



# **Personnel Policies Manual**

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# CHAPTER 1 PURPOSE AND SCOPE

## 1.1. INTRODUCTION

The City of Ellensburg places the highest value on its employees. We wish to see satisfied workers, with the support necessary to achieve the objectives of each position. The City believes that clear, consistent personnel policies contribute to greater job satisfaction. All employees and new hires are required to be familiar with these policies. If questions arise, please begin with a discussion with your supervisor or department director. Employees are encouraged to offer ideas or suggestions for improvement of these policies.

These personnel policies serve as a general guide to the City of Ellensburg's current employment practices and procedures. As such, we hope they will help employees better understand how the City operates and what is expected of an employee, and what the employee can expect in return. These policies also describe the compensation, benefits and other support provided by the City.

## 1.2. INTENT OF POLICIES

These policies are not intended to be a contract, express or implied, or any type of promise or guarantee of specific treatment upon which an employee may rely, or a guarantee of employment for any specific duration. Although the City desires long-term employment relationships, it is recognized this may not always occur and either the employer or employee may decide to terminate employment. Unless specific rights are granted in employment contracts, civil service rules or elsewhere, all employees of the City are considered at-will employees and may be terminated from City employment at any time, with or without cause and with or without notice. No supervisor, department director or representative of the City, other than the City Manager, has authority to enter into any agreement with an employee for employment for any specified period or duration, or to make any written or verbal commitments to the contrary. It is the City's intent these policies be interpreted as providing a reasonable approach to specific problems and situations; they should be considered as a total set of working procedures rather than interpreting each section, subsection, sentence or phrase separately and out of context.

It is the City's intent that implementation of these policies, including any future revisions of these policies, will result in no change, increase or decrease to wages, benefits, or working conditions of represented employees that are determined in the bargaining process. The City recognizes the terms and conditions of existing bargaining agreements; implementation of these policies is not intended to change the terms and conditions of any agreement between unions and the City.

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### 1.3. SCOPE OF POLICIES

These personnel policies apply to all City of Ellensburg employees. In cases where these policies conflict with any Civil Service rules and regulations, provisions of a collective bargaining agreement, the Ellensburg Police Department's Policies & Procedures Manual, City ordinance or state or federal law, the terms of that law, rule or agreement prevail. In all other cases, these policies apply. In the event of the amendment of any ordinance, rule, or law incorporated in this document or upon which these provisions rely, these personnel policies shall be deemed amended in conformance with those changes. These policies are not intended to address every aspect of your employment in detail. In some cases, details may be found in other controlling documents, such as the summary plan descriptions of benefit plans.

### 1.4. CHANGING THE POLICIES

As the need arises, the City Council may modify these policies and, by ordinance or resolution, may enact changes to compensation or benefit levels. The City Manager may deviate from these policies in particular situations, especially in an emergency, to achieve the primary mission of serving the City's citizens. These policies supersede any prior policies or handbooks. Employees may request specific changes to these policies by submitting suggestions to their department director or the City Manager.

These policies do not create an employment contract or implied contract rights for employees, nor do they create a promise or guarantee of specific treatment in a specific situation. The City retains the right to administer or implement these policies appropriate to the particular situation or occurrence. The City also retains the right to revise, supplement or rescind these policies without prior notice to employees. However, union representatives for the respective bargaining units representing City employees will be given a copy of any proposed changes to these policies for a 14 day (two week) comment period prior to implementation.

### 1.5. DEFINITIONS

**Appointing Authority:** The person empowered with authority to appoint and/or remove employees from City positions, or persons delegated by such appointing authority to perform duties which legally may be delegated. The City of Ellensburg appointing authority is the City Manager.

**At-will Employee:** Unless specific rights are granted to an employee in a collective bargaining agreement, civil service rules, or elsewhere, an employee of the City may be terminated at any time, with or without cause and with or without notice.

**City:** The City of Ellensburg.

**City Business:** Includes work or job duties directly arising out of a work assignment or work duties that directly benefit the City and its operations.

**City Facility:** Any building that is owned or leased by the City. Except as otherwise provided herein, the term does not include City parks, parking lots, sidewalks, or streets.

**Class/Classification:** Systematic arrangement of job titles into categories according to positions sharing similar job functions and/or responsibilities. A representative sample of the City's classification system includes classifications such as Management, Technical/Professional, Skilled Trades.

**COBRA Rights:** Federal law which permits employees who are terminating from City employment to continue eligible group medical coverage at their personal expense for a specified period of time determined by federal law.

**Days:** References to "days" in these policies shall mean calendar days unless otherwise stated.

**Department Director or Department Head:** An employee responsible for directing one or more City departments or divisions.

**Emergency:** A circumstance that, if not immediately addressed, may cause injury or damage to persons or property.

**Employee Assistance Program:** A program designed to assist City employees and their family members to seek advice or solve problems through professional counseling.

**Exempt Employee:** An employee who does not receive overtime pay for all hours worked in excess of 40 hours per week as provided in the Fair Labor Standards Act (FLSA) because the employee works in a bona fide executive, administrative, professional or other exempt capacity covered by the FLSA and Washington Minimum Wage Act.

**General Notification:** Notification on employee bulletin boards or through an employee newsletter, email or similar form of notification.

**Good Driving Record:** Less than two moving violations within the preceding three years; no reckless driving or driving while intoxicated violations within the preceding

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five years. Maximum of one motor vehicle accident within the preceding three (3) years for which the applicant received a traffic or criminal citation and was convicted, forfeited bail, or pleaded guilty.

**Human Resources:** The City's Human Resources Department.

**Immediate Family:** Includes the following: spouse; Washington State Domestic Partnership; parent; child; brother or sister; mother or father-in-law; son or daughter-in-law; grandparent; grandchild; or any relative who lives in the employee's home. An individual is considered a relative whether related by blood, marriage or adoption.

**Merit Raise:** An advance in pay of one step in the appropriate pay range of the adopted salary schedule for the purpose of recognizing satisfactory job performance by the employee. This is decided by the Appointing Authority based on a performance evaluation which clearly demonstrates the employee has improved his/her value to the City by consistently meeting and/or frequently exceeding the standards of performance set for the position.

**Non-exempt Employee:** An employee who receives overtime pay for hours worked beyond 40 hours in a standard work week in accordance with the Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act. The amount of overtime pay is one and one-half times the regular rate of pay for actual hours worked, unless provided otherwise in a bargaining agreement.

**Non-public Area of a City Facility:** An area which has been declared by the City Manager or department director in charge of the facility as not being open on a regular basis to members of the public.

**Non-represented Employee:** An at-will employee who is not a member of a bargaining unit and is not represented by a bargaining agent in matters of wages, benefits, and working conditions.

**Other Part-time Employee:** Other part-time employee includes seasonal, on-call, and other part-time non-benefited employees (regularly averages less than 20 work hours per week).

**Personal Time Off (PTO Leave):** Includes employee choice days and bank days, in addition to annual PTO leave.

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**Personal Time Off (PTO) Leave (or sick leave, if applicable, for represented employees) Abuse:** Excessive absenteeism or repeated absence from work without adequate medical explanation.

**Pro-rata Basis:** The ratio between the number of hours in an employee's normal work schedule and forty (40) hours per week, as it applies to leaves and benefits.

**Regular Full-Time Employee:** An employee hired in a budgeted, authorized position, who has successfully completed a trial period as defined in these policies and who regularly works a minimum of forty (40) hours a week on a regular year-round schedule.

**Regular Part-Time Employee:** An employee hired in a budgeted, authorized position, who has successfully completed a trial period as defined in these policies and who regularly works less than forty (40), but at least twenty (20) hours a week on a regular year-round schedule, unless provided otherwise in a bargaining agreement.

**Represented Employee:** An employee who is a member of a bargaining unit and represented by a bargaining agent in matters of wages, benefits, and working conditions.

**Reserve Time Off (RTO Leave):** RTO is leave available for use by employees hired on or before December 31, 2015 which has been converted from an employee's sick leave bank.

**Reserve Time Off (RTO) Leave (or sick leave, if applicable, for represented employees) Abuse:** Excessive absenteeism or repeated absence from work without adequate medical explanation.

**Temporary Employee:** An employee hired to work a fixed or flexible schedule of hours for a specified period of time, or an employee who is hired on an intermittent, seasonal or as-needed basis, as provided in Section 3.3.

**Trial Employee:** An employee who has not yet completed a trial period in a regular position and who has not been granted regular employment status. Unless otherwise specified, when regular employees are referred to in these policies, the reference includes trial employees.

**Weapon:** Any object, instrument or incendiary device which is (1) designed in such a manner to inflict harm or injury to another person, or (2) used in a manner threatening harm or injury to another person. This shall include, but not be limited

to: firearms, knives (not including pocket knives with blades less than 3 inches in length), chako sticks and blackjacks.

## CHAPTER 2

### GENERAL POLICIES, PRACTICES AND EMPLOYEE CONDUCT

#### 2.1. GENERAL CODE OF CONDUCT

All City employees are expected to represent the City of Ellensburg to the public in a professional manner which is courteous, efficient and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by the position and department director or City Manager.

Since the proper working relationship between employees and the City of Ellensburg depends on each employee's on-going job performance, professional conduct and behavior, the City has established certain minimum standards of personal conduct. Among the City's expectations are: tact, courtesy and respect towards the public and fellow employees; adherence to City policies, procedures, safety rules and safe work practices; compliance with directions from supervisors; preserving and protecting the City's equipment, grounds, facilities and resources; and providing orderly and cost efficient services to its citizens.

The City of Ellensburg is a small workforce and, to function efficiently, employees may be asked to perform duties outside regular assignments. This arrangement is necessary in many small cities. To make the most efficient use of personnel, the City also reserves the right to change work conditions and duties originally assigned. If these changes in arrangements become necessary, the City expects employee cooperation.

As to any issue of employee discipline, the City retains complete discretion as to when a situation calls for discipline or correction and what form and level of discipline are appropriate. City management believes in appropriate discipline in appropriate circumstances. Normally, if the problems are performance related, corrective action may call for "coaching" or counseling initially. If problems arise from misconduct or an intentional disregard for directives or these policies, such conduct may warrant more serious discipline (such as written reprimands, disciplinary probations, suspension or discharge). Performance problems may also warrant more serious discipline, if the City determines the situation has not improved or worsens. However, management will review each situation independently and make a decision on what it deems to be appropriate discipline, up to and including discharge for the first offense. A decision to use progressive-type discipline in a given case is an attempt to improve the performance or behavior, but does not change the "at will" nature of the employment relationship. For represented employees, the City will adhere to procedures set forth in the applicable labor agreement.

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Some examples of conduct which may lead to discipline or discharge include:

Insubordination; unauthorized release of City, customer or co-worker information; profanity or verbal abuse; falsification of any work, personnel, or other City records; unauthorized taking or removal of City funds or property; use of City vehicles/equipment or property for non-business purposes; misusing City communication systems, including electronic mail, computers, Internet access, and telephones; dishonesty; lying; discrimination against or harassment of co-workers or others; possession, consumption, or being under the influence of alcohol or a controlled substance (including marijuana) at work or on City property; bringing a weapon to the workplace; assaulting, fighting or threatening to fight with another employee; misconduct of any kind; Failure to perform assigned duties or performance duties in a satisfactory manner; excessive absenteeism or tardiness; failure to follow policy and procedure to report in when absent or tardy; failure to comply with safety or security rules and procedures; and violation of City policy.

These examples are not all-inclusive; other negative behavior may also be grounds for discipline or discharge.

## **2.2. EQUAL EMPLOYMENT OPPORTUNITY**

The City of Ellensburg encourages and expects its work force to reflect the diversity of its citizens. The City of Ellensburg is an equal employment opportunity employer. The City employs, retains, promotes, disciplines and otherwise treats all employees and job applicants strictly on the basis of job-related qualifications and competence. These policies and all employment practices shall be applied without regard to any individual's sex, race, color, creed, religion, national origin, sexual orientation, gender identity, pregnancy, age, marital status, military or veteran status, disability, genetic information or any other characteristic protected by law.

## **2.3. DISABILITY DISCRIMINATION PROHIBITED**

The City of Ellensburg complies with the Americans with Disabilities Act (ADA) and all applicable state and local fair employment practices laws, and is committed to providing equal employment opportunities to qualified individuals with disabilities. Consistent with this commitment, the City will provide a reasonable accommodation to qualified applicants or employees with a disability if the reasonable accommodation would allow the individual to perform the essential functions of the job, unless doing so would create an undue hardship or a direct threat to the health or safety of others. Employees whose disabilities require workplace accommodation should contact the Human Resources Department to evaluate

the need for reasonable accommodation and options for providing reasonable accommodation.

#### 2.4. LIFE THREATENING/COMMUNICABLE DISEASES

Employees with life threatening illnesses or communicable diseases are treated the same as all other employees. They are permitted to continue working as long as they are able to maintain an acceptable level of performance and medical evidence shows they are not a threat to themselves or their co-workers. The City will work to preserve the safety of all of its employees and reserves the right, to the extent allowed by law, to reassign employees or take other job actions, including discharge, when a substantial and unusual safety risk to fellow City employees or the public may exist.

#### 2.5. HARASSMENT PREVENTION

It is the City of Ellensburg's policy to foster and maintain a work environment free from discrimination, harassment and intimidation. Toward this end, the City will not tolerate harassment of any kind by an employee toward any co-worker or member of the public. Employees are expected to show respect for each other and the public at all times, despite individual differences.

Harassment is defined as verbal or physical conduct that demeans or shows hostility or aversion toward another employee or member of the public. Harassment typically includes slurs or demeaning comments to employees or members of the public relating to race, ethnic background, gender, religion, sexual orientation (including gender identity), age, disability, marital status, military status or any other legally protected status; however the victim of harassment need not be a member of any protected category in order for harassment to occur. Any conduct having the effect of substantially interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment may be considered harassment. Any harassment of a fellow employee or member of the public will be cause for disciplinary action, up to and including termination of employment.

Examples of behaviors which are inappropriate and/or illegal on the job referring to categories above:

Negative or offensive comments; jokes; slang names or labels; talking about or calling attention to another employee's physical or mental capacity in a derogatory or offensive manner; displaying nude or sexual pictures, cartoons or calendars on City property.

(See Discrimination/Harassment Complaint Procedure, Policy 2.7, for guidance on what to do if you or a coworker experience harassment.)

## 2.6. SEXUAL HARASSMENT PROHIBITED

Sexual harassment is a form of discrimination, is illegal and violates federal and state law and the City's policies. Sexual harassment is also inappropriate and offensive and will not be tolerated by the City of Ellensburg. The City considers sexual harassment a serious offense, and an employee who harasses another employee or member of the public will be disciplined as in any other case of serious employee misconduct.

Sexual harassment is generally defined as requests for sexual favors or other visual, verbal or physical conduct of a sexual nature when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment does not refer to casual conversation or compliments of a socially acceptable nature. It refers to behavior that is not welcome and which is personally offensive, interfering with the effectiveness or creating discomfort on the job.

Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents resulting in a severe and pervasive hostile working environment can constitute sexual harassment even if one of the incidents considered on its own would not be harassing. Likewise, a single incident, if sufficiently egregious, may constitute harassment. Sexual harassment includes harassment based on another person's gender or harassment based upon pregnancy, childbirth or related medical conditions. It also can include harassment of another employee of the same gender as the harasser. Employees are prohibited from harassing other employees whether or not the incidents of harassment occur on employer premises and whether or not the incidents occur during working hours.

Though sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include the following:

- Physical assaults of a sexual nature, such as rape, sexual battery, molestation or attempts to commit these assaults, and intentional physical conduct that is sexual in

nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.

- Verbal examples include derogatory comments, slurs, unwanted sexual comments, suggestions, jokes, pressure for sexual favors or comments about a person's sexuality or sexual experience.
- Visual examples include leering, sexually-oriented gestures, or display of sexually suggestive or derogatory objects, pictures, cartoons, or posters.
- Written examples of sexual harassment include suggestive or obscene letters, emails, notes and invitations.
- Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
- Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

It is the policy of the City of Ellensburg to prevent and/or eliminate sexual harassment in the workplace, as well as to alleviate any effects sexual harassment may have on the working conditions, or work environment, of an employee. In response to reports of sexual harassment, the City will seek to protect all parties involved from retaliation, false accusations, or future harassment and, where appropriate, will take prompt and adequate remedial measures.

Employees engaging in harassment are subject to discipline, up to and including termination. (See following section on Discrimination/Harassment Complaint Procedure, for guidance on what to do if you or a co-worker experience sexual harassment.)

## 2.7. DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

Each employee is responsible for creating an atmosphere free of discrimination and harassment in any form. Each employee is responsible for respecting the rights of co-workers and others, including the citizens we serve.

**Employee Procedure:** The following procedure outlines the steps an employee should follow if the employee believes he/she is experiencing harassment or discrimination on the job:

- 1) If comfortable doing so, identify the offensive behavior to the harasser and request that it stop. If such informal direct communication is impractical or the offensive behavior does not immediately cease:

- 2) Report the incident(s) to the immediate non-involved supervisor within the department, the department director, or the Human Resources Director.

Where possible, this should include the specific allegation, date of the occurrence, the individuals involved, and the names of any witnesses. A non-involved supervisor is defined as the first supervisor in an employee's department who is not the object of the complaint and is not otherwise involved in the harassing behavior. In the event that there is no non-involved supervisor, and the behavior involves the department director and the Human Resources Director, the employee should report the incident to the City Attorney.

No employee will suffer retaliation for reporting a good faith concern. Any employee involved in reporting a concern, or who participates in an investigation, may request that his or her identity be kept confidential. City officials and those involved in the investigation will honor this request to the extent possible under law, business necessity, and the needs of the investigation. Confidentiality, however, cannot be guaranteed.

Employees are encouraged to take all action necessary to correct a workplace problem or harassment, so problems can be identified and corrected. They should not refrain from taking these steps due to a fear of retaliation. If retaliation occurs, promptly report such conduct in the same manner as outlined in this Section. With a prompt complaint from employees, the City will take all appropriate steps to correct a problem of harassment, discrimination or retaliation in the workplace and will assist the employee affected if further problems arise. Thus, employees are encouraged to utilize these procedures to resolve concerns about workplace discrimination before they allow such conduct to interfere with their performance or such conduct affects their satisfaction with the workplace.

**Supervisor Procedure:** Supervisors who are aware of situations involving discrimination or harassment must respond to such situations regardless of whether or not a complaint is received. Supervisors who receive complaints or become aware of such incidents must:

- 1) Take prompt action to ensure the behavior is not repeated pending investigation of the concern; and
- 2) Promptly notify the appropriate department director and the Human Resources Director of the allegations, including all information known to or received by the supervisor

Supervisors shall be required to take the above steps and may be disciplined if they do not.

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**The investigation process:** Employees are prohibited from interfering in any investigation or retaliating against anyone who in good faith has filed a complaint or participated in an investigation of a complaint.

The Human Resources Director, City Attorney or an outside investigator appointed by the City Attorney or City Manager may begin an investigation within a reasonable period of time after the report of alleged harassment is received. In determining whether alleged conduct constitutes harassment, the totality of circumstances, the nature of the harassment and the context in which the alleged incidents occurred will be investigated. Confidentiality will be maintained to the extent permitted by law.

The investigation will be directed at determining the facts concerning the allegations. If warranted, a comparison will be made of the treatment of others with that of the employee allegedly affected to see whether others have also been treated in the same manner. If, during the course of investigation, the investigator finds evidence of harassment involving other employees, the investigator may either expand the original investigation to include the new evidence, or recommend that the City initiate a separate investigation.

The investigator shall advise the accused person of the allegations and afford him or her an opportunity to reply. The employee shall also be advised that any retaliation will be subject to disciplinary action, regardless of the outcome of the investigation.

The results of each investigation may be written and a finding made regardless of whether or not there is reasonable cause for disciplinary action. Disciplinary action, if necessary, may range from a verbal warning to termination, depending on the seriousness of the harassment. Nothing shall limit the authority of the City to modify policies or practices to correct any appearance of harassment without finding cause for disciplinary action or taking any disciplinary action. If an investigation determines the accused employee engaged in harassment or discrimination, appropriate action will be taken, as in the case of any other serious employee misconduct. Such actions may include warnings, verbal and/or written reprimands, a letter to the employee's file, or an employee transfer, demotion, suspension or termination. An employee may at his or her request have a statement of rebuttal or correction placed in his/her personnel file. Nothing limits the authority of the City to modify policies or practices to correct any appearance of harassment without finding cause for disciplinary action or taking any disciplinary action.

Employees participating in an investigation shall refrain from discussing the investigation process, interviews or issues under investigation to prevent harmful gossip and to prevent the possibility of tainting the investigation.

It is also the right of all employees to seek redress from the Washington State Human Rights Commission, the Equal Employment Opportunity Commission, or through the courts.

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However, employees are encouraged to exhaust the administrative remedies outlined by this policy before outside agencies are consulted.

## 2.8. EMPLOYEE PERSONNEL RECORDS

A personnel file is kept for each employee in Human Resources. An employee's personnel file contains: the employee's name; title and/or position held; job description; department to which the employee is assigned; salary; changes in employment status; all training received; performance evaluations; personnel actions affecting the employee, including discipline; accommodation and other pertinent information. Medical information about employees is contained in a separate confidential file.

Employees have the right to review their own files. An employee may request, through the City Manager, removal from his/her personnel file of information the employee believes to be irrelevant or erroneous. If the City Manager denies an employee's request to remove information, the employee may file a written rebuttal statement to be placed in his/her file. A former employee shall retain this right of rebuttal for two years after the last day of City employment.

Personnel files are kept confidential to the extent permitted by law (e.g. Chapter 42.56 RCW and RCW 42.56.230). Except as required by law or court order, access will be limited to the employee, employee's immediate supervisor/department director, Human Resources, City Attorney, City Manager, and City Manager's designee. If an employee engages in misconduct, such information may become available to the public under current interpretations of the public disclosure laws.

## 2.9. EMPLOYMENT REFERENCES

Only the Human Resources Department, City Manager, Department Directors or Supervisors with Department Director approval will provide employment references on current or former City employees. Other employees shall refer requests for references to the appropriate Department Director or Human Resources Department. References should be factual in nature and job related. All written references need to be filed with Human Resources.

The City has immunity under RCW 4.24.730 for certain disclosures of employee information to a prospective employer. Human Resources will endeavor to retain a written record of the identity of the person or entity to which information is disclosed under RCW 4.24.730 for a minimum of two years from the date of disclosure, and the employee or former employee shall have the right to inspect any such written record upon request; any such written record shall become part of the employee's personnel file.

## 2.10. EMPLOYEE APPEARANCE AND BEHAVIOR

Members of the public judge a community not only by service, but also by the appearance of its personnel, equipment and facilities. Good public relations cannot be guaranteed by merely doing a good job; the public must be convinced the service is good through appearance, behavior and personal demeanor.

The personal appearance of all employees, especially those who come into contact with the public, is important and should conform to community standards. Dress should be appropriate to the division/area in which an employee works. This may include required uniforms or safety attire. Examples of inappropriate shirts include shirts with inappropriate slogans, tank tops, muscle shirts, camouflage and crop tops. All employees should, to the extent reasonable for their job duties, be neat and clean in dress and personal appearance, and convey a professional appearance while engaged in City business. The City Manager or Department Directors may establish reasonable standards of appearance and clothing which are appropriate for the job assignment. These standards may be verbal or in writing. Any accommodations must comply with safety requirements and overall professional appearance.

Those employees provided uniforms by the City of Ellensburg must maintain the uniform in good condition and wear the uniforms. The appearance of uniformed personnel is one of particular importance, since the public is more apt to recognize these employees as City personnel. Uniforms should be clean, pressed, mended and fitted properly. The appearance of the uniform depends on the way it is worn, as well as its condition.

The behavior and bearing of all personnel is an important factor in the formulation of public opinion. Individuals coming into government offices should perceive a positive work environment with inclusive cooperative attitudes. All City employees are expected to represent the City of Ellensburg in a professional manner which is courteous, efficient and helpful. Employees are also expected to use appropriate language for a professional workplace. Profanity and other potentially offensive behavior is prohibited.

## 2.11. EMPLOYEE ISSUES

Employees are encouraged to make recommendations or suggestions for the improvement of City services and internal operations. Non-represented employees may, in a non-disruptive manner, raise questions which affect salary and benefits and working conditions. Employees should address such questions to their immediate supervisor and, if a satisfactory response is not received, may ask for a meeting with the appropriate department director to discuss the issue. In the event the issue is not resolved at the department level, it may be brought to the City Manager for his/her review and decision, which shall be final.

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## 2.12. EMPLOYEE AWARD PROGRAMS

A. Safety Award Programs: The Safety Committee is authorized to develop and establish Safety Award Programs with incentive awards, subject to the approval of the City Manager. Award recipients shall be designated by the Department Directors and the City Manager. The goal of each safety program will be to reduce workplace injuries, time loss and to improve work practices.

B. Service Award Programs: The City maintains a practice of providing employee recognition awards for years of service. The award may be given to an employee who has completed aggregate City service equal to 5, 10, 15, 20, 25, 30, and 35 years.

C. Performance Award Programs: The City may award an employee or group of employees for performance above and beyond the normal expectations of the City or the employee's peers. The following criteria for a performance award are established:

- 1) work voluntarily performed beyond the individual responsibilities to accomplish an important City task;
- 2) providing excellent customer service;
- 3) recognition from peers, supervisors, management, or city residents of performance above and beyond the expectations for service; or
- 4) a basis of outstanding performance of specific job assignments which
- 5) significantly reduce costs or improve operations or services.

D. Award recipients for safety, service and performance programs shall receive awards not to exceed seventy-five (\$75.00) in value.

### E. Wellness Award Program

The Wellness Program is established in recognition that:

- 1) Healthy productive employees are critical to the provisions of high quality and efficient local government services.
- 2) The health and well-being of employees has a direct effect on the cost of government services.

The Wellness Program is budgeted and administered through the Human Resources department. A voluntary employee Wellness Committee assists with the planning, oversight, management, promotion and execution of the program activities. Any participation in the programs and activities of the Wellness Program is on a voluntary basis.

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The Committee is authorized to develop and establish Wellness Award Programs with incentive awards within the budget, subject to the approval of the City Manager.

The Employee Awards Program or any portion of the program may be curtailed or terminated by the City as the City determines appropriate.

## CHAPTER 3 RECRUITMENT, APPLICATIONS, AND SELECTION

### 3.1. RECRUITMENT

Recruiting practices are conducted solely on the basis of ability, merit, qualifications and competence, without regard to any individual's sex, race, color, religion, national origin, sexual orientation, pregnancy, age, marital status, military status, disability or any other characteristic protected by law. Public announcement of vacant positions shall be distributed in a manner which will attract a sufficient number of qualified persons. The vacancy shall be posted at designated public places for a minimum of ten (10) calendar days prior to the closing date for filing applications, unless an emergency has been declared by the City Manager.

Each applicant shall complete and sign an application form prior to being considered for any position. Resumes may supplement, but not replace, the City of Ellensburg official application. Applications will be accepted for open positions and will be considered only for that position. Applications must be received by Human Resources no later than 5:00 p.m. on the published closing date for filing, except for mailed applications, which will be accepted if postmarked by the date of the deadline. A closing date may be extended by Human Resources. Applications, whether accepted or rejected, will not be returned. Applications will be maintained in City archives for at least three years.

An applicant who changes his/her address or phone number is responsible for notifying Human Resources of the change. At the discretion of the Human Resources Director, applications received that are not clear or complete may not be considered further.

Applicants for municipal employment may be required to provide documentary evidence of the qualifications listed on their application.

**Disciplinary action for fraud:** Any applicant who has made a false or misleading statement or has practiced any deception, fraud or misconduct in connection with his/her application may be eliminated from consideration for employment at the City. Any employee who is discovered to have made a false or misleading statement or has practiced any deception, fraud or misconduct in connection with his/her application is subject to disciplinary action, up to and including termination.

**Expenses incident to recruitment and hiring:** Pursuant to the provisions of Ellensburg City Code section 1.38.040, the City Manager has authority to authorize the expenditure of City funds for actual expenses incident to employee recruitment, including, but not limited to, actual moving expenses for newly hired employees not to exceed ten percent of the

employee's first full year's salary. The employee may be required to execute an agreement obligating the employee to reimburse all or a portion of the moving expenses paid by the City if the employee fails to remain in the service of the City for a specified period of time.

### 3.2. NEW HIRE SELECTION

When a position becomes vacant, and prior to any posting or advertisement of the vacancy, the department director shall review the position, its job description and the need for such a position prior to any posting or advertisement of the vacancy. The position will be posted and/or advertised only upon approval of the City Manager.

The Human Resources Director shall establish competitive examination and/or selection procedures for filling existing and anticipated vacant positions. The City may contract with any agency or individual to prepare and/or administer examinations. Selection procedures for regular positions may be open and/or promotional, as may be determined by the City Manager, depending upon which approach will best serve the interests of the City with regard to a particular vacancy. If an open process is utilized, the selection process shall be competitive and related to the abilities and qualifications required of the position. The City may also conduct background procedures, to the extent allowed by law. Examples of such procedures include: requiring applicants/employees to show proof they are authorized to work in the United States, and requiring applicants/employees who have unsupervised access to children or vulnerable adults to complete a criminal history disclosure statement.

With the exception of the City Manager, residency within the City shall not be a condition of initial appointment or continued employment, provided that an employee's selection of residence shall not interfere with the daily performance of his/her duties and responsibilities.

Applicants for positions involving the operation of a motor vehicle must be at least 18 years old and will be required to present a valid Washington State driver's license with any necessary endorsements. Driving records of all finalist applicants will be checked. Applicants with poor driving records, as determined by the City, may be disqualified for employment in positions requiring driving duties.

Human Resources may arrange for or conduct a background investigation including contact of references, prior and present employers, and a review of the applicant's listed education and work history. If the results of this investigation uncover information concerning the applicant's qualifications, rating or eligibility, the Human Resources Director may reevaluate the applicant.

As a condition of employment, after an offer of employment has been made and prior to commencement of employment, successful applicants may be required to undergo a medical examination to determine their physical and/or mental fitness to perform work in the position to which appointment is to be made. The purpose of the examination is to determine whether an individual is physically and mentally capable of performing the job and to ensure his/her physical and/or mental condition will not endanger the health, safety or well-being of other employees or the public. The offer of employment may be conditioned on the results of the examination. Furthermore, an employee, during his/her period of employment, including leaves, or a former employee seeking re-employment, may be required to undergo periodic medical and/or psychological examinations to determine physical or mental fitness and ability to perform the work of the position in which he/she is employed or re-employed.

Those applicants being considered for positions which require a Commercial Driver's License (CDL) or who will work in the Natural Gas Division must submit to and pass a pre-employment urine drug screen and, upon employment, participate in the Substance Abuse Testing Program.

A candidate may be disqualified from consideration if he/she: 1) is found to lack the requirements/qualifications established for the position; 2) is physically or mentally unable to perform the essential duties of the position, as determined by a competent medical authority (and the individual's condition cannot reasonably be accommodated in the workplace); 3) refuses to submit to a medical examination or complete medical history forms; 4) the medical exam reveals current use of alcohol and/or controlled substances or marijuana; 5) has made a false or misleading statement on the application; 6) has used or attempted to use political pressure or bribery to secure advantage in the selection process; 7) has failed to submit the application correctly or within the prescribed time limit; 8) has directly or indirectly obtained information regarding the testing materials; 9) has taken part in the compilation and administration of the selection process for which he/she is an applicant; or 10) is related to an employee working in the same division as the one in which the opening occurs and the provisions of this manual would act as a bar to such employment. This is a non-exclusive list of reasons a candidate may be disqualified.

PERS Retiree Selection: If the City is unsuccessful in filling a vacancy through its standard hiring process, it may hire a PERS Plan I, II, or III retiree with the approval of the City Manager and subject to the rules for rehiring such retirees set forth in Section 3.3 of this manual and in accordance with the applicable provisions of RCW 41.40.010 and 41.40.037.

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### 3.3. TEMPORARY EMPLOYEES

Department directors may use temporary employees in place of regular employees on PTO or other leave, to meet peak workload needs or temporarily fill a vacancy until a regular employee is hired. In an emergency, temporary employees may be hired without competitive recruitment or examination, although all hiring processes must comply with applicable state and federal laws.

Temporary employees include, without limitation:

- 1) Grant-funded projects: These employees will be involved in projects or activities that are funded by special grants for a specific time or activity. These grants do not include those that are regularly available to, nor is their receipt predictable, by the City.
- 2) Miscellaneous or special projects: Other significant and substantial bodies of work may be appropriate for temporary employees. These bodies of work should be either non-routine projects for the department or related to the initiation or cessation of a City function, project, or department.
- 3) Seasonal positions: Employees who work in positions that, due to the nature of the work, have predictable periods of inactivity exceeding one month.
- 4) Temporary placement in regular positions: Employees who fill regular positions due to a regular employee's temporary absence such as extended leave or during the recruitment and selection process for a regular position.
- 5) Internships/Job Training Programs: Employees hired to work in a position for the purpose of gaining practical experience related to his/her course of study in an undergraduate or graduate school program, or other type of formal job training program.

Temporary employees are employed on an at-will basis and can be terminated at any time with or without cause. They are not entitled to any of the procedural protections contained in the Personnel Policies Manual. Temporary employees are paid on an hourly basis and are eligible to receive worker's compensation, unemployment, and social security benefits; they are not eligible to receive any City benefits (such as PTO, health insurance, holidays). Temporary employees pay contributions to the Social Security system, as does the City on their behalf.

Temporary employees will normally not be placed on the State of Washington Public Employees Retirement System (PERS), although there are a few exceptions depending on PERS eligibility criteria. Temporary employees who fill positions requiring seventy (70) or more hours per month for five (5) or more months in a year over a two (2) year period or on an ongoing basis, will participate in PERS, which requires employer and employee contributions. It is the responsibility of the hiring supervisor to determine PERS eligibility at

the time of hire, and to monitor all temporary/hourly positions so that PERS membership requirements are met. Human Resources staff are available to provide assistance in determining PERS eligibility.

It is the intent of the City that temporary employees will be employed to adjust to changing department needs, for time-limited projects, or to provide assistance and/or services which are supplemental to regular City positions and require substantially fewer hours per week on an ongoing basis. When there are temporary employees doing work similar to work done by regular employees in a division or department, the supervisor is expected to annually evaluate regular staffing levels and to make appropriate recommendations to limit the use of temporary employees in the future.

**Selection of former temporary employees within two years:** In the interest of efficient and economical operation of the City's various departments, department directors may address short-term personnel needs through the standard hiring process for temporary employees. Due to the recruitment and training costs associated with temporary employees, opportunities for rehire may be pursued when an applicant is willing to return to employment within two years of his/her date of first hire as a temporary employee, so long as this applicant has performed effectively during periods of previous employment. This policy is intended to allow departments to draw on developed expertise and eliminate costs associated with a new employee selection process. This policy does not preclude the activation of a standard selection process in the event that either no former employees are available, or the skills and abilities of returning employees do not meet the needs of the affected department.

**Selection of PERS/LEOFF retirees:** Rehiring Plan 1 Retirees. Pursuant to RCW 41.40.010 and 41.40.037, PERS Plan 1 retirees may be rehired to work no more than 867 hours per calendar year without suffering the loss of benefits unless the following requirements are met. Once these requirements are met, the retiree may work no more than 1500 hours per calendar year without suffering a loss of benefits. The hours worked in excess of 867 per calendar year may not exceed a cumulative total of 1900 hours for the lifetime of the retiree.

- 1) There shall be a minimum break in service of three (3) calendar months from the time the Plan 1 retiree retires and the time they are rehired in order for the retiree to work up to the maximum 1500 hours per calendar year;
- 2) The City of Ellensburg must document a justifiable need to rehire the retiree into the position; and
- 3) The retiree must be hired through the City's established hiring process; the process, decisions, and results must be documented and retained in the event of an audit.

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**Rehiring Plan 2 or Plan 3 Retirees:** Retirees under Plan 2 or 3 may work up to a maximum 867 hours in a calendar year in an eligible position defined in RCW 41.40.010 or as a law enforcement officer under RCW 41.26.030, providing there is a one month break in service between the date of retirement and date of rehire.

### 3.4. TRIAL PERIOD

Upon hire or appointment, non-represented employees enter a 6-month trial period that is considered an integral part of the selection and evaluation process. Trial periods for represented employees are covered under applicable bargaining agreements and/or civil service rules. The trial period is designed to give the employee time to learn the job and the supervisor time to evaluate whether the match between the employee and the job is appropriate. Upon satisfactory completion of the 6-month trial period, the employee will be eligible to receive a merit increase as outlined in the current pay plan resolution.

While the normal trial period is six months from the employee's date of hire, rehire or promotion, the City Manager may authorize a department director to extend the trial period for up to an additional 6-months. An extension may be granted due to circumstances such as an extended period of illness or leave, or a continued need to evaluate an employee's performance. During the trial period, the employee is not entitled to any of the procedural protections set forth in this manual, and the appointing authority may discharge or demote the employee, or restore him/her to their former position, without cause.

All employees who are promoted, transferred, or demoted from their current position, or demoted for cause shall serve a new trial period. Regular employees who have been laid off and rehired into the same position in the same department are not required to serve a new trial period. Once the trial period is successfully completed, the employee may be certified to regular employment status. Satisfactory completion of the trial period does not create an employment contract or in any way guarantee continued employment with the City.

Use of PTO during Trial Period: Newly hired employees serving a trial period may for a specified duration use accrued PTO leave from the beginning of employment for the same reasons that current employees may use RTO leave under section 8.2, but may not use earned PTO until successful completion of the trial period, unless authorized by the department director.

### 3.5. GENERAL PROVISIONS FOR APPOINTMENT

The City Manager is the official authorized to appoint all City employees. Vacancies may be filled by re-employment, trial appointment, original appointment, promotion, demotion, transfer or reinstatement. Insofar as practical, each vacancy should be anticipated

sufficiently in advance of the need, to provide the involved department and Human Resources Department with ample time to complete the selection process. The appointing authority shall appoint only from among those persons who are confirmed by Human Resources as being eligible for the particular classification or position.

### 3.6. EMPLOYMENT OF RELATIVES (NEPOTISM)

Business necessity requires the establishment of policies regarding the employment of immediate family and members of the same household in order to avoid conflicts of interest or the perception of favoritism and to assure and maintain accountability.

The Immediate Family (as defined in Section 1.5 of these policies) or any member of the same household of current City employees will not be employed by the City under any of the following circumstances:

- 1) When one of the parties would have authority or practical power to supervise, appoint, remove, influence salary or compensation decisions or discipline the other;
- 2) When one party would handle confidential material that creates improper or inappropriate access to that material by the other;
- 3) When one party would be responsible for auditing the work of the other; or
- 4) When other circumstances exist that might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the City.

Change in Circumstances: If two employees marry, begin sharing living quarters with one another, or become related by marriage or adoption and, if in the City's judgment, the potential problems noted above exist or reasonably could exist, only one of the employees will be permitted to remain employed by the City, unless appropriate action can be taken to reduce or eliminate the potential conflict, as determined by the City Manager. The decision as to which employee will remain with the City must be made by the two employees within thirty (30) calendar days of the date they marry, become related, or begin sharing living quarters with each other. If no decision is made during this time, the City reserves the right to terminate either employee. For purposes of this section 3.6, the term "employee" also includes co-workers paid by an entity other than the City, and volunteers.

### 3.7. PROMOTIONS

The City encourages promotion from within the organization whenever possible. The City Manager shall determine whether the promotional process for a position will be competitive or appointive. The City reserves the right to seek qualified applicants outside of the organization at its discretion.

Before advertising a position to the general public, the City Manager may choose to circulate a promotional opportunity within the City. Promotional opportunities may be posted on the City bulletin board.

**New Trial Period:** After promotion to a new position, a new trial period of six (6) months must be completed, unless waived or reduced by the City Manager. The City Manager may authorize a department director to extend a trial period for up to an additional six months. In the case of unsatisfactory performance, the employee may be transferred back to the previous position held by the employee, if vacant, or to another position fitting the employee's skills and qualifications, within the limits of vacant authorized positions.

## CHAPTER 4 HOURS AND ATTENDANCE

### 4.1. WORK DAYS AND WORK WEEK

The standard work days for most employees are Monday through Friday, 8 a.m. to 5 p.m., with a one-hour unpaid lunch period. For most City employees, the designated work week is forty (40) hours within a seven (7) day work period, from midnight Sunday to 11:59 p.m. the following Sunday. Some departments or positions may use a different designated workweek if specified in a union contract or as otherwise determined by the City. Employees should check with their supervisor or Human Resources if they have questions about their designated workweek. Due to the nature of the City's operations, alternative work schedules and longer hours may be required by the City in some instances.

A normal working schedule for regular, full-time employees consists of forty (40) hours each work week. Different work schedules may be established by the City or by bargaining agreements to meet job assignments and provide necessary City services (e.g. for uniformed police employees). Each employee's department director will advise the employee regarding his/her specific working hours. Part-time and temporary employees will work hours as specified by respective department directors.

For uniformed fully commissioned police personnel who are members of Teamsters Local Union No. 760, the City elects the 7(k) exemption under the Fair Labor Standards Act. The designated work periods for such personnel are set forth in the bargaining unit's collective bargaining agreement.

### 4.2. HOURS OF WORK AND OVERTIME

Any City employee may be required, as a condition of employment, to work overtime when necessary as determined by his or her department director. All overtime must be authorized in advance by the employee's department director. Working overtime hours without proper authorization may result in employee discipline, up to and including termination.

Matters involving wages and hours, including but not limited to minimum wage and overtime compensation, shall conform to applicable requirements of the federal Fair Labor Standards Act (FLSA) and the Washington Minimum Wage Act, chapter 49.46 RCW. All City of Ellensburg positions are designated as either "exempt" or "non-exempt" according to the FLSA and Washington Minimum Wage Act regulations. Each employee's status may be obtained from Human Resources.

**Recording time by non-exempt employees:** Non-exempt employees must personally record the number of regular and overtime hours he/she works daily and submit the timesheet each work week. This includes recording the time taken off and each request that time off be charged to the employee's leave bank (PTO, etc.). Employees are required to report all of their time worked. An employee's signature on his/her time sheet constitutes his/her verification that the time reported as worked or paid leave taken away from work was in accordance with the policies of the City and all time has been recorded accurately. Misrepresenting information on a time sheet, working without recording time worked, and working overtime without prior department director approval are strictly prohibited and may result in discipline up to and including termination.

**Recording time by exempt employees:** Department directors may require exempt employees to separately track their time for purposes other than compensation. These purposes include, but are not limited to: project management and tracking, productivity assessments, work load assessments, and cost allocation among departments, account groups, projects, internal or external customers or partners.

Because exempt employees are compensated to do a job and are not compensated based upon specific time worked and because they are expected to be available for evening meetings and work outside of regular work hours, including weekends, exempt employees may have more flexibility in their work schedule. Nevertheless, exempt employees must maintain good work habits, be accountable and available to their staff and supervisor, show demonstrated accomplishments, and make themselves regularly available during working hours to allow City business to be accomplished. Exempt staff must notify their director or City Manager, in advance, of all absences and anytime that exceeds two (2) hours must be used as leave time.

If an exempt employee has an absence of more than two (2) hours during a regularly scheduled work day, all hours during which the employee is absent that day must be deducted from an applicable leave bank (PTO, RTO, employee choice, executive leave, etc.). Exempt employees are required to accurately report all time off that should be charged to the employee's leave bank (PTO, RTO, etc.). An employee's signature on his/her time sheet constitutes his/her verification that the days reported as worked or paid leave taken away from work was in accordance with the policies of the City and has been recorded accurately. Misrepresentation of time worked or leave taken on time sheets or other time tracking reports is grounds for discipline, up to and including termination.

**Overtime pay and compensatory time off for non-exempt employees:** Non-exempt employees are entitled to additional compensation, either in cash or compensatory time off as determined by the City, when they work more than the maximum number of hours during a work period. Overtime pay is calculated at one and one-half times the

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employee's regular rate of pay for all time worked beyond the established work period. When computing overtime, work performed by regular employees, whose compensation for overtime is not affected by the 7(k) exemption, will be compensated at the overtime rate for hours in excess of forty (40) hours per week. An employee should record his/her time to the nearest quarter hour. When computing overtime, time paid for but not worked (e.g., holidays, RTO leave and PTO leave) is not counted as hours worked and therefore does not count towards overtime.

Exempt employees are not covered by the FLSA or Washington Minimum Wage Act overtime provisions and do not receive either overtime pay or compensatory time. An exempt employee is paid to perform a job, which may not necessarily be completed in a normal work week.

**Telecommuting:** Telecommuting will only be allowed with the approval of the City Manager on a case by case basis.

#### 4.3. COMPENSATORY TIME

A regular full-time or regular part-time non-exempt employee may request compensatory time off ("comp time") in lieu of overtime pay. This is approved on a case-by-case basis by the employee's department director. The City is not required to grant comp time instead of overtime pay. If the comp time option is exercised, the employee is credited with one and one-half times the hours worked as overtime. All earned and used comp time must be accounted for on the employee's time sheet. Maximum accruals of compensatory time shall be limited to forty (40) hours. After maximum accrual, overtime compensation shall be paid.

Employees are encouraged to use comp time accrued within ninety (90) days of earning it, unless, in the opinion of the department director, City operations would be unduly disrupted. Comp time should be used for short term absences from work during times mutually agreed to by the employee and his/her department director.

Employee comp time balances may be reviewed periodically as part of the City's financial process. The City retains the right to periodically cash out an employee's accrued comp time or any portion thereof.

#### 4.4. ALTERNATIVE REGULAR SCHEDULE

Consistent with the operational needs of the City and upon approval of the City Manager, a department director may authorize alternative work schedules to allow non-represented employees to work other than the standard work day. Alternative work schedules are considered within an established period of work hours and may be implemented provided

there is no appreciable disruption to department operations or service to the public during the established hours when City facilities are open to the public.

Individual participation in alternative work schedules will be determined on a case-by-case basis, subject to approval by the department director and final approval by the City Manager. Alternative work schedules shall be implemented on a voluntary and individual basis. The City Manager may terminate the alternative work schedule program by department, division, or on an individual basis at any time.

**Standards of Review:** An alternative work schedule may be implemented for an eligible employee who can satisfactorily demonstrate that the proposed schedule:

- 1) will not materially interfere with regular business operations of the City;
- 2) will not compromise the City's existing service to citizens; and
- 3) will not result in overtime expense.

An employee who wishes to establish an alternative work schedule must submit a written request to the department director. A request form is available from Human Resources. An employee may voluntarily withdraw from participation in the alternative work schedule, provided an immediate withdrawal does not create an undue hardship in the department or a disservice to the public. If the department director determines there would be a negative impact, the director shall set a withdrawal date which will remedy the negative impact. Because the City does not want to incur additional costs by allowing employees to choose alternative work schedules, non-exempt employees may only request an alternative schedule which does not require more than 40 hours/week as part of a regular schedule. This may require employees to also request a different work week designation.

**Available Alternative Work Schedules:**

**Flex-time:** Flex-time is a work schedule that permits flexible starting times and quitting times for employees other than the standard work day, with a standard number of core hours which must be worked.

Example: Flexible time	Core Time	Flexible Time
(6 am – 10 am)	(10 am – 3 pm)	(3 pm – 7 pm)

**Compressed Work Week/Modified Compressed Work Week:** Employees work a standard number of hours within fewer days during the same week, each work day is an extra 30 - 60 minutes longer, with one day off every two weeks. Possibilities include:

- 1) 4/40 – Four 10 – hour day each week.

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- 2) 9/80 – The 80 hours in a two week period are scheduled over 9 working days. Example: The normal work day is extended by one-hour five days one week and three days the next week, with one regular eight-hour day. This produces one extra day off every two weeks. The standard work week must be modified if this alternative is selected.

**Accruing PTO leave, and using RTO, PTO Leave and Holiday Pay:** PTO leave will continue to accrue at the regular rate. When an employee takes a full day of RTO or PTO leave, the time charged will be equivalent to the full number of hours the employee was scheduled to work. This compensates for actual time absent for regularly scheduled work hours.

When a paid holiday falls on an employee's regularly scheduled work day, the employee will be paid eight (8) hours of holiday pay. If the regularly scheduled work day is greater than eight (8) hours, the employee may be required to use either PTO or compensatory time earned to make up for the additional time the employee was scheduled to work in excess of the eight (8) hours of holiday pay. In lieu of using other accrued leave, the employee may have the option of working additional hours during the same pay period as the scheduled holiday.

When a paid holiday falls on an employee's regularly scheduled day off, the employee will be credited with eight (8) hours of holiday pay, which must be used during the same or immediately following pay period.

**Meal Periods and Breaks:** Employees on alternative schedules are required to take an unpaid lunch break of at least 30 minutes per work day. Employees are entitled to a paid 15 minute break for every four (4) hours of working time; this break should be taken near the midpoint of each work period. Breaks may neither be accrued nor added to lunch periods or start or end of work days.

**Standards for Alternative Schedules:** For exempt employees, work hours do not include time required for attendance at regularly scheduled evening City Council meetings, any type of council committee meetings, commission meetings or related events unless current regularly scheduled work hours coincide with these events, and the exempt employee is required to be in attendance at such meeting as part of his/her regularly scheduled work day.

Employees may be asked to fill in on their regularly scheduled day off for employees who are absent. Supervisors and employees will provide as much advance notice as possible and will be flexible in working out an alternative schedule for the employee asked to work on their regular day off.

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Note: Changes in workload, funding, legal mandates, changing legal interpretations or other needs of the City and/or individual department could cause the City to revise or cancel the alternative work schedule options offered at any time.

#### 4.5. ATTENDANCE

Punctual and consistent attendance is a condition of employment and is considered an essential function of the job for all City employees. All employees are expected to report to work as scheduled and perform productive work for the City during their scheduled work shifts. Each employee is responsible for maintaining an accurate record of his or her attendance.

Employees unable to work or unable to report for work on time are to notify their supervisor as soon as possible, ordinarily before the work day begins or within thirty (30) minutes after the employee is scheduled to start work. Absent extraordinary circumstances, other employees are not allowed to handle this responsibility for them and should not be asked to do so. Employees must also notify and obtain permission from their supervisor for any early departures or absences during the work day. If an absence continues beyond one day, the employee is responsible for reporting in each day, unless other arrangements have been approved in advance by the employee's immediate supervisor or Human Resources. If the supervisor is unavailable, the employee may leave a message with the department director or his/her designated representative, stating the reason for being late or unable to report for work.

An employee who is absent without authorization or notification on a scheduled work day is subject to disciplinary action, including possible termination.

An employee who is absent without notification or authorization for three (3) consecutive scheduled work days shall be considered as having abandoned his or her job and may be terminated. Employees may also be disciplined up to and including termination for failing to report to work without notice or with insufficient notice, for excessive absenteeism or tardiness, or for other attendance and tardiness problems.

If an employee's regular attendance is impacted by a medical condition, the affected employee is expected to notify his or her supervisor or Department Director, or contact Human Resources, to discuss whether a temporary change in their work schedule is appropriate. Failure to do so may provide the City with reasonable grounds for disciplinary action based on violation of these attendance requirements. Attendance is considered an essential element of the job.

#### 4.6. EMERGENCY CONDITIONS

**Reporting to work:** It is the intent of the City that all City offices shall be open and in operation during established working hours. Because many City services are of primary importance during emergency or extreme weather conditions, employees should make a reasonable effort to report to work on a timely basis. Should conditions exist which would prevent City employees from reporting to work, it will be the employee's responsibility to contact his or her department to indicate anticipated absence from work or late arrival to work.

During times of inclement weather, natural or human caused disaster or other emergencies, it is essential the City continue to provide vital public services. Therefore, unless the City notifies employees otherwise, employees are expected to make every reasonable effort to report to work without endangering their personal safety.

Any regular full-time or regular part-time employee unable to report to work as a result of emergency or extreme weather conditions will be given the option of using any form of accrued leave (excluding RTO leave), or taking time off without pay for time missed if all other leaves are exhausted. The employee shall promptly advise his/her supervisor, as in any other case of late arrival or absence. Unauthorized absences may be subject to discipline. Under exceptional circumstances, with the approval of the department director and City Manager, a request to make up the lost time within the pay period may be granted.

**Workplace Closures:** The City may close any, or all, city offices and facilities and cease operations on any regular work day or portion of a work day, on account of extreme weather conditions, natural and human caused disasters, emergencies that threaten employees' welfare or safety, failure or defect in the supply of power or other utilities, strike or other labor trouble, civil disturbance, acts of civil or military authorities, budgetary shortfall, or for any other reason, whether similar or dissimilar to the above, or for an Act of God. Any regular full-time or regular part-time employee who does not work his or her regularly scheduled hours due to such closure will be given the option of using any form of accrued leave (except RTO leave), or taking time off without pay for time missed.

Employees are subject to call-back during disasters and other emergencies. See section 4.8 below.

#### 4.7. BREAKS AND MEAL PERIODS

Employees will take one (1) fifteen-minute break, near the midpoint of each work period, for every four (4) hours worked. All breaks shall be arranged so they do not interfere

with City business or service to the public and must be coordinated with other employees. Breaks may not be used to justify either a late arrival or an early departure from work.

Employees who work for more than five (5) consecutive hours are allowed an unpaid meal period of at least 30 minutes that begins no less than two (2) hours or more than five (5) hours from the beginning of the shift. Meal periods shall be scheduled by the employee's supervisor. The scheduling of meal periods may vary depending on department workload. Meal periods are unpaid and are usually one hour in length. Employees are not permitted to work through their meal period in order to leave work early.

#### **Lactation Break Time**

Employees wishing to express breast milk for their infant child during their shift shall be permitted to do so during any paid authorized break. Additional break times will be unpaid. Employees desiring to take a lactation break shall notify the supervisor prior to taking such a break and such breaks may be reasonably delayed if they would seriously disrupt department operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

#### **Private Location**

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or location to express milk in private. Employees occupying such private areas shall secure the door.

#### **Storage of Expressed Milk**

Expressed milk shall be stored in a designated refrigerator labeled clearly and not stored beyond the employee's shift.

#### **4.8. CALL BACK**

All employees are subject to call back in emergencies or as needed by the City to provide necessary services to the public. A refusal to respond to a call back is grounds for disciplinary action, including possible termination. Employees called back to duty will be paid their appropriate rate of pay for hours worked, including overtime if applicable.

#### **4.9. PAYROLL RECORDS**

The official payroll records are kept by the Finance Department. Except for exempt employees, each employee shall turn in to his or her supervisor on a weekly (or as designated by the Finance Department) basis, a signed work record, noting hours worked, leave taken and overtime worked. An employee's signature on his/her work record constitutes his/her verification that the time reported as worked or paid leave taken away

from work was in accordance with the policies of the City and all time has been recorded accurately. All employee time must be reviewed and approved by the supervisor. The City Manager shall sign work records for department directors.

## CHAPTER 5 COMPENSATION

### 5.1. SALARY CLASSIFICATION AND GRADES

Each job title within the City of Ellensburg is structured into a salary classification system. Each position is designated a particular salary or salary range as shown on the City's salary and wage schedule. The wage schedule for non-represented positions is approved annually by the City Council. The wage schedules for represented positions are covered by bargaining agreements and are approved by the City Council for the contractual period of the respective agreement. All wages are included in the City's annual budget.

### 5.2. JOB DESCRIPTIONS AND RECLASSIFICATION

Job descriptions are the official description of the representative duties, responsibilities and supervisory relationships of a classification. The job description sets forth the following information for each position: title; summary of nature of work; essential duties and responsibilities; minimum requirements and qualifications, including knowledge, skills and abilities essential for satisfactory performance in the position. The descriptions may also include a summary of the physical demands, work environment and key relationships an employee may encounter while performing the essential functions of the position. The Human Resources Department maintains a master set of all job descriptions.

The content of any job description is intended to be descriptive rather than restrictive and shall not be construed to limit or modify the authority of the City Manager to take from, add to, eliminate entirely or otherwise change the job content of any position. To make the most efficient use of personnel, the City reserves the right to change an employee's work conditions and duties as originally assigned either on a temporary or permanent basis. If these arrangements become necessary, the City expects the employee's best cooperation.

Department directors may address the possible reclassification of positions by making a request to the Human Resources Department. Human Resources will review the request and make a recommendation to the City Manager, whose decision is final and not subject to review or appeal.

### 5.3. EMPLOYEE PAY RATES

**Initial employment:** Employees shall be paid within the limits of the wage range to which their positions are assigned. Usually, new employees will begin employment at the beginning wage rate for respective classifications. However, a new employee may be employed at a higher rate than the beginning wages when the employee's experience,

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training or proven capability warrant, or when prevailing market conditions require a starting rate greater than the established beginning rate. Additionally, the City Manager may negotiate and authorize leave accrual rates and balances for a new employee above entry-level rates.

**Anniversary date, employee performance review and performance based or merit raises:** After an employee has been certified as having successfully completed the appropriate trial period, his or her anniversary date of employment will be retroactive to the date first employed on a full-time basis. A performance-based raise” or merit pay is an increase in pay of one step in the appropriate pay range and is for the purpose of recognizing reliable achievement over time by the employee which meets and frequently exceeds supervisory expectations. Such raises shall be based on tangible results which clearly demonstrate the employee is continuing to add value to the City and City services. An increase to a higher step in the Salary Schedule would normally occur if the employee receives a performance evaluation demonstrating the employee meets and frequently exceeds expectations.

If an employee’s performance is unsatisfactory, no performance based raise will be given for a stipulated period of time during which improvement must be shown or until the employee’s job performance is again satisfactory or better, unless a different process is provided in the employee’s bargaining agreement. Performance based raises are normally provided at the beginning of each budget year. However, a department director may request a step increase be approved at the end of a trial period within the first year of employment, or upon the assumption of substantially increased duties and/or responsibilities.

Performance-based raises are within the sole discretion of the City Manager, are not automatic, and are subject to the availability of budgeted funds.

**Cost-of-living adjustments:** The City Manager may propose, and the City Council may grant, an across-the-board pay adjustment (cost-of-living adjustment) raising the salaries of all positions by a specified amount within a defined group of classifications.

**Promotions:** Any employee promoted to a position in a higher classification and salary range will normally receive the next highest available pay step in the new range. The City Manager may authorize advancement of an additional step in some situations if the next highest step increase results in a raise less than 2% above the employee’s pay prior to the promotion.

**Reinstatement to former position:** When an employee is reinstated to a former position after an unsuccessful trial period from a promotion or transfer, the former salary step may be restored. When an employee who has been laid off returns to the same classification

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occupied immediately prior to lay-off, the employee will usually return to the same salary step held at the time of lay-off.

**City Manager's compensation:** The City Manager's compensation shall be not less than five percent (5%) greater than the compensation awarded the highest paid department director.

**Pay Rates - Interim temporary assignments:** An employee approved for temporary assignment by the City Manager for an interim period lasting in excess of ten (10) work days to perform the duties of a higher classification may have his/her salary raised to the next higher rate (of employee's current wage rate) within the new assignment classification retroactive to the first day of assignment. Temporary assignments will not usually exceed six (6) months duration. Compensation for interim temporary assignments shall not result in a classification change.

**Payroll Change notices:** An employee scheduled to receive an increase in pay during any pay period will receive the increased pay effective the beginning date of the pay period, provided however, a payroll change notice with appropriate signatures must be received and processed by Human Resources before a pay increase will take effect.

#### 5.4. PAYDAYS

The City will pay employees at least twice monthly. If a designated payday falls on a Saturday, Sunday or holiday, the paycheck for that payday will be ready for each employee on the preceding business day.

Any errors in any employee's pay shall be corrected on the next paycheck, provided said error(s) are reported by the employee to the supervisor and payroll at least five (5) business days prior to issuance of the next check. This reporting deadline is designed to allow processing time and failure to meet it will not result in forfeiture of an employee's right to claim an adjustment at a later date. In some situations, additional time may be needed to investigate and verify the error.

#### 5.5. DEDUCTIONS

Some regular deductions from the employee's earnings are required by law; other regular deductions are specifically authorized by the employee. The City will withhold from the employee's paycheck those deductions required by law and any voluntary regular deductions authorized by the employee, applicable union contract, or statute. The City will deduct other contributions and/or payments upon written employee authorization, subject to approval by the City Manager and the capabilities of the City's computer accounting system.

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Upon written employee authorization, union dues will be deducted from the employee's salary as authorized, provided: an employee has made voluntary written application requesting the deduction; the respective bargaining representative has certified the amount of dues owing; and, the bargaining representative has agreed to indemnify the City against any and all claims, demands, suits or other forms of liability which may arise out of or by reason of action taken or not taken by the City for the purposes of complying with any of the provisions of this payroll deduction for dues.

City employees who incur personal expenses billed to the City, such as through municipal/governmental employee cell phone programs or departmental credit cards, shall be required to sign a written agreement before being allowed to utilize such programs authorizing deductions from employee pay for any amounts the employee fails to pay on a timely basis, including any payments due prior to, or coming due after, issuance of the employee's final paycheck at the end of the pay period.

#### **5.6. REPORTING COMPENSATION ISSUES**

It is the City's policy to comply with the requirements of the FLSA and Washington Minimum Wage Act and any other laws regarding compensation and deductions.

If an employee believes that an improper deduction has been made to his or her paycheck, or believes that his or her pay has been calculated improperly, the employee should immediately report this information to his/her direct supervisor, Payroll, or the Finance Director.

Reports of improper deductions or improper payment will be promptly investigated. If the City determines that an improper deduction has occurred, the employee will be reimbursed for any improper deduction made or any correction in pay needed to remain consistent with the wage and hour provisions, or any governing provision of a union contract or other legal obligation. Similarly, improper payments to employees will also be subject to reimbursement by the employee. In the event of an overpayment or overpayments in the total amount of \$500.00 or more, the employee, with the approval of the City Manager, may be allowed to enter into an agreement with the City to reimburse the City in a series of deductions or payments over a specified period of time until the City is fully repaid.

#### **5.7. TRAVEL AUTHORIZATION**

The City's travel authorization policies are attached as Appendix A to this Manual.

## 5.8. BUSINESS AND TRAVEL EXPENSE REIMBURSEMENT

The City's business and travel expense reimbursement policies are attached as Appendix A to this Manual.

## 5.9. COMPENSATION UPON TERMINATION

When an employee's employment with the City of Ellensburg is terminated, the employee will receive the following compensation on the next regularly scheduled payday:

- 1) Regular wages for all hours worked up to the time of termination which have not already been paid;
- 2) Any overtime or holiday pay due;
- 3) If a regular full-time or regular part-time employee who was hired prior to July 1, 1985, one-half of accrued RTO leave, to a maximum of one half of 960 hours (480). Employees hired after July 1, 1985, are not eligible for RTO leave payout upon termination;
- 4) A regular full-time or regular part-time employee is eligible for payment for unused Employee Choice Day(s) (ECD) based on the length of time he/she worked that year prior to termination (pro-rata for part-time employees):

Days employed in Calendar Year	<u>1-73</u>	<u>74-146</u>	<u>147-219</u>	<u>220-292</u>	<u>293-365</u>
Eligible ECD's	1	2	3	4	5

If, upon termination, an employee has used more Employee Choice Days than he/she would have accrued (based upon the above schedule), that amount will be deducted from the employee's final paycheck;

- 5) Accrued and unused PTO leave and compensatory time;
- 6) Authorized overtime; and
- 7) Less any authorized deductions for any unpaid personal expenses, for any expenses due to the failure to return City property as required prior to the date of termination.

In case of an employee's death, payment shall be made in accordance with the provisions of RCW 49.48.120 pertaining to payment on employee's death.

## CHAPTER 6 PERFORMANCE EVALUATIONS AND TRAINING

### 6.1. PERFORMANCE EVALUATIONS

To achieve the City's goal to train, promote and retain the best qualified employee for every job, the City conducts periodic performance evaluations for all regular full and part-time positions. Employee reviews are normally conducted by department directors or direct supervisors prior to completion of a trial period and usually once every twelve (12) months thereafter. Annual performance evaluations should be completed by December 31<sup>st</sup> of each year to support performance based raise recommendations impacting the next annual budget. The evaluation function is a communication tool to provide an opportunity for supervisors and employees to discuss, in a structured way, what each can do to make the workplace more productive.

The evaluation is part of an employee's personnel record and may be a factor in determining whether the employee has successfully completed his/her trial period, receives a wage increase, or is promoted, transferred, disciplined, demoted, laid off or terminated. In the event an employee is not performing up to the City's and the supervisor's standards, the supervisor may establish a time frame for improvement and identify the tools needed for improvement. If the employee fails to improve in the time frame specified, the employee may be subject to discipline, including but not limited to demotion, or termination. Evaluations may also be used during periods when additional information or training is being used to increase an employee's ability and performance.

The City recognizes that illnesses and emergencies arise from time to time which may interfere with regular attendance and has established a policy that provides income continuation to employees for a certain number of days per year to cover those situations. The City's decision to provide this benefit, however, does not mean that regular attendance is not a factor in determining fully satisfactory performance. In general, employees are expected to be at work, on time, every day they are scheduled to work. Employees with chronic attendance problems may receive performance ratings that are lower than those whose attendance is consistent with those expectations.

Supervisors and employees are encouraged to meet regularly to discuss performance, whether in a formal or informal setting. Communication on performance will regularly occur informally. Annual performance evaluations help employees understand the nature and quality of their performance. These meetings provide a plan for improvement, the motivation to improve performance, if needed, and the development of goals for future performance. Prior to an internal transfer into a new position, an evaluation shall occur.

Employees assuming duties in the new position will normally be evaluated within six (6) months of assuming the new duties.

Within five (5) working days of the receipt of a copy of a performance evaluation, the employee may express agreement or disagreement with the evaluation by writing in the comment section of the evaluation form and/or attaching an additional page. The employee's response will be reviewed by the employee's supervisor, department director, and the City Manager. The employee's written response will be attached to the evaluation form and included in the personnel file.

Employee performance evaluations are not subject to grievance procedures.

Trial Employee – A completed employee performance evaluation with an appropriate recommendation shall be submitted with a payroll change notice to Human Resources when changing the status of any employee from trial to regular status. The standard trial period shall be six months, but may be extended by the City Manager, up to an additional six months.

## 6.2. EDUCATION/TRAINING

The City encourages continued education to enhance and develop the potential of each employee. The City seeks, within the limits of available resources, to offer training to increase an employee's skill, knowledge and abilities directly related to City employment, to obtain or maintain required licenses and certifications, and to develop staff resources. Opportunities may include but are not limited to: on-the-job training, in-house workshops, and seminars sponsored by other agencies or organizations.

In cooperation with the City Manager, the department director shall establish training program standards, recommend fiscal policies for training expenditures, and evaluate training methods and results. City sponsored training which is required for the performance of an employee's job duties shall be arranged whenever possible during regularly scheduled work hours. A department director may change the standard work hours to accommodate required attendance at training activities during normally off-duty hours. Schedules may also be adjusted to allow employees to attend non-required training, provided the training activity is designed to increase the knowledge, skills and abilities of an employee for the position he/she presently occupies. Pre-approved training attendance is considered time worked except where the training is voluntary, occurs outside regular business hours, is not work related, and the employee performs no work during the training. Absences due to training must have prior approval by the employee's department director.

### 6.3. TUITION REIMBURSEMENT

To establish eligibility for tuition reimbursement, the employee must complete a City Tuition Reimbursement Application/Agreement form and obtain the required approvals prior to the beginning of each quarter or semester. Upon the approval of the City Manager, reimbursement may be granted for a formal study course from an accredited school, college or university provided the course is related to the employee's work and will increase his or her knowledge, skills and abilities to perform the work. Time spent in attendance at these courses shall be considered the employee's personal time and must not interfere with the employee's job. If approved by the City Manager, the affected employee's work schedule may be altered so the course does not occur during his/her regularly scheduled working hours. Partial or full reimbursement of the cost of tuition may be made upon approval of the City Manager. Books and supplies will be at the expense of the employee. Employees may be eligible for tuition refunds by meeting the following conditions:

- 1) He/she must be a regular full-time or regular part-time employee of the City of Ellensburg;
- 2) Prior to enrollment, the City Manager and the department director must have approved the employee's course choice and educational institution;
- 3) Application for tuition reimbursement must be made within sixty (60) days following the completion of the course of study;
- 4) Employee must complete the course with a minimum grade of "C" or equivalent; and
- 5) Funds to reimburse the employee for tuition must be available through appropriations in the current department budget.

### 6.4. EMPLOYEE TRAINING OBLIGATIONS

The employee will have no obligation to pay the City for an installment payment made toward Tuition Assistance if, on the first annual anniversary of that installment payment, the employee has not voluntarily quit or has not been fired "for cause." In the event the employee voluntarily quits his or her employment with the City or the City terminates the employee "for cause" less than one year after any installment payment is made, the employee shall immediately pay, without demand, an amount equal to that installment payment and all later installment payments.

## 6.5. TRAINING AND OTHER PROGRAMS REIMBURSEMENT

See Appendix A to this Manual for travel reimbursement policies and procedures.

## CHAPTER 7 BENEFITS

### 7.1. RETIREMENT BENEFITS

The City of Ellensburg makes contributions on behalf of all eligible employees to the Social Security System, in addition to those contributions made by the employee through FICA payroll deductions.

All regular uniformed employees in the police departments are covered by the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF). All regular full-time and eligible part-time non-uniformed employees are covered under the Public Employees Retirement System (PERS). Eligibility, benefit levels and contribution rates for each system are determined by the State of Washington.

Employees intending to retire are asked to notify the department director of their intent at least three months prior to the date of the planned retirement.

### 7.2. DISABILITY BENEFITS AND WORKERS COMPENSATION

All employees are covered by the Washington State Workers' Compensation Program. This insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, Washington State Worker's Compensation Insurance will pay the employee for work days lost and related injury or illness medical costs. All job-related accidents and injuries must be reported immediately to the employee's supervisor. The supervisor shall direct the injured employee to seek immediate medical treatment if necessary, and shall be responsible for ensuring, as soon as physically possible, that the injured employee completes the Washington State Labor and Industries claim form and the City's Personal Injury Accident Report form. The supervisor is required to complete the supervisor portion of the City accident report form.

Unless otherwise required by State law, the procedure for worker's compensation time loss payment/reimbursement will be as follows:

If the job-related injury or illness requires the employee to be absent from work for more than a week, the City will grant that employee Family Medical Leave, which is further discussed in Section 8.8 of these policies. While on Family Medical Leave, the employee will be paid available and accrued RTO leave. At the option of the employee, when and if his/her RTO leave is exhausted, or not available, compensatory time or accrued PTO leave may be used.

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, State Industrial Insurance (Worker's Compensation) will begin to pay time loss compensation for hours not compensated through Family Medical Leave, as referenced above. This compensation varies according to a set formula based on marital status and number of dependents.

Employees cannot use RTO or PTO leave and receive worker's compensation at the same time, because this results in a "double payment." Typically, a double payment occurs if the employee has applied for workers compensation, but is receiving full pay through accrued leave while waiting for state benefits to be approved. If a double payment occurs, employees must use the time loss money from worker's compensation to "buy back" the RTO or PTO leave previously deducted from their accruals. Compensatory time cannot be bought back. Since worker's compensation only pays a percentage of full wages, an employee can only "buy back" a percentage of the leave their buy back sum represents. Generally, the employee will not suffer an income loss while receiving worker's compensation benefits so long as the employee has a paid leave balance available to supplement the difference between state benefits and compensation for normal working hours.

When an employee who has received RTO or PTO leave to cover a work-related injury or illness, later receives a worker's compensation time loss check, he/she must turn the check over to payroll. Failure or refusal to re-pay the City for any duplication of benefits as required by this policy will be considered fraudulent and may subject the employee to discipline, including termination. Based upon the employee's hourly rate and the amount of worker's compensation time loss received, payroll will determine the amount of leave to be bought back. Payroll will notify an employee when all available RTO and/or PTO leave has been used. Once RTO leave, if available, or other forms of accrued leave are exhausted, an employee who remains on workers compensation will keep additional worker's compensation time loss payments until he/she is able to return to work or the employee's condition can no longer be accommodated through medical leave or light duty options. If an employee's condition appears to have lasting or potentially permanent impacts on the employee's ability to perform essential functions of their job, they may request information on job openings within the City they are otherwise qualified to perform. Job retraining programs are also available through the Department of L&I. When it appears the employee will be medically unable to return to work, and no options for reasonable accommodation or other job opportunities have been found, an employee who can no longer perform the essential functions of their position will be subject to medical termination.

In special circumstances, where the City is able to fill the position temporarily, an employee may apply for a leave of absence under provisions of this Manual. Granting such a request will be the decision of the City Manager and will take into account the best

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interests of the City, the length of the leave, the City services that will be impacted and other appropriate considerations. Such extended leave periods are within the discretion of the City Manager and will be evaluated based on the specific facts presented and full consideration of the City's needs.

### 7.3. RETURN TO WORK

Before being allowed to return to work, an employee who has been away from work due to an injury or illness will normally be required to provide a written statement from the appropriate medical personnel certifying that the employee is able to resume his or her job duties, or specifying limitations on any duties. If restrictions or limitations are placed on the employee's ability to perform the job, the City, in cooperation with the employee and any medical personnel, will determine if there are any reasonable accommodations that it can make to enable the employee to return to work and perform the essential functions of his or her job. The City may require a physical examination at City expense, performed by a physician or physicians of its choice, to determine when the employee can return to work and if he/she is capable of performing the duties of the position. This requirement applies to all employees who have been unable to perform their duties for an extended period of time, whether their injury was initially work-related or not.

### 7.4. INSURANCE BENEFITS

Regular full-time and regular part-time employees are eligible for life, medical, dental, vision, and income protection insurance as provided by applicable insurance contracts. The City contributes towards the cost of premiums in the amounts authorized by the City Council. The remainder of the premiums, if any, shall be paid by the employee through payroll deduction. The City reserves the right to make changes in the carriers and provisions of these contracts when it deems necessary or advisable, with prior notice to affected employees.

Temporary employees who work under 30 hours per week on average are not eligible for insurance coverage, unless otherwise provided by authority of the City Manager.

### 7.5. CONTINUATION OF INSURANCE COVERAGE

**Workers Compensation Leave:** An employee receiving Workers Compensation time loss benefits continues to accrue PTO leave for up to six (6) months. The City also continues to pay the employer's portion of health insurance premiums, provided the employee continues to pay his/her share of premiums, if any. After six (6) months, the employee's benefits shall cease unless the City Manager makes an exception in accordance with the provisions of Section 1.4. The employee may continue health care benefits by self-paying

insurance premiums for the remainder of the time he/she receives Workers Compensation benefits, unless that time frame exceeds the period provided under COBRA.

**COBRA Rights:** Upon an employee's termination from City employment or upon commencement of an unpaid leave of absence, at the employee's option and expense, the employee may be eligible to continue City health insurance benefits to the extent provided under the federal COBRA regulations. An administrative handling fee may be charged to the employee or his/her dependents who elect to exercise their COBRA continuation rights.

#### 7.6. UNEMPLOYMENT COMPENSATION

City employees may qualify for State Unemployment Compensation after termination from City of Ellensburg employment depending on the reason for termination and if certain qualifications are met. Employees who voluntarily quit are often not eligible for these benefits, but some exceptions exist, such as the geographic relocation of the employee's spouse. Gross misconduct is also grounds for denying these benefits. Check with the State Employment Security Department for additional information.

#### 7.7. EMPLOYEE ASSISTANCE PROGRAM

Recognizing the value of its employees, the City of Ellensburg has contracted with an agency to provide support for employees who may experience problems which affect the physical, mental and/or spiritual well-being of the employee or employee's family. The purpose of the Employee Assistance Program (EAP) is to provide an opportunity for employees or their family members to confidentially discuss problems and concerns affecting employees' lives. EAP staff provides assistance in addressing problems involving family and/or personal relationships or relationship problems at work, legal and financial issues or problems involving alcohol or other types of substance abuse. The program is paid for by the City and provides up to three meetings per event with a counselor to assess an employee's needs, develop a plan of action and/or provide the employee with problem-solving referrals. The cost of any referral to another resource is the responsibility of the employee or family dependent, although these costs may be covered by the employee's health insurance. Employees' use of the EAP is confidential to the extent Washington State Law allows, unless the employee or family member signs a release specifically authorizing the sharing of information.

When work performance problems are identified and cannot be corrected by the employee's supervisor or department director through normal corrective action, an EAP referral may be made by the City. Compliance with such referrals is voluntary, however employees are strongly encouraged to follow them. If the performance problems in question continue, whether or not the employee has attended the recommended EAP, the

City may take other action including possible termination. The existence of non-work related personal problems does not release the employee from the responsibility to perform his/her job responsibility satisfactorily. Participation in the EAP will not jeopardize an employee's professional status, job security or promotional status. Utilization of the EAP agency during normal working hours will be subject to the use of RTO leave or PTO if the employee has no RTO leave. If RTO leave (if available) has been exhausted, the employee may use accrued PTO leave, comp time or employee choice days if eligible for their use or may request unpaid leave pursuant to section 8.4.

The employee and his or her family may choose to use the agency's services independently without a referral by the City. The self-initiated contact between the employee, his or her family and the agency will be confidential and records are not accessible to the City. Coordination of medical benefits for counseling or referral assistance by EAP, beyond those services provided under the City's contract with the EAP agency, is determined by the medical plan covering the individual employee. Questions concerning insurance coverage may be referred to the Human Resources Department.

## CHAPTER 8 LEAVES

### 8.1. PERSONAL TIME OFF (PTO) LEAVE

Regular full-time employees are entitled to PTO leave in accordance with the following schedule:

<u>Years of Service</u>	<u>Monthly Accrual</u>	<u>Hours Per Year</u>	<u>Maximum Accumulation</u>
0-4	13 hours	156 hours	360 hours
5-9	15 hours	180 hours	440 hours
10-14	17 hours	204 hours	488 hours
15-19	19 hours	228 hours	536 hours
20+	21 hours	252 hours	584 hours

Additional carryover of PTO hours beyond the Maximum Accumulation requires written approval of the City Manager.

In accordance with Section 5.3, the City Manager may authorize PTO leave accrual for a new employee above entry-level rates. New employees must satisfactorily complete a trial period to be entitled to the use of accrued PTO leave. No PTO leave may be taken during the first six (6) months of employment without approval of the City Manager. PTO leave accrues at the end of each pay period and may not be used before it accrues.

Regular part-time employees will receive PTO leave on a pro-rata basis, according to hours worked during the previous month. Temporary and other part-time employees are not eligible for PTO leave. Employees do not accrue PTO leave benefits during a leave of absence without pay. Newly hired employees working at least 20 hours per week will accrue and are eligible to use PTO after six months following their adjusted service date. A newly hired employee who becomes ill prior to their eligibility to use PTO may use other leaves (employee choice, exempt leave, etc.) or request leave without pay from their supervisor. Depending on the length of the leave required, an employee's supervisor may authorize the employee to flex their work schedule to accommodate the time off.

**Scheduling of PTO leave:** Each department is responsible for scheduling its employees' PTO leave without undue disruption of department operations. Leave requests should normally be submitted a minimum of two weeks prior to taking PTO leave. A supervisor may deny a request for PTO leave usage because of work demands or may cancel PTO

leave in case of an emergency. Any disputes in PTO leave usage may be informally taken to the department director, and his/her determination shall be final.

**Unscheduled PTO leave:** Employees must request the use of PTO at least twenty-four (24) hours in advance. PTO leave requested on less than 24 hours' notice will be classified as an unscheduled absence. Do not assume time off is authorized until it has been approved.

In the case of an unforeseeable need for leave, you must provide notice as soon as possible or as required under your specific department procedures and/or the attendance policy and explain the need for the time off. Your supervisor will assess the need and urgency for the unscheduled time off in relation to staffing needs and either approve the time off or direct you to report to work.

The City will track unscheduled absences; employees who exceed seven (7) instances of unscheduled absence in a 12 month calendar period may be subject to corrective and/or disciplinary action for excessive unscheduled absenteeism. Unscheduled absences are those absences that have not been requested at least 24 hours in advance of the leave and/or approved in advance by the supervisor, and that do not meet the requirements for authorization under FMLA or Washington Family Care Act (FCA). Absences will be tracked as part of the time sheet and leave authorization process. It will be the employee's responsibility to notify his/her supervisor in the event the leave is a qualified event under the FMLA or FCA.

**PTO accrual cash out:** Alternately, if an employee is unable to take PTO leave due to circumstances dictated by special needs of the City, the City Manager may authorize the cash out of any portion of an employee's accrued PTO hours in excess of the maximum allowable accrued PTO hours identified in this Manual.

**PTO cash out at termination:** Eligible employees whose employment is terminated by reduction in force, resignation, dismissal or retirement, and who have accrued PTO leave shall be paid for unused PTO leave as established in this Manual. In the event of an employee's death, payment shall be made in accordance with the provisions of RCW 49.48.120 pertaining to payment on employee's death.

**Lapse of service:** A lapse of service of a regular employee for a period longer than thirty (30) working days by reason of resignation or discharge shall eliminate an employee's accrued PTO and the accumulated length of service of such employee for PTO accrual purposes; provided however, the City Manager is authorized to reinstate accrued leave in accordance with Section 5.3. Such an employee re-entering the service of the City of Ellensburg shall be considered a new employee and must undergo a new trial period.

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**Vacation Leave for Represented Employees:** Some provisions of this Manual which refer to use of PTO leave may also apply to represented employees who are entitled to accrue and maintain vacation leave banks (e.g., Domestic Violence Leave in Section 8.11). Employees should contact the Human Resources Department if they have questions regarding policy interpretation.

## 8.2. RESERVED TIME OFF (RTO) LEAVE

Employees who have a sick leave balance as of December 31, 2015, will have those hours converted to an RTO leave bank. There is no accrual of RTO hours, and employees hired after December 31, 2015 are not eligible for the RTO bank. RTO may be used for:

- 1) the employee's own short-term disability; or
- 2) to care for a family member with an emergency, a serious health condition as defined in the FMLA or Washington State Family Care Act (WFCA), to care for a child with a health condition that requires treatment or supervision or to care for a wife or child while incapacitated as a result of pregnancy/childbirth; or
- 3) health care appointments that cannot be scheduled during non-work hours including travel time in excess of one working day must be approved by the department head; or
- 4) for reasons allowed or mandated under state and/or federal law.

The RTO bank is provided as an employee benefit to aid employees. Its use is restricted to qualifying situations. RTO leave (or sick leave, as applicable, for represented employees) abuse will result in counseling and/or disciplinary action. The ability to work regularly is a requirement for continued employment.

RTO leave shall be reported on the employee's regular payroll statement of earnings in hours and/or fractions of an hour to the nearest 15 minute increment. It is the responsibility of the employee to report any discrepancy to the Finance Department, payroll and benefits coordinator.

Whenever an employee on PTO leave is actually disabled or becomes ill during that leave, such illness may be charged to his/her RTO leave bank by sending prompt notice of illness to his/her department director. Remaining PTO leave shall then be deferred on the terms and conditions set forth in this policy.

Employees hired after July 1, 1985, will not be paid for any unused RTO leave upon separating from City service for any reason.

Any regular full-time or regular part-time employee who is using RTO leave and is eligible for compensation by the City will coordinate with any other form of leave pay to an amount equal to the difference between the employee's regular salary and those monies paid by the State, UEFT or any other agency. No employee will receive more than 100% of the regular compensation he/she would have received had the employee been on the job. Any employee receiving other compensation that exceeds 100% of his/her regular salary will be required to turn in such excess compensation to the City and will be credited the appropriate RTO leave.

**Allowable Uses of RTO Leave:** RTO leave shall be paid at the employee's regular straight time base hourly/salary rate of pay for the following conditions:

- 1) Employee's own health condition (illness, injury, physical or mental disability, including disability due to pregnancy or childbirth);
- 2) Care for the employee's immediate family member where the immediate family member has a serious or emergency health condition;
- 3) Care of employee's dependent child with health condition requiring supervision or treatment (Dependent child, in this instance, includes all children living with the employee and dependent on the employee for continuous care. Children over the age of 18 but unable to care for themselves due to a disability are included in the definition of dependent children);
- 4) Medical or dental appointment for the employee, dependent child or the employee's immediate family member, provided the employee shall make a reasonable effort to schedule such appointments at times which have the least interference with the work day. In the case of appointments for the employee's immediate family member, the employee's attendance at or chauffeuring to/from such appointments must be reasonably necessary;
- 5) Exposure to a contagious disease where on-the-job presence of the employee would jeopardize the health of others;
- 6) Use of a prescription drug which impairs job performance or safety; and
- 7) Bereavement leaves as described under section 8.3.

RTO leave may also be required to be coordinated with certain FMLA leaves (see section 8.8. Family Leave). In addition, if an employee wishes to use other forms of accrued leave pay to cover a period of absence for any of the reasons stated above, they may

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make this request to the Human Resources Department or the Finance Department to complete the appropriate paperwork.

In order to qualify for RTO leave pay, an employee must report the reason for his/her absence to his or her supervisor, with sufficient information to verify the leave fits within one of the criteria outlined above, but a specific medical diagnosis or treatment program is not required to be disclosed; and the anticipated date of return to work no later than the beginning of the scheduled work day. The employee shall keep his/her supervisor informed of his/her status daily, unless other arrangements have been made. When an employee is absent for a period in excess of three (3) days within a seven (7) day period the employee shall obtain and submit a doctor's statement to the Human Resources Department. The doctor's statement must state that the reason for the absence fits within the criteria outlined above confirm the employee is incapacitated from work during the period of absence, or was needed to care for a family member, as described above. The City may require additional doctor's statements if the absence extends beyond the time frame outlined in the Doctor's initial confirmation. During an extended RTO leave, the doctor's statement must be updated every thirty (30) days and the employee is required to report at least every two weeks on the employee's status and intent to return to work. An employee cannot return to work without first notifying Human Resources of the employee's scheduled date of return to work. Human Resources will in turn notify the employee's department of his or her return to work date.

The City may also request the opinion of a second doctor, at the City's expense, to determine whether the employee suffers from a chronic physical or mental condition which impairs his/her ability to perform the job. As with any medical leave, a fitness for duty or release to work certificate may be required before the employee can return to work. Employees who are habitually absent due to illness or disability and do not meet or exceed the qualifications of FMLA may be terminated if their disability cannot be reasonably accommodated.

Employees who use all RTO bank hours and all other available accrued paid leave, and require more time off work due to illness or injury may, with their department director's prior approval, request a leave of absence without pay. (See Leave of Absence Without Pay Policy 8.4 and Shared Leave Program 8.12.)

Employees who abuse RTO leave (or sick leave, if applicable, for represented employees) or have "patterns" that indicate abuse of leave may be subject to disciplinary action, up to and including termination. (See Chapter 6, Performance Evaluations and Chapter 10, Discipline and Terminations.)

Examples of RTO leave (or sick leave, if applicable, for represented employees) abuse or pattern include, but are not limited to:

- 1) a pattern of calling in sick on Fridays, Mondays, or the beginning and/or end of the workweek
- 2) a pattern of calling in sick on the day before or after a holiday or PTO leave
- 3) an unjustified number of absences, tardiness, or early departures
- 4) failing to get permission for leaving early or coming in late
- 5) failing to give advance notice of an absence when possible
- 6) failing to report an absence properly
- 7) failing to submit medical certification upon request.

Sick Leave for Represented Employees: Some provisions of this Manual which refer to use of RTO leave may also apply to represented employees who are entitled to accrue and maintain sick leave banks (e.g., Domestic Violence Leave in Section 8.11). Employees should contact the Human Resources Department if they have questions regarding policy interpretation.

### **8.3. BEREAVEMENT LEAVE**

The City provides regular full-time and regular part-time employees with paid leave in the event of the death of a member of an employee's immediate family. In the event of a death of a member of an employee's immediate family, the employee shall be granted a maximum of three (3) paid working days leave on any one occasion. Additional bereavement leave (non-paid) may be authorized by the City Manager for which the employee may use any other available paid leave.

### **8.4. LEAVE OF ABSENCE WITHOUT PAY**

Unless otherwise required by law, a leave of absence without pay, not to exceed five (5) working days, may be granted to an employee by the department director; leaves of absence that exceed five (5) working days may be granted only upon the recommendation of the department director and approval of the City Manager. Examples of situations for which leave without pay may be granted include: prolonged illness or disability; parenting obligations; caring for an ill relative; pursuing an education; or military duty. These are general examples only and do not necessarily apply to all situations. Also, other situations not mentioned may qualify for a leave of absence without pay. Each case will be considered on the unique circumstances surrounding the reason for the request and the needs and obligations of the City. Granting or refusing a leave of absence without pay is at the sole discretion of the City.

A leave of absence without pay may be granted for a period not to exceed:

- 1) Thirty (30) days for personal reasons which do not cause inconvenience to the department;
- 2) One (1) year for illness including any leave covered by RTO leave and/or family and medical leave;
- 3) Six (6) months for education or training which will benefit the City.
- 4) Twelve (12) months for sabbatical leave, which shall mean work, education or other experience which adds to the skills or understanding of employees and is related to the employee's present or future City position or classification.

Unless otherwise required by law, a leave of absence without pay shall result in adjustment of the employee's anniversary date for the length of the unpaid leave; the period of the leave will not be included in the "length of service" calculations.

An employee shall not accrue seniority, PTO leave, longevity, and other benefits while on leave without pay status, unless otherwise required by contract or law. The employee has the option of paying his/her own medical benefit premiums while in unpaid leave status to insure continued coverage and avoid any new waiting periods required under contracts with health carriers. An employee who is temporarily absent due to an injury covered by Worker's Compensation or on a qualified Family Medical Leave will not lose seniority or health benefits due to the unpaid absence. Employees on unpaid military leave do not lose seniority, and continuation of any health or other benefits will be handled in accordance with the requirements of military leave laws.

Leaves without pay must be requested in writing at least thirty (30) days prior to the date the leave is to commence, except when an emergency precludes such notice. The written request for leave without pay shall state: 1) reason for requesting leave; 2) date leave is to begin; and, 3) the date of return to work.

Failure to return within the time approved, including any approved extensions, shall constitute cause for termination. Any employee who does not return by the required time shall be deemed to have voluntarily quit. Unpaid leaves of absence may be extended upon justification determined sufficient by the department director and City Manager, provided that any extension will not be detrimental to department operation. Justification may require providing additional documentation such as new medical certification or renewed military orders. Any extension beyond the date initially provided for return to work shall require the written approval of the City Manager. As with any medical leave, a

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medical release to return to work or fitness for duty certificate may be required for employees on a medical leave of absence. Employees returning from extended military leave are required to provide proof that they are entitled to reemployment, such as orders releasing them from military duty.

Revocation of Leave Without Pay - The City Manager may revoke an employee's leave without pay if the leave was granted under false pretenses or the cause for such leave has ceased to exist.

#### 8.5. JURY AND WITNESS DUTY LEAVE

**Jury Duty:** In accordance with chapter 2.36 RCW, employees will be allowed necessary leave from employment to serve on the jury of a federal, state or municipal court. In the case of regular full-time and regular part-time employees such leave shall be paid for up to four weeks jury duty time actually served in a twelve month period. All other jury duty leave shall be unpaid. Because state law, RCW 2.36.150, provides that payments received by jurors from the court for each day's attendance constitute "expense payments," the City does not require employees to remit such payments to the City, including for periods of paid leave. The employee must give the City prompt notice of the call for jury duty, and in order to be eligible to receive paid jury duty leave the employee must furnish the City a written statement from the court showing the dates and times of jury duty served.

**Witness Duty:** All employees summoned to testify in court are allowed time off for the period they serve as witnesses. In general, witness duty leave is unpaid unless the employee is a witness on behalf of the City in a case involving the City or in connection with the employee's official City duties. For exempt employees, however, salary payment will continue except for full-day absences caused because the employee is a party in a lawsuit unconnected with the employee's official duties.

#### 8.6. ADMINISTRATIVE LEAVE

On a case-by-case basis, the City may place an employee on administrative leave, with or without pay, for an indefinite period of time. Administrative leave may be used in the best interests of the City, as determined by the City Manager, pending an investigation or other administrative or criminal proceeding.

#### 8.7. MILITARY LEAVE

**Leave Under the Washington State Family Military Leave Act:** Up to twenty-one (21) days of paid leaves per year (from October 1<sup>st</sup> through September 30<sup>th</sup>) shall be granted to employees for time spent for military service in the Washington national guard, reserves

or armed forces, and is to be used on any day an employee cannot report to his/her regular job because of military obligations. A "Day", for purposes of this section, is defined as a twenty-four hour period beginning and ending at midnight. Military leave must be calculated in "days" and cannot be reduced or converted to hours, regardless of whether or not an employee's normal shift or work period transpires over the course of one day or two. Pay is based on the employee's normal pay. In general, if military service extends beyond twenty-one (21) working days, the additional leave will be unpaid. Paid military leave is in addition to any other leave or PTO benefits. Exempt salaried employees who serve longer than three weeks should contact the City Manager to discuss whether further paid leave will be provided. All employees who are not eligible for paid military leave are provided unpaid leave for the period of their military service. At the employee's request, accrued PTO leave may be applied to any unpaid military leave. Military service includes active military duty and Reserve or National Guard training. An employee requesting military leave is required to provide his/her supervisor with copies of the military orders as soon as possible after they are received. Reinstatement upon return from military service will be determined in accordance with applicable federal and state laws. As soon as practicable, individuals returning from any military leave of 30 days or more are required to provide evidence, such as a certified copy of release papers, that they are entitled to reemployment.

**Leave for spouses of military personnel:** In accordance with the provisions of the Washington State Family Military Leave Act, Chapter 49.77 RCW, during a period of military conflict a regular full-time or regular part-time employee who is the spouse of a member of the U.S. armed forces, national guard or reserves is entitled to take up to fifteen (15) days of unpaid leave: while their spouse is on leave from a deployment; or before and up to deployment once the spouse receives official notification of an impending call or order to active duty. The employee must provide his or her supervisor with notice of the employee's intention to take leave within five business days of receiving official notice: that the employee's spouse will be on leave; or of an impending call or order to active duty. The 15 days of unpaid leave is per deployment. The employee may elect to substitute any form of accrued leave (except RTO leave) for any part of the family military leave. Family military leave is in addition to other leave to which the employee may be entitled.

Leave under the Family and Medical Leave Act of 1993 (Service member Caregiver Leave and Family Leave Due to a Call to Active Duty)

**Caregiver leave for an injured service member:** In accordance with the provisions of the federal Family and Medical Leave Act of 1993, as amended by the National Defense Authorization Act of 2008, an employee who is the spouse, son, daughter, parent or nearest blood relative, may take up to 26 workweeks of unpaid leave during a single 12-month period to care for a member of the U.S. armed forces, national guard or reserves,

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who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred by the service member in active duty that may render the person medically unfit to perform the duties of the member's office, grade, rank or rating. The 26-week cap includes leave taken by the employee for other FMLA-qualifying reasons. Caregiver leave can be intermittent. The administration of caregiver leave under the FMLA is subject to other FMLA procedures as may be appropriate, such as procedures regarding substitution of paid leave, reasonable notice, certification of the need for leave, and determining whether or not an employee is eligible to use such leave. (An "eligible employee" must have worked for the City for at least 12 months, with a minimum of 1250 hours worked during the past 12 months.) As with other forms of FMLA leave, not all details concerning caregiver leave are covered in this policy. If an employee needs to take caregiver leave, please see Human Resources for appropriate forms.

**Family leave due to a call to active duty:** Also in accordance with the provisions of the 2008 amendments to the federal Family and Medical Leave Act of 1993, an eligible employee may take up to 12 workweeks (during any 12-month period) of unpaid FMLA leave for any "qualifying exigency" (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in the U.S. armed forces, national guard or reserves in support of a contingency operation. This form of FMLA leave shall be administered in accordance with applicable procedures of the FMLA and final regulations issued by the Secretary of Labor. Pending the Labor Secretary's adoption of final regulations defining a "qualified exigency," the City Manager shall determine whether the reason requested for such leave constitutes a qualifying exigency.

## 8.8. FAMILY LEAVE

In accordance with the federal Family and Medical Leave Act of 1993 (FMLA) and all applicable state laws related to family and medical leave, including but not limited to the Washington Family Leave Law, Chapter 49.78 RCW, regular city employees may be eligible for an extended leave of absence for certain family or medical reasons.

**8.8.1. Family Leave Eligibility:** The FMLA provides up to twelve (12) weeks of unpaid, job-protected leave every twelve (12) months to eligible employees for certain family and medical reasons. To be eligible, one must have worked for the City for at least twelve (12) months with a minimum of 1,250 hours worked during the previous twelve (12) month period.

8.8.2. **Reasons for Taking Leave:** Unpaid FMLA leave is granted for any of the following reasons:

- 1) To care for a newborn child, newly adopted child, or foster care child;
- 2) To care for a spouse, child, or parent who has a serious health condition; or
- 3) An employee's own serious health condition which leaves the employee unable to perform the functions of his or her position, or for an employee's disability due to pregnancy.

Leave to care for a child following birth or placement for adoption or foster care must be concluded within 12 months of the birth or placement. Disability due to a pregnancy may permit the pregnant employee leave for the period of her disability, as well as up to 12 weeks of unpaid leave to care for the newborn, under Washington law.

A serious health condition is one which affects a person's health to the extent that inpatient care is required or absences are necessary on a recurring basis for more than a few days for treatment or recovery.

Under some circumstances, FMLA leave may be taken intermittently (that is, taken in blocks of time, or by reducing the normal weekly or daily work schedule), if medically necessary because of a serious health condition, or to care for a family member with a serious health condition. If FMLA leave is for birth, placement for adoption or foster care, use of intermittent leave is subject to the City's approval.

8.8.3. **Concurrent Running of Leave:** Leave taken under the Washington Family Leave Law must be taken concurrently with any leave taken under the Federal Family and Medical Leave Act of 1993 and also will be taken concurrently with any accrued paid leave, unless the employee declines to utilize paid leave concurrently with FMLA leave.

It is the City's policy to pay employees on Family Medical Leave their accrued leave benefits at the same time as they exhaust their FMLA leave, unless the employee declines to utilize paid leave concurrently with FMLA leave.

If an employee uses paid leave for a purpose which is eligible for FMLA leave, the City will designate the paid leave as counting against the employee's FMLA leave allowance unless the employee declines to take FMLA leave. The employee is required to notify the City if paid leave is being used for possible FMLA qualifying purposes.

8.8.4. **Advance Notice and Medical Certifications:** The City requires employees provide advance leave notice, with medical certification of the need for a leave related to a

health condition. As with any medical leave, a fitness for duty or release to work certificate will also be required before the employee can return to work. Taking leave, or reinstatement after leave, may be denied if these requirements are not met.

An employee must give the City at least thirty (30) days' advance notice of a request for leave. If circumstances do not allow the employee to give the required notice, notice shall be given as soon as possible once the need for leave becomes known. If thirty (30) days' advance notice is not given, and the need for the leave and the approximate date of the leave were clearly foreseeable, the City may deny the request for leave until thirty (30) days after the date of notice.

Prior to approving a request for medical leave, including intermittent or part-time leave, the City will require medical certification from a health-care provider of the need for and probable duration of the leave for a serious health condition of the employee or the employee's immediate family member.

The City will require a medical certification of fitness for duty to return to work after a medical leave where the employee's own serious health condition made the employee unable to perform the employee's job, or where the medical condition or job are such that the City believes there may be a serious risk of injury to the employee or others if the employee is not fit to return to work.

**8.8.5. Periodic Reporting:** If an employee takes leave for more than two weeks, the City requires a report at least every two weeks on the employee's status and intent to return to work. The City may also require subsequent re-certification of the need for continued leave. If an employee discovers after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary, the employee may return to work earlier but only after providing the City with reasonable (usually two business days) advance notice of the intent to return, the reason for the change and any required medical release to work or fitness for duty certification.

**8.8.6. Health Insurance Benefits While on Leave:** An employee will be allowed to continue health insurance coverage under the same conditions as before the leave commenced. However, the City's payment of the employer-paid portion of the premium is conditioned upon the employee's return to work. If the employee is able to return from a family leave, but does not do so, the City is entitled to recover all insurance premiums it paid to continue the coverage while the employee was on leave, unless the failure to return was beyond the employee's control.

**8.8.7. Other Insurance Benefits While on Leave:** If the employee is covered by other City insurance plans, such as life or disability insurance, those coverages will continue during the paid leave on the same basis as during regular employment. If the

employee takes unpaid FMLA leave, he/she will be responsible during the leave for the premiums normally paid plus the premiums normally paid by the City.

Taking a FMLA leave will not cause an employee to lose any employment benefits which accrued before the start of the leave (e.g., seniority). However, the employee will not accrue these benefits during FMLA leave.

**8.8.8. Couples Employed by the City:** If a married couple is employed by the City, FMLA leaves may be restricted to a combined total of twelve (12) weeks in a twelve (12) month period for the birth or adoption or foster care placement of a child, or the care of the employee's parent with a serious health condition. In certain situations, the City may grant FMLA leave to only one spouse at a time. Employees should confer with Human Resources regarding their leave rights under FMLA.

**8.8.9. Determining Leave Availability:** FMLA leave is allowed for up to twelve (12) weeks during a twelve (12) month period. For purposes of calculating leave availability, the "12-month" period is a rolling 12-month period measured backwards from the date the employee uses any FMLA leave.

**8.8.10. Return from state or federal family leave:** Upon returning from a family leave, the employee will generally be assigned the same position held when the leave commenced or to a position with equivalent pay, benefits, and other conditions of employment. If other changes to the position occurred that were not related to the scheduled leave, the City may opt to process those changes (i.e. a department reorganization, or planned change that was decided on prior to the employee's scheduled leave). If an employee is found to have engaged in serious misconduct occurring prior to or after commencing family leave, which would normally give rise to discipline or termination, the City may proceed with such discipline, when discipline is not based on the employee's leave request.

The Washington Family Leave Act (WFLA) largely mirrors the FMLA, with the same eligibility standards and entitlement to 12 weeks of leave for family and medical reasons. In most situations, WFLA provides the same leave entitlement as (and runs concurrently with) FMLA leave and employees should follow the procedures described above for both FMLA and WFLA leave.

WFLA differs from FMLA leave only in the following respects:

- WFLA leave does not run concurrently with any leave taken for Pregnancy Disability leave; this affords an employee up to 12 weeks of additional time off to care for her newborn once she has recovered from the Pregnancy Disability.

- The WFLA does not provide leave for military exigencies or for military caregivers. Where such military-related leave is taken under the FMLA, it will not count against the 12-week leave entitlement available under the WFLA.
- Continuation of employer-paid health insurance is not required during WFLA leave. Thus, during leave that is covered only by WFLA and not FMLA, health insurance will not be automatically continued unless the employee elects continuation coverage at his/her expense.

### 8.9. PREGNANCY LEAVE

An employee may use accumulated paid leave and unpaid leave for the period of actual disability attributable to pregnancy or childbirth. Maternity leave is provided in addition to the leave that may be available to the employee under the FMLA/WFLA. Contact Human Resources if you have any questions.

### 8.10. WASHINGTON FAMILY CARE ACT

The Washington Family Care Act (WFCA), RCW 49.12.265, allows employees with available RTO leave or other paid time off to care for sick family members in addition to children under age 18:

- 1) to care for a child with a health condition that requires treatment or supervision;
- 2) to care for a spouse, parent, parent-in-law, or grandparent, who has a serious health condition or an emergency health condition:
- 3) a condition warranting treatment or preventive health care such as physical, dental, optical or immunization services, when a parent must be present to authorize the treatment and when sick leave may otherwise be used for the employee's preventative health care; and
- 4) to care for children 18 years and older with disabilities that make them incapable of self-care.

Grandparents-in-law, grandchildren, and siblings are not covered by the WFCA.

Not all details concerning state or federal family leave are covered in this policy. If an employee needs to take family leave, please discuss this policy with the appropriate department director and with Human Resources to complete the required forms.

An employee requesting leave under the WFCA will be required to complete the leave slip and time sheets appropriately. Contact Human Resources for the appropriate forms.

## 8.11. DOMESTIC VIOLENCE LEAVE

In accordance with the Washington Domestic Violence Leave law, Chapter 49.76 RCW, the City will provide reasonable leave from work, including leave on an intermittent or reduced-schedule basis, for an employee to:

- 1) Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;
- 2) Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;
- 3) Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;
- 4) Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking; or
- 5) Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.

The employee may elect to use PTO, RTO, compensatory time, or other accrued paid time off, or may take unpaid leave. Domestic violence leave, including documentation of such leave, will be applied and administered in accordance with the provisions of the state Domestic Violence Leave law. Nothing in this section shall be construed to provide greater or lesser leave rights to employees who are victims of domestic violence, sexual assault, or stalking than those required by Chapter 49.76 RCW. Employees requesting Domestic Violence leave will be required to notify Human Resources for the required forms.

Not all details concerning state or federal family leave are covered in this policy. If an employee needs to take family leave, please discuss this policy with the appropriate department director and with Human Resources to complete the required forms.

## 8.12. SHARED LEAVE PROGRAM

The purpose of the shared leave program is to provide City employees the opportunity to assist an employee who is suffering from, or has an immediate family member suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave without pay or to terminate his/her employment with the City.

8.12.1. **Shared Leave Committee:** There shall be a shared leave committee to be convened on an ad hoc basis. The committee shall be composed of the City Manager, Finance Director, Human Resources Director, City Attorney, and the department director under whom the employee applying for shared leave works.

8.12.2. **Conditions Required for Grant of Shared Leave:** The Shared Leave Committee may authorize an applying employee to receive shared leave if all of the following conditions are or will be met:

- 1) The employee suffers, or has an immediate family member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to go on leave without pay or to terminate his/her employment with the City. The employee shall be required to provide appropriate medical justification and documentation both of the necessity for the leave and the time which the employee can reasonably be expected to be absent due to the condition.
- 2) The employee has exhausted or will shortly exhaust his/her total of accrued PTO, RTO, compensatory time, holiday time, bank days, and/or paid leave.
- 3) Prior to the use of shared leave, the employee has abided by the City's RTO (or sick, prior to January 1, 2016) leave policy.
- 4) If the employee is suffering from a workplace illness or injury, the employee has diligently pursued and is found to be ineligible for state industrial insurance benefits.
- 5) The use of shared leave will not significantly increase the City's costs, except for those which would otherwise be incurred in the administration of this program.
- 6) Such leave will not adversely affect City services or the administration of those services.

8.12.3. **Shared Leave – Maximum Amount Available:** The Shared Leave Committee shall determine the amount of shared leave, if any, which an employee may receive under this policy, subject to the employee receiving a maximum of one thousand (1000) hours of shared leave in any twenty-four (24) month period. If the employee has been employed by the City on a continuous basis for six (6) months or longer the first five hundred (500) hours shall be comprised of donations of equal amounts of PTO (or vacation) leave and sick leave; all hours of shared leave beginning with the 501<sup>st</sup> hour shall be comprised of donated PTO or vacation hours only. An employee who has been employed by the City for less than six (6) months on a continuous basis may receive donated PTO or vacation hours only; and no time compensated through such donation of PTO or vacation hours shall be included in the calculation of six (6) months of continuous employment.

8.12.4. **Conditions for Donation of Shared Leave:** Employees may request the transfer of a specified amount of leave to an employee who has been authorized to receive shared leave, subject to the following conditions:

For Employees with Vacation and Sick Leave Banks

- 1) An employee may donate no more than forty (40) hours of leave per donee employee per calendar year;
- 2) The donor employee's sick leave balance must not fall below two hundred forty (240) accrued hours immediately following any such donation;
- 3) Transfers shall be in whole hour increments of leave;
- 4) All donations of shared leave shall be entirely voluntary; and
- 5) A donor employee may donate both vacation and sick leave (For purposes of this policy, the term "vacation leave" shall be deemed to include employee choice and/or bank days, in addition to annual vacation leave) subject to the following limitations:
  - (a) An hour of sick leave may be donated only if an hour of vacation leave is first donated by the donor employee; and
  - (b) Sick leave may be donated only on the ratio of one hour of sick leave for each one hour of vacation leave first donated.
  - (c) Vacation leave may be donated without a concurrent donation of sick leave.

For Employees with PTO

- 1) An employee may donate no more than forty (40) hours of leave per donee employee per calendar year;
- 2) The donor employee's PTO leave balance must not fall below two hundred forty (240) accrued hours immediately following any such donation;
- 3) Transfers shall be in whole hour increments of leave;
- 4) All donations of shared leave shall be entirely voluntary; and
- 5) A donor employee may donate PTO (For purposes of this policy, the term "PTO leave" shall be deemed to include employee choice and/or bank days, in addition to annual PTO leave) subject to the following limitations.

**8.12.5. Employment Status of Employees Using Shared Leave:** While an employee is on shared leave, he/she will continue to be classified as a City employee of the same department in which he/she is normally assigned. The employee shall receive the same treatment with respect to salary and benefits as he/she would have otherwise received if using PTO or RTO leave. The employee's salary rate shall not change as a result of being on shared leave.

**8.12.6. Interdepartmental Transfers of Leave:** Shared leave may be transferred without regard to the City department in which the donating employees and recipient employees may be assigned.

**8.12.7. Administration of Leave Donations, Use of Shared Leave, and Fund Transfers:** The Finance Director shall be responsible for administering the shared leave program and shall adjust accrued leave balances to show the transferred leave for both the donor and recipient and provide for budget amendments if needed for City Council action. While leave is transferred on a per hour basis, for purposes of budget and accounting the value of donated leave shall be determined at the current hourly wage of the donor employee; the shared leave available to the recipient employee shall be calculated at the recipient employee's hourly wage.

**8.12.8. Return of Unused Shared Leave:** The Shared Leave Committee shall determine when shared leave is no longer needed. Any remaining leave which has been transferred shall be returned to the donor employees. To the extent administratively feasible, the unused leave shall be returned on a pro rata basis.

8.12.9. **Council Notification of Shared Leave:** The City Manager will notify Council any time the Shared Leave Committee approves a shared leave request.

**8.13. HOLIDAYS**

The following are recognized as paid holidays for all regular full- and part-time employees unless otherwise indicated in bargaining unit contracts:

New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Day after Thanksgiving
Christmas Day	December 25
Employee Choice Days	5 days

Days employed in Calendar Year	<u>1 - 73</u>	<u>74 -146</u>	<u>147 - 219</u>	<u>220 - 292</u>	<u>293-365</u>
<i>Eligible ECD's</i>	1	2	3	4	5

Regular part-time employees shall receive holiday benefits, including employee choice days, on a pro-rata basis according to actual hours worked during the previous month.

Employee Choice Days may be taken any time within a calendar year only when twenty-four (24) hour prior approval is given or as otherwise authorized by the department head. In determining whether authorization should be given on less than 24 hours' notice from an employee, the department head will consider the following: will the leave 1) negatively impact the employee's work group; 2) cause the City to incur unanticipated overtime expense; or 3) otherwise create a detrimental impact for the City. If the request is denied, a mutual day should be decided upon. Employee Choice Days may not be carried over into the next year. Employee choice days may be taken in one-hour increments.

Any holiday falling on Saturday will be celebrated on the preceding Friday. Any holiday falling on Sunday will be celebrated on the following Monday. A holiday falling within a PTO period shall not constitute a PTO leave day and a holiday occurring while an employee is on RTO leave shall not count against the employee's RTO leave bank.

Non-exempt regular full- or part-time employees who are required or approved to work on a holiday will be paid for the holiday plus one and one-half times the employee's regular rate of pay for any time worked on the holiday. Such worked holiday time must be pre-

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authorized by the employee's supervisor. Employees who work a holiday without authorization will be subject to discipline up to and including termination. Holidays are paid at eight (8) hours or less. Employees on alternative work schedules will need to comply with the alternative regular schedule policy (Section 4.4).

Temporary employees are not entitled to holiday pay. Temporary employees who are required or approved to work on a holiday will be paid only for hours actually worked on the holiday. Generally these will be paid at their regular straight time rate except where overtime would apply.

Christmas Eve/New Year's Eve: The business offices of the City will be open to the public until noon the day before the holiday. On such limited occasions, those non-exempt employees who are authorized to leave early shall take PTO leave or employee choice hours for time not worked. Exempt personnel who leave early shall take PTO leave, exempt leave or employee choice hours in accordance with the provisions of Manual section 4.2.

#### 8.14. RELIGIOUS HOLIDAYS

Under Washington law all employees of the City of Ellensburg are entitled to up to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious holiday.

The employee may select the days on which he or she desires to take the two unpaid holidays after consultation with his or her supervisor. If an employee prefers to take the two unpaid holidays on specific days, then the employee will be allowed to take the unpaid holidays on the days he or she has selected unless granting the request would cause an undue hardship as defined by the State Office of Financial Management or the employee is necessary to maintain public safety. Employees may, with his/her department director's approval, take the day off using PTO, comp time, or an employee choice day.

Your request should include the following information:

- Your name
- The day(s) or partial day(s) that you are requesting off
- A description of the reason for the leave
- If the request is untimely, the reason why it was not possible to submit the request in a timely manner.

You will normally receive a response within five days of receipt of your request. The request may be denied if:

- It was not submitted in a timely fashion, or
- The reason for the requested leave is not appropriate under the law, or
- You have already exhausted your allotment of days off under the law, or
- You are an employee in a position necessary to maintain public safety, or
- Granting the request would cause an undue hardship as defined by the State Office of Financial Management

#### 8.15. EXEMPT LEAVE

In recognition of the performance of professional responsibilities of employees who work beyond the regularly scheduled work day, who are not compensated for overtime regardless of the time required to perform assigned tasks, and who are classified as “exempt” under the Fair Labor Standards Act, up to forty (40) hours of paid exempt leave may be granted each calendar year subject to review and approval by the City Manager or his/her designee. Persons first employed in any month after January will be granted a pro-rata exempt leave bank through December of their first year of employment. Exempt leave must be used during the year in which it is granted; it cannot be carried over from year to year, and it may not be cashed out. Exempt leave may only be taken in increments greater than two (2) hours.

#### 8.16. BENEFITS FOR PART-TIME AND TEMPORARY EMPLOYEES

Unless noted otherwise in these policies, benefits for regular part-time and temporary employees are as follows:

**Regular Part-Time Employees:** All leaves, (including holidays), and insurance premiums are pro-rata. Pro-rata means the ratio between the number of hours in the employee’s normal work schedule and forty (40) hours per week.

**Temporary and Other Part-time Employees:** Temporary and other part-time employees normally are not eligible to receive payment for benefits, including but not limited to, leaves, holidays and insurance.

## CHAPTER 9 EMPLOYEE RESPONSIBILITIES

### 9.1. OUTSIDE EMPLOYMENT AND CONFLICTS OF INTEREST

Employees shall not, directly or indirectly, engage in any outside employment or possess a financial interest which may conflict, in the City Manager's opinion, with the best interests of the City of Ellensburg or interfere with the employee's ability to perform his/her assigned City job. Examples include, but are not limited to, outside employment which:

- 1) Prevents the employee from being available for work beyond normal working hours, such as during emergencies or peak work periods, when such availability is a regular part of the employee's job;
- 2) Is conducted during the employee's work hours;
- 3) Utilizes City telephones, cellular telephones, computers, supplies or any other City resources, facilities or equipment;
- 4) Is employed with a firm which has contracts with or does business with the City; or
- 5) May reasonably be perceived by members of the public as creating a conflict of interest or one which otherwise discredits public service.

All City employees shall abide by, and this section 9.1 shall be interpreted in accordance with, Chapter 42.23 RCW, the Washington State Code of Ethics for Municipal Officers.

### 9.2. ANTI-DISRUPTION POLICY

Any conduct in the workplace or while on City time that is disruptive to the normal operations of City business or invades the rights of others will not be tolerated. While on City time, employees are expected to adhere to professional and work-related matters and to treat each other and the public with respect. This includes refraining while on City time from spreading rumors, gossiping or discussing non-business related information about others. Other disruptive conduct includes but is not limited to discrimination, harassment, threats, insults, intimidation, ridicule, profanity, vulgarity, stereotyping, physical or verbal abuse, ignoring the rights of others, and displaying insensitivity to the beliefs and customs of others.

### 9.3. POLITICAL ACTIVITIES

City employees may participate in political or partisan activities of their own choosing provided that City resources and property, including the employee's city work time, are not utilized, and the activity does not adversely affect the responsibilities of the employees in their positions. City employees may not campaign on City time or in a City uniform or while representing the City in any way.

**City employees may not:** City employees may not use City facilities, supplies, equipment or vehicles for any campaign purpose. This includes (but is not limited to), copiers, fax machines, mail facilities, typewriters, telephones, automobiles, computers, e-mail, websites, and paper products or the reimbursement for usage of these facilities.

City employees may not solicit for a contribution to a political cause or campaign while on City property or City time or while in City uniform.

City employees may not have a petition available for signature at City Hall, or other City facility or vehicle.

City employees may not allow others to use City facilities or equipment for political activities, except in accordance with established City policy for use of public meeting space when it is the employee's responsibility to manage the use of that space.

City employees may not use, or allow others to use, City funds for political activities.

**City employees may:** City employees may, on their own time and not with the use of City property or equipment, participate in campaign-related activities.

City employees may, on their own time and not in a City facility, gather petition signatures, wear lapel buttons, distribute material, speak before groups, write letters to the editor or display campaign stickers on their personal car. Private employee vehicles displaying bumper stickers may be parked on public property.

City employees may identify their position with the City in a letter to the editor (written on their own time). They may not imply that they are expressing an opinion on behalf of the City.

City employees may, in the course of work, respond to a political inquiry by providing routine factual information.

City employees may respond to requests for public records even if the records will be used in support of or opposition to a measure or candidate, so long as the record isn't exempt from disclosure under state law.

City employees may under the direction of the City Manager prepare and distribute to citizens neutral factual information relevant to a ballot proposition, if such action is part of the normal and regular conduct of the City.

Except as noted in this policy, City employees are otherwise free to fully exercise their constitutional First Amendment rights.

#### 9.4. NO SMOKING/VAPING POLICY

Smoking and vaping is prohibited in City Vehicles and Facilities: For health and safety considerations, the City prohibits smoking and vaping by employees in all City vehicles and facilities, including City-owned buildings and offices or other facilities rented or leased by the City, including individual employee offices.

Outdoor Smoking Restrictions: Chapter 70.160 RCW significantly restricts the outdoor areas where individuals may smoke in relation to the location of City buildings, work areas and public places. Smoking is prohibited within twenty-five (25) feet of any entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. The law also applies to any "place of employment," which the law defines, in part, as "work areas" and any area which employees are required to pass through during the course of employment. The following direction identifies where and when City employees may and may not smoke.

- 1) Because the law prohibits any person from smoking at a place of employment, members of work crews are prohibited by law from smoking at any worksite locations. While at a worksite, an employee may only smoke while on his or her break, and the employee must be at least 25 feet from other working City employees. An employee who is on a break must smoke at least 25 feet from all entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.
- 2) Inside City Shop property, the grass area east of the work bays and shop offices is identified as the designated smoking area. Anyone smoking in this area must remain at least 25 feet from all entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. Smoking at or in all other City Shop property is prohibited.
- 3) Smoking and vaping on City Hall property is prohibited.

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## 9.5. CITY PROPERTY / PERSONAL POSSESSIONS / PRIVACY LIMITATIONS

**City Property/Privacy Limitations:** The City of Ellensburg may furnish desks, closets and/or lockers for security of employee coats, purses and other personal possessions. The City does not, however, assume responsibility for any theft or damage to the personal belongings of employees.

Employees should have no expectation of privacy when using such or any other City property. The City regards desks, closets, lockers, work spaces, computers, file cabinets and files, city vehicles, furniture and other City property, as well as data, programs, communications, messages and other property created on, acquired by, developed for or located in any City facility or equipment, either in printed or digital format, as City property. The City reserves the right to search the same, including any personal possessions contained in them when it determines that there is a security, health, or other appropriate reason to do so. Such reasons may include, without limitation, the following: the need to locate City property; health or safety concerns; reasonable suspicion of misconduct; termination of employee; or for other business-related purposes. The City reserves the right to review the contents of any document or communication, created or stored on a City computer or phone system, including electronic mail, text messaging, and voicemail. Employees do not have a reasonable expectation of privacy in these areas or in any other City work areas or when using City equipment.

City equipment is provided at public expense to assist employees in carrying out official City business. While personal use of city equipment is prohibited, it is recognized that certain de minimis use may occur, e.g., the receipt of a personal phone call on a City-owned phone. It is the employee's responsibility to ensure the City of Ellensburg incurs no cost as a result of any de minimis personal use of City equipment. Inappropriate or excessive use of City equipment for personal purposes may subject the employee to disciplinary action, up to and including termination.

**Personal Property:** The City recognizes that employees may need or want to bring personal property to work. The City permits employees to do so but asks its employees to refrain from bringing unnecessary or inappropriate personal property to the workplace.

Any property that is not appropriate for the conduct of normal business, that may be disruptive to workflow, may pose a safety risk to employees or the public, or which violates the terms of any City policy may be considered unnecessary or inappropriate. It will be within the City's sole discretion to determine whether certain personal property is unnecessary or inappropriate.

The only personal property that an employee may be asked to use for City business is their personal vehicle. However, employees may choose to bring and use personal property in the performance of job duties. If personal property is used to perform job duties, employees must obtain written approval from a supervisor prior to its use and the property must comply with City standards.

It is the employee's responsibility to safeguard personal belongings. The City will not be liable for lost, damaged or stolen property of its employees and at no time will the City replace or reimburse an employee for personal property that an employee brings to the workplace. Employees are encouraged to exercise reasonable care to safeguard personal items brought to work. For example, employees should not bring valuables to work and should not leave personal items where they might be damaged or stolen.

Improper or excessive use of personal property brought onto City property or worksites or during work hours (for example, the excessive or inappropriate use of personal cell phones for personal phone calls, text-messaging, imaging or videotaping), may also result in disciplinary action, up to and including termination.

#### 9.6. COMPUTER SYSTEM, INTERNET, E-MAIL USE AND PASSWORD POLICIES

9.6.1 The City of Ellensburg furnishes computers for employees to use in conducting City business.

This includes access to e-mail and the Internet. The Internet contains many useful features, including e-mail to non-City resources, access to research materials, and information exchange. The purpose of this policy is to establish basic rules for employees' use of the City's computer system, including the Internet and Internet e-mail.

The Internet can be misused in a variety of ways, including but not limited to:

- 1) Downloading files that contain viruses, thereby endangering City information services;
- 2) Accessing objectionable material;
- 3) Wasting work time by performing unauthorized research or accessing non-business related information and people or for computer games, or online games.

Individual Responsibilities: Internet users are responsible for complying with this and all other City policies when using the City's resources for accessing the Internet. Violation of this policy is grounds for disciplinary action, up to and including termination.

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## General Policies for Use of the City's Computer System, Including the Internet:

An employee does not have a right to privacy when using the Internet via City resources and employees should not expect or assume any privacy regarding the content of email communications. The City reserves the express right to monitor and inspect the activities of the employee while accessing the Internet at any time, and to read, use and disclose e-mail messages. In addition, all software, files, information, communications, and messages (including e-mails) downloaded or sent via the Internet using City resources are the City's records and property of the City; such records are subject to potential review and disclosure under the public disclosure law of the State of Washington. Even after an email message has been "deleted," it may still be possible to retrieve it.

The City Manager has the right to restrict or prohibit any employee from Internet access for violation of the policies set forth in this section 9.6. Violations may also result in disciplinary action, up to and including termination.

Internet use via City resources is for City business. Except as outlined here, use of City's computer, Internet and email services are for City business only. Some limited personal use is permitted, so long as it does not result in cost to the City, does not interfere with the performance of duties, is brief in duration and frequency, does not distract from the conduct of City business and does not compromise the security or integrity of City information or software. Such limited use shall not occur on "paid time," but is permitted immediately before or after work hours and during an employee's breaks. Examples of allowable personal use include accessing a weather report or news item on the Internet, or transmitting e-mail to a family member to assure safe arrival at home. Any personal use of the City's computer, Internet and email services must comply with all applicable laws and City policies, including anti-discrimination policies and Internet usage policy.

Internet use must comply with applicable laws and City policies including but not limited to all federal and state laws, and City policies governing sexual harassment, discrimination, intellectual property protection, privacy, public disclosure, confidentiality, misuse of City resources, information and data security.

All Internet use must be consistent with the City's Personnel Policies Manual.

The City's computer system permits employees to perform jobs, share files, and communicate internally and with selected outside individuals and entities in the performance and conduct of City business. Employees are prohibited from gaining unauthorized access to another employee's e-mail messages, or sending messages using another employee's password.

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In order to prevent potential City liability, it is the responsibility of all Internet users to clearly communicate to the recipient when the opinions expressed do not represent those of the City of Ellensburg.

The City has the capability and reserves the right to access, review, copy, modify and delete any information transmitted through or stored in its computer system. The City may disclose all such information to any party (inside or outside the City) it deems appropriate and in accordance with applicable law. Accordingly, employees should not use the computer system to send, receive or store any information they wish to keep private. Employees should treat the computer system like a shared file system—with the expectation that files sent, received or stored anywhere in the system will be available for review by any authorized representative of the City for any purpose, as well as the public if a proper request is made for public records.

Good judgment should always be employed in using the City's e-mail and Internet systems. Employee e-mail messages may be read by someone other than the person(s) to whom they were sent. E-mail inconsistent with the City's policies must be avoided. For example, it is prohibited to make jokes or comments which could offend someone on the basis of gender, race, age, religion, national origin, disability, sexual orientation, or any other class protected by law. These comments would be in direct conflict with the City's policies prohibiting discrimination and harassment. Accordingly, employees should create and send only courteous, professional and businesslike messages that do not contain objectionable offensive or potentially discriminatory material.

Caution should be taken in transmitting confidential information on the computer system. Employees should use due care in addressing e-mail messages to assure messages are not inadvertently sent to the wrong person inside or outside the City. E-mail creates a written record subject to court rules of discovery and may be used as evidence in claims or legal proceedings. Once sent, e-mail cannot be retracted. Even after deletion at a workstation, e-mail can be retrieved and read.

The safety and security of the City's network and resources must be considered at all times when using the Internet. Any programs from a non-current source (i.e., software that is not purchased in original diskette or CD ROM format) or which involve executable or binary files must not be downloaded or installed without prior permission from the IT Division and the appropriate Department Director and without being properly scanned for viruses. Employees are not to share or reveal individual passwords to anyone other than an authorized member of IT.

There is a wide variety of information on the Internet. Some individuals may find information on the Internet offensive or otherwise objectionable. Individual users must be aware that the City has no control over available information on the Internet and cannot be responsible for the content of information.

**Prohibited Uses of the Internet:** The following is a non-exclusive list of prohibited uses of the Internet and Internet e-mail:

Commercial use – any form of commercial use of the Internet is prohibited;

Solicitation – the purchase or sale of personal items or non-business items through advertising on the Internet is prohibited;

Copyright violations – the unlawful reproduction or distribution of copyrighted information, regardless of the source, is prohibited;

Discrimination/Harassment – the use of the Internet to send messages or other content which is harassing, derogatory or unlawfully discriminatory to employees, citizens, vendors or customers is prohibited;

Political – the use of the Internet for political purposes is prohibited;

Aliases/Anonymous messages/misrepresentation – the use of aliases or transmission of anonymous messages is prohibited. Also, the misrepresentation of an employee’s job title, job description, or position with the City is prohibited;

Social networking sites – the accessing and/or creation of social networking sites, such as MySpace, Facebook, Twitter, Blogs and similar sites is prohibited for non-city business purposes;

Instant messaging;

Misinformation/Confidential Information – the release of untrue, distorted, or confidential information regarding City business is prohibited;

Viewing or Downloading of Non-Business Related Information - the accessing, viewing, distribution, downloading, or any other method for retrieving non-City related information is prohibited. This includes, but is not limited to, entertainment sites, pornographic sites, sexually explicit sites, chat rooms and bulletin boards;

Unauthorized attempts to access another's network or e-mail account;

Display or transmission of sensitive or proprietary information to unauthorized persons or organizations;

Spamming e-mail accounts from the City's e-mail services or City machines.

Nothing in this chapter prohibits the use and access of the described systems for bona fide law enforcement and investigation purposes.

Remote access to the City computing resources and electronic assets must be authorized and granted based upon individual identification and prior management approval.

**9.6.2 Information Technology Password Policy** - Passwords are an important aspect of computer security. A poorly chosen password may result in unauthorized access and/or exploitation of the City of Ellensburg's resources. All employees with access to the City of Ellensburg systems are responsible for taking the appropriate steps, as outlined below, to select and secure their passwords.

The purpose of the City of Ellensburg Information Technology Password Policy is to establish a standard for the creation of strong passwords, the protection of those passwords, the frequency of change, as well as define the requirements and standards that the City adheres to. Passwords are the first level of defense on many of the City's systems. Like many organizations that provide Information Technology systems and services to their employees the battle to protect those systems and provide reasonable access is a delicate balance between security and accessibility.

This policy applies to all personnel who have or are responsible for an account (or any form of access that supports or requires a password) on any system that resides at any City of Ellensburg facility, has access to the City of Ellensburg network, or stores any non-public City of Ellensburg information.

Employee password requirements are as follows:

- Whenever possible a password history of 15 passwords will be kept in an attempt to prevent the re-use of a password.
- Maximum password age 90 days
- Minimum password length of 8 or more characters
- Password complexity must be a combination including 3 of the following:
  - A Lower case letter
  - An UPPERCASE letter
  - A number
  - A special Character (e.g., !@#\$%^&\*()\_+|~-=\`{ } [ ] ; ' < > ? , . / )
- A password can't contain your first or last name.

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- A password cannot contain your username.

The City of Ellensburg password requirements are based upon Microsoft's best practices for password characteristics, which define how to enforce password history, age, length, and complexity requirements. Employee passwords must meet the following standards:

- All system-level passwords (e.g., root, enable, Windows Administrator, application administration accounts, etc.) must be changed on at least a quarterly basis.
- User passwords on systems outside the City's control (e.g., email, web, Software as a Service "SaaS", or other hosted services) must be changed at least every six months and if possible an attempt should be made to adhere to the City's password requirements.

The City of Ellensburg password protection standards are intended to assist employees in preventing password "leakage" resulting in a password being wrongfully accessed or used against the city.

The City also requires employees adhere to the following password protection standards:

- Do not use the same password for City of Ellensburg accounts as for other non-City of Ellensburg access (e.g., personal ISP account, personal web based email accounts, and other online user accounts.)
- Do not share your password/s with anyone else other than authorized City of Ellensburg Information Technology personnel.
- Passwords must not be inserted into email messages or other forms of electronic communication.
- Do not reveal your password to anyone over the phone unless you are certain it is in fact an authorized Information Technology City of Ellensburg personnel.
- If someone demands a password, refer them to the City's Personnel Policies or Information Technology personnel.
- Do not write passwords down or store them anywhere (not even in your office).
- Do not store passwords in a file on ANY computer system without encryption.
- Do not hint at the format of a password (e.g., "my family name")
- Do not reveal a password on questionnaires or security forms

## 9.7. WIRELESS COMMUNICATION DEVICES

Wireless communications devices include, but are not limited to, cellular telephones, wireless handheld devices and pagers. An employee's personal communications using City wireless communications devices should be limited, and employees are expected to exercise sound judgment in both the duration and frequency of such use. These devices should not be treated as if they were the employee's personal property. As with similar

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City property, such as telephones, although minor personal use of wireless communications devices is not prohibited by this policy, it must not interfere with the performance of the employee's work duties or normal business operations of the City. Employees must reimburse the City for costs that would not otherwise have been incurred by the City resulting from the employee's personal use of such devices.

The City reserves the right to monitor the use of all City-owned wireless devices to the extent they involve City business or are made during the employee's scheduled work time. Reasonable precautions should be made to prevent equipment theft, vandalism, and improper use of wireless device equipment and services.

Employee use of a personal wireless device shall be governed by and consistent with the guidelines provided for City-owned wireless devices if the employee-owned wireless device is used for official City business and reimbursement is requested. Use of an employee-owned wireless device for City business should be limited to emergencies and situations where alternative means of communication are unsafe, inconvenient, or not readily available.

**Text Messaging:** Text messages sent or received by an employee that relate to City business are public records regardless of whether the device used is owned by the City or employee. It is the City's policy that its employees maintain electronic records in accordance with the State archivist records retention laws and schedules. The City does not archive instant messaging or text messaging records. Therefore, employees are instructed not to use instant messaging or text messaging for communications records that have retention value. However, text messages that are of a transitory nature do not have retention value. Examples of transitory messages include: personal messages and announcements not related to official business; information only or duplicate copies; copies of publications; miscellaneous notices or memoranda of a general and non-continuing nature (meeting notices, reservations, confirmations); preliminary drafts of notes, letters, reports, worksheets which do not represent significant steps in the preparation of record documents; requests for routine information or forms; and routine notifications (e.g., "I'll be late," or "see you there," etc.). In the event communications that are more than transitory are necessary, such communications should occur in person, by telephone, by email, or by memorandum, but not by text.

**Payment for Wireless Device Use:** Recognizing that City supplies, services and equipment cannot be used for personal purposes, any person who is assigned a cellular telephone must make provision to assure payment for personal calls, whether by paying cash or signing an agreement to have the funds withheld from wages. An agreement form is available from the Finance or Human Resources Departments.

The billing for City-owned wireless device service shall be provided to the employee who has had use of a cellular telephone during the corresponding service period. It is the duty of the employee to note and certify on the City billing which calls were not related to City business or a public safety emergency. The billing shall be returned to the supervisor within five (5) business days, accompanied by information about the personal calls, if there is a cost incurred the employee will pay for the personal calls.

Employees should recognize that cellular transmissions are not secure; thus, employees should exercise discretion when relating confidential information during a cellular telephone call.

Employees who abuse this policy for whatever reason may be subject to disciplinary action, including possible termination.

**Use of Handheld Wireless Communication Devices While Driving is Prohibited:** Except as provided below, the use of handheld wireless communication devices, including but not limited to cellular telephones and smart phones (including text messaging), is not permitted while operating a car or other moving vehicle unless a hands free device is used. If a hands free device is not used, all necessary phone calls must be made before leaving the previous location or after arriving at the next destination. In the event an employee must make or receive a call or message while driving, he/she must find a safe place to pull over and stop the vehicle.

Under Washington state law, a person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction (RCW 46.61.667). Also under state law, a person operating such a vehicle is prohibited from sending, reading, or writing a text message while driving (RCW 46.61.668). These prohibitions do not apply to: an authorized emergency vehicle; or to a person operating a moving motor vehicle using a hand-held wireless communications device or electronic communications device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property. RCW 46.61.667 does not apply to a person operating a moving motor vehicle while using a hearing aid.

Employees violating this policy are subject to disciplinary action up to and including termination.

## **9.8. USE OF CITY VEHICLES, EQUIPMENT AND SUPPLIES**

Use of City wireless devices for local personal phone calls should be kept to a minimum; long distance personal use is prohibited. Employees may not use other City supplies or equipment, including vehicles, for personal, non-City-business purposes; provided however, employees assigned emergency response duties may use City vehicles in accordance with

applicable departmental policies. All City vehicles shall remain on City property while not in service, unless specifically authorized. Vehicles assigned to take home do not apply. An employee's misuse of City services, property, facilities, telephones, computers, email, vehicles, equipment or supplies can result in disciplinary action up to and including termination.

#### **9.9. SEAT BELT POLICY**

As required by Washington law, anyone operating or riding in City vehicles must wear a seat belt at all times.

#### **9.10. DRIVER'S LICENSE REQUIREMENTS**

Any employee operating a City vehicle, or using a motor vehicle for City business, must be at least 18 years of age and have a valid driver's license.

As part of the requirements for certain City positions, an employee may be required to hold a valid Washington State Driver's license and/or hold a valid commercial driver's license (CDL) and continue to meet all the requirements for maintaining such licenses. If such an employee's license is revoked, suspended or lost, or is in any other way not current, valid and in the employee's possession, the employee shall promptly notify his/her department director and immediately suspend driving duties. The employee may not resume driving until proof of a valid, current license is provided to his/her department director. Depending on the duration of license suspension, revocation or other inability to drive, an employee may be subject to disciplinary action, including termination. An employee's failure to notify his/her department director of such a license suspension, revocation or other license disqualification may also result in disciplinary action, up to and including termination.

Periodic checks of employee's driver's licenses through visual and/or formal State Department of licensing review checks may be made by department directors, supervisors or Human Resources. Employees who do not hold a valid driver's license must not operate a City vehicle until such time as a valid license is obtained.

#### **9.11. ACCIDENT PREVENTION AND SAFETY**

It is the City's intent to provide safe working conditions for its employees. Every employee is responsible for maintaining a safe work environment and following the City's safety rules. Copies of the Safety Manual provided by the City of Ellensburg Safety Committee are available in Human Resources and are distributed to each new employee at the time of hire. Employees shall promptly report all unsafe or potentially hazardous conditions to

their department director. The City will make every effort to remedy problems as quickly as possible.

The City encourages the promotion of accident prevention and safety education at regular department/division safety meetings. Employees in certain jobs or when performing certain tasks, operating equipment or as otherwise instructed are required to use personal protective equipment provided by the City, such as safety vests/glasses, hearing protection, gloves and/or hard hats. Employees are prohibited from removing guards or other protective devices from machinery and equipment or in any way tampering with or disabling safety measures. Violations of safety requirements may result in discipline, up to and including termination.

In case of an accident involving personal injury or damage to property regardless of how minor or if a motor vehicle is involved in a collision of any kind, any involved employees shall immediately notify their supervisor or department director or designee. In any accident that results in serious property loss or bodily injury, it is the City's policy to test the employee for drugs or alcohol use, to confirm that the use of drugs or alcohol was not a factor in the accident. In addition, no City employee is permitted to engage in conduct after an accident or injury occurs, that will negatively impact the City's or law enforcement's investigation of the accident.

**On the Job Employee Injuries:** When an on-the-job injury occurs, employees are to report to their immediate supervisor each injury or illness regardless of the degree of severity. As soon as possible after an accident or occupational illness is discovered, the employee must complete the City's Personal Injury Accident/Report form and submit it to Human Resources within twenty-four (24) hours. If applicable, the employee is responsible for completing the Washington State Labor and Industries claim form. Supervisors are required to complete the supervisor portion of the accident report form. Should the injury require attention beyond basic first aid, the employee should have his or her treating physician complete the applicable portion of the Washington State Labor and Industries Claim form. Injured employees must submit physician time loss certification to their Department Director or designee and if absent from work for more than seven (7) days, contact his or her Department Director or designee once a week or as otherwise required to keep the City informed of their condition, progress and intent to return to work. The injured employee's Department Director or designee shall immediately forward the original completed time loss certification to Human Resources.

**Accidents/Incidents:** Employees shall report any work-related accidents involving a third party personal injury and/or damage to public/private property or equipment, regardless how minor, to their immediate supervisor, department director and Human Resources. Such report shall be made as soon as possible, but in no event later than one (1) hour following such accident. So that an accident may be timely reported, the initial report may

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be given verbally. Accident report forms are available from supervisors or Human Resources. A written accident report shall be completed by the employee as soon as possible, and, unless the employee is medically unable to, no later than twenty-four (24) hours following the accident, or sooner if required by the employee's department director or Human Resources.

Employees shall compile any reports requested by their supervisor, department director and/or Human Resources. In the case of a vehicular accident, the employee shall immediately notify the law enforcement agency having jurisdiction, which shall determine whether or not an accident investigation and/or police incident report is necessary. If required, a State Motor Vehicle Collision Report shall be completed by the employee.

**Bloodborne Pathogens:** Since being exposed to a bloodborne pathogen may lead to sicknesses such as hepatitis, HIV or malaria, and because the City wishes to assure its employees a safe and healthy work environment, it is the policy of the City to comply with all statutory obligations for the prevention of exposure to bloodborne pathogens. Employees should familiarize themselves with the City's Exposure Control Plan and follow it at all times. Failure to comply with this Plan will result in discipline up to and including termination.

## 9.12. WORKPLACE VIOLENCE PREVENTION

The City is committed to providing a safe and secure work environment for employees, contractors, visitors, and the general public. The City strictly prohibits threatened or actual workplace violence, whether the conduct is from an employee or non-employee. This includes, but is not limited to, the following types of behavior:

Bullying, threatening injury or damage against a person or property;

Fighting or threatening to fight with another person;

Stalking, following, or invading another employee's personal life;

Violation of section 9.13 regarding the use or possession of a weapon on City premises;

Engaging in shoving, fighting, blocking, impeding another person, or the use of physical force upon another, even if done "all in fun";

Abusing or injuring another person;

Using obscene or abusive language or gestures in a threatening manner;

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Raising voices in a threatening manner; and

Any other behavior that causes others to feel unsafe.

Because of the potential for misunderstanding, joking about any of the above misconduct is also prohibited. Any employee who violates this policy will be subject to immediate discipline, up to and including termination.

**Reporting Procedure:** All employees are responsible for reporting any violent or potentially violent behavior as follows:

- If the behavior may be criminal or there is a risk of immediate harm, leave the area and call 911.
- In all cases, report the behavior to your immediate supervisor and department director. If the supervisor and director are unavailable or are part of the violence, the employee shall report the situation to Human Resources, the City Attorney or the City Manager

Any supervisor who is aware of violent or potentially violent behavior or receives a report of such behavior will take action as follows:

- If the behavior may be criminal or there is a risk of immediate harm, the supervisor will call 911.
- If the behavior is serious or immediate action may be necessary to prevent harm to the employee or others, the supervisor should contact Human Resources, the City Attorney or the City Manager for assistance.
- If the behavior is less serious and immediate action does not appear to be necessary, report the behavior to Human Resources.

**City Response to Reports of Violent or Potentially Violent Behavior:**

The City will review the circumstances of the incident, perform an appropriate investigation, and if warranted, develop a plan for addressing the behavior. The report will be investigated and the appropriate disciplinary or corrective action will be taken.

**Duty to Report Protective orders:** Any employee who is the subject of or protected by a domestic violence protective order or civil protective order, shall immediately report the existence of the order to his/her department director and the Human Resources Director.

**Duty to Report Criminal Arrests and Convictions:** Any employee who is arrested or convicted for a felony, gross misdemeanor or misdemeanor offence shall immediately report such arrest or conviction to his/her department director and the Human Resources Director.

### 9.13. FIREARMS AND DANGEROUS WEAPONS

In order to facilitate a safe work environment, employees are prohibited from bringing, carrying, exhibiting or using any dangerous weapon in the workplace or into a City facility. This includes, but is not limited to, a weapon for which employees have a valid permit. "City facility" means all areas within the ownership and/or control of the City, and includes, but is not limited to, offices, buildings, city vehicles, desks, cabinets, lockers, or storage areas. The term "dangerous weapon" includes, but is not limited to:

Any firearm, rifle or handgun, whether such person has a license or permit to carry such firearm or not, and whether such firearm is concealed or not.

Any knife, sword, dagger, or other cutting or stabbing instrument, with a blade of a length of three inches or more, or any razor with an unguarded blade, whether such weapon or instrument is concealed or not.

Any instrument or weapon of the kind usually known as a slingshot, taser, throwing star, bow, sand club, blackjack, metal knuckles, or any stick, chain, metal pipe, bar, club or combination thereof including a device known as numchuk sticks, or any device having the same or similar components or parts, whether or not connected by a rope, chain or other device, or any explosive or poison or injurious gas (excluding those normally used in the course of one's employment duty), or any other instrument capable of producing bodily harm, whether such instrument or weapon is concealed or not.

Carrying, exhibiting, displaying or drawing any firearm, dagger, sword, knife or any explosive device, cutting or stabbing instrument, club or any other object capable of producing bodily harm where held or used, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of another person or persons.

This policy does not apply to or affect the following:

Any person who is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses, for which the job requires possession of the dangerous weapon in question, while in the performance of such duty.

Any person making or assisting in making a lawful arrest for the commission of a felony.

Any situation where an employee's job duties require the carrying or use of explosives, poisons or other potentially dangerous chemicals or devices, while in the performance of those duties and only as it relates to those items.

Other exceptions as may be authorized in writing by the City Manager.

Any employee violating this policy may be subject to disciplinary action, up to and including termination.

#### 9.14. SUBSTANCE ABUSE

9.14.1. The City recognizes alcoholism and drug abuse have an adverse effect on job performance and public safety. The City's policy on substance abuse reflects its concern for the well-being of the employee and the safety of other employees and members of the public.

The City of Ellensburg strictly prohibits the possession, consumption, sale, distribution, or being under the influence of, alcohol or controlled substances, including marijuana in the workplace or during work time. When employees are on the job, they are expected to be free from any impairment or substance which would contribute to an injury, accident, property damage, or interfere with productivity. They are to be free of illegal drugs or potentially impairing levels of legal substances. In short, all employees are expected to be "drug- and alcohol-free" and "fit for work."

The possession and use of medically prescribed and over-the-counter drugs during work hours is permissible, provided the prescription drugs are specifically prescribed by an authorized health care provider for the use of that employee and use of prescription or over-the-counter drugs complies with the recommended dosage and usage. An employee who needs to use or be under the influence of prescription or over the counter drugs while at work, must inform his or her supervisor of such usage if the employee knows, or the prescribed or over-the-counter drug contains a warning notice, that use could impair the employee's ability to perform his or her job safely and effectively or could endanger others. Depending on the circumstances, employees may be reassigned, prohibited from performing certain tasks, or prohibited from working while using the medication.

9.14.2. **Availability of Rehabilitation or Treatment:** As part of the City's Employee Assistance Program (EAP), employees who are concerned about alcohol or drug use are encouraged to seek counseling, treatment and rehabilitation. Although the decision to seek diagnosis and accept treatment is completely voluntary, the City is

committed to assisting employees who voluntarily come forward to overcome substance abuse problems, on the condition the employee utilizes the EAP before the performance problems occur. In most cases, the expense of treatment may be fully or partially covered by the City's benefit program. In recognition of the sensitive nature of these matters, all discussions between the employee and the EAP provider will be kept confidential. Employees who seek advice or treatment prior to a performance problem will not be subject to retaliation or discrimination. Continued poor performance or failure to successfully complete an assigned rehabilitation program, however, may be grounds for discipline, up to and including termination. Also, if a disciplinary course of action has already begun before an employee requests assistance through EAP, the City may continue on that disciplinary course, and if termination occurs, access to the EAP services may terminate, unless the employee extends health care coverage through COBRA.

9.14.3. **When Job Performance is Affected:** Although the City is concerned with rehabilitation, disciplinary action may be taken when an employee's job performance is impaired because the employee is under the influence of, or affected by the use of, drugs or alcohol. The City may discipline or terminate an employee who possesses, consumes, sells, purchases, distributes or uses alcohol or controlled substances (other than those legally prescribed) during work hours. The City may also discipline or terminate an employee who reports for duty or who works under the influence of, or is affected by, alcohol or controlled substances while on duty. An employee may be required to submit to alcohol or controlled substance testing when the City has reasonable suspicion the employee is under the influence of controlled substances or alcohol. Employees involved in accidents which require medical attention or result in a non-trivial amount of property damage may be subject to a drug and/or alcohol screen. Refusal to submit to City-requested testing may result in immediate disciplinary action, up to and including termination.

9.14.4. **Prohibitions:**

- 1) The unauthorized use, sale, distribution, purchase or possession of alcohol or controlled substances including marijuana at the work site or during work hours is prohibited and shall be grounds for discipline up to and including dismissal.
- 2) The use of City property or the employee's position within the City to make or traffic intoxicants, illegal drugs or controlled substances including marijuana may be grounds for discipline, up to and including discharge.
- 3) Any other use, possession or trafficking of intoxicants, illegal drugs or controlled substances including marijuana in a manner which is detrimental to the interest of the City may be grounds for discipline up to and including discharge.

- 4) Reporting to work (including overtime call-outs) under the influence of alcohol or drugs, or any substance including marijuana which impairs an employee's mental or physical capacity, will not be tolerated. Under no circumstances will an employee be allowed to operate equipment or drive a motor vehicle when it reasonably appears an employee's ability to do so is impaired. Any employee using medication or prescribed drugs which may impair job performance shall report this fact in writing to his/her supervisor.

9.14.5. **Supervisor Responsibilities:** If a supervisor has reasonable grounds to believe an employee is under the influence of alcohol or drugs when reporting for work or during the work shift, the supervisor has an obligation to verify the employee's condition and relieve the employee of his/her duties. The supervisor should seek the opinion of at least one additional supervisor, if practical.

9.14.6. The possibility of City or supervisor liability exists if an employee who is under the influence of alcohol or drugs is allowed to remain working, operate or drive vehicles or equipment on the job or drive a private vehicle from the work site. An employee who is believed to be under the influence of alcohol or drugs should not be allowed to operate equipment or drive a vehicle, including a private vehicle, until it is determined the employee possesses the ability to safely operate the equipment or drive a vehicle. If an employee is impaired, a supervisor should transport or arrange transportation of the employee to a medical facility or the employee's home, as appropriate.

A supervisor and/or department director who observes a continuing decline in an employee's job performance or attendance is encouraged to refer the employee to the EAP when usual supervisory actions have failed to yield improvement. In cases where other management methods have failed to improve an employee's job performance, the department director has the option to mandate an employee's participation in a structured screening and treatment program as an alternative to dismissal for unacceptable job performance. The employee's compliance with recommendations by the EAP is voluntary. Use of the program is confidential and does not replace normal disciplinary procedures for unsatisfactory job performance.

9.14.7. **Notification Requirement:** Employees must notify Human Resources of any criminal drug conviction for a violation occurring in the workplace or during work hours within five (5) days after the conviction. Appropriate disciplinary action shall be taken against the employee with respect to the conviction, up to and including termination. If the employee is not terminated, participation in an approved drug abuse assistance or rehabilitation program may also be required.

9.14.8. **Drug and Alcohol Testing – All Employees:** The City may require an employee to submit to appropriate tests, including urinalysis, to confirm the existence of alcohol or prohibited drug or substance in his or her system when:

- 1) the City has a “reasonable suspicion” the employee may be under the influence of, or affected by, drugs or alcohol while on duty, and/or
- 2) the employee, is involved in a workplace or work-time accident which results in a fatality or injury, or results in a non-trivial amount of property damage, or in which the employee is cited under state or local law for a moving traffic violation.

“Reasonable suspicion” may be based on contemporaneous observations by a supervisor or other person or upon an employee’s admission to having consumed or used drugs or alcohol.

An employee’s refusal or failure to permit such tests upon the City’s request is cause for disciplinary action, up to and including termination.

9.14.9. **Drug and Alcohol Testing – Employees Who Operate Commercial Vehicles and Operators of Natural Gas Pipelines:**

Department of Transportation Regulations for Drug and Alcohol Testing: The City of Ellensburg is required by federal regulation to administer a testing program for controlled substance and alcohol use for employees required to have and maintain a Commercial Driver’s License (CDL) and for operators of natural gas pipeline facilities. Substance Abuse Testing Policy for Operators of Commercial Motor Vehicles and Natural Gas Pipeline Facilities: City employees who hold CDLs and who operate commercial motor vehicles while employed by the City, and City employees who perform specific duties for the natural gas facility are subject to additional rules and regulations imposed by the federal government. These regulations require urine drug testing and alcohol breath testing in the following circumstances:

- 1) Pre-employment, currently for controlled substances only;
- 2) Reasonable suspicion;
- 3) Post-accident;
- 4) Return to duty; and

- 5) Random (except certain natural gas facilities employees as it pertains to alcohol).

Covered employees who test positive must be removed from service and are subject to discipline, up to and including termination. CDL holders and natural gas employees should consult the City's administrative policies for additional details concerning the appropriate rules applicable to employees covered under the Department of Transportation regulations.

9.14.10. **Drug-Free Workplace:** Based on the federal Drug-Free Workplace Act of 1988, the manufacturing, distribution, dispensation, possession or use of unlawful drugs or alcohol on City premises or during work hours by City employees is strictly prohibited. Employees also must notify the City within five (5) days of any conviction for a drug and/or alcohol violation occurring in the workplace or during work hours. Violation of this policy can result in disciplinary action, up to and including termination. Continued poor performance or failure to successfully complete a rehabilitation program is grounds for termination.

9.14.11. **Notification Requirement:** a criminal drug or alcohol conviction for a violation occurring (a) in the workplace or during work hours; (b) the conviction results or may result in the loss of driving privileges for any period of time, (c) the conviction otherwise adversely affects the employee's ability to perform employment duties, or (d) if the conviction may result in time lost from work, within five (5) days after the conviction.

## 9.15. BULLETIN BOARDS

Information of special interest to all employees is posted regularly on the City of Ellensburg bulletin boards. Employees may not post any information on these bulletin boards without prior authorization of the City Manager or his/her designee.

## 9.16. CONTACT WITH THE NEWS MEDIA

The City Manager, employees designated by City Manager or designated department directors are responsible for all official contacts with the news media during working hours, including answering questions from the media. The City Manager or department director may designate specific employees to give out procedural, factual or historical information on particular subjects. Other employees should refer questions from the media to the City Manager or designated media representative.

## 9.17. SOLICITATIONS

Most forms of selling and solicitations are inappropriate in the workplace. They can be an intrusion on employees and citizens and may present a risk to employee safety or to the security of City or employee property. The following limitations apply:

- 1) Persons not employed by the City may not solicit, survey, petition, or distribute literature on City premises at any time. This prohibition includes persons soliciting for charities, salespersons, questionnaire surveyors, labor union organizers, or any other solicitor or distributor. Individuals who wish to do business with employees of the City shall be referred to the City Manager's office. Exceptions to this rule may be made in special circumstances if the City Manager determines an exception would serve the best interests of the organization and its employees. An example of an exception might be the United Way campaign or a similar, community-based non-profit fund raising effort.
- 2) Employees may not solicit others for any purpose during work time. Reasonable forms of solicitation are permitted during non-work time, such as before or after work or during meal or break periods. Employees who are on non-work time may not solicit other employees who are on work time.

## 9.18. LEGAL LIABILITY

Employees shall comply with the laws and regulations that relate to the performance of their duties and shall perform their duties as reasonable and prudent persons. In accordance with, and to the extent required by, the provisions of RCW 4.96.041, the City shall provide and pay for the necessary expenses of legal defense to employees for actions filed against employees for acts or omissions found by the City to be within the scope of his or her official City duties.

## CHAPTER 10 DISCIPLINE AND TERMINATIONS

### 10.1. ACTIONS SUBJECT TO DISCIPLINARY ACTION

Success in providing excellent service to city residents and maintaining good relationships with the community depends on City employees. These policies provide guidance for conduct which, if engaged in, would be detrimental to the City's mission and could lead to disciplinary action up to and including termination. The following is a non-exclusive list of specified conduct which is considered detrimental to the workplace, constitutes a violation of expressly stated City policy prohibiting such conduct, and may lead to disciplinary action by the City. The list contains examples of misconduct which should be considered illustrative and not comprehensive:

- 1) Making a false or misleading statement of fact or practicing any deception, fraud or misconduct in connection with securing employment with the City.
- 2) Illegal or unauthorized use or misuse of any City facilities, property, supplies, equipment, services, funds or time; or  
  
Unauthorized operation, use or possession of machines, tools, or equipment to which the employee has not been specifically assigned;  
  
Violation of any policy or other provision of this handbook, including violation of the anti-discrimination or anti-retaliation policy.
- 3) Unauthorized use of position with the city for personal gain or advantage, accepting unlawful gratuities or bribes.
- 4) Dishonesty.
- 5) Insubordination.
- 6) Violation of a lawful duty.
- 7) Smoking in an unauthorized area or creating fire hazards in any area.
- 8) Violation of appearance and behavior standards.

- 9) Failure to report an occurrence causing damage to, or misuse of, City, customer or public property; or failure to properly secure City facilities or property.
- 10) Loitering outside of work hours which results in the disruption of the City's business or the work effort of other employees.
- 11) Vending, soliciting, or collecting contributions for any purpose whatsoever during working time on the premises without the permission of the supervisor or in violation of the non-solicitation policy.
- 12) Unauthorized recording of another employee's time record (both employees can be subject to disciplinary action).
- 13) Intentional falsification of records or paperwork.
- 14) Habitual tardiness or absences from work;  
  
Absence without proper notification to immediate supervisor, excessive absenteeism, absenteeism unrelated to an approved leave or insufficient reasons for absenteeism; or  
  
Loitering, goofing off or failing to assist others in a work situation.
- 15) Making malicious, false or derogatory statements that are intended to or could reasonably be expected to damage the integrity or reputation of the City or its employees, on or off premises;  
  
Disorderly conduct, including fighting on the premises;  
  
Rudeness, discrimination, harassment, intimidation, coercion, use of obscene language, gesture or lack of courtesy to the public or fellow employees; or  
  
Immoral conduct while on duty.
- 16) Inability, inefficiency, or negligent work performance, including a refusal or failure to perform assigned work;  
  
Concealing defective work; or
- 17) Unsatisfactory job performance.

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- 18) Failure to observe safety practices, rules, regulations and instructions;  
Negligence which results in injury to others;  
Failure to wear required safety clothing and equipment; or  
Any conduct that impairs job safety or endangers another or the employee.
- 19) Failure to promptly report an on-the-job injury or accident involving an employee, equipment, property or visitor to the employee's immediate supervisor.
- 20) Dishonesty or theft, including deliberate destruction, damage or removal of the City's or another's property from City property, facilities or any job site.
- 21) Possession, use, sale, distribution, or being under the influence of alcohol, illegal drugs or other controlled substances in the workplace or while on City business, including while on standby duty;  
  
Arriving on the job under the influence of, or while in possession of, alcohol, illegal drugs or other controlled substances;  
  
Abuse of non-prescription or prescription drugs on the job; or  
  
Failure to notify supervisor of any on-the-job use (including already being under the influence of) or possession of prescription or over the counter drugs which could impair the employee's work efficiency or the safety of the employee or others.
- 22) Possession of explosives, firearms or weapons on the premises or at any job site, except when required for the job.
- 23) Conviction of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, which impacts the employee's ability to effectively perform all of the duties of his or her position or the public's confidence in the employee for the duties the employee carries out; or the filing of criminal charges against the employee alleging such a felony or gross misdemeanor, which charges are reasonably believed by the City to be true.
- 24) Any act of dishonesty or willful disregard of the City's interests.

- 25) Failure to maintain skills, certifications, licenses or other requirements of the job.
- 26) Violation of the duties or rules imposed by this Manual or any other City ordinance, resolution, rule, regulation, administrative order or applicable state or federal law.

This list is not all-inclusive, but only serves as a general guide. The City may discipline or terminate employees for other reasons not stated above.

## 10.2. ACTIONS SUBJECT TO DISCIPLINARY ACTION

The City of Ellensburg retains complete discretion as to when a situation calls for discipline or correction. In addition, the City retains complete discretion as to what form and level of discipline is appropriate in any given situation, up to and including termination. In the event discipline is necessary, the types of disciplinary actions which may be used include but are not limited to the following:

- 1) Verbal Warning;
- 2) Written Reprimand;
- 3) Suspension;
- 4) Demotion; and
- 5) Termination.

The choice of disciplinary action in any particular case is solely the City of Ellensburg's.

The actual discipline imposed will depend on the particular situation. Employees who are exempt from overtime laws will not be suspended without pay for disciplinary purposes for periods less than a full workweek, unless the infraction involves violation of safety rules of major significance.

## 10.3. PRE-DISCIPLINARY HEARING

In the case of possible suspension, demotion or termination (collectively "discipline") of an employee, other than trial employees, the City will conduct a pre-disciplinary hearing. The pre-disciplinary hearing serves as a check against mistaken decisions and as an opportunity for an employee to furnish additional facts before a final disciplinary decision is made.

In the event a department director or City Manager desires to discipline an employee, the employee shall be provided with a notice of the proposed disciplinary action. The notice will include:

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- 1) identification of the charges or grounds on which the proposed disciplinary action is based;
- 2) an explanation of the City's evidence;
- 3) the date, time and location of the pre- disciplinary hearing;
- 4) notice of the employee's opportunity at the hearing to respond to the charges, either verbally or in writing, including a chance to explain why the City should not go ahead with discipline; and
- 5) notice of the employee's right to have a representative present at the hearing.

If the employee fails or refuses to appear, the disciplinary action may proceed to be imposed. Pre-disciplinary hearings will be presided over by the City Manager or a designated representative

Although the written notice of the City's evidence should be sufficient to inform the employee of the basis for discipline, this procedure shall not be construed to limit the City at any subsequent hearing or proceeding from presenting a more detailed and complete case related to the basis for discipline, including the presentation of witnesses and documents not introduced at the pre-disciplinary hearing.

If the City Manager decides to proceed with termination, or some other disciplinary action, the City will give the employee written notice of termination or the other discipline to be imposed.

#### 10.4. LAYOFF

The City Manager may lay off employees for lack of work, budgetary restrictions, reorganization, elimination of a position or service, or other changes that have occurred or are expected to take place.

Temporary employees or employees who have not completed a trial period will usually be laid off before regular employees are affected.

Options such as part-time work schedules, furloughs, job sharing and voluntary time and/or pay reductions may also be explored, if, in the opinion of the City Manager, such options are feasible.

Regular employees will usually be retained on the basis of job performance and the qualifications required for remaining jobs. This may include consideration of relative qualifications, experience, past and current job performance evaluations, knowledge, abilities and skills required for the position, and the employee's ability to perform the remaining work without further training.

For a period of twelve (12) months from the date of layoff, regular employees who were laid off will be placed on the City's job announcement mailing list to assist them in applying for other job vacancies for which they are qualified.

These layoff procedures are guidelines only and shall not create any right of action in the event of deviation from the guidelines. The City retains at all times the discretion to select which individuals it will lay off and which it will retain in order to best meet its short and long-term needs.

#### **10.5. RESIGNATION**

An employee is requested to provide two (2) weeks' notice of resignation. This time limit may be waived by the employee's department director or the City Manager.

An employee wishing to leave the City service in good standing shall file with the department director, at least two (2) weeks before leaving, a written statement as to the reasons for leaving and the effective date of leaving. The resignation will be deemed accepted when it is received by the Department Director or City Manager. A copy of the resignation shall be forwarded to the City Manager and Human Resources

## CHAPTER 11 COMPLAINT PROCEDURES

### 11.1. COMPLAINT PROCEDURES

**THIS COMPLAINT PROCEDURE DOES NOT APPLY TO DISCRIMINATION, RETALIATION OR WHISTLEBLOWER COMPLAINTS.** Employees having complaints about workplace harassment, discrimination or retaliation should follow the anti-discrimination complaint procedure outlined in section 2.7. Employees wishing to complain about improper governmental action or retaliation for filing such a complaint should follow procedures outlined in section 11.2.

The City of Ellensburg recognizes that sometimes situations arise in which employees feel they have not been treated fairly or in accordance with City policies. For this reason the following procedures for resolving complaints are provided:

Step 1: Employees should first try to resolve any problem or complaint with their immediate supervisor.

Step 2: When normal communication between an employee and a supervisor is not successful, or when an employee disagrees with the application of City policies and procedures, the employee should attempt to resolve the problem with the department director. The department director will respond to the employee, in writing, after meeting with him/her.

Step 3: If the employee is not satisfied with the response from the department director, he/she may submit the problem, in writing, to Human Resources for review by the City Manager. The written complaint must contain, at a minimum: a description of the problem, the specific policy or procedure which is believed to be violated or misapplied, the date of the circumstances leading to the complaint or the date when the employee first became aware of the circumstances, and the remedy sought by the employee to resolve the complaint.

The written complaint must be submitted to Human Resources within thirty (30) days of the occurrence leading to the complaint, or thirty (30) days after the employee becomes aware of the circumstances, whichever date last occurs.

The City Manager may meet with the parties, either individually or together, and will usually respond in writing to the aggrieved employee within ten (10) working days of the meeting. A longer period for response may be required when the situation warrants. The City Manager's response and decision shall be final and binding.

Certain employees may have more than one source of dispute resolution procedure, i.e., the City's Civil Service rules, a collective bargaining agreement, if any, and this complaint process. Employees represented by a bargaining unit or who are covered under civil service rules must follow grievance procedures set out in the respective labor contracts or civil service rules, where applicable. Under no circumstances shall an employee have the right to utilize more than one complaint or appeal procedure available to employees.

## 11.2. REPORTING IMPROPER GOVERNMENTAL ACTION (WHISTLEBLOWER PROTECTION)

In compliance with the Local Government Employee Whistleblower Protection Act, Ch. 42.41 RCW, the City of Ellensburg encourages employees to disclose any improper governmental action taken by City officials or employees without fear of retaliation. This policy also safeguards legitimate employer interests by encouraging complaints to be made first to the City, with a process provided for speedy dispute resolution.

### Key Definitions:

**Improper Governmental Action:** any action by a municipal official or employee that is:

- 1) Undertaken in the performance of the official's or employee's official City duties, whether or not the action is within the scope of the employee's employment, and
- 2) Is in violation of any federal, state or local law or rule; an abuse of authority, of substantial and specific danger to the public health or safety; or a gross waste of public funds.
- 3) "Improper governmental action" does not include personnel actions including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands. In addition, employees are not free to disclose matters which would affect a person's right to legally-protected confidential communications, such as attorney-client privilege or executive session communications.

**Retaliatory Action:** any material adverse change in the terms and conditions of an employee's employment, as defined in RCW 42.41.020(3), that is substantially motivated by the employee's decision to prepare or participate in a whistleblower complaint

**Emergency:** a circumstance that if not immediately changed may cause damage to persons or property.

**Procedure for Reporting Improper Government Action:** City employees who become aware of improper governmental action should follow this procedure:

- 1) Bring the matter to the attention of his/her supervisor, if the supervisor is not involved in the matter, in writing, stating in detail the basis for the employee's belief that an improper action has occurred. This should be done as soon as the employee becomes aware of the improper action.
- 2) Where the employee believes the improper action involves the supervisor, the employee may raise the issue directly with the City Manager or City Attorney. The complaint should be in writing, stating in detail the basis for the employee's belief that an improper action has occurred.
- 3) In the case of an emergency, where the employee believes that damage to persons' property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency responsible for investigating the improper action, or the Kittitas County Prosecutor.
- 4) After an investigation is completed (usually within thirty (30) days of the employee's report), the employee will normally be advised of the results of the investigation; however, personnel actions taken as a result of the investigation may be kept confidential.

Employees involved in reporting improper governmental action or participating in the investigation may request that their identities be kept confidential. City officials and those involved in the investigation will honor this request to the extent possible under law, business necessity and the needs of the investigation. Confidentiality however cannot be guaranteed.

An employee who fails to make a good faith effort to follow this policy shall not be entitled to the protection of this policy against retaliation. "Good faith" includes a

requirement that, except in an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a person listed above, the employee shall submit a written report to the local government. The employee is also charged with the responsibility to reasonably ascertain correctness of the information furnished and may be subject to disciplinary action, including but not limited to termination, for knowingly furnishing false information as determined by the appointing authority.

Employees may report information about improper governmental action directly to an outside agency if the employee reasonably believes that an adequate investigation was not undertaken by the City to determine whether an improper government action occurred, or that insufficient action was taken by the City to address the improper action or that for other reasons the improper action is likely to recur. Whistleblower actions can be reported to the Washington State Auditor's Office, the Washington State Attorney General's Office, as well as other state and federal offices. The original policy on file in Human Resources has a list of agencies which can be contacted.

**Protection Against Retaliation:** It is unlawful for a local government to take retaliatory action because an employee, in good faith, provided information that improper governmental action occurred. Employees who believe they have been retaliated against for reporting an improper governmental action should comply with the following procedures.

**Procedure for Seeking Relief Against Retaliation:**

- 1) Employees must provide a written complaint to the City Council within thirty (30) days of the occurrence of the alleged retaliatory action. The written charge shall specify the alleged retaliatory action and the relief requested.
- 2) The City Council may use whatever appropriate means it deems necessary to facilitate an investigation of the employee's written complaint of retaliation. A written response to the charge of retaliatory action and request for relief shall be provided within thirty (30) days of receipt of the written charge, unless the City Council determines additional time is needed to determine the validity of the allegations in the complaint.
- 3) After receiving the City's response, the employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and obtain relief according to law. The employee must deliver the request for hearing to the City Manager within fifteen (15) days of receipt of the City's response to the retaliation charge.

- 4) Within five (5) working days of receipt of a request for hearing, the City shall apply to the Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge, at the following address:

Office of Administrative Hearings  
PO Box 42488  
Olympia, WA 98504-2488  
(360) 664-8717

At the hearing, the employee must prove that retaliation occurred by a preponderance of the evidence. The administrative law judge will issue a final decision not later than forty-five (45) days after the date of the request for hearing, unless an extension is granted.

Violations of the Whistleblower policy and these procedures may result in appropriate disciplinary action, up to and including termination. The City will consider any recommendation provided by the administrative law judge that the retaliator be suspended, with or without pay, or terminated.