

CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT

**22-1-1 PROGRAM ADOPTION.** The City developed this Identity Theft Prevention Program pursuant to the Federal Trade Commission’s Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions of 2003. 16 C.F.R. § 681.2. This Program was developed with oversight and approval of the City. After consideration of the size and complexity of the Utility’s operations and account systems, and the nature and scope of the Utility’s activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program on June 1, 2022.

**22-1-2 PROGRAM PURPOSE AND DEFINITIONS.**

(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flag Rule, every financial institution and creditor is required to establish an “Identity Theft Prevention Program” tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- (2) Detect Red Flags that have been incorporated into the Program;
- (3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- (4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(B) **Red Flags Rule Definitions Used in this Program.** The Red Flags Rule defines “Identity Theft” as “fraud committed using the identifying information of another person” and a “Red Flag” as “a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.”

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors “to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors.”

All the Utility’s accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a “covered account” is:

- (1) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
- (2) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

“Identifying information” is defined under the Rules as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, social security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer’s Internet Protocol address, or routing code.

**22-1-3 IDENTIFICATION OF RED FLAGS.** In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

- (A) **Notifications and Warnings from Credit Reporting Agencies; Red Flags.**
  - (1) Report of fraud accompanying a credit report;
  - (2) Notice or report from a credit agency of a credit freeze on a customer or applicant;
  - (3) Notice or report from a credit agency of an active-duty alert for an applicant; and
  - (4) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.
- (B) **Suspicious Documents; Red Flags.**
  - (1) Identification document or card that appears to be forged, altered or inauthentic;
  - (2) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
  - (3) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
  - (4) Application for service that appears to have been altered or forged.
- (C) **Suspicious Personal Identifying Information; Red Flags.**
  - (1) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
  - (2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
  - (3) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
  - (4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
  - (5) Social security number presented that is the same as one given by another customer;
  - (6) An address or phone number presented that is the same as that of another person;
  - (7) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
  - (8) A person's identifying information is not consistent with the information that is on file for the customer.
- (D) **Suspicious Account Activity or Unusual Use of Account; Red Flags.**
  - (1) Change of address for an account followed by a request to change the account holder's name;
  - (2) Payments stop on an otherwise consistently up to date account;
  - (3) Account used in a way that is not consistent with prior use (example: very high activity);
  - (4) Mail sent to the account holder is repeatedly returned as undeliverable;
  - (5) Notice to the Utility that a customer is not receiving mail sent by the Utility;
  - (6) Notice to the Utility that an account has unauthorized activity;
  - (7) Breach in the Utility's computer system security; and
  - (8) Unauthorized access to or use of customer account information.

(E) **Alerts From Others, Red Flag.**

- (1) Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

**22-1-4 DETECTING RED FLAGS.**

(A) **New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(B) **Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

**22-1-5 PREVENTING AND MITIGATING IDENTITY THEFT.**

(A) **Prevent and Mitigate.** In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

- (1) Continue to monitor an account for evidence of Identity Theft;
- (2) Contact the customer;
- (3) Change any passwords or other security devices that permit access to accounts;
- (4) Not open a new account;
- (5) Close an existing account;
- (6) Reopen an account with a new number;
- (7) Notify the Program Administrator for determination of the appropriate step(s) to take;
- (8) Notify law enforcement; or
- (9) Determine that no response is warranted under the particular circumstances.

(B) **Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- (1) Ensure that its website is secure or provide clear notice that the website is not secure;
- (2) Ensure complete and secure destruction of paper documents and computer files containing customer information;
- (3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
- (4) Keep offices clear of papers containing customer information;
- (5) Request only the last 4 digits of social security numbers (if any);
- (6) Ensure computer virus protection is up to date; and

- (7) Require and keep only the kinds of customer information that are necessary for utility purposes.

**22-1-6 PROGRAM UPDATES.** The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility’s experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility’s business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

**22-1-7 PROGRAM ADMINISTRATION.**

(A) **Oversight.** Responsibility for developing, implementing and updating this Program lies with a Finance Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Mayor or the designated Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

(B) **Staff Training and Reports.** Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the Utility’s Program and report any Red Flags to the Program Administrator.

(D) **Non-Disclosure of Specific Practices.** For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Finance Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered “security information” as defined in **720 ILCS 5/16-30 et seq.** and **5 ILCS 179/1 et seq.** and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility’s Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.

**ARTICLE II - USE OF SOCIAL SECURITY NUMBERS**

**22-2-1 DEFINITIONS.**

**"Person"** means any individual in the employ of the City.

**"Policy" or "Privacy Policy"** means this document, as now or hereafter amended.

**"Publicly post" or "publicly display"** means to intentionally communicate or otherwise intentionally make available to the general public.

**"Social Security Number"** means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

**22-2-2 PROHIBITED ACTIVITIES.**

(A) No officer or employee of the City shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure, or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.
- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

- (C) The prohibitions in subsection (B) do not apply in the following circumstances:
- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.
  - (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
  - (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.
  - (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
  - (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.
- (D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

**22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS.** Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's Social Security Number. All officers and employees of the City must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

**22-2-4 APPLICABILITY.**

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

**22-2-5 COMPLIANCE WITH FEDERAL LAW.** If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the City shall follow that law.

**22-2-6**        **EMBEDDED SOCIAL SECURITY NUMBERS.** Beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

**22-2-7**        **IDENTITY--PROTECTION REQUIREMENTS.**

(A)            All officers, employees and agents of the City identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B)            Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C)            Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D)            When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the Social Security Number be provided.

(E)            A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the City Council within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F)            The City shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the City amends this Privacy Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

**22-2-8**        **PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

**22-2-9**        **AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the City Council as the City Council shall deem necessary in its sole discretion in order to maintain the City's compliance with the Illinois Identity Protection Act as now or hereafter amended.

**22-2-10**      **CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

**[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]**

**ARTICLE III - FREEDOM OF INFORMATION POLICY**

**22-3-1 PUBLIC RECORDS AVAILABLE.** To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the City shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

**22-3-2 DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.**

(A) The City Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the City under the Freedom of Information Act, ensure that the City responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information Officer shall develop a list of documents or categories of records that the City shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the City receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act Officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information Officer is designated by the City, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information Officer.

**22-3-3 PROCEDURES.** The City shall prominently display at the City Clerk's office, display on its website, if any, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the City, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the City, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information Officers, the address where request for public records should be directed, and the fees relating thereto.

**22-3-4 REQUESTS TO INSPECT OR COPY.** All requests to inspect or copy records or documents prepared, maintained or under the control of the City shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial



purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the City.

(B) The written request shall be submitted to the City Clerk or to the Mayor. If neither the City Clerk nor the Mayor is available, the request shall be submitted to any employee of the City acting under the direction of the City Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the City, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

**22-3-5 REQUEST FOR COMMERCIAL PURPOSES.** The City shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the City shall comply with a commercial request within a reasonable period considering the size and complexity of the request and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the City Code.

**22-3-6 FEES.** The City Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

**22-3-7 PUBLIC FILE.** The City Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

**22-3-8 GRANTING OR DENIAL OF REQUESTS.** A request for all records within a category shall be granted unless the request constitutes an undue burden upon the City. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the City and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the City. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

**22-3-9 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

**22-3-10 NOTICE OF DENIAL OF REQUEST; APPEALS.**  
(A) If the City denies the request, the City shall notify the person making the request in writing of:

- (1) the decision to deny the request;
- (2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3) the names and titles or positions of each person responsible for the denial;
- (4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the City asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1) a copy of the request for access to records;
- (2) the proposed response from the City;
- (3) a detailed summary of the City's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the City to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE IV - FAIR HOUSING CODE

**22-4-1**            **DECLARATION OF POLICY.**

(A)            In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the City may be ensured, it is hereby declared the policy of the City to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B)            It is the policy of the City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the City, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C)            Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

**22-4-2**            **DEFINITIONS.** Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A)            **"Decent, Sanitary, Healthful Standard Living Quarters".** "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B)            **"Discriminate".** The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C)            **"Financial Institution".** The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D)            **"Housing Accommodation".** The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E)            **"Owner".** An "owner" means any person/persons who hold legal or equitable title to or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F)            **"Real Estate Broker".** The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G)            **"Real Property".** The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the City.

**22-4-3**      **PROHIBITED ACTS.** It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the City:

(A)            To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the City or in furnishing of any facilities or services in connection therewith.

(B)            To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C)            To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D)            To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E)            To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F)            To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G)            For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H)            For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

**22-4-4**      **PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the City to specifically enforce, by any legal means, any of the provisions of this Code.

**(65 ILCS 5/11-11.1-1)**

**ARTICLE V – INVESTMENT POLICY**

**22-5-1**        **INVESTMENT POLICY.** It is the policy of the City to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

**22-5-2**        **SCOPE.** This policy includes all public funds of the City.

**22-5-3**        **PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

**22-5-4**        **OBJECTIVE.** The primary objective, in order of priority, shall be:

- (A)        **Legality.** Conformance with federal, state and other legal requirements.
- (B)        **Safety.** Preservation of capital and protection of investment principal.
- (C)        **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.
- (D)        **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the City’s needs for safety, liquidity, rate of return, diversification and its general performance.

**22-5-5**        **DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

**22-5-6**        **ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

**22-5-7**        **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

**22-5-8**        **AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

**22-5-9**        **COLLATERALIZATION.** Collateralization may be required, at the discretion of the City, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

**22-5-10**      **SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third-party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

**22-5-11**      **DIVERSIFICATION.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

**22-5-12**      **MAXIMUM MATURITIES.** To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

**22-5-13**      **INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

**22-5-14**      **PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Funds.

**22-5-15**      **REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council. A statement of the market value of the portfolio shall be issued to the City Council quarterly.

**22-5-16**      **INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

ARTICLE VI – ETHICS CODE

**22-6-1 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.**

(A) The regulations of Sections 5-15 (**5 ILCS 430/5-15**) and Article 10 (**5 ILCS 430/10-10 through 10-40**) of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the "Act" in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5**.

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the City, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E) For the purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F) The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the City.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City.

**(Ord. NO. 2004-2; 06-14-04)**

**ARTICLE VII - EQUAL EMPLOYMENT POLICY**

**22-7-1**        **ADOPTION OF CODES.** The City hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A)            **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B)            **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C)            **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D)            **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E)            **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F)            **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G)            **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H)            **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I)            **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J)            **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K)            **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

**22-7-2**        **NON-DISCRIMINATORY PRACTICES.** The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

**22-7-3**        **CONTRACTING WITH NON-COMPLAINTS.** The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A)            The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":



- (1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:
  - (a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
  - (b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
  - (c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
  - (d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
  - (e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
  - (f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain

compliance with the Act and the Department's Rules and Regulations.

- (g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

**22-7-4**        **OUTREACH TO ALL.** The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

**22-7-5**        **MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

**22-7-6**        **ACCOMMODATIONS FOR DISABLED.** The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

**22-7-7**        **COMPLIANCE BY EMPLOYEES.** All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

**22-7-8**        **DESIGNATED ENFORCERS.** The City designates the Mayor and the City Council to carry out the EEO/AA plan.

**ARTICLE VIII – POLICY PROHIBITING SEXUAL HARASSMENT**

**22-8-1 PROHIBITION ON SEXUAL HARASSMENT.** It is unlawful to harass a person because of that person’s sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this City to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

**22-8-2 DEFINITION OF SEXUAL HARASSMENT.** This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made a term or condition of an individual’s employment, either explicitly or implicitly; or
- (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 substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes, but is not limited to:

- (1) **Verbal Harassment.** Sexual innuendoes, suggestive comments, insults, humor, jokes about: sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements of a sexual nature about other employees, even outside of their presence.
- (2) **Non-verbal Harassment.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking” or “kissing” noises.
- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) **Physical Harassment.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic Harassment.** “Sexting” (electronically sending messages with sexual content, including pictures or video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and posts on social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a “reasonable person.”

**22-8-3 PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.**

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible

by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassment behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the city manager or administrator, or the chief executive officer of the Municipality.  
The employee experiencing what she/he believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.
- (4) **Allegations Made Against an Elected Official by Another Elected Official.** In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the human resources director, the city manager or administrator or the chief elected official of the municipality. The official receiving the request shall take immediate action in keeping with the procurement process of the municipality to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this policy. The outcome of the independent review shall be reported to the corporate authorities.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the location), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

**22-8-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.**

(A) No municipal official, municipal agency, municipal employee or municipal office shall take any retaliatory action against any municipal employee or official due to a municipal employee's or official's:

- (1) Disclosure or threatened disclosure of any violation of this policy; or
- (2) Providing information related to an investigation or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy; or
- (3) Assistance with or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's or official's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against, even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action, and this policy prohibits retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of any officer, member, agency or other employee that the employee reasonably believes is in violation of a law, rule, or regulation; or
- (2) Provides information to or testifies before any public body conducting an investigation, hearing or inquiry into any violation of a law, rule or regulation by any officer, member, agency or other employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act or this policy.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, before a legislative commission or committee or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule or regulation. (**740 ILCS 174/15(b)**).

(F) According to the Illinois Human Rights Act (**775 ILCS 5/6-101**), it is a civil rights violation for a person, or for two or more people to conspire to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge within **three hundred (300) days** of the alleged retaliation.

**22-8-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT.**

In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Five Thousand Dollars (\$5,000.00)** per offense, applicable disciplinary actions or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a

separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

**22-8-6 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT.** A false report is a report of sexual harassment made by an accuser to accomplish an outcome other than stopping sexual harassment or stopping retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to disciplinary action or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the Illinois State Police, a State's Attorney, the Attorney General or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Five Thousand Dollars (\$5,000.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

**(Ord. No. 2018-6; 11-12-18)**

**ARTICLE IX – STANDARDS OF ETHICAL CONDUCT TO ADDRESS  
FRAUD, WASTE AND ABUSE**

**22-9-1 POLICY.** In the spirit of sound and ethical governance and other applicable laws and regulations, the City believes that the ethical conduct of those in public service is of utmost importance. This policy is set forth in order to address fraud, waste and abuse in City government and establishes reasonable standards of ethical conduct for all City employees and officers. It is the intent of this policy to establish minimum expectations relative to employee and officer behavior and conduct in the execution of their duties as representatives of the City.

**22-9-2 SCOPE.** This policy applies to all City employees and officers (hereinafter “employees”). This policy is not intended to be all-inclusive or address every possible eventuality or circumstance. Instead, it is intended to establish reasonable standards and provide guidance relative to the ethical conduct of City employees while fulfilling the expectations of City residents.

**22-9-3 INTERPRETATION.** This policy does not supplant any of the City’s labor contracts or Memoranda of Understanding (MOUs). Should this policy conflict with any law, regulation, or labor contract of which the City or its employees may be subject, that law, regulation, or contract shall take precedence. In the event this policy conflicts with any precedent or past practice of the City, management will resolve that conflict by means consistent with established procedures or practices.

**22-9-4 DEFINITIONS.**

(A) **Fraud, Waste and Abuse.** Any illegal, wasteful, or improper activity involving City assets or resources. It includes theft by means of deception, deceit or trickery; willful misrepresentation to obtain something of value; and the extravagant, careless or needless expenditure or consumption of City resources, whether intentional or not.

(B) **Fraud.** Theft by means of deception, deceit or trickery. Examples include but are not limited to forging or altering a City warrant or check; charging personal expenses to the City; or claiming overtime when not worked.

(C) **Waste.** The unnecessary or pointless consumption of resources, time or labor. Examples include but are not limited to using more of something when less will do; performing tasks that do not need to be performed; or maintaining excessive inventories.

(D) **Abuse.** Misuse of power, authority or control. Examples include but are not limited to using one’s authority to direct employees to perform non-City related work; causing employees to work overtime without compensation; or using City assets for non-City business without proper permission.

Additional definitions of terms to fraud, waste and abuse include:

(E) **Asset.** Anything of value, whether tangible or intangible. Examples include, but are not limited to cash, tools, equipment, fuel, office supplies and time.

(F) **Conflict of Interest.** Any circumstance in which the interests, duties, obligations or activities of an employee or an employee’s immediate family member are in conflict or incompatible with the interests of the City, the duties and obligations of the employee, or his or her capacity as an employee. Examples include but are not limited to: City employees bidding on City contracts; influencing City policy or activities for personal gain; or disclosing confidential City information to a friend or relative in order to assist them or benefit themselves.

(G) **Employee.** Any individual classified by the City as a full-time, part-time, seasonal, temporary full-time, temporary part-time, or per diem employee or officer of the City.

(H) **Gifts.** Any payment or item that gives a personal benefit to the recipient to the extent that something of equal or greater value is not received and includes a discount or rebate, unless the discount or rebate is available to all members of the public.

(I) **Immediate Family.** A spouse or dependent child of the employee.

- (J) **Reasonable Person.** Any person of average competence and ability to reason.  
 (K) **Third Party.** Any person or entity other than an employee of the City or the City itself.

**22-9-5 EXPECTATIONS.** City employees shall adhere to and uphold this policy both in practice and in spirit. It is expected that employees act in the public's interest first and not their own. It is further expected that their behavior, both on the job and off, reflects positively on the City, its reputation, and its employees. Pursuant to this policy, an employee's duties and responsibilities include, but are not limited to:

(A) **Duty to Protect the Reputation of the City.** It is the duty of every employee to uphold and protect the good reputation of the City and his or her fellow workers.

(B) **Duty to Obey the Law.** It is the responsibility of every employee to obey the law in the execution of his or her duties. Ignorance of the law or a particular regulation may not be considered an excuse for committing a violation or oversight.

(C) **Duty to Comply with City Policies.** It is the responsibility of every employee to comply with all City policies.

(D) **Conflicts of Interest Must be Avoided.** In the broadest sense of the meaning, no employee shall engage in a behavior that may appear to be or give rise to a conflict of interest between him or herself and that employee's official capacity or duties. Should a conflict of interest arise, the employee involved shall report it in the manner described below.

(E) **Disqualification from Acting on City Business.** An employee shall disqualify him or herself and shall not act on any matter in which he or she, a member of his or her immediate family, or another employer of the employee has a financial interest.

(F) **Prohibition of Certain Financial Interest or Activity.** No employee, regardless of any prior disclosure, who has a material interest, personally or through a member of his or her immediate family, in any business entity doing or seeking to do business within the City shall influence or attempt to influence the selection of the business entity or the making of a contract between such business entity and the City. Employees may not have financial interests in contracts.

(G) **Solicitation of Gifts or Loans is Prohibited.** No employee shall solicit anything of monetary value (even such things which might be returned or repaid) if it would appear to have been solicited with intent of obtaining something in return. Nothing shall prohibit contributions of gifts including political contributions, which are reported in accordance with applicable law or which are accepted on behalf of the City.

(H) **Gifts in Excess of the \$300 Annual Gift Limitation Amount are Prohibited.** No employee or family member of an employee shall accept gifts that exceed an aggregate value of the adjusted annual gift limitation amount in accordance with **Section 22-6-1** of this Chapter in any **twelve (12) consecutive months** from an individual or entity that is doing business with the City.

(I) **Improper Disclosure of Privileged, Personal or Confidential Information.** Unless expressly authorized, no employee shall intentionally disclose privileged, personal or confidential information obtained as a result of, or in connection with, his or her employment with the City for any purpose. Privileged, personal or confidential information does not include information that is a matter of public knowledge or that is available to the public on request. Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state and federal constitutions as well as labor or other applicable laws.

(J) **Improper Using One's City Employment.** No employee shall use or permit the use of any City assets for a non-City purpose that is for the private benefit of the employee or any other person unless available on equal terms to the general public.

(K) **Improper Influence.** No employee, except in the course of his or her official duties, shall assist any person in any transaction with the City when such employee's assistance would appear to a reasonable person to be enhanced by that employee's position with the City for their own personal benefit. This subsection shall not apply to any employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest, if not otherwise prohibited by law.



(L) **Duty to Identify, Report and Work to Eliminate Fraud, Waste and Abuse.** It is the responsibility and duty of every employee to identify, report and work to eliminate fraud, waste and abuse at all levels of the City administration and operations. Employees are encouraged to bring to the attention of management any opportunity to reduce or eliminate fraud, waste and abuse.

(M) **Duty to Cooperate.** It is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the City's request, an employee will participate and fully cooperate in any investigation. This policy does not preclude an employee from exercising his or her Constitutional rights or those afforded to him or her by a City recognized labor contract. However, the exercising of one's rights does not preclude City from disciplining an employee for his or her failure to participate or cooperate in an investigation if the City may lawfully do so.

(N) **Handling of Anonymous Complaints or Allegations of Violations of this Policy.** Employees are prohibited from attempting to identify or intentionally exposing the identity of any party making an anonymous report or complaint pursuant to this policy.

**22-9-6 REPORTING.** Employees are expected to report all violations or suspected violations of this policy to management in a timely and professional manner. The City recognizes that the reporting party may desire or require anonymity. Thus, anonymous reports or concerns may be reported by any party to the Mayor or the Council members. It is the duty of every employee to report any known violation of this policy or what would appear to a reasonable person to be a violation of this policy. Employees are reminded that they may report anonymously any actions that detract from the efficiency and effectiveness of City operations include, but not limited to, fraud, waste, abuse, ethics violations, retaliation, discrimination and safety violations. It is a violation of this policy to retaliate against an employee who makes a report anonymously under Illinois Labor Code. The Illinois State Attorney General's Whistleblower Hotline number is (888) 814-4646.

**22-9-7 INVESTIGATION AND ENFORCEMENT.** All violations or alleged violations of this policy will be investigated. As stated above, it is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the request of the City, an employee will participate and fully cooperate in any investigation, whether conducted by the City or its agent(s). If as a result of good faith investigation and a resultant reasonable conclusion that a violation of this policy has occurred, the offending employee may be subject to disciplinary action up to and including termination.

**ARTICLE X – WHISTLEBLOWER PROTECTION POLICY**

**22-10-1 PURPOSE.** The City provides whistleblower protections in two important areas: confidentiality and against retaliation. The confidentiality of a whistleblower will be maintained to the extent allowable by law, however, an identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. A whistleblower may also waive confidentiality in writing. The City will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes they are being retaliated against must submit a written report to the Auditing Official within **sixty (60) days** of gaining knowledge of the retaliatory action. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

**22-10-2 DEFINITIONS.**

(A) **Whistleblower** means an employee, as defined in this Section, of the City who:

- (1) reports an improper governmental action as defined under **50 ILCS 105/4.1** (hereinafter Section 4.1);
- (2) cooperates with an investigation by an Auditing Official related to a report of improper governmental action; or,
- (3) testifies in a proceeding or prosecution arising out of an improper governmental action.

(B) **Auditing Official** means any elected, appointed or employed individual, by whatever name, in the City whose duties may include receiving, registering, and investigating complaints and information concerning misconduct, inefficiency and waste within the City; investigating the performance of officers, employees, functions and programs; and promoting economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the City.

The Auditing Official shall be the Mayor until replaced by the City.

(C) **Employee** means anyone employed by the City, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. Employee also includes members of appointed boards or commissions, whether paid or unpaid. Employee also includes persons who have been terminated because of any report or complaint submitted under Section 4.1.

(D) **Improper governmental action** means any action by an employee of the City; an appointed member of a board, commission, or committee; or an elected official of the City that is undertaken in violation of a federal or state law or local ordinance; is an abuse of authority; violates the public’s trust or expectation of their conduct; is of substantial and specific danger to the public’s health or safety; or is a gross waste of public funds. The action need not be within the scope of the employee’s, elected official’s, board member’s, commission member’s or committee member’s official duties to be subject to claim of “improper governmental action.”

(1) Improper governmental action does not include the City’s personnel actions, including, but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, reprimands, or violations of collective bargaining agreements, except to the extent that the action amounts to retaliation.

(E) **Retaliate, retaliation or retaliatory action** means any adverse change in an employee’s employment status or the terms and conditions of employment that results from an employee’s protected activity under Section 4.1. Retaliatory action includes, but is not limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantial letters of reprimand or unsatisfactory performance

evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under Section 4.1.

**22-10-3 DUTIES OF AN AUDITING OFFICIAL.** Each Auditing Official shall establish written processes and procedures consistent with the terms of this policy and best practices for investigations for managing complaints filed under Section 4.1. Each Auditing Official shall investigate and dispose of reports of improper governmental action in accordance with these processes and procedures, and all other provisions of Section 4.1.

The Auditing Official must provide each employee a written summary or a complete copy of Section 4.1 upon commencement of employment and at least once each year of employment. At the same time, the employee shall also receive a copy of the written processes and procedures for reporting improper governmental actions from the applicable Auditing Official.

Auditing Officials may reinstate, reimburse for lost wages or expenses incurred, promote, or provide some other form of restitution.

In instances where an Auditing Official determines that restitution will not suffice, the Auditing Official may make their investigation findings available for the purposes of aiding in that employee's, or the employee's attorney's, effort to make the employee whole.

Auditing Officials are responsible for reading the full context of Section 4.1 and complying with all requirements.

**22-10-4 DUTIES OF AN EMPLOYEE.** All reports of illegal and dishonest activities will be promptly submitted to the Auditing Official who is responsible for investigating and coordinating corrective action.

If an employee has knowledge of, or a concern of, improper governmental action, the employee shall make a written report of the activity to the Auditing Official. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; a designated Auditing Official is charged with these responsibilities.

**22-10-5 DEFEND TRADE SECRETS ACT (18 U.S.C. § 1836) COMPLIANCE.** Section 7(b): "Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing:

(A) **Immunity.** An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (1) is made (a) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and, (b) solely for the purpose of reporting or investigating a suspected violation of law; or, (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(B) **Use of Trade Secret Information in Anti-Retaliation Lawsuit.** An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (1) files any document containing the trade secret under seal; and (2) does not disclose the trade secret, except pursuant to court order."

**22-10-6 EMPLOYEE ACKNOWLEDGEMENT.** Employees are required to sign a written acknowledgement that they have received, read, and understand this Policy, and to submit that acknowledgement to the Auditing Official or other designated official of the City. The form that follows on **Addendum "A"** will satisfy this requirement upon receipt.

**ARTICLE XI – DRUG FREE WORKPLACE**

**22-11-1**      **PURPOSE OF REGULATIONS.** The City does hereby declare its policy to be consistent with the Drug Free Workplace Act of the State of Illinois, **30 ILCS 580**. As such, no grantee or contractor of the City shall receive a grant or be considered for the purposes of being awarded a contract for the procurement of any property or service from the City, unless that grantee or contractor has certified to the City that it will provide a drug free workplace by doing the following acts:

- (A)      **Publishing a Statement.**
  - (1)      Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee’s or contractor’s workplace.
  - (2)      Specifying the actions that will be taken against employees for violations of such prohibition.
  - (3)      Notifying the employee that, as a condition of employment on such contract or grant, the employee will:
    - (a)      abide by the terms of the statement; and
    - (b)      notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.
- (B)      Establishing a drug free awareness program to inform employees about:
  - (1)      the dangers of drug abuse in the workplace;
  - (2)      the grantee’s or contractor’s policy of maintaining a drug free workplace;
  - (3)      any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4)      the penalties that may be imposed upon employees for drug violations.
- (C)      Making it a requirement to give a copy of the statement required by **Section 22-11-1(A)** to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- (D)      Notifying the contracting or granting agency within **ten (10) days** after receiving notice under **Section 232-11-1(A)(3)(b)** from an employee or otherwise receiving actual notice of such conviction.
- (E)      Imposing a sanction on or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by this Article.
- (F)      Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.
- (G)      Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

Further, the City shall not enter into a contract for more than **Five Thousand Dollars (\$5,000.00)** or make a grant of more than **Five Thousand Dollars (\$5,000.00)** with any individual unless the contract or grant includes a certification by the individual that the individual will not engage in the lawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of the contract.

**22-11-2**      **GRANT AND CONTRACTS SUSPENSION.** Each contract or grant awarded by the City shall be subject to suspension of payments or termination, or both, and the contractor or grantee thereunder or the individual who entered into the contract with or received the grant from the City shall be subject to suspension or debarment in accordance with the requirement of the Drug Free Workplace Act of the State of Illinois if the Mayor or City Council determines that the contractor, grantee or individual has made a false statement in securing said contract or grant; or the contractor or grantee or individual violates this Act by failing to carry out the requirements of Illinois’ Drug Free Workplace Act; or the contractor or grantee does not take appropriate remedial actions against employees convicted on drug offenses as specified in Section 580/5 of Illinois Drug Free Workplace Act; or such a number of employees of the contractor or grantee have been convicted of violations of criminal drug statutes for

violations occurring in the workplace as to indicate that the contractor or grant recipient has failed to make a good faith effort to provide a drug free workplace as required by Illinois' Drug Free Workplace Act.

**22-11-3**      **ADOPTION BY REFERENCE.** All other sections, parameters and requirements and terms of Illinois' Drug Free Workplace Act, **30 ILCS 580**, are hereby adopted by and made a part hereof of this Chapter and shall be the controlling procedures, policies and sanctions for the City.

**(Ord. No. 99-4; 10-11-99)**

**ARTICLE XII – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE**

**22-12-1 DRUG AND ALCOHOL-FREE WORKPLACE POLICY.** The City is committed to maintaining a drug free workplace pursuant to the federal and state Drug Free Workplace Acts, 41 U.S.C.A. § 701 *et seq.*, **30 ILCS 580/1 et seq.** It is the policy of the City that the public has the reasonable right to expect persons employed by the City to be free from the effects of alcohol and drugs. The City, as the employer, has the right to expect its employees to report for work fit and able for duty. This policy is intended to ensure that City employees are not impaired in their ability to perform assigned duties in a safe, healthy and productive manner and to protect any such employee and the public from the risks associated with the adverse effects of drugs and alcohol. Accordingly, the unlawful manufacture, distribution, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited in the workplace or while acting on behalf of the City. Employees are required to sign a release and consent/authorization form, a copy of which is included with this policy, at the time the policy is distributed to the employee.

**22-12-2 DEFINITIONS.** For purposes of this policy, the following definitions apply:

(A) **"Abuse of alcohol"** or **"being under the influence of alcohol"** means the consumption of any beverage, mixture or preparation, including any medication containing alcohol, which results in an employee being intoxicated. Intoxicated or a positive test for alcohol shall mean a test result which shows an alcohol concentration of .02 or more for all persons covered by Federal DOT regulations and .08 or more for all persons not covered by Federal DOT regulations.

(B) **"Abuse of any drug"** means the use of any illegal drug, the use of any prescription drug which has not been legally prescribed and dispensed, or the misuse of any legally prescribed drug.

(C) **"Drug"** means any controlled substances listed in the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, or the Illinois Controlled Substances Act, **720 ILCS 570/100 et seq.**, and cannabis as defined in the state Cannabis Controlled Act, **720 ILCS 550 et seq.**

**22-12-3 PROHIBITED ACTIONS.** Employees shall be prohibited from:

(A) Manufacture, distribution, dispensation, possession, use, sale, purchase, abuse of alcohol or being under the influence of alcohol at any time during the course of the employee's workday or anywhere on or in any City-owned property, including City buildings and City-owned vehicles.

(B) Manufacture, distribution, dispensation, possession, use, sale, purchase, being under the influence of or abuse of any drug at any time and at any place.

(C) Failure to immediately disclose to his or her Department Head or immediate supervisor any drug or other medication-related work restrictions, or failure to disclose the taking of any drug or medication whose container has warnings that such drug or medication may affect any such employee's ability to perform his or her job, or to drive or operate machinery.

(D) Testing positive for any drug or for the abuse of alcohol or being under the influence of any drug and/or alcohol during working hours.

(E) Failure to comply with this policy.

(F) Refusal to submit to any drug or alcohol test under this policy, which shall also include, but not be limited to, any attempt to tamper with or substitute any sample to be used in connection with any such test.

**22-12-4 APPLICABILITY.** This Drug/Alcohol Testing Policy and Procedure is not intended to replace the Drug Free Workplace Programs but to define and clarify, who will be tested, when the employees will be tested and where employees will be tested. The following four employee categories define under which category each full time, part time/temporary and volunteer employee will be tested:

(A) Any employee who drives a City vehicle, tractor, tractor mower or similar motor-powered equipment that moves under its own power will be tested under the Federal DOT testing standards.

(B) All other City employees who are not included within the two categories listed above in (A) will be subject to testing to comply with the requirements necessary to establish a Drug Free Workplace within the City.

(C) Part time/temporary employees and volunteer employees of the City will remain exempt from pre-employment and random testing as defined in this testing program, but they can be included for testing if reasonable suspicion should arise, or an accident should occur during the tenure of their part time/temporary or volunteer employment. After reasonable suspicion of abuse of drugs or alcohol has been established or an accident should occur, the decision to request a drug and alcohol test for the employee must be deemed necessary and reasonable by the Mayor and/or the supervisor of the employee.

**22-12-5      TESTING PROCEDURE.** In conducting any drug testing under this policy, the City shall:

(A) Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory and Blood Bank Act, **210 ILCS 25/101 et seq.**, that has been or is capable of being accredited by the National Institute of Drug Abuse ("NIDA").

(B) Ensure that the laboratory or facility selected conforms to all NIDA standards.

(C) Follow all Federal DOT guidelines for the collection, testing and reporting procedures.

(D) In conducting any alcohol testing under this policy, the City shall use a facility that:

(1) Ensures that all technicians are trained, and equipment is calibrated.

(2) Conducts breath test to detect the presence of alcohol or blood tests if circumstances require.

(E) The fees for drug/alcohol testing shall be paid as follows:

(1) Pre-employment testing will be paid by the City.

(2) Post accident tests shall be paid by the City.

(3) Reasonable suspicion testing will be paid by the City.

(4) Random testing will be paid by the City.

(5) Retesting at the request of the employee after a positive drug or alcohol test shall be at the employee's sole expense.

(6) Drug/Alcohol test for renewal of CDL Driver's License shall be paid by the City.

**22-12-6      SCREENING AND TESTING.**

(A) **Pre-Employment Testing.**

(1) All employee applicants shall be advised of the City Drug/Alcohol testing requirements at the time of interview. After having successfully completed the interview process, the selected prospective full-time employee shall then be required to successfully complete the City's drug screening test, as part of his/her background investigation.

(2) All applicants for full time employment shall sign a release and consent/authorization form for Drug/Alcohol testing.

(3) An applicant will not be employed or considered for employment if:  
the test results confirm POSITIVE;  
he/she refuses to complete the test;  
he/she tampers with, or adulterates the specimen;

he/she fails to cooperate in the testing process (including executing all required documentation).

(B) **Testing Based on Reasonable Suspicion.** If there is a reasonable suspicion that any City employee, paid or volunteer, has violated any of the prohibited actions covered by this policy, such employee may be required to undergo drug and/or alcohol testing. Reasonable suspicion exists if the facts and circumstances warrant a rational inference that an employee has violated any of the acts prohibited by this policy. Reasonable suspicion shall be based upon the following:

- (1) Observable phenomena, such as direct observation of use or the verifiable physical symptoms resulting from the abuse of drugs or being under the influence of alcohol which may include by way of example but is not limited to a pattern of abnormal conduct or erratic behavior, a dramatic decline in work performance, excessive sick leave usage, difficulty in walking, slurred speech, needle marks, glazed stare, and possession of alcohol, or unauthorized banned substance or drug paraphernalia at work.
- (2) Information provided by an identifiable, reliable and credible third party that an employee has committed any of the acts prohibited by this policy.

In the event reasonable suspicion exists, the City shall arrange for a drug and/or alcohol test. When testing is ordered, the employee may be temporarily reassigned or relieved from duty and placed on leave with pay pending the receipt of the test results by the City. The City shall also provide the employee with written notice setting forth the objective facts and reasonable inferences to be drawn from those facts which form the basis of the reasonable suspicion.

The employee will then be escorted to the testing facility or collection facility by a designated supervisor immediately.

After completing the test, the employee will be escorted to his/her residence or at the option of his/her supervisor to another location to await the test results, and the employee shall be off work with pay pending the results of the tests. Under no circumstances shall the employee be allowed to leave the work site or the test site driving his/her own vehicle or a City vehicle.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(C) **Random Testing.** Random drug testing shall be conducted during working hours. Employees will be selected at random for a drug test by a random drawing/lottery. The testing times and dates are unannounced and are with unpredictable frequency throughout the year.

When testing is ordered, the employee will be directed to the testing facility or collection facility within a reasonable period of time.

After completing the test, the employee will return to work pending the results of the test.

Employees who test positive for drugs will be subject to disciplinary action, up to and including termination.

(D) **Post Accident Testing.** Post-accident drug/alcohol testing is required immediately following any accident involving a City employee, paid or volunteer, who operates City equipment or operates a City vehicle where an injury to a person has occurred or where damage to equipment, or property has occurred and that damage exceeds **One Hundred Dollars (\$100.00)**, based on actual cost or reliable estimates of damage.

When testing is ordered, the employee will be escorted to the testing facility or collection facility by a designated supervisor within a reasonable period of time following the accident.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(E) **Testing Required for Position Required to Have a CDL.** In addition to the provisions of this policy, any employee who is appointed to a position required to have a commercial driver's license ("CDL") shall be subject to drug and/or alcohol screening following any work-related accident. Mandatory drug screening shall also be required of all applicants chosen to be hired for positions requiring a CDL. Those who fail the pre-employment drug screening shall not be hired for those positions.



**22-12-7**      **CONFIDENTIALITY OF TEST RESULTS.** Any employee subject to a drug and/or alcohol test under this policy will be provided a copy of all information and reports received by the City in connection with any drug and/or alcohol test and any results thereof under this policy. Any results of drug and alcohol test will be disclosed to any employee tested, the applicable supervisor, City Attorney and those permitted by law.

**22-12-8**      **CONSEQUENCES OF POSITIVE TEST RESULT OR REFUSAL TO COOPERATE.** Any employee who refuses to cooperate in testing or who fails a test or violates the Drug and Alcohol Policy shall be subject to disciplinary action, up to and including termination.

**ADDENDUM "A"**

**EMPLOYEE ACKNOWLEDGEMENT OF WHISTLEBLOWER PROTECTION POLICY**

*I confirm that I have received, read, and understand the "Whistleblower Protection Policy" for employees of the City.*

*I understand that as an employee, it is my responsibility to abide by this Policy. If I have questions about this Policy, I understand it is my responsibility to seek clarification from the proper supervisory department, the Auditing Official.*

Print Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**POLICY**  
**(See Article XI)**

As a Federal Grantee, I hereby notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in this workplace. As a condition of employment, employees must abide by this policy.

**Drug-Free Awareness**

Drug abuse in the workplace has major adverse effects on the welfare of all citizens of the United States, and it results in lost productivity each year. Employees who use illegal drugs have three to four times more accidents while at work.

Employees with drug abuse problems should seek help. Employees desiring more information on the dangers of drug abuse in the workplace and those employees needing drug counseling, rehabilitation, or other employee assistance should contact the local municipal drug administrator.

Employees will be referred to the appropriate resource for available counseling, rehabilitation or other assistance.

**Notice of Potential Personnel Actions for Illegal Drug Use On-the-Job**

Penalties may be imposed upon employees for drug abuse violations occurring in our workplaces:

1. Employees must notify this employer of any criminal drug statute conviction or a violation occurring in the workplace no later than five days after such conviction.
2. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer will take appropriate personnel action against such employee, up to and including termination; or
3. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer may require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

**Employee Certification**

- ✓ I understand the drug-free workplace policy.
- ✓ I agree, as a condition of my employment, to abide by the terms of this program.
- ✓ I agree to notify this employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

\_\_\_\_\_  
**Employee Signature**

\_\_\_\_\_  
**Date**

**Employer Statement**

- ✓ I have explained the policy, drug-free awareness, and potential personnel action statements and have provided the employee's part of this pamphlet to the employee.

\_\_\_\_\_  
**Authorized Employer Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**City of \_\_\_\_\_, Illinois**

**Name of Organization**