted and consulting resources.

### B. POLICY

It is the policy of the Governing Unit to follow this set of procedures for the use of the Governing Unit's e-mail system.

#### References:

Electronic Communications Privacy Act of 1986 (18 U.S.C. §§ 2510 - 2711);  
Wis. Stats. §19.21; Wis. Stats. §947.0125.

### C. PROCEDURES

## 1. Access to employee e-mail

- a. Employees should not have any expectation of privacy with respect to messages or files sent, received, or stored on the City's e-mail system. E-mail messages and files, like other types of correspondence and City documents, can be accessed and read by authorized employees or authorized individuals outside the City. The City reserves the right to monitor, review, audit, intercept, access and disclose all messages created, received or sent over the e-mail system. Information contained in the e-mail system will only be disclosed to the extent permitted by law, for business purposes, or as needed to enforce the policy. Authorized access to employee e-mail by other employees or outside individuals includes, but is not limited to, the following:
  - i. Access by the Information Systems Department during the course of system maintenance or administration;
  - ii. Access approved by the employee, the employee's supervisor, or Administrative Manager when there is an urgent business reason to access the employee's mailbox - for example, if an employee is absent from the office and the supervisor has reason to believe that information relevant to the day's business is located in the employee's mailbox;
  - iii. Access approved by the employee's supervisor, the Administrative Manager, or the City Administrator when there is reason to believe the employee is using e-mail in violation of the City's policies;
  - iv. Access approved by the City Administrator or the City Attorney in response to the City's receipt of a court order or request from law enforcement officials for disclosure of an employee's e-mail messages.
- b. Except as otherwise noted herein, e-mail should not be used to communicate sensitive or confidential information. Employees should anticipate that an e-mail message might be disclosed to or read by individuals other than the intended recipient(s), since messages can be easily forwarded to other individuals. In addition, while the City endeavors to maintain the reliability of its e-mail system, employees should be aware that a variety of human and system errors have the potential to cause inadvertent or accidental disclosures of e-mail messages.
- c. The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message.
- d. Employees should understand that electronic mail is a written form of communication, just like a paper letter. Though electronic mail

is relatively spontaneous compared with regular mail, employees should take care to use the same level of discretion and forethought before executing electronic messages.

## 2. Passwords

Each user accesses the e-mail system by means of a personal log-in name and password, which will be selected by the employee and kept on file with the Department Head and the Information Systems Department.

- a. Passwords are intended to keep unauthorized individuals from accessing messages stored on the system. From a systems perspective and from the perspective of an e-mail recipient, passwords also establish the identity of the person sending an e-mail message. The failure to keep passwords confidential can allow unauthorized individuals to read, modify, or delete e-mail messages; circulate e-mail forgeries; and download or manipulate files on other systems.
- b. The practice of using passwords should not lead employees to expect privacy with respect to messages sent or received. The use of passwords for security does not guarantee confidentiality. (See "Access to Employee E-mail").
- c. Passwords should never be given out over the phone, included in e-mail messages, posted, or kept within public view.
- d. Employees are prohibited from disclosing their password, or those of any other employee, to anyone who is not an employee of the City. Employees also should not disclose their password to other employees, except when required by an urgent business matter (see Section C. 1. a. ii. of this policy).

## 3. Personal Use

- a. The City of Racine allows limited, occasional, or incidental personal use of its e-mail system during lunch, breaks or immediately before or after work, subject to the following conditions and restrictions:
- b. Personal use must not:
  - i. Involve any prohibited activity (see #4 below);
  - ii. Interfere with the productivity of the employee or his or her co-workers;
  - iii. Consume system resources or storage capacity on an ongoing basis; or
  - iv. Involve large file transfers or otherwise deplete system resources available for business purposes.
- c. Employees should not have any expectations of privacy with respect to personal e-mail sent or received on the City's e-mail system. Employees should delete personal messages as soon as

they are read or replied to. Employees should not store copies of the personal messages they have sent. Because e-mail is not private, employees should avoid sending personal messages that are sensitive or confidential.

#### 4. Prohibited Activities

- a. Employees are strictly prohibited from sending e-mail or otherwise using the e-mail system in connection with any of the following activities:
  - i. Engaging in personal business or entertainment on the City's time;
  - ii. Engaging in illegal, fraudulent, or malicious activities;
  - iii. Engaging in the unlawful use of the e-mail system as set forth in Section 947.0125 of the Wisconsin Statutes (Unlawful use of computerized communication systems);
  - iv. Sending or storing offensive, disruptive, obscene, or defamatory material. Materials which are considered offensive include, but are not limited to: any materials which contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, race, creed, color, sex, ancestry, religious or political beliefs, marital status, national origin or disability;
  - v. Annoying or harassing other individuals;
  - vi. Using another individual's account or identity without explicit authorization;
  - vii. Attempting to test, circumvent, or defeat security or auditing systems, without prior authorization;
  - viii. Accessing, retrieving or reading any e-mail messages sent to other individuals, without prior authorization from the Information Systems Department; or
  - ix. Permitting any unauthorized individual to access the City's e-mail system.

#### 5. Confidential Information

- a. All employees are expected and required to protect the City of Racine's confidential information. Employees shall not transmit or forward confidential information to outside individuals or companies without the permission of their supervisor and the City Administrator. See #7 Encryption.
- b. The City also requires its employees to use e-mail in a way that respects the confidential and proprietary information of others. Employees are prohibited from copying or distributing copyrighted

material - for example, software, database files, documentation, or articles using the e-mail system.

#### 6. Record Retention

- a. The same rules which apply to record retention for other City documents apply to e-mail. As a general rule, e-mail is a public record whenever a paper message with the same content would be a public record.
- b. The specific procedure to be followed with respect to the retention of e-mail records is contained in Section 3, E-Mail Record Retention Policy.

#### 7. Encryption

Encrypting e-mail messages or attached files sent, stored, or received on the Governing Unit's e-mail system is prohibited except where explicitly authorized. Employees are prohibited from using or installing any encryption software without prior permission from the Information Systems Director. Employees with a business need to encrypt messages should submit a written request to their supervisor and their Administrative Manager. When authorized to use encryption by their supervisor and their Administrative Manager, employees shall use encryption software supplied to them by the Information Systems Department. Employees who use encryption on e-mail stored on a City computer must provide their supervisor with a sealed hard copy record (to be retained in a secure location) of all the passwords and/or encryption keys necessary to access the e-mail.

#### 8. E-mail Policy Violations

Employees violating the City of Racine's e-mail policy are subject to discipline, up to and including termination. Employees using the e-mail system for defamatory, illegal, or fraudulent purposes and employees who break into unauthorized areas of the City's computer system also are subject to civil liability and criminal prosecution.

### **III. E-MAIL RECORD RETENTION POLICY**

#### **A. PURPOSE**

The purpose of this policy is to emphasize that certain types of e-mail as defined in Wis. Stats. §19.32(2) are public records. The same rules which apply to record retention and disclosure for other Governing Unit documents apply to such records. This policy applies to all of the departments, divisions, offices, boards, commissions, committees, employees and contracted and consulting resources of the City of Racine.

## B. POLICY

It is the policy of the Governing Unit to follow this set of procedures for e-mail record retention.

References:

Wis. Stats. §§16.612, 19.21 et. seq., 19.32 and 19.33.

## C. PROCEDURES

### 1. Nature of e-mail records

As a general rule, e-mail is a public record whenever a paper message with the same content would be a public record. See Wis. Stats. §19.32(2) for definition of a record.

### 2. Components of an e-mail record

The e-mail record is defined to include the message, the identities of the sender and all recipients, the date, and any non-archived attachments to the e-mail message. Any return receipt indicating the message was received by the sender is also considered to be part of the record.

### 3. Saving and indexing e-mail records

Initially the custodian (that officer, department head, division head, or employee of the City who keeps or is in possession of an e-mail) bears the responsibility for determining whether or not a particular e-mail record is a public record which should be saved and ensuring the record is properly indexed and forwarded for retention as a public record. E-mail which is subject to records retention must be saved and should be indexed so that it is linked to the related records in other media (for example, paper) so that a complete record can be accessed when needed. E-mail records to be retained shall be archived to an archival media, network drive or printed out and saved in the appropriate file. Any officer, department head, division head, or employee of the City may request assistance from the City Attorney's Office in determining whether an e-mail is a public record.

### 4. Responsibilities for e-mail records management

- a. Legal Custodian. E-mail records of a City department having custody of records shall be maintained by the designated Legal Custodian, pursuant to City policy.
- b. Information Systems Director. If e-mail is maintained in an on-line data base, it is the responsibility of the Information Systems Department to provide technical support for the Legal Custodian as needed. When equipment is updated, the Information Systems

Department shall ensure that the ability to reproduce e-mail in a readable form is maintained. The Information Systems Director shall assure that e-mail programs are properly set up to archive e-mail.

5. Public access to e-mail records

If a Department receives a request for release of an e-mail public record, the Legal Custodian of the record shall determine if it is appropriate for public release, in whole or in part, pursuant to law, consulting the City Attorney's Office, if necessary. As with other records, access to or electronic copies of disclosable records shall be provided within a reasonable time.

6. Violation

Employees violating this policy are subject to discipline up to and including dismissal. In addition, violations of this policy may be referred for civil and/or criminal prosecution, where appropriate.

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## **ARTICLE VII     DISCIPLINE AND GRIEVANCE PROCEDURE**

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### ***Section 7.01 PURPOSE, DISCIPLINE, AND DEFINITIONS***

The purpose of this article is to provide guidance for employees and supervisors concerning discipline of covered city employees. In addition, the purpose of this article is to establish a procedure to provide those city employees who are not covered by a grievance procedure as part of a collective bargaining agreement to resolve grievances while in the employ of the city.

This procedure is intended to comply with Wis. Stats. § 66.0509, and provides a grievance procedure addressing issues concerning workplace safety, discipline, and termination. This procedure applies to all employees covered under Wis. Stats. § 66.0509, and accepts all police and fire employees subject to Wis. Stats. § 62.13(5). A covered employee may appeal any level of discipline under this grievance procedure. Any grievance filed under the article shall be filed on behalf of an individual employee. No grievance may be filed on behalf of more than one employee, a group of employees, or any collective bargaining unit.

Nothing in this article is intended to create a legally binding contract between the city and covered employees or to change the at-will nature of employment for covered employees with the city. Employment with the city is voluntarily entered into and employees are free to resign at any time with or without cause. Similarly, the city may terminate the employment of any covered employee, at any time with or without cause, subject to applicable federal, state, or local law. The city reserves its management rights to exclusively manage its operations.

#### **A. Discipline:**

To the extent possible, it is in the best interests of the employees and the city to ensure fair treatment of all employees and in making certain that disciplinary actions are prompt, uniform, and impartial.

Discipline may result when an employee's actions do not conform with generally accepted standards of good behavior, when an employee violates a policy or rule, when an employee's performance is not acceptable, or when the employee's conduct is detrimental to the interests of the city. Disciplinary action may call for any of four steps - warning, reprimand, suspension (with or without pay) or termination of employment - depending on the problem and the number of occurrences. There may be circumstances when one or more steps are bypassed. Certain types of employee problems are serious enough to justify either a suspension or termination of employment without going through progressive discipline steps. The city reserves the right, in its sole discretion, to impose disciplinary action as may be appropriate to the particular circumstances.

#### **B. Definitions:**

1. *Discipline* and *disciplinary actions* are actions taken to correct a problem or misbehavior, deter further problems or misbehavior, prepare an employee for

satisfactory service in the future, or separate an employee where an employee has demonstrated an inability or unwillingness to perform satisfactory service. Approved discipline and disciplinary actions are:

- a. *Warning* – Written documentation given to an employee describing specific disciplinary infractions, such as inappropriate conduct, poor performance, or violation of work rules/policies. Such documentation may include information regarding past infractions and what action will be taken if the employee fails to improve. A warning is the first step of formal discipline.
  - b. *Reprimand* – Written documentation given to an employee describing continuing or more serious specific disciplinary infractions, such as inappropriate conduct, poor performance, or violation of work rules/policies. Such documentation may include information regarding past infractions and shall include what action will be taken if the employee fails to improve. A reprimand is more serious than a warning.
  - c. *Suspension* – A disciplinary measure, including written documentation, in which employees are suspended without pay for a specified period of time due to violations including continuing or serious specific disciplinary infractions, such as inappropriate conduct, poor performance, or violation of work rules/policies. Such documentation shall include what action will be taken if the employee fails to improve.
2. *Employee discipline* includes all levels of progressive discipline, but shall not include the following personnel actions:
- a. Placing an employee on paid administrative leave pending an internal investigation;
  - b. Counseling sessions, meetings, or other pre-disciplinary action, whether written or oral;
  - c. Actions taken to address work performance, including establishment and/or use of a performance improvement plan or job targets;
  - d. Demotion, transfer, or change in job assignment; or
  - e. Other personnel actions taken by the employer that are not a form of discipline.

Administrative managers and other supervisors may take such action regarding employees, however, such actions are not “discipline” or “disciplinary action” and, therefore, are not grievable.

3. *Employee termination* shall include action taken by the employer to terminate an individual's employment for misconduct or performance reasons, but shall not include the following personnel actions:
  - a. Voluntary quit;
  - b. Layoff, furlough, or failure to be recalled from layoff at the expiration of the recall period;
  - c. Time lost because of a lack of work available to the employee;
  - d. Job abandonment, "no-call," "no-show," or other failure to report to work;
  - e. Termination of employment due to lack of qualification or license or other inability to perform job duties; or
  - f. Retirement;
4. *Workplace safety* is defined as conditions of employment regarding employees' physical health or safety, and specifically including only: the safe operation of workplace equipment and tools, safety of the physical work environment, provision of personal protective equipment, workplace violence, and training related to same.

### ***Section 7.02 FILING OF COMPLAINT, HEARINGS, AND DECISIONS***

#### **A. Procedure:**

Employees should first discuss complaints or questions with their immediate supervisor. Every reasonable effort should be made by supervisors and employees to resolve any questions, problems or misunderstandings that have arisen before filing a grievance. An employee whose complaint concerning the employee's discipline, termination, or workplace safety has not been resolved informally to the employee's satisfaction with the employee's immediate supervisor may obtain a review of the complaint under the following procedures:

1. *Step 1: Supervisor review.* The employee shall reduce his complaint to writing, using the form prescribed by the Human Resources Department, and submit it to the employee's immediate supervisor within 15 working days after the employee knew or should have known the cause of such grievance. Such complaint shall be referred to in this section as "the grievance." Any written grievance filed under this article must contain the following information:
  - The name and position of the employee filing it,
  - A statement of the issue involved,

- A statement of the relief sought,
- A detailed explanation of the facts supporting the grievance;
- The specific date(s) the event(s) giving rise to the grievance took place,
- The identity of the policy, procedure or rule that is being challenged;
- The steps the employee has taken to review the matter, either orally or in writing, with the employee's supervisor; and
- The employee's signature and the date.

The supervisor shall immediately forward a copy of the grievance to the Human Resources Department and shall consult with the Human Resources Department before responding. (The failure of a supervisor to so do shall not constitute a flaw or defect in the processing of a grievance.)

The supervisor shall answer the grievance within five working days. If the grievance is answered in a manner unsatisfactory to the employee, the employee may proceed to step 2.

2. *Step 2: Administrative Manager review.* If the grievance is not resolved at step 1, the employee may appeal the grievance to the employee's Administrative Manager within five working days of the receipt of the decision of the employee's supervisor at step 1. The Administrative Manager will review the matter and shall consult with the Human Resources Department before responding. (The failure of the Administrative Manager to so do shall not constitute a flaw or defect in the processing of a grievance.) The Administrative Manager shall inform the employee of his/her decision, if possible, within 10 working days of receipt of the grievance.
3. *Step 3: City Administrator review.* If the grievance is not resolved at step 2, the employee may appeal the grievance to the City Administrator within five working days of the receipt of the decision of the Administrative Manager at step 2. The City Administrator will review the matter and inform the employee of his/her decision, if possible, within 10 working days of receipt of the grievance.
4. *Step 4: Impartial hearing officer.* If the grievance is not resolved at step 3, the employee may request in writing, to the Human Resources Department, within five business days following receipt of the City Administrator's decision, a request for review by an impartial hearing officer.
  - a. The parties shall, within 10 business days, jointly request that the Wisconsin Employment Relations Commission appoint an impartial hearing officer. The parties shall equally share the cost of the independent hearing officer, which payment shall be made at the same time as the request therefore.
  - b. In all cases, the grievant shall have the burden of proof to support the grievance. The impartial hearing officer will determine whether the city

acted in an arbitrary and capricious manner. This process does not involve a hearing equivalent to a hearing before a court of law. The rules of evidence will not be followed.

- c. Depending on the issue involved, the impartial hearing officer will determine whether a hearing is necessary, or whether the case may be decided based on a submission of written documents. If the impartial hearing officer determines that a hearing is necessary, the parties shall attempt to agree in advance upon the issue involved and stipulate to facts to be used at the hearing. The independent hearing officer shall meet with the parties at the earliest possible date which can be set to review the evidence and hear testimony relating to the grievance. All such hearings shall be held at Racine City Hall. The impartial hearing officer shall prepare a written decision.
  - d. The impartial hearing officer may order either party to pay the entire amount of the independent hearing officer's fees upon such terms, and for such reasons, as the independent hearing officer finds appropriate and equitable.
5. *Step 5: Review by the Common Council.* If the grievance is not resolved after step 4, the employee or the City Administrator shall request, within five business days of receipt of the written decision from the hearing officer, a written review by the Common Council. The appeal shall be submitted as a communication to the Common Council, using a form prescribed by the Human Resources Department, through the Finance and Personnel Committee. The Finance and Personnel Committee shall review the matter at its next regularly scheduled meeting, subject to the notice requirements of the open meetings law, and make a recommendation to the Common Council. The Finance and Personnel Committee shall not take testimony or evidence; it may make a recommendation only upon a determination whether the hearing officer reached an arbitrary or incorrect result based on a review of the record before the hearing officer. The matter will be forwarded to the Common Council at its next regular meeting. The Common Council shall not take testimony or evidence; it may determine whether the hearing officer reached an arbitrary or incorrect result based on a review of the record before the hearing officer. The Common Council, through the City Clerk, will inform the employee of its findings and decision in writing within 10 working days of the Common Council meeting. A two-thirds vote of the Common Council shall be required to overturn the decision of the independent hearing officer. Absent such a supermajority vote, the decision of the independent hearing officer shall be affirmed. The decision of the Common Council shall be final and binding.
6. An employee may not file a grievance outside of the time limits set forth above. If the employee fails to meet the deadlines set forth above, the grievance will be considered resolved. If it is impossible to comply with the deadlines due to

meeting notice requirements or meeting preparation, the grievance will be reviewed at the next possible meeting date. An employee will conduct all activities related to preparing the grievance, other than delivering the grievance to the appropriate person as described in the various steps above, during non-working hours and shall not otherwise be compensated for time spent in preparing his/her grievance. An employee shall not be permitted union representation at any stage in the grievance process.

7. *Administrative Managers.* Notwithstanding anything else contained herein any grievance by an Administrative Manager regarding discipline or workplace safety shall commence at step 3, using a form prescribed by the Human Resources Department including the information required for step 1, above, within 15 working days after the employee knew or should have known the cause of such grievance. Notwithstanding anything else contained herein any grievance by an Administrative Manager regarding that Administrative Manager's termination based on a charge of official misconduct or inefficiency:
  - a. Shall be initiated in accordance with Wis. Stat. § 17.16(3).
  - b. Shall commence at step 4 as set forth above.
  - c. If neither the employee nor the city appeals the decision of the impartial hearing officer, the Common Council shall affirm the decision of the impartial hearing office at its next regularly scheduled meeting after the time for appeal has expired, subject to the notice requirements of the open meetings law.
  - d. If the employee or the city appeals the decision of the impartial hearing officer, such appeal shall be heard by the common council as follows:
    1. Whenever any charge of official misconduct, malfeasance, or inefficiency shall be preferred against an administrative manager employed by the city, the Common Council shall proceed within 30 days, or such other time as agreed between the parties, after the charge so filed with the City Clerk, to hear and determine the case upon its merits.
    2. The mayor may suspend such officer against whom charges have been preferred until the disposition of the charges and appoint a person to fill the vacancy temporarily until the charges have been disposed of.
    3. The Common Council may, for the purpose of such hearing, compel the attendance of witnesses and the production of all papers by subpoena when necessary for the purpose of such hearing.

4. Two-thirds of all the members of the Common Council elect shall have the power to dismiss such Administrative Manager from office for malfeasance, misconduct, or inefficiency in office, upon due process hearing as provided in this section.

**DRAFT DOCUMENT – FOR DISCUSSION PURPOSES  
NOT EFFECTIVE UNTIL APPROVED BY RACINE  
COMMON COUNCIL**

**June 24, 2013  
AS APPROVED BY THE FINANCE AND PERSONNEL  
COMMITTEE**