

## **ACKNOWLEDGMENT OF RECEIPT OF PERSONNEL POLICIES**

*Please read the following and then sign, date and return the form to the Human Resources Office. One copy will be placed in your personnel file and one copy maintained with your copy of the manual.*

Copies of the revised City of Toppenish's Personnel Policy Manual that were updated April 1, 2005 are located in each department and administrative office. In addition, each bargaining unit representative has been provided a copy. It is your responsibility to read the manual, as it will acquaint you with the City's personnel practices and guidelines, and some organizational philosophy.

It is important to understand that these policies do not create an employment contract or a guarantee of employment for any specific duration between the City of Toppenish and its employees. We hope that your employment relationship with us will be long-term; we recognize that at times things do not always work out, and either of us may decide to terminate the employment relationship. All employees of the City are "at will" employees unless they are specifically provided additional rights in a written contract or pursuant to Civil service rules. That means you or the City, if you are an "at will" employee, may terminate this relationship at any time, for any reason, with or without cause or notice.

As the City grows and changes, personnel policies and guidelines change. The City, therefore, reserves the right to revise, supplement, clarify or rescind any policy or portion of a policy when deemed appropriate by the City Manager. You will be given ample notification of any changes. The manual is produced in a loose leaf notebook fashion in order to permit easy updating by replacing pages.

Please understand that no supervisor, manager or representative of the City other than the City Manager has the authority to make any written or verbal statements or representations which are inconsistent with at-will employment, unless in writing and signed by the City Manager. If you have any questions about these policies or any other policies of the City, please feel free to ask your supervisor, Department Director or the Human Resources Assistant.

I understand that, in the State of Washington, employment is generally at will, which means that it may be terminated by me or the City at any time, unless the terms of my employment are subject to a collective bargaining agreement, or Civil Service rules.

\_\_\_\_\_  
Employee Name (Printed)

\_\_\_\_\_  
Date

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

***Please return signed form to the Human Resources Office***

## PERSONNEL POLICY MANUAL

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## **INTRODUCTION**

The purpose of this Personnel Policy Manual is to create a productive and harmonious work environment by clearly defining what is expected of each member of the City team.

This manual has been prepared as a guide or reference tool for all members of the City's work force. Although it will have different applications to employees depending upon their employment status, the manual provides a "snapshot" of how things are done in the City and incorporates State and Federal mandates as well. Because we recognize that change is the norm, we will review this manual regularly to amend these guidelines where necessary to reflect ongoing change in the City workplace. In addition, there may be circumstances where management may deem it necessary to deviate from these guidelines for the good of the City.

These guidelines for management include, but are not limited to, classification specifications, salaries, working hours and conditions, merit examinations and promotions, all kinds of leave, disciplinary proceedings, appeal procedures, and other matters related to the efficient functioning of the City's work force.

The provisions of this manual do not supersede the provisions of any collective bargaining agreements or Civil Service rules and regulations, and when in conflict, the specific terms and conditions of the collective bargaining agreement or Civil Service rules and regulations will prevail.

It is recognized that no personnel policy can answer all questions that might arise in the normal course of municipal government. Employees of the City are expected to exercise the utmost judgment and discretion in the performance of their duties.

It is important to understand that this Personnel Policy Manual does not create an employment contract or a guarantee of employment for any specific duration between the City of Toppenish and its employees. Although we hope that your employment relationship with us will be long-term, we recognize that at times things do not always work out, and that either of us, if you are an at-will employee, may decide to terminate the employment relationship at any time. An employee with questions about any policy or its interpretation may contact their immediate supervisor, Department Director, Human Resources Assistant for an explanation.

## Chapter 1

### GENERAL

**1.01 Scope of Application.** In the interest of the City of Toppenish's employees and citizens, the City adopts guidelines and procedures to promote full communication between the City, as the employer, and its employees. The City also sets reasonable methods to resolve disputes about wages, hours, and other terms and conditions of employment and to continuously improve personnel management and employer-employee relations.

The Personnel Policy applies to all offices, positions, and employees in City service except the following:

- Elected officials;
- Appointed members of boards, commissions, and committees; and
- Contracted persons supplying expert, professional, or technical services.

New Employee Orientations - All new part-time and full-time regular employees are given a new employee orientation by the Human Resources Office and by their own department as close as possible to their first day of work. This Personnel Policy is an important part of this orientation.

**1.02 Diversity Policy.** The City of Toppenish is committed to developing a diverse work force which reflects the diversity and composition of the community we serve, and honors and respects the differences and abilities of all our employees and residents, and provides employees with the necessary opportunities, tools, and support to achieve their maximum potential.

Equal employment opportunity provides a level playing field for City job applicants and must be linked with a commitment to equitably manage a diverse work force. Diversity recognizes and respects the multitude of differences that employees bring to the workplace. Diversity complements organizational values that stress teamwork, leadership, empowerment, and quality service. Diversity means striving to maintain an environment in which managers value the differences in their employees and take steps to ensure that all employees know they are welcomed and included.

To achieve workplace equity and inclusion, the City observes the practices outlined below:

1. We ensure that we do not discriminate in employment on the basis of race, color, religion, national origin, sex, age, disability, marital status, creed, political ideology or any other protected status.
2. Our recruiting efforts are designed to ensure that applicant pools are both capable and diverse.
3. We strive to make employment decisions based on job-related criteria and provide opportunities for entry and promotion to all city positions.



4. We ensure a workplace free of all forms of harassment.
5. We have developed a procedure for prompt, thorough and impartial investigations of discrimination or harassment complaints and will take appropriate measures to provide remedy or relief to individuals who have been victims of illegal discrimination or harassment.

Measures to ensure accountability for managing diversity will be incorporated into the performance management system for supervisors and managers. The City Manager will evaluate the effectiveness of our diversity policies and programs.

By creating a workplace where everyone can work toward their maximum potential, the City will retain quality, productive employees who will provide excellent services to our residents.

**1.03 Compliance with the Personnel Policy.** In accepting employment with the City of Toppenish, each employee is expected to follow this Personnel Policy, administrative policies and procedures established by the City Manager, their collective bargaining agreements or applicable Civil Service rules and regulations, and the guidelines and directives of the department in which they are employed.

**1.04 Authority of the City Manager.** The City Manager, as appointing authority, has general control and supervision over the affairs of the City. The City Manager has the authority to establish such other policies, procedures, and guidelines necessary for the control and supervision of the affairs of the City.

The City Manager has the authority to remove "at will" employees; and may remove union employees for cause as provided by the collective bargaining agreement or Civil Service rules and regulations. The City Manager may delegate to the Department Directors the authority to appoint persons to budgeted positions within their departments.

**1.05 Administrative Guidelines.** The City Manager is authorized to issue additional administrative policies as may be necessary to carry into effect this Personnel Policy, except as otherwise provided by Revised Code of Washington and/or ordinance. The City Manager is authorized to approve supplementary departmental personnel guidelines not in conflict with these guidelines.

**1.06 Department Guidelines.** Department Directors may create guidelines more specific to their respective department operations consistent with collective bargaining agreements. Departmental guidelines or directives will not conflict with or supersede any provisions of this Personnel Policy. In the event of any conflict, the City Personnel Policy prevails.

Department guidelines will be posted and employees put on notice of their existence and content.

## Chapter 2

### CLASSIFICATION PLAN

**2.01 Classification of Positions.** All positions in City service are assigned to a classification. The classification may include a single position or a group of positions. These positions are sufficiently alike in duties, functions, and responsibilities such that the positions can be identified by the same classification title, use the same classification specification, and are assigned the same rates of pay. When the job responsibilities of an individual become sufficiently different from other members of the class, a position description may also be prepared.

**2.02 Preparation and Maintenance.** Classification specifications for each City position are prepared and maintained in such a manner that they accurately describe the duties and responsibilities of the positions and classifications. Classification titles are set by the City Manager. The Human Resources Assistant has the authority and responsibility to research, study, and propose necessary changes to the City Manager. The City recognizes that duties evolve and change in a dynamic work force, and that the classification system needs periodic reviews.

Classification Plan Review - A periodic compensation review that reflects changes to external comparables will be performed by the Human Resources office. The Human Resources office will research the compensation data and a joint Union-Management Committee will review the resulting recommended new compensation scale.

Classification Specification Review - Classification specifications will be reviewed annually as part of the employee's performance appraisal process with their supervisor to determine if an audit by the Human Resources office is warranted. An audit may also be initiated by an employee, supervisor or the union at any time when there has been a significant change in the employee's job responsibilities. A classification audit will be conducted no more often than once per year. If the audit request is supported by the supervisor, it will be forwarded through the Department Director to the Human Resources office. The Department Director shall apprise the City Manager of classification audit requests made to the Human Resources office. If the Department Director or supervisor does not support the audit request, the initiating party may appeal the decision.

**2.03 Requests for Reclassification.** As changes occur in the responsibilities of a position, it is appropriate to the classification review to determine whether changes in the classification are justified. Such changes may result from gradual modifications and additions to the responsibilities of a class and/or from a departmental reorganization.

When the City determines that a new classification specification or reclassification of an existing classification is necessary, the Human Resources office, with approval of the affected department, will prepare a new/revised classification specification and recommended salary range. For Union positions, the City will submit to the Union, in writing, the classification specification and proposed salary range prior to implementation. The Union will have ten (10) working days to request, in writing, a meeting to negotiate with the City regarding the proposed

salary. Such meetings will take place within ten (10) working days of the receipt of the request.

Because of the implications of a reclassification, these basic guidelines are followed:

1. A request for classification review begins only when the Department Director can clearly identify the changes in responsibilities that have occurred as a result of reorganization, enhanced job duties, or changes in work complexity. The justification focuses on the content of the class that has changed;
2. Increases in work volume, outstanding performance, or admirable behavioral traits of the incumbent, although valued and important, are not relevant in a classification audit;
3. If an employee believes that their class title is no longer properly classified, the employee may request through their Department Director that a classification audit be performed;
4. The Department Director, in consultation with the Human Resources office, determines that the request meets the criteria and therefore has merit. Failure to meet the criteria may mean the Department Director does not support the request and may elect to change the duties back so that the employee is properly working within the current classification;
5. Reclassifications have budgetary impacts. Therefore, requests for classification audits should normally be started and completed before the commencement of the annual budget process. Department Directors are to plan their requests for position reclassifications so the audits can be completed no later than August 1 of each year for consideration in budget requests for the next fiscal year;
6. Reclassifications can be accomplished only upon the completion of a classification audit process, which follows the outline below:

Step 1 - Reclassification Request - Requests for reclassifications are submitted in writing to the Human Resources Assistant through the employee's Department Director and the following information is included:

- A. A copy of the most recently-approved class specification;
- B. A detailed listing of specific additions, deletions, or changes that have been made subsequent to the position's responsibilities;
- C. Any additional background material that the Department Director considers appropriate to document the change in the class regarding its complexity, skills, or accountability; and
- D. If being requested by employee, a completed Position Classification Questionnaire available from the Human Resources Office (PM-16).

Step 2 - Classification Audit Process - Upon receipt of the Department Director's written

request, the Human Resources Assistant conducts a classification audit involving the following steps:

- A. Review of classification specification changes and incorporation of changes into a revised classification outlining basic functions, examples of work, required knowledge and skills, basic qualifications, and desirable training and experience;
  - B. The Human Resources Assistant reviews the revised class specification with the employee and the employee's immediate supervisor;
  - C. The Human Resources Assistant reviews the revised class specification and identifies what changes in responsibilities would or would not justify the need to place the position in a higher or lower classification;
  - D. If appropriate, the Human Resources Assistant will value the classification as appropriate;
  - E. The Human Resources Assistant then forwards the information and recommendation to the City Manager, the affected Department Director, and employee; and
  - F. The City Manager receives and considers the recommendations and determines the proper action.
7. Timeline - Classification audits are accomplished in a timely fashion. The audit and the response explaining the recommended action are delivered to the appropriate parties within a reasonable time, generally within sixty (60) working days of receiving the request.

**2.04 Reclassification Procedure:** Upon approval of a reclassification by the City Manager, the position is assigned to the appropriate classification range. In the event a classification is reclassified, then,

1. The incumbent employees in the existing classification, if qualified, will be placed directly into the new classification. If not qualified, the incumbents will be allowed one (1) year to become qualified;
2. If the new classification has a higher pay range, the employee will be paid at the nearest step in the new range which provides a minimum increase of 5%. Reclassified employees will receive a new step date commencing at the date of reclassification; and
3. If the new classification has a lower pay range, the employee will be paid at the nearest step of the new range of their current salary, whichever is higher. In the event the current salary is higher, the salary will be frozen until such time as the new range exceeds the frozen salary, excluding cost of living increases, at which time the rate will conform to the top step of the new range.

Appeal Process - The Human Resources office will review the appeal and make a

recommendation to the Department Director. The Department Director will approve or disapprove the Human Resources office recommendation. A joint committee comprised of an equal number of union and management employees, including the City Clerk/Finance Director, will review the Department Director's decision and forward their recommendation to the City Manager for final approval.

**2.05 Establishment of a New Classification Specification.** Requests for new classification titles, classification specifications, and position descriptions are submitted through the Department Director to the Human Resources Assistant for consideration. Upon the City Manager's approval, the Human Resources Assistant provides a new classification title, new classification specifications, or a new position description. Appropriate bargaining unit review will also be conducted. The City Manager also directs the assignment of a proper classification range. An employee may be retained in the classification title provided by the assignment of a new class title following the guidelines set forth in Section 2.04 (Reclassification Procedure).

**2.06 Request for a New Classification:** A Department Director, when requesting that a new position or classification be created, will provide the Human Resources Assistant with the following information:

1. A full description of the duties, functions, and responsibilities of the position with an organizational chart showing its relationship to existing positions and classifications;
2. Suggested qualifications and title;
3. A statement explaining the impact and relationship of the new position or classification upon existing positions and classifications; and
4. Other information that would justify the need for the new position or classification.

**2.07 Classification of Temporary Employees.** For a temporary position, the Department Director may request a temporary title for the efficient operation of the department without a proper working classification title. The request is submitted to the Human Resources Assistant and City Manager and includes appropriate justifications, classification specifications, a position description, a recommended classification range, and a recommended rate of pay. Upon approval by the City Manager, the Department Director may immediately fill the temporary position.

**2.08 Classification of Emergency Employees.** Under emergency conditions that jeopardize public safety, the use of additional personnel not otherwise budgeted may be required. A Department Director, or the Department Director's designated representative, may employ the services of an emergency employee(s), with the prior approval of the City Manager or the City Manager's designated representative. An emergency employee is placed in a proper classification range and is provided with benefits as approved by the City Manager.

## Chapter 3

### HOURS OF WORK

**3.01 Established Workdays and Workweeks.** The standard workday for employees may range between eight (8) hours and ten (10) hours. The standard workweek is forty (40) hours.

Lunch/Rest Periods - On a regular 8 or 10 hour assignment a lunch period does not exceed one (1) hour and cannot be less than thirty (30) minutes. At least two (2) rest periods not exceeding fifteen (15) minutes are afforded each employee during a standard eight- or ten-hour workday. Flexibility of rest periods is prearranged between the employee and the immediate supervisor.

**3.02 Exceptions to Established Work Hours.** A Department Director may change an employee's work period with at least five (5) workdays notice, except in an emergency, in order to be consistent with the needs of the City.

**3.03 Attendance.** Employees report for their work assignments at the times and places set by their supervisors. Each department prepares attendance records of all employees. Regular attendance reports are provided by each department to the Finance Office on the form approved by the City Manager.

**3.04 Pay Periods.** The City is on a semi-monthly payroll system. Disbursement of paychecks occurs by the 7<sup>th</sup> and 22<sup>nd</sup> day of each month, by a method established by the City Manager.

Emergency Draws - An emergency draw may be granted upon approval of the Finance Director/City Clerk or City Manager for a critical and completely unexpected, non-recurring expense. The amount of the emergency draw may not exceed fifty percent (50%) of the employee's regular net monthly salary.

**3.05 Deductions:** Deductions from employees' pay are ruled by current laws, contracts, and this Personnel Policy. They include the following:

1. Deductions required by law and contracts, which include Federal withholding tax, Social Security tax, State retirement systems, recognized employee organization dues, wage garnishments, and health care insurance co-payments; and
2. Deductions can be arranged for the credit union, United Way, deferred compensation, recognized employee organizations, and other deductions as approved by the City Manager. These types of deductions are arranged only upon receipt of the written authorization from an employee.

**3.06 Overtime Policy:** [This section does not apply to FLSA-exempt employees.] It is the policy of the City to avoid the need for overtime work in order to minimize the financial liability caused by accumulated overtime. Overtime may be necessary for the protection of the lives or property of the residents of Toppenish or the efficient operation of City departments.

Authorized overtime is to be kept to a minimum.

Prior Approval - An employee needs their immediate supervisor or Department Director's prior approval to work overtime. Overtime work required to meet an emergency situation does not require advance approval.

Reporting - The Department Director or supervisor is responsible for authorizing, approving, and submitting overtime hours on the employee's timesheet for payment of overtime and compensatory time earned during any work week.

FLSA-Mandated Overtime - The City, according to the Fair Labor Standards Act as amended, pays FLSA non-exempt employees for authorized overtime as follows:

1. Overtime work for all covered employees is defined as any time worked in excess of forty (40) hours per week;
2. Overtime is paid at the rate of one and one-half (1½) times the employee's regular hourly rate of pay for all hours worked beyond forty (40) hours in a week; and
3. When it is necessary to direct employees to report for emergency overtime work, the minimum payment for each call-out is two (2) hours pay at one and one-half (1½) times the employees' regular hourly rates of pay.

**3.07 Compensatory Time.** Upon approval of the Department Director or the Department Director's appointed representative, an employee may choose to receive compensatory time at one and one-half (1½) hours for each hour worked in excess of forty (40) hours per week. The maximum accrual of compensatory time shall not exceed thirty-two (32) hours at any given time. The accumulation and use of compensatory time by an employee is documented on the employee's timesheet.

Leave Recordkeeping - For reasons of public accountability, records of all employees' use of leave are maintained in accordance with State records retention schedules.

**3.08 Exempt Employee Administrative Leave.** FLSA-exempt employees may be authorized administrative leave or time off with pay if unusual demands require excessive hours of work beyond the normal workweek. Exempt employees are not paid overtime or given compensatory time off. Requests for a full workday of administrative leave will be submitted in writing and cite the nature and extent of excessive hours worked. If administrative leave is requested, a completed Personnel Management Form (PM1) must be approved by the City Manager.

### **3.09 Paid Holidays:**

Regular Holidays - Except for uniformed ranks of the Police and Fire Departments, the following holidays are recognized as municipal holidays for pay purposes; all regular and regular part-time employees have these days off with pay:

New Year's Day  
Martin Luther King Day  
Presidents' Day  
Memorial Day  
Independence Day  
Labor Day

Veterans' Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Eve Day  
Christmas Day  
Floating Holiday

When a day recognized as a holiday by the City falls on Sunday, the following Monday is observed as the holiday. When a day recognized as a holiday by the City falls on Saturday, the preceding Friday is observed as the holiday.

Floating Holiday - The floating holiday must be taken by December 31st of each year. It may be taken any time during the year, subject to approval by the immediate supervisor. The scheduling and use of the floating holiday shall not create overtime unless approved by the immediate supervisor. The floating holiday may only be used in a one day increment and not hour by hour. In all other respects the floating holiday shall be treated the same as a regular holiday.

Unpaid Holidays for reasons of Faith and Conscience – City employees are entitled to two unpaid holidays per calendar year for reasons of faith and conscience or an organized activity conducted under the auspices of a religious denomination church or religious organization. An employee may select the days on which he or she desires to the two unpaid holidays after consulting with the director of his/her department.

**3.10 Employees Required to Work on Holidays.** [This section does not apply to FLSA exempt employees] Any covered employee normally eligible for holiday benefits who must work on a day designated as a holiday under the provisions of this Personnel Policy, or such other day as authorized by the City, is paid at one and one-half (1½) times the employee's hourly rate of pay for the hours worked. In addition, full-time employees receive eight (8) hours of holiday pay and part-time employees receive prorated hours of pay.

When a day designated as a holiday under the provisions of this Personnel Policy, or such other day as authorized by the City, falls on an eligible covered employee's normally-assigned day off, the employee receives either additional pay equal to one day's pay instead of time off for the holiday or an additional workday off to be taken later.

**3.11 Alternative Work Schedules:** One alternative to the standard five (5) days/eight (8) hours per day work week is the four (4) days per week/ten (10) hours per day (4-10) work schedule or prorated for employees on a part-time schedule (e.g., 2-10 schedule for a half time, 20 hour per week employee). The 4-10 work schedule is defined as follows:

1. Approval by the Department Director and City Manager;
2. Approval by the affected employee;
3. All sections of the Personnel Policy Manual apply to the alternative schedule except as noted;



4. Employees are committed to working the alternative 4-10 shift for the duration of its schedule; however, employees may return to a regular 5-8 work schedule upon written request to their Department Director and with reasonable notice. The Department Director may return the employee to a regular schedule with reasonable notice if s/he finds the alternative schedule to be adversely impacting the department or provision of city services;
5. The alternative schedule may be proposed by either the supervisor and Department Director or by the affected employee and shall include the proposed hours of work, the duration, days off, and affected classification;
6. The city will strive to accommodate employees' requests for three (3) consecutive days off and will ensure at a minimum that at least two (2) of the three (3) days off are consecutive;
7. For FLSA non-exempt employees: If the employee is scheduled to work the holiday, the employee will be compensated at the time and one-half (1½) rate for hours worked in addition to receiving the eight (8) hours holiday pay factored as part of their base salary; and
8. During the alternative 4-10 schedule, overtime shall be paid for all work in excess of forty (40) hours per week, except in the exceptions noted. Overtime pay shall be at the rate of one and one-half (1½) times the regular rate of pay. Compensatory time may be offered by the Department Director in lieu of overtime pay.
9. During an alternative work schedule, holiday hours may be taken at the rate of eight (8) hours per workday.

## Chapter 4

### EMPLOYMENT

**4.01 Policy Statement.** The City is obligated to its customers to recruit and hire the most talented and qualified employees. To that end, the City recruits, as widely as practicable, for each position, and informs and encourages its employees to apply for City vacancies, and to develop continually their own skill base to enhance their competence and competitiveness.

**4.02 Citizenship.** All natural or legal citizens of the United States and those who meet eligibility requirements under the immigration laws are provided an equal employment opportunity with the City of Toppenish.

**4.03 Application.** All internal and external candidates for employment must file an approved employment application form with the Human Resources office. The form and its contents are established by the City Manager. Additional information such as a resume, cover letter, supplemental questionnaire, transcripts, copies of applicable licenses/certifications, and/or proof of good driving record may be requested of applicants.

**4.04 Selection Process.** The selection process may consist of recognized testing techniques such as achievement tests, aptitude tests, and performance through personal interviews, examination of work samples, physical ability tests, written tests, and investigations of personal background and references. The selection process is guided by the City's Diversity Policy (Section 1.02).

Selection techniques are fair and impartial and relate to those areas that, in the opinion of those involved in the selection process, fairly show the candidate's qualifications and abilities to execute the duties and responsibilities of the position to which the candidate seeks appointment.

Upon completion of an impartial selection process, based on the results of testing and other relative considerations, the City Manager makes an appointment from the final candidates. An appointment is usually made upon the recommendation of the Department Director of the department in which the new appointee is assigned. An appointment becomes effective only after all necessary documents have been signed by the proper City officials.

Pre-Employment Testing - Prior to their appointment, the City shall require a conditionally selected candidate for appointment to safety sensitive positions for City service to undergo and pass a pre-employment drug screening examination at City expense. The City may also require a candidate to pass a physical examination and/or psychological examination and/or driver's license check after a conditional offer of employment has been made and prior to the candidate's appointment. Negative information obtained from a background investigation may be cause for rejection of an applicant.

**4.05 Method for Filling Vacancies.** All vacancies in City service filled by transfer, demotion, promotion, or appointment follow the recruitment process outlined in the Personnel Procedures Manual. A temporary appointment not exceeding six months in duration may be

made under the provisions of this Policy if there are no eligible applicants. Departments may also utilize the provisions of a personal services contract of a temporary employment firm to backfill a position on a short-term basis (usually for periods of a few days up to a few weeks).

**4.06 Classes of Appointments.** Employment in the City is divided into the classes of Regular Full-Time, Regular Part-Time, Temporary, and Emergency, as defined in Chapter 25.

**4.07 Temporary Appointments.** Whenever a City department requires help because of a special project, a temporary increase in work load, or the absence of a regular full-time employee or regular part-time employee on leave with or without pay, or extended sick or vacation leave, temporary appointments may be made for the duration of such work. The period of this service is not counted as part of the trial service period if the employee is later appointed to another position, unless such time served is acceptable to the Department Director concerned.

**4.08 Temporary Re-Assignments:** During an emergency or period of unusual workloads, the City Manager or a Department Director may temporarily reassign City personnel within the Department Director's department for a period not to exceed six (6) months. City personnel may be temporarily reassigned from one department to another within the City. Interdepartmental reassignments are administered as follows:

1. Requests for personnel are approved by both the Department Director for the department to which the employee had been assigned before the reassignment and the Department Director to which the employee is reassigned;
2. Interdepartmental charges are not made for employees so assigned;
3. An employee who has been temporarily reassigned receives their normal rate of pay and benefits, unless assigned to a higher classification for a period in excess of one work week after which they are paid at that classification's range and step, similar to the employee's current step; ,or, alternately the Department Director may recommend the temporarily reassigned employee receive either five (5) or ten (10) percent out-of-position pay depending on the duration of the assignment and FLSA status. Should the employee be unavailable to perform the higher level duties for three or more days at a time during the temporary reassignment period due to planned or unplanned leave, the employee shall be compensated at their regular position's classification pay range/step for those days; and
4. Department Directors control and coordinate programs for training City employees to assure the maximum use of employees during periods of temporary reassignment.

**4.09 Employment of Relatives:** The following applies to the employment of relatives of City employees and City officials. For the purposes of this section, "relatives" include spouse, children (biological, step-, adopted or foster), brothers, sisters, half-brothers and sisters, step-brothers and sisters, parents, step-parents, aunts, uncles, nephews, nieces, first cousins, grandparents, grandchildren, and the spouses of the above as well as mother-in-law, father-in-law, brother-in-law, and sister-in-law, as well as people living in the same household.

1. Employees will not be appointed, transferred, promoted, demoted, or work in any position where a relative would be a supervisor of the employee, responsible for auditing or monitoring work of the employee, or where other circumstances place the employee and relative in a situation of actual or possible conflict of interest; and
2. If employees marry and the marriage creates a violation of the above paragraph, every effort will be made to transfer either employee to a position so no violation will exist. If no suitable position is available and a transfer is not possible, one of the two spouses may be terminated. The decision as to which employee may be terminated is left to the employees involved, unless business necessity requires the City to decide.

**4.10 Continued Employment.** Continued employment with the City of Toppenish is subject, where applicable, to the at will condition, in addition to satisfactory work performance, the need for the work performed, the availability of funds, and the continued provision of services by the City work force.

**4.11 Reappointment:** Any regular employee or regular part-time employee who has resigned from City service in good standing may be considered for reappointment to a vacant position in a comparable or lesser classification without competitive recruitment in City service providing the employee meets the current minimum qualifications, and the reappointment is within one year of resignation. All such employees will serve the required trial service period. In no way is it mandatory for any appointment authority to reappoint a former employee should the appointment authority desire not to do so.

Waiving the Time Limit - The City Manager may waive the twelve month time limit for employees who have kept their skills current or who possess extraordinary skills or abilities needed by the City.

An employee so reappointed is considered a new appointee. The employee has no vested interest in or is entitled to any benefits accrued during any previous employment with the City, except for the following:

1. Retirement System Benefits - The reappointed employee will be subject to the requirements of the proper retirement system of which the employee was previously an active member;
2. Vacation - An employee rehired within twelve months of separation receives full credit for prior years of service for purposes of determining the rate of vacation accrual;
3. Sick Leave - If the employee is rehired within twenty-four (24) months of their previous service with the City, any unused sick leave that was not cashed out at the time of termination may be restored to the employees leave balance. No prior credit is allowed for individuals re-employed after twenty-four (24) months; and
4. Seniority - No credit for past service is allowed.

**4.12 Transfer.** An employee may be transferred by the appointing authority, at any time, to a position in another comparable classification if they meet the minimum qualifications. The

transfer must be approved by the City Manager. For transfer purposes, the definition of "comparable class" is a classification that compensates at the same minimum and maximum rates of pay, performs similar duties, and requires substantially the same minimum qualifications.

A regular employee or a regular part-time employee may be transferred from one department to another department with consent of the employee and approval of the affected Department Directors. The City Manager may order the transfer for purposes of economy and efficiency.

Return to Former Position - If the performance of an employee so transferred is unsatisfactory in the new position, or if the new position is eliminated and the employee's performance in the original position had been satisfactory, the employee may be transferred back to their original position or a similar position, if the position is open. This return transfer is allowed only within a reasonable amount of time, generally within six (6) months of the effective date of transfer.

The transfer of an employee will not be used to affect a promotion, demotion, advancement, or reduction. Each may be accomplished only as provided in this Personnel Policy.

**4.13 Promotion.** It is the policy of the City of Toppenish to encourage the advancement and development of personnel within City service. Promotional selection for vacancies is conducted as the needs of the City require. Regular employees, who meet the requirements of the classification for which a recruitment/examination is to be held, are considered eligible to compete in such a process. An employee selected for promotion shall receive a minimum five percent (5%) pay increase moving to the next highest step in the new salary range.

A promoted employee may voluntarily revert to their former position within their six (6) months trial service period due to the promotion, if said position is vacant. A promoted employee contemplating such action must communicate their interest in this regard to the Department Director as soon as possible in order to coordinate the timing of the necessary administrative actions.

**4.14 Demotion:** The City Manager may demote an employee for any of the following reasons or conditions:

1. The ability to perform the employee's required duties falls below commonly accepted standards;
2. Disciplinary reasons as set forth in Section 15.02 (Causes for Disciplinary Action);
3. An employee's position is eliminated;
4. An employee requests such demotion;
5. A departmental reorganization that affects employee positions;
6. Any other reasonable grounds as approved by the City Manager.

No employee is demoted to a classification for which the employee does not have the minimum

qualifications. Written notice is given an employee at least fifteen (15) working days before the effective date of the demotion.

**4.15 Exit Interviews.** An interview is generally conducted with all employees separating from City service for any reason by a representative from the Human Resources office.

## Chapter 5

### TERMINATION OF EMPLOYMENT

**5.01 At Will Employment.** Unless specifically provided additional rights in a written contract or pursuant to Civil Service rules, the employment relationship may be terminated at any time by either the City or the employee. Generally, the City will follow its progressive discipline process, as outlined in Chapter 15. However, the City reserves the right to forego that process when, in the discretion of the City Manager, progressive discipline is not merited. The decision to use progressive discipline in a given case is an attempt to improve the performance or behavior, but does not change the at will nature of the employment relationship.

**5.02 Resignation Process:** A regular employee must submit a written notice of resignation to the employee's Department Director at least ten (10) working days before the effective date of the resignation. The Department Director and the City Manager may authorize the resignation of an employee with fewer than ten (10) days notice if there are sufficient reasons to waive the requirements of this section.

Resignation Process for Managers - A Department Director, to be considered as having resigned in good standing, must submit a written notice of resignation to the City Manager at least thirty (30) calendar days before the effective date of the resignation. The City Manager may authorize a resignation in good standing upon shorter notice for sufficient cause.

Separation Date - In order to minimize the City's liability, the separation date is the last workday of an employee's employment. EXCEPTION: In the case the employee notifies the City in writing of their intent to retire, elects to work through the end of the given month, and the last day of that work month is a recognized holiday, the employee will be eligible to receive holiday pay for their last official day of employment with the City. No vacation or sick leave is accrued from that date forward. Accumulated leave may not be used to extend the effective date of termination.

**5.03 Lack of Work or Funds:** Employees may be laid off by the City Manager because of a change in duties or organization, elimination of a position, shortage of work funds, contracting out City services, or completion of work for which employment was created.

Layoff Order - The order of layoff of regular employees is based on the recommendation of the Department Director. In preparing a recommended order of layoff, the Department Director should consider the lengths of service and the job performances of the employees involved. Employees within the classifications involved generally will be laid off in the following order: emergency employees, temporary employees, trial service period employees, regular part-time employees, and regular full-time employees.

Notification - In cases involving a regular or regular part-time employee, notice of layoff is given to the employee within a reasonable time, generally at least ten (10) working days before the effective date of termination. Employees so notified may be allowed to use reasonable amounts of work time during that period to seek other employment. These terminations are

not subject to appeal.

Reinstatement from Layoff - The names of regular full- and part-time employees are placed on the official layoff reinstatement list for a period of eighteen (18) months. Employees on a layoff reinstatement list are eligible for reinstatement to the same classification if a position comes open. Employees on the layoff list may also be considered for any open position for which they meet the minimum qualifications. Laid-off employees are recalled in the inverse order to the layoff with consideration given to qualifications. Laid off employees who are reinstated to full time employment with the City within twelve (12) months of the effective day of the layoff, shall be reinstated with an accrual rate for vacation, sick leave, and longevity benefits as if there were no break in service.

**5.04 Retirement.** All regular and regular part-time employees in City service who retire under the provisions of any present or subsequent retirement policy or plan are treated as having been separated from City service in good standing.

**5.05 Requirements.** An employee who becomes unable to meet the physical, licensing or certification requirements of the employee's position may be terminated from City employment. The recommendation of termination will be made by the Department Director to the City Manager.



## Chapter 6

### TRIAL SERVICE PERIOD

**6.01 Purpose of Trial Service Period.** The trial service period is a continuation of the testing and orientation process during which the employee has an opportunity to demonstrate their ability to perform the requirements of the appointed position at a level that meets City and departmental expectations and standards. The period is a time for management to observe closely the employee's performance in order to achieve an effective match and/or adjustment of a trial service employee to their position, or to determine that a trial service employee's performance does not meet the acceptable standards of the position.

**6.02 Length of Trial Service Period.** All original and promotional appointments are conditional and subject to a trial service period from the time of appointment. The trial service period is for a minimum of six (6) consecutive months of actual service. The City Manager, upon written request from a Department Director, may grant an extension of the trial service period up to a maximum of six (6) additional months. The successful completion of trial service means that the employee has been appraised and found capable of meeting the performance expectations of the position during the trial service period and is therefore eligible to receive a merit step increase within their classification range. Absent successful completion of trial service, the employee shall not be eligible to receive a step increase until such time as the trial service period has been successfully completed. The performance appraisal confirming successful completion of the trial service period must be submitted to effectuate the merit step increase.

**6.03 Trial Service Employee Status.** During the trial service period, a trial service employee may be suspended, demoted, or terminated at any time without cause by the City Manager. The employee's Department Director gives a copy of the trial service employee's performance report(s) to the City Manager. The Department Director gives the City Manager a written appraisal of the employee's performance as well as any written recommendation for the employee's suspension, demotion, or rejection. A copy of the notification of suspension, demotion, or rejection is given to the trial service employee. Rejection of a trial service employee becomes effective only after approved by the City Manager. An employee rejection is not subject to appeal. An exit interview is conducted with a rejected trial service employee by a representative of the Human Resources office.

Trial Service Due to Promotion - A promoted employee may voluntarily revert to their former position within their six (6) months trial service period due to the promotion, if position is vacant. A promoted employee contemplating such action must communicate their interest in this regard to the Department Director as soon as possible in order to coordinate the timing of the necessary administrative actions.

**6.04 Employee Performance Appraisals:** The performance of a trial service employee is appraised at the end of three (3) months of service. More frequent appraisals may be conducted if deemed necessary by the employee's immediate supervisor or the Department Director. A performance appraisal will also be done prior to the employee completing trial service, and at least annually from that date forward.

Process - The original written appraisal of a trial service employee's performance is sent to the Human Resources office and approved by the Human Resources Assistant, City Manager, and placed in the employee's personnel file. A copy of the employee's performance appraisal is given to the employee.

Annual Performance Appraisal - The performance of each regular employee and regular part-time employee is evaluated at least annually by the employee's immediate supervisor and reviewed by the employee's Department Director. The approved City-wide performance appraisal system shall be utilized by all departments for employee performance evaluations. This evaluation may occur at a more frequent interval if deemed necessary by the immediate supervisor or the Department Director.

**6.05 Regular Appointment.** The Department Director (or their designee) and immediate supervisor shall be responsible for tracking the timing of the completion of the midpoint trial service appraisal and the final trial service appraisal. If the performance of the trial service employee has been satisfactory, the Department Director submits a written appraisal to the Human Resources office at least two (2) weeks prior to the expiration of the employee's trial service period. The City Manager shall act on the recommended action changing an employee's status from trial service to regular. Regular employment status means that an employee has been deemed capable of meeting the performance expectations of the position.

**Chapter 7**  
**SICK LEAVE**  
(effective 1/1/2018)

**7.01 Use of Sick Leave:** An employee is authorized to use sick leave for the following reasons:

1. An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventative medical care;
2. To provide care for a family member with a mental or physical illness, injury, or health conditions; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or
3. When an employee's place of business has been closed by order of a public health official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.
4. For absences that qualify for leave under the domestic violence leave act, chapter 49.76 RCW.

Definitions for the purpose of this policy are:

1. "Family member" means any of the following:
  - a. A child including biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian or is de facto parent regardless of age or dependency status.
  - b. A biological, adoptive, de facto or foster parent, step parent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
  - c. Spouse;
  - d. Registered domestic partner;
  - e. A grandparent;
  - f. A grandchild; or
  - g. A sibling.
2. "Serious health condition" as defined by the U.S. Department of Labor means an illness, injury, impairment, or physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential medical care facility; or (b) continuing treatment by a health care provider;
3. "Sick leave" means time allowed to an employee for one of the uses outlined in this Section 7.01. Other paid time off (i.e., vacation, compensatory time, and personal holidays) can be substituted for sick leave if the employee chooses; and

Chapter 11 - Family and Medical Leave Policy describes other conditions under which leave may be requested for the employee's own health condition or to care for a family member.

Request - An employee requesting sick leave must inform their immediate supervisor or Department Director no later than fifteen (15) minutes after (sooner if possible) the employee is scheduled to begin work if the leave is unplanned, and if possible, ten (10) days in advance if the leave is scheduled. Advance notice is essential in cases where replacement employees or rescheduling is necessary as a result of planned absences. The employee's immediate supervisor approves the sick leave on the timesheet and other applicable leave-requesting form that may be used in the department/City. Accrued sick leave must be used in increments of at least 15 minutes. Sick leave with pay is not allowed unless the employee has met and complied with the provisions of this Personnel Policy.

Activities Incompatible with Sick Leave - Any employee who is absent after requesting sick leave or who is on leave as provided by this Chapter or Chapter 10 (Other Leaves of Absence) may not engage in work or other activities that are in conflict with the reasons given by the employee for being on sick leave. While on sick leave, an employee must not engage in any activity that would hamper their ability to return to work.

Abuse of Sick Leave - The abuse of sick leave privileges may result in disciplinary action against an employee.

Verification - If the employee is absent three (3) or more days, the employee's immediate supervisor, Department Director, or the City Manager may require verification that an employee's use of paid sick leave is for an authorized purpose. The employee must provide verification within a reasonable time period during or after the leave. A verification must be appropriate to the circumstances. However, an employee need not incur unreasonable burden or expense in order to comply with a verification request. A reasonable time period for an employee to verify that their use of paid sick leave is for an authorized purpose will generally be no longer than 14 days from the verification request.

**7.02 Eligibility.** Regular, regular part-time, and trial service employees, temporary/seasonal employees, and emergency employees are eligible to accrue and use sick leave.

**7.03 Accrual and Carry Over.** Regular full-time employees accrue sick leave at the rate of eight (8) hours for each full calendar month of service beginning with the date of employment. Regular part-time employees accrue sick leave in proportion to the number of hours worked per week. Temporary/seasonal employees and emergency employees shall accrue one hour of paid sick leave for every forty hours worked by the employee.

Sick leave accruals during months when an employee works less than the standard workweek are prorated based on the number of hours actually worked. Sick leave may be used after the first month of employment and is based on an employee's current balance of accumulated sick leave hours.

An employee may carry over from calendar year to calendar year no more than 960 hours of accumulated sick leave.

**7.04 Accumulation and Sick Leave Benefit upon Separation.** Upon resignation after completing at least ten (10) years of continuous service, death, or retirement through the Department of Retirement System an employee shall be paid for 25% of a maximum of 960 hours their accumulated sick leave.

**7.05 Sick Leave Usage.** Sick leave may be used as approved by the employee's immediate supervisor, Department Director, or the City Manager. Pay for approved sick leave is authorized until an employee's accumulated total of sick leave hours has been exhausted.

**7.06 Workers' Compensation and Disability Payments.** All regular full-time employees will be covered by State Worker's Compensation or some program with equal or better benefits. Any employee who is eligible for time off because of an on-the-job injury shall be compensated with their accumulated sick leave. Any State Industrial benefit received by the employee shall be endorsed to the City. Upon receipt of this compensation by the City, the employee shall be credited with sick leave on a pro-rata basis of the State Industrial benefit to the original amount of sick leave taken. Sick leave benefits shall be limited to that amount which the employee has accumulated.

## Chapter 8

### VACATION LEAVE

**8.01 Eligibility.** Regular employees and regular part-time employees are eligible to use accumulated vacation leave from the initial date of hire. Use of these accrued and accumulated vacation hours are subject to approval by the employee's immediate supervisor. An employee's vacation may not exceed the amount of vacation time the employee has actually accrued and accumulated.

Temporary and emergency employees are not eligible to earn vacation leave with pay.

**8.02 Vacation Accrual.** Vacation leave is accrued starting on the employee's first day of employment.

1. First three (3) years (1-36 months) of continuous service: 8 hours per month;
2. Through fifth (5th) year (37-60 months) of continuous service: 10 hours per month;
3. Through ninth (9th) year (61-108 months) of continuous service: 12 hours per month;
4. Through fifteenth (15th) year (109-180 months) of continuous service: 13.3 hours per month; and
5. After completion of fifteenth (15th) year and beyond (181+ months) of continuous service: 16.67 hours per month.

Vacation leave for a regular part-time employee is accrued from their employment date at a prorated amount.

FLSA Exempt Personnel - FLSA exempt personnel accrue vacation leave at a rate of 13.3 hours per month from the first date of employment. Upon completion of 15 years (181+ months) of continuous service, vacation leave accrues at a rate of 16.67 hours per month.

### **8.03 Use of Vacation.**

Scheduling - The dates and length of time an employee uses accumulated vacation leave requires prior approval by the employee's immediate supervisor. Employee's are expected to plan as far in advance as is practical their request for and use of vacation time and communicate those requests to their supervisor. The supervisor takes into account the wishes of the employee as well as the needs of the City.

Maximum Hours - Vacation leave may be used as accumulated. Vacation leave is however, not available for use until earned and posted to the employee's accrued vacation leave following the end of the current pay period. As of December 31 of 2006, and December 31 of each year thereafter, no employee will be permitted to have an accumulated amount of accrued vacation leave in excess of two hundred forty (240) hours. Any accrued vacation leave in excess of 240

hours will be forfeited on an annual basis. Employees are expected to responsibly manage their vacation leave balance to avoid shortfalls and excesses.

**8.04 Vacation Payoff at Termination.** A terminating employee is paid for accrued and accumulated vacation leave at the rate of pay in effect at the time of separation.

When termination is caused by an employee's death, payment for accumulated vacation leave is paid to the beneficiary designated by the employee. The designation will be in writing, signed by the employee, and filed with the Human Resources office. If an employee has not designated a beneficiary, the payment will be made to the employee's estate.

**8.05 Effect of Extended Military or Other Leave of Absence.** An employee who is granted a military or other leave of absence exceeding one hundred and eighty (180) calendar days may request payment for accumulated vacation leave that remains on their record. An employee may also request payment for any accrued vacation as of the date the employee's military leave commences.

**8.06 Vacation Cash-Out and Required Vacation.** An employee may, once each calendar year, request and receive payment in exchange for accrued vacation leave. The maximum number of vacation hours that may be exchanged is forty (40) hours. An employee who requests a cash payment for up to forty (40) hours of vacation leave does not need to provide justification. However, the employee is required to take the equivalent of at least one (1) week of actual vacation/rest time each calendar year. In addition, the utilization of this benefit may not draw down the employee's vacation below forty (40) hours. Employees requesting a vacation cash-out must complete a Personnel Management Form (PM-1) and be approved by the City Manager.

## Chapter 9

### LONGEVITY PAY

**9.01 Additional Compensation.** In addition to the monthly salaries to be paid to the regular full-time employees of the city there shall accrue, and be paid at the time and in the manner herein after set forth, longevity pay as follows:

2 <sup>nd</sup> through 5 <sup>th</sup> year of service	\$20.00 per month,	\$240.00 per year
6 <sup>th</sup> through 10 <sup>th</sup> year of service	\$70.00 per month,	\$840.00 per year
11 <sup>th</sup> year of service and thereafter	\$170.00 per month,	\$2,040.00 per year

Regular part-time employees who are employed on a continuing, regular basis without a break in employment shall receive longevity pay on a proportionate basis of hours worked per the appropriate schedule provided above.

**9.02 Initial Accrual.** The amounts set forth shall accrue from the first day of the calendar month next succeeding the month in which the periods above set forth have been completed.

**9.03 When Payable.** The accrued amount payable to any employee, shall be paid to such employee on December 15<sup>th</sup> in each year, provided, however, that should any employee entitled to additional compensation as provided in this chapter leave the employment of the city prior to December 15<sup>th</sup> in any year, the accrued, and unpaid, benefits for such employee shall be paid at the time of the termination of his employment.



## Chapter 10

### OTHER LEAVES OF ABSENCE

Note: All leave provided in this chapter, if taken for purposes covered by the Family and Medical Leave Act, run concurrently with FMLA and apply toward an employee's 12 week entitlement, unless otherwise indicated.

**10.01 Authorized Leave of Absence without Pay:** A leave of absence is not a right, but a privilege. Leaves of absence, other than those that qualify as family or medical leave (see Chapter 10), may be granted without pay in cases of emergency and when a leave of absence would not be contrary to the best interests of the City. A leave of absence is granted only upon written request by an employee who presents the reason for the leave. Approval will be made in writing according to the following provisions:

1. A request for a leave of absence without pay for one (1) week or less may be granted by the Department Director, depending on the merit of the individual case;
2. A request for a leave of absence without pay in excess of one (1) week may be granted by a Department Director with the approval of the City Manager, depending on the merit of the individual case; and
3. A leave of absence, without pay, longer than one week, requires that accrued vacation leave be used first. A leave of absence may not exceed twelve (12) consecutive months. Failure to return at the end of the agreed-upon length of leave may be considered abandonment of one's position and grounds for termination.

**10.02 Bereavement Leave.** Bereavement leave may be granted up to forty (40) work hours per occurrence for immediate family members of the employee (the following is the definition for immediate family of the employee or spouse of the employee: Parent, child, spouse, brother, sister, son-in-law, daughter-in-law, grandparent, grandchild, and equivalent step relatives); up to 24 work hours per occurrence for other extended family members (i.e., aunts, uncles, nieces, nephews or cousins) where out of town that includes overnight travel is required; up to 4 hours per occurrence for close friends and acquaintances that may have resided within the normal commute area of the employees residence. Employees may make written request to their respective Department Directors asking for exceptions to these guidelines, which describe the justification for a request to deviate from the bereavement time off.

#### **10.03 Military Leave of Absence.**

Employee: Military leave is granted according to the provisions of Federal and State law which provide for unpaid leave for employees required to fill an obligation as a member of the Armed Forces Reserves. Whenever possible, the employee making a request for a military leave of absence will notify an immediate supervisor of the request ten (10) working days before the beginning date of the leave of absence. Any regular full-time employee who is absent from work to serve on an active military reserve unit shall be granted a leave of absence with pay for

a total period not to exceed twenty-one (21) days per calendar year as established by RCW (currently the calendar defined by statute is October 1 to September 30). It is the intent of this section to conform with Section 38.40.060 of the Revised Code of Washington and applicable federal law.

Spouse: Military leave is granted according to the provisions of Federal and State law which provide for up to fifteen (15 days) unpaid leave to spouses of military personnel who are on leave from deployment or before deployment in a military conflict. Any regular employee who works a minimum of 20 hours per week is eligible.

**10.04 Maternity Leave of Absence.** Maternity leave is leave granted to an employee for the period of disability related to pregnancy and childbirth. The time taken as maternity leave is considered an off-the-job disability until the employee's physician releases her for work. Maternity leave is in addition to the provisions of leave as outlined in Chapter 11 - Family and Medical Leave.

Paid Leave - Maternity leave may be charged to the employee's accrued sick leave, vacation, and compensatory leave. The City will continue its contribution towards the employee's health care insurance as long as the employee remains in paid status. Should the employee go on a leave of absence without pay, the employee would be responsible for both the City and employee's portion of the health care premiums, except if the employee is on Family and Medical Leave.

#### **10.05 Subpoena:**

Related to Employment - An employee who is subpoenaed to appear in court as a witness in a matter arising from their job-related duties with the City is granted leave with pay when the employee is appearing during their workday. If the employee appears when off-duty, the employee receives overtime pay or compensatory time. Compensation received by the employee for witness or subpoena fees, and for mileage when traveling in a City-owned vehicle is remitted to the City. Compensation for mileage, when traveling in a private vehicle, is retained by the employee.

Not Related to Employment - If an employee is subpoenaed to appear in court as a witness in a matter not arising from their job-related duties with the City, they will use accumulated leave and provide a copy of the subpoena to their immediate supervisor. Compensation for witness or subpoena fees, mileage, and subsistence is retained by the employee.

**10.06 Jury Duty.** A regular employee required to report for jury duty during the employee's workday is granted leave with pay. The employee receives full pay from the City for the time served on the jury up to a maximum of two (2) weeks and/or until released, provided the employee remits to the City all fees for jury duty as soon as the duty fees are received. Exempt employees will be paid their regular salary for two weeks of jury duty plus any partial weeks in which they perform any work for the City. Compensation for mileage when the employee uses their own vehicle and the subsistence allowance is not to be considered as fees and are retained by the employee.

Notice - Before a regular employee can be granted leave with pay for jury duty, the employee

must give their immediate supervisor a copy of the summons to serve on a jury.

If a regular employee is serving jury duty when they are off duty or using vacation or personal leave, all fees, mileage, and subsistence allowances are retained by the employee.

**10.07 Administrative Leave:** On a case-by-case basis, the City may place an employee on administrative leave with or without pay for an indefinite period of time. Administrative leave may be used in the best interest of the City (as determined by the City Manager) during the pending investigation or other administrative proceeding.

The length of such leave is solely at the discretion of the City based upon the below authorities, except that the length of the leave shall not exceed the length of the situation for which the leave is approved.

1. Administrative leave for one (1) week or less may be granted by the Department Director.
2. Administrative leave in excess of one (1) week may be granted by a Department Director with the approval of the City Manager.

Leave may also be approved for employees in positions exempt from the Fair Labor Standards Act to compensate for unusual, non-customary work demands.

**10.08 Leave Without Pay (LWOP) and Absence Without Leave (AWOL):**

1. Leave without pay (LWOP) is a short-term, temporary non-pay status and absence from duty which may be granted by the supervisor at the employee's request. Even though the employee will not be paid during their LWOP absence, it should not be assumed that LWOP will be approved in all cases. Just like other types of leave, LWOP must be requested in advance, whenever possible, so that adequate arrangements can be made for completion of the employees work while out on LWOP. The permissive nature of LWOP distinguishes it from absence without leave (AWOL), an unauthorized absence which is considered a serious conduct matter and can lead to disciplinary action. LWOP will not be granted when an employee has vacation, compensatory time or sick leave (when applicable) accruals available for use.

While an employee has a right to use LWOP in certain circumstances, e.g., situations are covered under the Family and Medical Act (FMLA); the employee's supervisor must nevertheless consider the impact of the requested absence on the work unit and organization. When making a decision on a request for leave without pay that which is not covered by the FMLA, the supervisor in consultation with the Department Director must consider what if any the benefit to the City may be.

2. LWOP and AWOL are treated much the same way since no pay is received in either case. There is however a significant difference. LWOP is an approved absence, i.e., a non-pay status which the employee has requested and has been approved by the supervisor. Being charged with AWOL (absent without leave) means that the employee's absence is not authorized even though they may have requested leave.

AWOL is considered a serious conduct matter and can result in disciplinary action, up to and including termination of employment.

3. Minimum and Maximum Amounts of LWOP - Like vacation and sick leave, the minimum increment for LWOP is 15 minutes. LWOP is not ordinarily approved for longer than a few days at a time, except for situations which are in the best interest of the City of Toppenish.
4. LWOP of up to twenty-four (24) consecutive hours may be approved by the supervisor. For periods of LWOP exceeding twenty-four (24) hours, the Department Director shall be the approving official.
5. It is important to note that LWOP and AWOL will affect certain employee benefits.
  - A. Leave Accrual - When an employee is in a non-pay status for any part of the pay period, the prorated amount of vacation or sick leave for the pay period shall be accrued for those hours only that the employee was in a paid status;
  - B. Insurances - Except when the LWOP period is associated with an FMLA eligible period, the City portion of health care and life insurance benefit premiums shall only be paid for those hours that the employee was in a paid status during the pay period. All remaining premiums shall be the employee's responsibility payable to the City within forty-five (45) days of the end of the pay period in which LWOP or AWOL hours were accumulated; and
  - C. Holidays - Employees must be in paid status on both the workday before and the workday after a legal holiday to be eligible to receive holiday pay. Employees who are on an extended period of leave without pay may not be returned to duty for the sole reason of being paid for a holiday.

## Chapter 11

### FAMILY AND MEDICAL LEAVE POLICY

**11.01 Policy Statement:** In accordance with the Federal Family and Medical Leave Act (FMLA), the City grants job-protected, unpaid family and medical leave to eligible employees for up to twelve (12) weeks per year for any of the following reasons:

1. The birth of and care for a newborn child, or the placement of a child with an employee in the case of adoption or foster care. Leave for these reasons will expire at the end of the 12 month period beginning on the date of such birth or placement;
2. In order to care for an immediate family member (spouse, child, or parent) if that family member has a serious health condition; and
3. An employee's own serious health condition that makes the employee unable to perform the essential function(s) of their position.

#### **11.02 Definitions:**

Twelve-Month Period - A rolling twelve-month period measured backward from the date family and medical leave is taken. The period continues with each additional family and medical leave day taken.

Spouse - Either member of a legally-married pair. If both spouses work for the City, they are entitled to a combined total of 12 weeks of leave if the leave is taken for the birth of a child, the placement of a child for adoption or foster care, or to care for a sick parent. If each spouse uses a portion of the 12 weeks of leave for the purposes specified above, each would be entitled to the difference between the amount they had taken and 12 weeks of FMLA leave for a different purpose. Example, if each spouse took 6 weeks of leave as a result of the birth of a child, each could use an additional 6 weeks due to his or her own serious health condition.

Child - A person younger than eighteen (18) years of age, or a person older than eighteen (18) years of age and incapable of self-care due to a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility. A "child" includes a biological, adopted, foster, or step-child.

Serious Health Condition - A serious health condition is an illness, injury, impairment, or a physical or mental condition involving inpatient care or continuing treatment by a health provider. Continuing treatment involves:

1. A period of incapacity of more than three (3) consecutive calendar days (not working days) and subsequent treatment including either two visits to a health care provider or one visit followed by continuing treatment under the health care provider's supervision;
2. A period of incapacity due to pregnancy or for prenatal care;

3. Treatment for chronic serious health conditions such as asthma and diabetes which (1) requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; (2) continues over an extended period of time (including recurring episodes of a single underlying condition); and (3) may cause episodic rather than a continuing period of incapacity; and
4. Treatments for serious conditions such as cancer that may not be incapacitating but without treatments would result in a period of incapacity of more than three (3) consecutive days.

Health Care Provider - Any health care provider that is recognized by the City or accepted by the City's group health plan. This may include physicians, dentists, clinical psychologists, optometrists, and chiropractors, nurse practitioners, nurse midwives and clinical social workers.

**11.03 Eligibility for Leave.** To be eligible for family and medical leave, an employee must have been employed by the City for at least twelve (12) months. Employees must have worked 1,250 hours during the 12 months prior to the commencement of leave. Vacation, personal leave, sick leave or unpaid leave is not included in the 1,250 hour calculation.

**11.04 Intermittent or Reduced Leave.** An employee may take FMLA leave on an intermittent basis (a few days or few hours at a time) or on a reduced leave schedule as a result of the birth of a child and for the placement of a child for adoption or foster care if the City and the employee agree to such a schedule.

Leave for a serious health condition may also be taken intermittently or on a reduced leave schedule when medically necessary. A "medically necessary" leave is one that involves a medical need for the leave and that can best treat the need through an intermittent or reduced leave schedule. The City may request certification from the health care provider of the employee or family member of the medical necessity of the intermittent leave schedule and the expected duration. Employees are required to schedule intermittent leave that is foreseeable so as not to unduly disrupt the City's operations and so the City can assign employees temporarily to alternative positions with equivalent pay and benefits that better accommodate such recurring periods of intermittent leave.

For regular part-time employees and employees who work variable hours, the FMLA entitlement will be calculated on a prorated basis. A weekly average of the employee's hours worked over the twelve-week period before the beginning of the family and medical leave will be used for calculating the employee's normal workweek.

**11.05 Substitution of Paid Leave.** After an employee on FMLA leave has exhausted their accumulated vacation leave or sick leave, the remainder of the FMLA leave will be unpaid leave so that the total of paid and unpaid leave equals twelve (12) weeks.

An employee who incurs a work-related illness or injury may be eligible to receive worker's compensation benefits. Any time off due to the work-related illness or injury will count toward the employee's FMLA benefit.

The FMLA Act does not allow for the substitution of compensatory time for unpaid FMLA leave.

**11.06 Designating Leave as FMLA Leave.** The City has the authority to designate before leave starts, whether any paid leave to be taken counts towards an employee's FMLA leave entitlement, and will notify the employee immediately upon learning that it qualifies as FMLA leave. The initial notification to the employee may be oral, but will be confirmed in writing by the next regular payday. The City's designation is based upon information obtained from the employee or the employee's spokesperson (e.g., spouse, parent, physician, etc. if the employee is incapacitated). The employee must provide enough information to enable the City to make a determination, if not; the City may make a tentative designation until further inquiry is made to obtain the additional information.

**11.07 Employee Notice Requirements:** An employee must provide the City with at least thirty (30) days advance notice before FMLA leave is to begin if the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition. Failure to provide the notice will give the City the right to delay the taking of leave until at least thirty (30) days after the date the employee provides notice to the City of the need for FMLA leave. If thirty (30) days notice cannot be provided, notice must be given as soon as practicable. Verbal notification should be provided within one or two business days of when the need for leave becomes known to the employee. When planning medical treatment, the employee will consult with the City and make a reasonable effort to schedule the leave so as not to "unduly disrupt the City's operations, subject to the approval of the health care provider."

Medical Certification - If the employee's leave is to care for the employee's seriously ill spouse, child, or parent or due to the employee's own serious health condition, the request must be supported by a certification issued by the health care provider of the employee or the employee's ill family member. When the leave is foreseeable and at least 30 days notice has been provided, the medical certification should be provided before the leave begins. The City will allow at least 15 calendar days for the employee to comply with the request for medical certification. Medical certification forms will be made available by the Human Resources office.

Second Opinion - The City may require a second medical opinion (at the City's expense). Pending receipt of the second opinion, the employee is provisionally granted leave. The City may also request periodic reports on the employee's status and intent to return to work, or a fitness-for-duty report from the employee's attending physician advising when the employee can return to work.

If the opinions of the employee's and the City's designated health care providers differ, the City may require a third opinion (at the City's expense). The third health care provider will be designated or approved jointly by both the employee and the City. The third opinion is final and binding. The City will reimburse an employee or family member for any reasonable travel expenses incurred to obtain the second and third opinions.

Confidentiality - All documentation related to the employee's or family member's medical condition is held in strict confidence and maintained in the employee's confidential medical file in the Human Resources office.

**11.08 Payment of Group Health Premiums.** The City will maintain (including the continuation of paying the City's share of the premiums) the group health insurance coverage for an employee's FMLA leave period whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. Any portion of group health plan premiums which the employee has paid before starting an FMLA leave must continue to be paid by the employee during the leave. Any changes to premium rates and levels of coverage or other conditions of the plan that apply to other active employees also apply to eligible employees on FMLA leave. The City will give advance written notice to employees of the terms for payment of premiums during FMLA leave. If FMLA leave is unpaid, the City requires that payment of the employee's portion of the payment of health benefit premiums will be made by the employee to the City. Payment is required at the same time as if it would be made by payroll deduction.

The City's obligation to maintain group health benefits ends after a premium payment is more than 30 days late. The City will provide 15 days notice that coverage will cease if the employee's premium is more than 30 days late. If coverage should lapse while the employee is on FMLA leave, they will be restored to equivalent coverage upon return to work and will not be required to meet any qualification requirements imposed by the health care plan such as preexisting waiting periods or passing a medical exam to obtain coverage.

Failure to Return to Work - The City may recover its share of health plan premiums during a period of unpaid FMLA leave from an employee if the employee fails to return to work at the end of leave. The only exception is where the employee does not return due to the continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member or "other circumstances beyond the employee's control."

**11.09 Rights Upon Return to Work:** When an employee returns from an FMLA leave, they will be restored to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. The Family Medical Leave Act does not require the City to place a returning employee in the same position. If a position in which an employee is placed is equivalent, the employee has no right to be restored to the original job.

The employee's restoration rights are the same as they would have been if the employee had not been on FMLA leave. For example, if the employee's position would have been eliminated, or if the employee would have been terminated, the employee does not have the right to be reinstated upon return from FMLA leave.

Seniority - An employee is not entitled to seniority or benefit accruals during periods of unpaid family and medical leave. However, an employee does not lose seniority or benefits accrued prior to family and medical leave.

Early Return - Since an employee may only be required to take FMLA leave for reasons that qualify and may not be required to take more leave than necessary, the employee may be promptly restored if the employee requests reinstatement earlier than originally scheduled, but should where foreseeable, give the City reasonable advance notice, generally at least two working days.



Request for Extension - An employee should give reasonable notice to the City of the need for an extension, and provide updated medical certification, if appropriate, if less than the 12 weeks of FMLA leave has been used.

Failure to Return to Work - An employee who does not (or is unable to) return to work after exhausting the 12 weeks is no longer protected by FMLA. If the employee is able to return at some time after the 12 week FMLA leave has expired, the employee may be reinstated to the employee's same or similar position, if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be terminated.

## Chapter 12

### SHARED LEAVE POLICY

**12.01 Policy Statement.** The purpose of shared leave is to permit City employees to come to the aid of a fellow City employee who is suffering from or has an immediate family member suffering from an extraordinary medical emergency. The severity of the emergency would cause the employee to take leave without pay or to terminate employment without shared leave. Shared leave may be donated to an employee who is taking FMLA leave to enable the employee out on FMLA leave to continue to be paid during their absence. Application of shared leave will not affect the duration of that employee's 12-week entitlement.

**12.02 Eligibility Criteria:** The Human Resources Assistant, with the City Manager's approval, permits an employee to receive shared leave if:

1. The employee suffers, or has an immediate family member suffering from, an illness, injury, impairment, physical or mental condition which is of an extraordinary or severe nature and which would otherwise cause, or be likely to cause, the employee to go on a leave without pay or terminate employment with the City;
2. The employee has or shortly will have exhausted all vacation leave, sick leave, personal leave, compensatory time, and holiday compensatory time;
3. Prior to the use of shared leave the employee has abided by the City's sick leave policy;
4. The employee has diligently pursued and is found to be ineligible for worker's compensation insurance benefits;
5. The use of shared leave will not significantly increase the City's costs, except for those costs which would otherwise be incurred in the administration of this program or which would otherwise be incurred by the employee's department; and
6. The employee provides appropriate medical justification and documentation both of the necessity for the leave and the length of time which the employee reasonably can be expected to be absent due to the condition.

**12.03 Amount of Leave Received:** The Human Resources Assistant, with the City Manager's concurrence, verifies the amount of shared leave, if any, the employee needs to receive per the guidelines below:

1. An employee may not receive more than six (6) months of shared leave per occurrence; and
2. To the extent possible, shared leave is to be used in a consecutive and continuous basis.

**12.04 Transfer Process:** Employees may request the Human Resources Assistant to approve the transfer of a specified amount of vacation leave, sick leave, or compensatory time to an

employee who is authorized to receive shared leave as provided therein.

1. To be eligible to donate vacation leave, an employee must have a minimum accrued balance of eight (8) hours of vacation leave. Accrued sick leave and compensatory time may also be donated. All transferred leave will be in increments of one (1) hour and is voluntary;
2. While on shared leave, an employee continues to be classified as a City employee and is eligible for all compensation (salary and benefits) they would be otherwise receiving if using paid leave;
3. The employee's total compensation, including self-insured workers compensation insurance, may not exceed the compensation the employee would have received while in regular paid status; and
4. For those employees who prefer to donate or receive shared leave in confidence, every effort will be made to respect the individual's privacy.

**12.05 "Value" of Leave:** Shared leave will be transferred on an hour-for-hour basis.

1. Shared leave will be converted to sick leave for the recipient;
2. The Finance Office is responsible for transferring the donated hours to the leave balances of shared leave recipients. Records will be maintained in the event any unused leave time is returned at a later date; and
3. Unused leave will be returned to donating employees on an equal basis. The Human Resources office determines when shared leave is no longer needed.

**12.06 Monitoring.** The Human Resources office will monitor the use of shared leave to ensure equal treatment of all City employees. Inappropriate use may result in the cancellation of donated or unused shared leave.

An employee currently receiving shared leave who leaves City service is not paid for the remaining balances of any donated and unused shared leave.

## Chapter 13

### WORK-RELATED TRAVEL

**13.01 General.** Employees required to travel on business for the City are paid a sufficient amount to cover expenses accrued in a reasonable manner.

#### **13.02 Definitions:**

"Routine" Travel Time To and From Work - Travel time to and from work before and after the regular workday is not work time. This is true whether the employee works at a fixed location or at different job sites.

"Extraordinary" Travel Time To and From Work - In contrast, however, if an employee is given a special one-day work assignment in another city, this travel time is not regarded as ordinary home-to-work travel and would qualify as working time. For example, an employee who works in Toppenish, with regular working hours from 8:00 a.m. to 5:00 p.m., may be given a special assignment in Pasco with instructions to leave Toppenish at 7:00 a.m. The employee arrives in Pasco at 8:00 a.m., the special assignment is completed at 5:00 p.m. and the employee arrives back in Toppenish at 6:00 p.m. This travel is not regarded as ordinary home-to-work travel because it is performed for the employer's benefit and at the employer's special request to meet the needs of the particular and unusual assignment. However, not all the travel time involved must be counted as working time. Since, except for the special assignment, the employee would have had to report to their regular work site, the amount of time it would take the employee to travel between their home and the normal work site need not be counted as hours worked.

"Extraordinary" Travel Involving Overnight Travel - Required travel that keeps an employee away from home overnight is travel from home and is work time when it cuts across the employee's workday. The time is not only hours worked if it occurs during the employee's normal working day and working hours, but also if it occurs during the corresponding hours on non-working days. Thus, if an employee regularly works Monday through Friday, from 8:00 a.m. to 5:00 p.m., travel time between 8:00 a.m. - 5:00 p.m. is work time if it occurs on Saturday and Sunday as well as on weekdays.

In contrast, time spent in travel away from the home but outside of regular working hours must not be counted as hours worked if the employee is a passenger, e.g., traveling by airplane, bus, car, or train. If the employee is designated as FLSA non-exempt and a driver of a vehicle, all time spent driving in the vehicle to and from the assignment is regarded as working hours, except that if public transportation would have required less time, the City may count as hours worked the less time-consuming method of transportation. The employee is expected to choose the most economical and expedient mode of transportation in terms of time and cost.

Travel From Work Site to Work Site - Time spent traveling from one work site to another must be counted as hours worked. If an employee is required to drive a vehicle to transport tools, equipment, or other employees from the employer's place of business to the job site, that is considered work time. It makes no difference whether the vehicle is the employee's, the City's,

or rented by the City.

**13.03 Travel Pay:** Employees will be paid by an approved appropriation in a departmental budget. The appropriation will be in the best interest of the City and will be approved by the Department Director.

Expenses - Travel will be accomplished at the least cost to the City. When authorized, private vehicle use shall be reimbursed at the rate established by the Internal Revenue Service. The reimbursement rate will pay for all vehicle expenses including gasoline, operation and maintenance, depreciation, and automobile insurance coverage. The City's insurance program does not provide primary liability coverage for the use of personal vehicles for City business. Except in exceptional circumstances approved by the Department Director, an employee shall use the most economical mode of transportation available. The total reimbursement for the use of a private vehicle shall not exceed economy class airfare plus car rental, if required, to the same location. Mileage will be computed according to the point-to-point distance, plus local business-related travel. Additional pleasure travel shall not be reimbursed. When traveling by automobile on City business, a private vehicle shall be used when an employee is accompanied by a non-City person.

Registration Fees, Overnight Accommodations and Meals - The full cost of approved seminars, workshops, or conference registration shall be paid. Payment for lodging expense shall be the single-occupancy rate, unless shared with another City employee. When a spouse or other family member accompanies an employee requiring double occupancy, the employee shall pay any difference directly to vendor.

Credit card receipts are attached to complete Travel Requests. Itemized receipts are required for all expenditures such as meals, parking, taxicabs, etc.

**13.04 Per Diem Meal Allowance and Guidelines.** The sole purpose of this policy is to establish a maximum allowance and guidelines for meal expenses of city employees while attending a conference, training or meeting for the benefit of the city or the employee's performance of assigned duties; commonly known as a per diem allowance. Per Diem Meal Allowances should only be used under the approved guidelines established by administrative policy 2020-40.

## Chapter 14

### GRIEVANCE PROCEDURE

**14.01 Policy Statement:** Use of this procedure will not reflect unfavorably on the employee, the employee's immediate supervisor, the Department Director, or the general management of the City. Retaliatory or discriminatory action against an employee for using this procedure or discrimination in the application of this Personnel Policy may constitute a violation of City policy. The purpose of this procedure is:

1. To promote full communication between the City and employees in City service by providing a reasonable method for resolving disputes regarding terms and conditions of employment between the City and an employee and/or a City-recognized employee organization;
2. To assure an employee of a prompt and fair discussion and resolution of the issue involved;
3. To provide that grievances will be settled as near to the point of origin as possible;
4. To provide that grievances will be heard and settled informally; and
5. To enable employees to make their grievances known in an orderly process.

**14.02 Grievance.** A grievance is a written statement of dissatisfaction regarding the administration of this Personnel Policy. Employees represented by a Union should utilize the grievance procedure contained in their Collective Bargaining Agreement.

**14.03 Grievance Submission.** In the grievance procedure, the complainant will present grievances in writing.

**14.04 Department Level Discussion.** When possible, any grievance arising out of employment is considered within an employee's department.

**14.05 Discrimination Complaints.** Discrimination and harassment complaints are given to the Human Resources office for investigation.

#### Process at Department Level:

1. When a grievance, as defined in this Personnel Policy, arises, it is brought to the attention of the employee's immediate supervisor as soon as possible. If an employee fails to bring the grievance to the attention of the immediate supervisor within seven (7) calendar days from the date of the action or incident causing the grievance, an employee has waived the right to submit the grievance;
2. The employee's immediate supervisor takes action on the grievance and notifies the complainant of their action or decision within a reasonable time, generally seven (7)

calendar days from the date the grievance was submitted to the supervisor. If the matter can be resolved by the employee's immediate supervisor to the satisfaction of the employee, then the grievance will be terminated;

3. If the matter cannot be resolved by the immediate supervisor within a reasonable time, generally seven (7) calendar days from the date of submission to the supervisor, the employee may submit the grievance to their Department Director. The employee may also submit the grievance to the Department Director if the employee is still dissatisfied after the supervisor's decision. The grievance will be submitted to the Department Director within ten (10) calendar days from the date of the immediate supervisor's decision, or the grievance will be terminated; and

The Department Director confers with the complainant, the immediate supervisor, and such other persons as necessary, to gather all the facts. The Department Director takes action to resolve the grievance and notify the complainant of the Department Director's action or decision within a reasonable time, generally seven (7) calendar days from the date the grievance was submitted to the Department Director.

**14.06 Review by City Manager:** If the complainant is not satisfied after informal discussion(s) regarding the Department Director's decision, the complainant may, within ten (10) calendar days from the date of the Department Director's decision, submit a written request to the City Manager. Failure by the complainant to submit a written request to the City Manager within the ten-day period terminates the grievance.

Process at the City Manager's Level:

1. Upon receiving the written request, the City Manager within a reasonable time, generally seven (7) calendar days, discusses the grievance with the complainant, the complainant's representative, if any, and all principals involved for the purpose of resolving the grievance. The City Manager conducts any inquiry, investigation, or compilation of facts deemed necessary to assist in reaching a decision; or
2. The City Manager renders a decision in writing to the complainant within a reasonable time, generally fourteen (14) calendar days from the date the City Manager receives the complainant's written request. The City Manager also gives copies of the decision to the complainant's immediate supervisor and Department Director. The decision of the City Manager is final.

## Chapter 15

### DISCIPLINE

**15.01 Policy Statement.** Progressive discipline focuses on the corrective nature of discipline and provides employees an opportunity to correct deficiencies in their performance by providing notice, setting goals and measures, monitoring procedures, providing feedback, and including clearly-defined disciplinary measures that may be taken if performance does not improve. It also provides the employer an opportunity to document the reasons for the outcomes of the disciplinary procedure. A flexible progressive discipline policy is in the interest of all parties.

However, the City will review each situation independently and make a decision on what it deems to be appropriate discipline in all cases, up to and including discharge. The decision to use progressive discipline in a given case is an attempt to improve the performance or behavior, but does not change the at-will nature of the employment relationship.

**15.02 Causes for Disciplinary Action:** Causes for disciplinary action against an employee may include, but are not limited to, the following:

1. Fraud or dishonesty in securing appointment;
2. Incompetence, inefficiency, or neglect of duty;
3. Insubordination (unwillingness to submit to authority) or willful disobedience;
4. Dishonesty;
5. Being under the influence of or consuming any alcoholic beverage while on duty (refer to Chapter 18 -- Substance Abuse Policy and Physical Examinations Policy), except for authorized undercover police officers;
6. Unlawfully possessing, selling, using, or being under the influence of any drug, except as authorized by a physician (refer to Chapter 18);
7. Unauthorized leave of absence, continued tardiness, or abuse of sick leave or other leaves;
8. Conviction of a felony or conviction of a misdemeanor that impacts the employee's ability to perform his or her job;
9. Discourteous behavior or treatment of the public or other employees that violates City or departmental conduct standards;
10. Unlawful use of City Resources for political activity (refer to Section 19.06 -- Political Activities of Public Employees);
11. Misuse or abuse of City property, time, equipment, or supplies, or the appropriation of



- such for personal use;
12. Violation of any of the provisions of this Personnel Policy or departmental guidelines;
  13. Unlawful workplace harassment (refer to Chapter 21 -- Anti-Harassment Policy);
  14. Possession of unauthorized firearms or other weapons while on duty (with the exception of commissioned police personnel);
  15. Off-duty employment that negatively affects the City and/or performance of the employee while in City service;
  16. Solicitation or acceptance of gifts or gratuity for performing duties that are expected during an employee's work period or workday;
  17. Engagement in any off-duty activity which may later be subject to review, inspection, or enforcement by that employee in the exercise of their City duties;
  18. Use of tobacco products in a City-owned facility, automobile, or common area; and
  19. And all such other just causes as reflected in applicable statutory case law and/or arbitration case law.

**15.03 Types of Disciplinary Action:** Disciplinary actions, if implemented, may include but are not limited to:

1. Counseling - Initial action may include the supervisor's decision to counsel the employee during which time deficiencies are described, goals are set, and the employee has the opportunity to respond. A notice and written record of counseling should be retained by the supervisor in the supervisor's working file;
2. Oral Reprimand - An oral reprimand shall be recorded and placed in the employee's personnel file. At the request of the employee, if there is no recurrence of the event prompting discipline, the record of an oral reprimand may be removed from the employee's personnel file after a one (1) year period, in the discretion of management;
3. Written Reprimand - A written reprimand is recorded and placed in an employee's personnel file and may be followed within a reasonable time, generally within sixty (60) days, by a written evaluation of the employee's performance, if deemed helpful to improve performance. If after twelve (12) months there is no recurrence of the event(s) prompting the discipline, the records of a written reprimand may be requested to be from the employee's personnel file, depending on the overall performance/conduct of the employee;
4. Disciplinary Probation - An employee placed on disciplinary probation accrues vacation leave and sick leave. The employee does not accrue time for compensation review or promotion while on disciplinary probation. The employee is not allowed to compete in promotional examinations or recruitment during the disciplinary probation period;

Duration - Disciplinary probation shall not be less than three (3) months nor more than six (6) months in duration. An employee placed on disciplinary probation may be discharged prior to the end of the probationary period for failure to meet performance requirements;

5. Suspension - An employee may be suspended by the City Manager at any time, pending the results of disciplinary investigation and/or action. The employee is suspended with pay pending the results of the investigation.

An employee suspended from City service as a result of disciplinary action, forfeits all rights, privileges, and compensation during the suspension, except for the employee's health plan, retirement plan, disability plan (if applicable), and life insurance plan. Suspension without pay for disciplinary reasons shall not exceed sixty (60) calendar days in any calendar year;

6. Disciplinary Demotion - A disciplinary demotion results in an employee's change in status to a lower pay step in the same classification or to a position in a different classification with less responsible duties, lower qualifications, and a lower maximum rate of pay. No employee is demoted to a classification for which the employee does not possess the minimum qualifications; and
7. Discharge - An employee who has been discharged from City service is paid their compensation accumulated to the effective separation date, any accumulated compensatory time, and accrued vacation leave.

**15.04 Authority to Take Disciplinary Action:** The City Manager, an employee's Department Director, or an employee's immediate supervisor may take disciplinary action against an employee under their control for one or more of the causes for discipline specified above in Section 15; Causes for Disciplinary Action, or for such other causes as may be deemed necessary in the given situation.

Prior to a disciplinary action involving loss of pay or job (suspension or discharge) being taken, the employee will be advised in writing of the nature of the allegations and that disciplinary action and/or termination is being contemplated. The employee will be given the opportunity to respond and shall be afforded the right of representation.

Immediate Supervisors may give an official (oral or written) reprimand to an employee under their supervision. An immediate supervisor may recommend disciplinary probation, suspension, disciplinary demotion, or discharge against an employee under their supervision to the Department Director.

Department Directors may execute suspensions against an employee within their department. The Department Director may recommend disciplinary demotion, disciplinary probation, or discharge against an employee under their supervision to the City Manager.

Department Directors may delegate to supervisory employees the authority to relieve an employee of the employee's duties in an emergency situation, pending further action by the

Department Director.

Department Directors – Department Directors may suspend an employee under their supervision for not more than three (3) working days at any one time without the approval of the City Manager. Written notice of suspension is given an employee within three (3) working days and preferably earlier after a suspension. An employee may appeal a suspension in the manner provided in Section 15.06 - Appeal Procedure.

City Manager - Disciplinary probation, demotion and discharge are actions that can be taken only by the City Manager. A Department Director may submit a written recommendation for a disciplinary probation, demotion or discharge of an employee to the City Manager. The recommendation includes the specific allegations and the basis of the recommendation. A copy is provided to the employee. The City Manager advises the employee in writing if there is to be a pre-disciplinary probation, pre-discharge or pre-demotion hearing. The employee is notified in writing of the basis of the recommendation for disciplinary probation, discharge or demotion and is advised when to meet with the City Manager to discuss the proposed disciplinary probation, discharge or demotion.

### **15.05 Notice of Disciplinary Action:**

Investigation - Before executing an unpaid suspension, disciplinary demotion, disciplinary probation or discharge, the employee's immediate supervisor, Department Director or the City Manager, as appropriate, shall advise the employee in writing of the alleged behavior by factually describing what the reporting supervisor understood to have happened, when it happened, where it happened, who was involved, how it happened, and that disciplinary action is being contemplated. A meeting (referred to as a Loudermill hearing) between the investigation supervisor and employee shall be scheduled as soon as possible following the event and issuance of written notice of contemplation of disciplinary action. The management official shall permit the employee to have a representative present if the employee desires.

The purpose of this meeting is to allow the employee the opportunity to provide their immediate supervisor or Department Director any appropriate information in response to the allegations.

Notice of Disciplinary Action - Upon completion of the investigation phase and if discipline is deemed appropriate then the suspension or discharge process will proceed.

Suspension or discharge is valid only if written notice is delivered to the employee and filed with the City Manager as soon as reasonably possible, generally no later than three (3) working days after the date of the disciplinary action. This notice is delivered to the employee either personally or by certified mail and includes the following:

1. A written report of the nature of the disciplinary action, the results of the Loudermill meeting;
2. The effective date of the disciplinary action;
3. The policy or procedure violated and/or the deficient performance;

4. Feedback given to the employee during any monitoring period;
5. The acts or conducts upon which the disciplinary action is based; and
6. The conditions/goals/measures or future actions to be set and/or taken.

Allegations are kept confidential unless an employee, through the employee's own action, allows the allegations to become public information, or the investigation of the allegations necessarily results in some disclosure to involved individuals.

**15.06 Appeal Procedure.** Regular employees have the right to appeal to the City Manager concerning any disciplinary action taken by the employee's immediate supervisor or Department Director. The appeal is filed with the City Manager, with a copy given to the Department Director, within seven (7) working days after receipt of the written notice of a disciplinary action. The appeal specifically states the facts upon which the appeal is based.

The City Manager renders a decision on the matter, generally within fourteen (14) working days after receipt of the appeal.

## Chapter 16

### RECORDS, REPORTS AND NOTICES

**16.01 Purpose for Maintaining Personnel Records:** Objectives for maintaining adequate personnel records and reports are:

1. To demonstrate that legal, regulatory, and procedural requirements for all personnel actions have been satisfied;
2. To provide a basis for making decisions involved in personnel actions;
3. To provide a basis for reports on personnel activities;
4. To document the attainment of employees' educational, development and training goals; and
5. To the degree possible, security of information will be respected and maintained.

**16.02 Notice of Employee Change of Status.** Every appointment, transfer, promotion, demotion, change in compensation, resignation, suspension, vacancy, leave of absence, official reprimand, commendation, address change, name change, reclassification, and all other temporary or permanent changes in status of employment is reported to the City Manager and the Human Resources Office on a proper form (PM-1) with original documents attached. The effective date and a record of the change are kept by the Human Resources office.

Change of Personal Information - Employees are responsible for keeping their personnel records up to date by notifying the Human Resources office in writing of any personal information changes to the following information: name, address, telephone number, marital status (for benefits and tax withholding purposes only), addresses and telephone numbers of dependents and spouse or former spouse (for insurance purposes only), beneficiary designations for any of the City's insurance, disability, retirement, and deferred compensation plans, and persons to be notified in case of emergency. Failure to do so may delay or have an adverse effect on the timely receipt of correspondence being mailed, insurance coverage, and/or accurate assessment of premium rates for the City.

#### **16.03 Personnel Files.**

Human Resources Office - The Human Resources office maintains complete personnel files for employee's showing each employee's name, address, classification title, position, compensation, assigned department, changes in pay rates, employment status, performance appraisals, commendations, official disciplinary actions and other pertinent information.

Separate files for confidential, medical-related information will be maintained.

Finance Department - The Finance Department maintains records for each employee's vacation leave, sick leave, administrative leave, compensatory time, and compensation schedules. The

City Manager determines the form and manner in which this information will be maintained.

**16.04 Records Open to the Public.** Neither the Human Resources office nor any employee can release the address, telephone number, Social Security number, or date of birth of any employee, officer, or appointed official as shown in the personnel records (except upon request from law enforcement agencies) without the prior consent of that employee, officer, or appointed official. The Human Resources office has the authority to verify or confirm the above information without prior written permission from the employee, officer, or appointed official.

The exemption of City personnel records from public disclosure is governed by applicable statutes. Refer to RCW Chapter 42.17.310. However, case law has concluded that some personnel records are not private, with the exception of employee misconduct records.

**16.05 Destruction of Records.** Personnel files and payroll records are retained in accordance with State and Federal laws and guidelines.

## Chapter 17

### EMPLOYEE TRAINING, DEVELOPMENT AND EDUCATIONAL PROGRAMS

**17.01 Policy Statement.** The City supports and encourages training, self-improvement, and personal development programs for all employees through on-the-job training, educational programs, and certification.

Training may include demonstrations, reading assignments, lecture courses, workshops, seminars, teleconferences, or other methods that may be available to improve the effectiveness and broaden the knowledge of employees.

**17.02 Educational Programs and Tuition Reimbursement:** The personal and professional development of employees is vital to the success of each employee and the City. Planning an employee's individual development or learning plan is the joint responsibility of the employee and immediate supervisor, and occurs at least annually. All employees and managers are strongly encouraged to take advantage of advanced educational programs.

Tuition Reimbursement Plan - In order for a regular employee or regular part-time employee to be eligible for the reimbursement of tuition, registration, and books for approved courses taken when the employee is off duty, the employee completes the Prior Approval for Tuition/Course Reimbursement form. To the degree possible, the form is submitted to the employee's immediate supervisor during the budgeting process.

The City offers financial support for approved courses. Funds for reimbursement of tuition, registration, and books are budgeted within departmental budgets. An employee needs approval of the Department Director and the City Manager before registering for a course.

Employees should be aware that, due to budgeting restraints, the City is under no obligation to approve all employee requests. Funds allocated to departmental budgets for reimbursement of tuition, registration, and books are divided in a fair and equitable manner among those employees making the tuition reimbursement requests, with due regard for which courses are likely to provide most benefits to the City.

Eligible Courses - Courses taken at any accredited and recognized educational or training institution are generally approved when courses are related to the employee's present position in City service and potential development within City service; are part of a program leading to a degree related to the employee's present position or potential for development; or are required to obtain a high school diploma.

Employee's Responsibility - To be eligible to receive reimbursement for tuition, registration, and books, an employee submits a copy of all receipts; and completes and passes the course with a grade of "B" or better. In the case of a pass/fail course, the employee must achieve a passing grade.

Books - If the City reimburses the employee for books, then the City retains the books for a departmental library established for employees' use. If the employee wants to keep the books,

then the City does not reimburse the employee for that cost.

If the employee pays for the tuition, registration or books on a credit card or installment plan, no service fees or financial charges are paid by the City.

Financial Assistance - If an employee receives assistance under Federal or State government legislation, or other student aid programs, for tuition, registration, or books for an approved course, the City pays only the difference, if any, between the student aid and the actual costs for tuition, registration, and books.



## Chapter 18

### SUBSTANCE ABUSE AND PHYSICAL EXAMINATION POLICY

**18.01 Examinations.** Following a conditional offer of employment, an applicant may be required to take a physical exam to determine fitness to perform the essential functions of the position. All employees shall be required to make a reasonable effort to keep themselves fit to perform the duties of their particular position and/or classification. Documentation from the examining physician as to an employee's fitness for duty shall be made available to the City upon completion of such examination. Examinations may be required during employment if the City has reason to believe that the employee is unable to perform the essential functions of the job; if the employee requests an accommodation, or if the City has reason to believe that the employee may be a threat to him/herself or others.

**18.02 Substance Abuse.** The City considers its employees to be its most valuable asset and believes that professionalism in the delivery of public services can only be maintained within a drug-and alcohol-free work environment. Further, the City believes that employees have a right to work in an environment free of drugs and alcohol and those employees have the obligation not to place themselves in a situation where job performance is impaired by substance abuse.

This chapter has been developed in compliance with the Federal Drug-Free Workplace Act of 1988, regulations of the U.S. Department of Transportation (DOT), the Federal Transit Administration (FTA), and other relevant authorities.

**18.03 Drug Free Work Place.** The City recognizes that the maintenance of a drug-free workplace is essential to the safety and welfare of employees. This chapter establishes programs and practices that promote and support a drug-free working environment and brings the parties into compliance with the Drug-Free Workplace Act of 1988.

Statement: The intent is to educate employees as to the dangers of drug abuse in the workplace, the commitment to a drug-free workplace, the penalties that may be imposed upon employees for drug violations in the workplace, and the commitment of support for employees undergoing treatment and rehabilitation of chemical dependencies.

#### **18.04 Provisions:**

1. Controlled Substances:
  - A. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol in the workplace is prohibited. Reporting to work under the influence of a controlled substance or alcohol is prohibited; and
  - B. As a condition of employment, all employees must notify their Department Director of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction.
2. Prescription or Over-the-Counter Drug Use - The use of prescription and over-the-

counter drugs which compromise safety in the workplace is prohibited. It is the employee's responsibility to check with their physician as to whether or not a prescription drug will impair safe performance. Under this chapter employees are specifically required to notify their immediate supervisors when they are taking medications with warning labels that may affect their ability to remain alert or operate equipment. The City will make a form available to employees to assist them in reporting such medically authorized drug use. This form will be maintained in a separate confidential file in the Human Resources office.

3. Drug Use Away from the Workplace - The use of a controlled substance off the work site by an employee may be grounds for disciplinary action if it results in an adverse impact on the City.
4. Employee Sanctions - It is the responsibility of every employee to be aware of the above provisions and to abide by them. Failure to observe these provisions will result in immediate discipline of the employee, up to and including termination. The employee may be required to participate satisfactorily in an alcohol or drug abuse assistance or rehabilitative program as a condition of continuing employment.
5. Employee Assistance Program - The City is committed to supporting employees undergoing treatment and rehabilitation for alcohol or other chemical dependency. The City will provide information to employees on available drug counseling and rehabilitation programs.
6. Drug Abuse Education Program - The City will utilize all available resources, to educate employees as to the dangers of drug abuse.
7. Confidentiality - The confidentiality of all complaints and reported violations of the provisions of this directive will be strictly maintained, except as required by public disclosure laws or court order.

### **18.05 Drug and Alcohol Testing:**

Purpose - This chapter sets forth the alcohol and drug testing program which is intended to apply the same testing and reporting requirements, with the exception of random testing, to all employees as required by Federal regulations as stated in this section. The purpose of this chapter is to support the drug free work place and establish compliance with the Federal Highway Administration regulations for Commercial Driver's License holders. Regulations issued by the United States Department of Transportation mandate urine drug and evidential breath alcohol testing for employees in safety-sensitive positions, including those who are required to hold a Commercial Driver's License.

Application - This chapter applies to all employees with the additional requirement of random testing for employees who are required to have and maintain a Commercial's Driver's License in order to perform the duties of the job. Contractors performing functions for the City of Toppenish involving the use of a vehicle requiring a Commercial Driver's License will be subject to specific alcohol and drug testing as required by Federal regulations.

Statement - The City has a significant interest in the health and safety of employees. In furtherance of that interest, the City will take those steps necessary to ensure that employees perform their duties and responsibilities free from the influence of drugs and alcohol. Employees are encouraged to seek confidential counseling on problems associated with alcohol and drug abuse through the Employee Assistance Program. There will be mandatory drug and alcohol testing for employees and job applicants under the circumstances outlined in this chapter. All drug and alcohol testing (pre-employment, random, and reasonable suspicion) shall be conducted following the current testing standards and thresholds established by the U.S. Federal Department of Transportation.

Training and Education - Employee education and supervisor training are essential parts of this program. All existing and new employees will receive information on the impact of drug and alcohol use and will receive information on resources for assistance. Supervisors will receive this same training as well as additional training in the recognition and detection of signs and symptoms of alcohol and drug misuse. Supervisors will not be permitted to make reasonable suspicion test referrals unless they have completed training required by federal regulations.

### **18.06 Definitions:**

Accident - Accident means an occurrence involving the employee which results in (1) a fatality; (2) bodily injury of a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; (3) overall property/vehicle damage estimated at \$1,000 or more; (4) the employee cannot be completely discounted as a contributing factor to the accident; (5) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; or (6) a citation for a moving traffic violation arising from the accident.

Driver - This term includes all employees whose positions may involve driving a commercial vehicle and that require the possession of a Commercial Driver's License.

Commercial Vehicle - A commercial vehicle is one that either: (1) has a gross vehicle weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); (2) is designed to transport 16 or more persons, including the driver; or (3) is used to transport hazardous materials.

Drugs - In accordance with the applicable federal regulations, "drugs" refers to the following five substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.

Medical Review Officer (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the urine drug tests.

Safety Sensitive Position - These are positions associated with the driving of commercial vehicles.

Substance Abuse Professional (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis

and treatment of alcohol and drug-related disorders. The SAP is responsible for evaluating employees with positive test results.

Prohibited Conduct - The following conduct regarding alcohol and drug use or abuse is prohibited:

1. Alcohol Concentration - An employee may not report for or remain on duty, for the performance of duties covered under this chapter while having an alcohol concentration of 0.02 or greater;
2. Alcohol Possession and On Duty Use of Alcohol - An employee may not possess or use alcohol while on-duty or while operating a city vehicle;
3. Pre-Duty Use of Alcohol - An employee may not report for duty or operate a commercial vehicle within eight (8) hours after using alcohol. An on-call employee who consumes alcohol within eight (8) hours of being called in must acknowledge the use of alcohol and may not report for duty;
4. Alcohol Use Following an Accident - An employee required to take a post-accident alcohol test may not use alcohol for eight (8) hours following the accident, or until a post-accident alcohol test is given, whichever comes first;
5. Use of Drugs - An employee may not report for duty, remain on duty, or drive a city vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform their duties or operate a commercial vehicle. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely should provide written notice from their physician with respect to the effect of such substances. The City will make a form available to employees to assist them in reporting such authorized drug use. This form will be maintained in a separate confidential file in the Human Resources Department;
6. Refusal to Submit to a Required Test - An employee may not refuse to submit to a post-accident, reasonable suspicion, or follow-up alcohol and drug test as directed by this chapter. In addition, employees required to have and maintain a Commercial Driver's License (CDL) may not refuse to submit to random testing as directed by this chapter;
7. Positive Drug Test - An employee may not report for duty or remain on duty, if the employee tests positive for drugs or alcohol;
8. Tampering with a Required Test - An employee may not tamper with, adulterate, alter, substitute or otherwise obstruct any testing process required under this chapter; and
9. Possession, Transfer or Sale - No employee may possess, transfer or sell drugs or alcohol while on duty.

## **18.07 Testing:**

1. Pre-Employment Drug Testing - All individuals in safety sensitive positions must pass a drug test as a post-offer condition of employment. Employees who do not pass will not be employed and will not be considered for employment for at least 12 months.
2. Reasonable Suspicion Testing - Employees shall submit to a drug and/or alcohol test when the City reasonably suspects that this policy may have been or is presently being violated. A referral for testing will be based on current, clearly described observations. Such referrals will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use, confirmed by a second trained supervisor. Prior to beginning a discussion with the employee about the observed behavior, the supervisor will inform the employee of their right to have applicable representation present during the meeting. Employee's requests for representation will be honored to the extent that honoring the request does not unreasonably delay testing. When reasonable suspicion exists, the affected employee will be questioned and observed. A decision to request a specimen will be based upon eye witness reports, facts of the event and observed physical and behavioral characteristics of the affected employee. The employee will be interviewed in a private area.
  - A. Verification - A reasonable suspicion request will be documented in writing with a copy provided to the affected employee.
  - B. Relief of Duty - The employee will be placed on leave until the results of the drug and/or alcohol test are complete and verified. If the test results are negative, the employee will be compensated during the waiting period for all work time lost. If the test results are positive employees will be allowed to use vacation, or compensatory time, at their discretion or sick leave if entitled or applicable during the period of absence to eliminate any loss of income. Personal leave is not authorized for this purpose. If an employee chooses to use paid leave during the period of absence, they must notify the City which type of paid leave will be use during the period of absence. The City shall have five (5) working days after positive test results, to notify the employee of disciplinary actions in accordance with Chapter 15.
  - C. Transportation Assistance - The employee will be accompanied to the collection site by a supervisor or director. The employee will be provided transportation home. If the employee refuses and demands to drive their vehicle, the City shall notify law enforcement.

If removed from duty based on reasonable suspicion of alcohol or drug use and an alcohol test is not administered within eight (8) hours, the employee will not be allowed to return to duty until:

- (1) An alcohol test is administered and the employee's breath alcohol concentration measures less than 0.02; or

- (2) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol or drugs.

3. Post-Accident Testing - Following an accident, as defined in this chapter, the employee is required to submit to alcohol and drug tests. Testing should occur as soon as possible, but may not exceed eight (8) hours after the accident for alcohol testing and 32 hours after the accident for drug testing.

An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or the results of testing. Employees who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this policy.

4. Random Testing - Employees required to have a CDL will be subject to random, unannounced alcohol and drug testing whenever they are on duty.
5. Return to Duty Testing - Employees who have violated this policy chapter including those who have tested positive on a drug or alcohol test, and, who under the discipline section are allowed to return to work, must test negative prior to being released to duty. A return to duty test following alcohol misuse may not exceed an alcohol concentration of 0.02.
6. Follow-Up Testing - An employee who is referred for assistance related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a Substance Abuse Professional and the City. The number and frequency of follow-up tests will be determined by the Substance Abuse Professional and the City, but will not be less than six tests in the first 12 months following the employee's return to duty. The employee will be responsible for costs associated with follow-up testing not covered by insurance should a positive test result occur and the employee is retained in the City workforce.
7. Re-Testing - Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by the Medical Review Officer. The cost of the second test will be borne by the employee with reimbursement, if the test is negative.
8. Testing Compensation - All time spent administering alcohol or controlled substance tests, including travel time, will be paid at the employee's regular rate of pay, or at their overtime rate if applicable. Any employee who is not allowed to return to work while awaiting test results will be placed on paid leave during the waiting period. If the test results are negative, the employee will be compensated during the waiting period for all work time lost. If the test results are positive, employees will be allowed to use vacation, compensatory time, sick leave or other paid leaves during the period of absence to eliminate any loss of income. The City shall pay all costs associated with the administration of alcohol and controlled substance tests except follow-up testing. The

employee will be responsible for costs associated with follow-up testing not covered by insurance should a positive test result occur and the employee is retained in the City workforce.

9. Refusal to Take an Alcohol or Drug Test - No employee shall refuse to submit to an alcohol or drug test as directed under this chapter. A refusal to submit shall include, but is not limited to:
  - A. A failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the procedures manual;
  - B. Failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the procedures manual;
  - C. Tampering with the sample; and
  - D. Engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered insubordination and shall be deemed the same as a positive test result.

**18.08 Securing Information from Previous Employers:** As a condition of employment and post-offer of employment, all applicable applicants that will be holding a position requiring a CDL must authorize a request for all employers within the past two (2) years to release information of the following:

1. Positive alcohol and drug tests; or
2. Refusal to be tested.

This information must be obtained before the person is employed by the City. However if the information has not arrived by the anticipated start date, and the person has passed the pre-employment drug test, the person may be hired and the requested information obtained from the previous employers within 14 calendar days of the date of hire. If the information has not been received within the 14 calendar days, the person will not be permitted to drive commercial vehicles until the information has arrived. If the information obtained from previous employer(s) indicates either a positive test or a refusal to be tested occurred within the past two years, that person shall not be hired by the City.

If no such information was generated about the applicant, the past employer(s) cannot be located or refuse(s) to cooperate; the supervisor will document and send a report to Human Resources. Normal hiring may proceed when a memo documenting the lack of information has been sent to Human Resources.

**18.09 Confidentiality and Record Retention.** All records related to drug and alcohol testing will be maintained in a secure location with controlled access. Record retention time frames shall be in accordance with DOT criteria for CDL employees, however for all other employees; 1) records for negative tests shall be removed and destroyed after one (1) year and; 2) records of positive tests shall be retained. These records will be kept separate from all other records.

**18.10 Consequences of Engaging in Prohibited Conduct or Positive Drug or Alcohol Tests:**

Discipline and Rehabilitation - An employee will be subject to appropriate disciplinary action up to and including termination from employment if:

- A. The employee tests positive for a drug or drugs;
- B. Results from an alcohol test indicate a blood alcohol level of 0.04 or greater; and/or,
- C. The employee has engaged in prohibited conduct as outlined above.

All employees, regardless of disciplinary action taken, will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

The City shall make reasonable efforts to afford employees the right to applicable representation whenever an employee is directed to submit to an alcohol or drug test which is for cause, post accident, or reasonable suspicion.

***The following section of this policy applies to those employees who are not terminated for their violations:***

**18.11 Positive Test Results and/or Engaging in Prohibited Conduct:** If an employee tests positive for drugs or has an alcohol test that indicates blood alcohol level of .04 or greater from a random, reasonable suspicion, post-accident, or other authorized test, or engages in prohibited conduct as outlined in this chapter, the employee will be immediately removed from all duties including the driving of a commercial vehicle. The employee will not be permitted to return to work unless they:

1. Have been evaluated by a qualified Substance Abuse Professional;
2. If recommended by a Substance Abuse Professional, have properly followed any rehabilitation prescribed; and
3. Have a verified negative result on a return-to-duty alcohol (<0.02) and/or drug test.

Upon completion of a recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for up to sixty (60) months as recommended by the Substance Abuse Professional and the City, with a minimum of six (6)



such unscheduled tests within the first twelve (12) months of returning to duty.

Alcohol Concentration of 0.02 but less than 0.04: Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least 24 hours.

Employee Assistance Program/Voluntary Referral: The parties support employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily and to utilize the Employee Assistance Program. Any employee who comes forth and notifies the City of alcohol or drug abuse problems will be given the assistance extended to an employee with any other illness.

Any such program, however, may not interfere with the tests required by these rules. For example, a driver may not identify themselves as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this chapter.

Sick leave, vacation leave, or leave of absence without pay may be granted for treatment and rehabilitation as in other illness. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.

An employee, who successfully completes a treatment or rehabilitation program, shall be returned to their regular duty assignment.

**18.12 Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse Reporting.** The Clearinghouse rule requires FMSCA regulated employers and other service agents to report to the Clearinghouse information related to violations of the drug and alcohol regulations in 49 Code of Federal Regulations, Parts 40 and 382 by current and prospective employees.

Drivers shall be made aware that the motor carrier is required to collect, maintain, and report certain information to the Clearinghouse as required:

1. A verified positive, adulterated, or substituted drug test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to any test required by subpart C of this part;
4. An employer's report of actual knowledge, as defined at §382.107;
  - A. On duty alcohol use pursuant to §382.107;
  - B. Pre-duty alcohol use pursuant to §382.207;
  - C. Alcohol use following an accident pursuant to §382.209; and
  - D. Controlled substance use pursuant to §382.213;

5. A substance abuse professional (SAP) report of successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. An employer's report of completion of follow-up testing.

## Chapter 19

### EMPLOYEE ETHICS, STANDARDS OF CONDUCT, AND PERSONAL ACTIVITIES

**19.01 Policy Statement.** The City expects its employees to subscribe to the highest set of ethics, values, and principles that guide all employees in our provision of services to our customers who are both inside and outside of City employment. The City expects employees to be fair, honest, consistent, and committed to high levels of customer service and professionalism. Anyone who fails to live up to such ethical standards reflects negatively on the entire City work force.

**19.02 General Principles:** Employees shall apply the following principles in determining whether their professional ethics and conduct is proper:

1. Employees shall not engage in financial transactions using non-public City government information or allow the improper use of such information to further any personal or private interest;
2. Employees shall not hold financial interests that conflict with or may appear to conflict with, the conscientious performance of duty;
3. To ensure that every citizen can have complete confidence in the integrity of the City government, each employee shall respect and adhere to the principles of ethical conduct set forth in applicable laws, policies, and regulations;
4. Employees shall not, except as permitted by law, regulation, or policy solicit or accept gifts or other items of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the City, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties;
5. Employees shall put forth honest effort in the performance of their duties;
6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the City government;
7. Employees shall not use their position for private gain or personal influence;
8. Employees shall act impartially and not give preferential treatment to any private organization or individual;
9. Employees shall protect and conserve City property and shall not use it for other than authorized activities;
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official assigned City job duties and responsibilities;

11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities;
12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those — such as applicable Federal, State, or local taxes—that are imposed by law;
13. Employees shall adhere to all laws and regulations that provide equal opportunity for all citizens and City employees regardless of race, color, religion, sex, national origin, age, marital status or disability;
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating these ethical standards;
15. During an employee's workday, an employee devotes 100% of their time, attention, and efforts to the duties and responsibilities of the employee's position in City service; and
16. Employees have the right to work in an environment where mutual respect and consideration are shown among all employees and with the public. The City expects that employees shall conduct themselves in a respectful and professional manner in the work place and avoid any behavior that may be construed to be harassing, menacing, demeaning, and/or of a violent nature.

**19.03 Incompatible Personal Activities of City Employees:** An employee will not engage in any off-duty employment or activity that is inconsistent, incompatible or in conflict with the employee's duties in City service. The Department Director determines which activities are inconsistent, incompatible, or in conflict with duties in City service. Examples of prohibited activities include, but are not limited to:

1. The use of City time, facilities, equipment, or supplies for private gain or advantage;
2. The use of the badge, uniform, prestige, or influence of an employee's position for private gain or advantage;
3. The direct or indirect solicitation or acceptance of any gratuities, loans, gifts, merchandise, meals, beverages, or any other thing of tangible value in connection with or resulting from an employee's official position. Nor will employees use their official position, badges, or identification cards to obtain privileges not otherwise available to them; and
4. The performance of an act when an employee is off duty that may later be subject to direct or indirect control, inspection, review, audit, or enforcement by that employee of the City in the exercise of their City duties.

**19.04 Off-Duty Employment.** An employee may engage in off-duty employment that is not inconsistent, incompatible, or in conflict with the employee's duties in City service; and that will not negatively affect the performance of the employee while in City service. The employee must provide his or her Department Director written notice of off duty employment.

**19.05 Employee's Personal Financial Affairs.** Employees need to arrange their personal financial affairs so that credit and collection agencies do not have to make use of the offices of the City, the Department Directors, or the City Manager to make collections.

**19.06 Political Activities of Public Employees.** There are no restrictions on the right of an employee to participate off duty in political activities that involve ballot measures that relate to wages, hours, or working conditions. An employee can, when off duty, campaign for or against elected City officials or ballot measures. The employee may not, however, disturb employees during their work periods or workdays.

In compliance with Washington State RCW 42.17.130, employees may not campaign or solicit political contributions during work hours, using public telephones or other equipment, or on City property; carry or display political material in or on publicly owned vehicles; display or distribute campaign posters, placards or other promotional materials on City owned or operated premises; use City supplies, equipment or facilities to print, mail, or otherwise produce or distribute campaign materials; or solicit signatures for any initiative, recall or referendum campaign on publicly owned or operated premises. Employees who are in City service or who are seeking an elected office will not use the employee's office to influence another person or persons for political purposes.

**19.07 Dress Code Policy.** The City expects its' employees to dress in a manner consistent with the commitment to maintain a professional office environment. Office dress standards may be relaxed due to extreme weather conditions or because of special work requirements.

Appropriate Business wear. The City has established the business-casual dress standard. The following guidelines establish the criteria for appropriate business-casual dress to be worn by all non-uniformed city personnel. The primary objective is to have employees project a professional image.

1. Casual dress does not mean sloppy. Clothing should be clean, pressed or wrinkle free. Inappropriate items include clothing that is ripped, frayed, stained or messy.
2. Slacks: Slacks and cotton slacks should be clean and wrinkle free. Inappropriate items include jeans, jean-like slacks or denim, sweatpants, yoga pants, bib overalls, spandex or other form-fitting pants. Exception: Casual Fridays: Employees may wear jeans that are clean and wrinkle free, and are not excessively worn, faded and do not have holes.
3. Shirts: All men's shirts must have collars; golf shirts, sweaters and turtlenecks are acceptable. Inappropriate items include T-shirts, sweatshirts, tank tops, halter tops, sleeveless tops, shirts with large lettering or logos and any tops with skinny straps unless worn under another blouse or jacket.
4. Dresses, Skirts, and Shorts: Casual dresses, skirts, jean skirts, and mid-length split skirts and shorts are acceptable. Inappropriate items include mini-skirts, and spaghetti-strap dresses.

5. Footwear: Loafers, boots, flats, dress sandals and leather lace shoes are acceptable. Casual socks, no socks or stockings are acceptable if it is appropriate for the rest of the outfit. Inappropriate items include athletic shoes, sneakers, flip-flops, or slippers. Exception: Casual Fridays: Employees may wear clean athletic shoes or sneakers.
6. Other Apparel: Items such as hats, sunglasses or bathing suits are inappropriate.
7. Hygiene: Employees must practice proper hygiene and should recognize that co-workers and/or visitors may have sensitivity and/or allergic reactions to various fragrant products. An employee with a concern about scents or odors is to contact his/her supervisor
8. The City prohibits any visible tattoo that is offensive. "Offensive" tattoos include, but are not limited to, any tattoo depicting nudity, violence, sexually explicit or vulgar art or words, or that is objectionable or demeaning to the image of the City. In general, if the City's other policies (e.g., Harassment Prevention and Workplace Violence) would prohibit the speaking of the words, or display of the art, in the workplace then the tattoos, jewelry or body piercing(s) may not be visibly worn at work. Employees may wear jewelry or body piercing(s) that does not detract from the overall professional appearance. Supervisors have the sole discretion to decide whether visible tattoos, jewelry, or body piercing(s) are appropriate for the job position.

Violation of Policy. Employees may be sent home to make appropriate changes. Failure to return to work in compliance with the request will also be considered a violation of this policy. Non-exempt employees will not be compensated for any work time missed because of failure to comply with this policy. Failure to comply with the Office Dress Standards will result in corrective action up to, and including, termination of employment.

Non-uniformed personnel. All non-uniformed personnel in city departments are permitted to wear casual clothing on Friday of each week. Casual clothing will include dress jeans, walking shorts, polo shirts, and special community event shirts.

### **19.08 Employee Privacy.**

Searches of Employees' Property - The City cannot assume responsibility for any theft or damage to the personal belongings of City employees. Therefore, the City encourages its employees to avoid bringing private articles or property to work. Employees are also advised that searches of employee property that is on the City's property may be conducted without advance notice and with probable cause. Employees may not use a personal lock on company property, unless authorized by management. The City retains a copy of the key or combination to all locks that are provided for use by employees in the work place. Employees who do not consent to the inspections described above may be disciplined up to and including immediate termination.

Surveillance of Employee's E-Mail Communications - Electronic Mail should only be used for approved purposes established by administrative policy. All employees who are granted access to the City's E-Mail system will be issued an initial identifying password. The City will retain all initial passwords. Employees are not able to gain access to another employee's file or E-Mail

messages without that employee's authority. All computer pass codes are initially available to the City. Employees will not use pass codes unknown to the City. The City's electronic mail and other information systems will not be used in a way that could be disruptive or offensive to others. E-Mail should not be used to solicit others for commercial ventures, religious or political causes, outside organizations or other non-job-related solicitations. Any violation of this E-Mail policy may result in disciplinary action, up to and including termination.

**19.09 Reporting of Criminal or Civil Offenses by Employees.** Whenever an employee is arrested or issued a citation by any law enforcement agency for any criminal or civil matter, the employee shall notify their Department Director immediately upon reporting for their next work duty shift.

#### **19.10 Emergency Response Requirements:**

Police Department - All commissioned officers hired by the City of Toppenish, shall be required to reside within a thirty actual driving distance on paved road from the Toppenish Police Station. The residency/response requirement may be specifically waived by the City Manager in order to achieve certain objectives such as affirmative action or recruitment programs. Unless waived, the residency/response time requirements shall be complied with by the end of the employee's service period.

The purpose of this section is to provide a reasonable emergency response if called in to report for duty under emergency conditions.

Fire Department - All regular full-time Firefighters shall reside within ten (10) minutes driving time of the City of Toppenish Fire Station 1. The purpose of this policy is to provide a reasonable emergency response time when called in for off-duty emergency calls.

**19.11 City Vehicle Usage.** It is the policy of the City of Toppenish to provide vehicles for business use, to allow employees to drive on City business, and to reimburse employees for business use of personal vehicles according to the guidelines established by Administrative Policy 2017-30. The Commercial Driver License policy is in addition to this policy. City Vehicle Usage should be used for approved purposes established by the administrative policy.

## Chapter 20

### WORKPLACE VIOLENCE PREVENTION POLICY

**20.01 Policy Statement.** To establish a policy and procedure for the City of Toppenish protecting employees and the general public from acts of Workplace Violence.

**20.02 Policy.** The policy of the City is to conduct its operations in an environment free of violence. Accordingly, the City has a "ZERO TOLERANCE" policy on workplace violence. Any form of workplace violence will not be tolerated and will be acted upon IMMEDIATELY. Any City employee who engages in workplace violence will be subject to discipline up to and including termination. Further, any person who visits a City facility and engages in workplace violence and/or threatening behavior will be referred to local law enforcement and be subject to applicable laws.

Department Directors and supervisors are to ensure that any form of threat (direct, confrontational, veiled) be immediately confronted/acted upon by management, then documented and assessed. The respective Department Director and the City Manager are to be informed immediately.

It is not the intent of this policy to infringe upon or negate any constitutional rights afforded any United States citizen.

#### **20.03 Definitions:**

Workplace Violence - means a violent act or threatening behavior that is directed at an employee or member of the public at a work location. Workplace violence does not include the use of reasonable force in self-defense or the defense of others.

Violent Act - means any non-consensual touching (such as hitting, pushing, kicking, holding or blocking the movement of another person) that result in physical harm or would have caused a reasonable person to feel threatened with physical harm.

Threatening Behavior - means any physical or verbal communication that would cause a reasonable person to feel threatened with physical harm.

Unauthorized Weapon - means any firearm, knife (such as a switchblade), explosives, dangerous chemical or any object that is not necessary for a City employee's job and has the potential to cause substantial injury to others.

Prohibited Activities - means destruction of property belonging to the City of Toppenish or its employees; the possession or use of unauthorized weapons in or on any City premise or vehicles; frightening or annoying behaviors in the workplace including stalking or continuous unwelcome contact, in any form, by an employee towards another and bizarre or offensive comments regarding violent threats or events.



## **20.04 Procedures:**

1. All City employees shall:
  - A. Not engage in workplace violence;
  - B. Not bring unauthorized weapons to their work location unless required or authorized by their positions, e.g., commissioned police officers. For purposes of this restriction, City owned parking lots adjacent to City buildings shall constitute a work location;
  - C. If they are involved in prohibited activities or witness workplace violence:
    - (1) Protect themselves or others based on their best judgment under the circumstances; or
    - (2) Call 9-1-1 for police assistance if necessary in light of the circumstances.
  - D. After being involved in a prohibited activity or witnessing workplace violence, immediately report the incident to your supervisor who in turn shall inform the Department Director;
  - E. Immediately provide a copy of court issued protective or restraining orders (either temporary or permanent) that list any City of Toppenish's work areas/locations as protected areas to their supervisor; and
  - F. Participate in periodic training sponsored by the City on identifying and defusing workplace problems or conflicts that could potentially lead to workplace violence.

For the safety of co-workers, employees should give serious consideration to making their supervisor aware of potential threatening or violent situations occurring in their personal life that may become problematic for the safety and security of the workplace. The purpose for this notification is to heighten the supervisor's awareness of any possible dangerous and preventable violent situations that may occur in the workplace.

2. All supervisors and managers shall:
  - A. When work place violence occurs, take every reasonable effort to ensure that persons involved are safe;
  - B. Notify police if necessary, if not already done;
  - C. Immediately provide verbal notification of incidents of prohibited activities and workplace violence to their Department Director and confirm the incident in writing as soon as reasonably possible;
  - D. Provide a copy of any court issued protective/restraining order that list any City of Toppenish's work areas/locations as protected areas to the Department

Director;

- E. Take appropriate steps to diffuse workplace violence that they witness; and
  - F. Consult with the Human Resources Assistant and Department Director regarding communication with the affected work group and others regarding potential workplace violence situations.
3. Department Directors shall:
- A. Immediately upon observing or receiving a report of an incident of prohibited activity or workplace violence:
    - (1) take every reasonable effort to ensure that persons involved are safe;
    - (2) notify the police, if necessary;
    - (3) notify the City Manager;
    - (4) ensure the incident is appropriately documented;
    - (5) Contact the Human Resources Assistant to jointly initiate an investigation.
  - B. Take appropriate corrective action against any employee who engages in a prohibited activity or workplace violence up to and including termination. Factors such as the nature of conduct, past disciplinary action and work history of the employee, and other mitigating or aggravating circumstances may be considered in the disciplinary process.
  - C. Notify both the Human Resources Assistant and the police department of any court issued protective/restraining order that lists any City of Toppenish's work areas/locations as protected areas. Other department/Office management staff in the location where the individual works should also be notified. In the case there is a violation of the order, those in positions of responsibility will be aware of the issue and can take the action of notifying the police and asking the person who violated the order to leave.
  - D. Where appropriate and in consultation with law enforcement in the City, take steps to provide security measures at work locations where violence is anticipated or threatened.
4. The Human Resources Assistant shall:
- A. Review, monitor, and recommend necessary modifications to this policy to ensure its effectiveness and compliance with employment trends and laws;
  - B. Design and implement periodic workplace violence prevention/awareness training for City personnel;

- C. Assist Department Directors, Office managers and supervisors in investigating incidents involving prohibited activities and workplace violence;
- D. Review job applications and references in the applicant recruitment/screening process of prospective employees for any indications of workplace violence in prior employment; and
- E. Ensure a quality Employee Assistance Program (EAP) is available for all City employees and immediate family members as a resource to assist with anger management, stress, conflict management, and/or alternative dispute resolution.

## Chapter 21

### ANTI-HARASSMENT POLICY

**21.01 Policy Statement.** As an employer, the City of Toppenish values the dignity of all employees and is committed to providing a respectful workplace, one that is harassment free and in which all individuals are treated with respect. The expectation is that managers, supervisors and employees will create and maintain a work environment that is respectful of all persons in it.

**21.02 Application.** This policy applies to all workplaces and employees of the City of Toppenish, volunteers working on behalf of the City, and individuals under contract to the City of Toppenish.

**21.03 Roles and Responsibilities.** Harassment is a concern for everyone and maintaining a harassment free workplace is everyone's responsibility. The City has a responsibility and a legal obligation to ensure employees are not exposed to harassment in the workplace and for the implementation of this policy. Supervisors and managers are responsible for ensuring a harassment free workplace and adherence to the policy. This includes taking appropriate preventive or corrective action and stopping any harassment of which they are aware. Supervisors and managers should ensure that all employees' rights are protected and should support employees in the conflict resolution process.

Employees have a responsibility to create and support a workplace that is free of harassment by complying with this policy and by ensuring their behavior meets acceptable standards. Employees must refrain from discriminatory or harassing behavior. Employees who feel they have been harassed should make their objections known to the alleged harasser or other appropriate person, document incidents of harassment, and bring them to the attention of management as described below. Employees witnessing harassment are encouraged to take action to bring the incident to the attention of an appropriate City official.

**21.04 Policy.** Harassment in the workplace will not be tolerated. The abuse of one's authority or position to intimidate, coerce or harass is forbidden and is considered absolutely intolerable in the City workplace. Harassment constitutes a disciplinary infraction that shall be dealt with through the appropriate measures up to and including termination.

This policy does not limit or constrain the City, as the employer, in the right to manage the workplace. For example, work assignments, operational reviews, performance reviews, coaching, work evaluation and disciplinary measures taken by a manager or supervisor, in good faith for valid reasons, do not constitute harassment in the workplace. These supervisory and management actions must remain respectful of the individual. This policy will not, under any circumstances, be used to impede the supervisory relationship, nor is it intended to inhibit normal and acceptable day-to-day social interaction in the workplace.

## **21.05 Definitions:**

Discrimination - Discrimination is defined in civil rights law as unfavorable or unfair treatment of a person or class of persons in comparison to others who are not members of the protected class because of race, sex, color, religion, national origin, age, disability, sexual orientation or reprisal for opposition to discriminatory practices or participation in the Equal Employment Opportunity (EEO) process. Federal EEO laws prohibit an employer from discriminating against persons in all aspects of employment, including recruitment, selection, evaluation, promotion, training, compensation, discipline, retention and working conditions, because of their protected status. Discrimination can be intentional or unintentional, direct or indirect.

Discrimination in City employment is prohibited on the basis of race, creed, religion, color, sex, sexual orientation, marital status, disability, age, national origin,

Harassment - Harassment is a form of discrimination. This policy defines harassment any objectionable conduct, comment or display by a person that:

1. is directed at a worker;
2. is made on the basis of race, creed, religion, color, sex, sexual orientation, marital status, disability, age, or national origin; and
3. is unwelcome.

If the conduct is severe or pervasive, it may be against the law, as well as against City policy.

Examples of Harassment - Harassment can include, but is not limited to, the following examples:

1. Unwelcome remarks, jokes, innuendoes or taunts causing embarrassment or offense;
2. Displaying objectionable materials, graffiti or pictures;
3. Insulting gestures, jokes, disparaging written materials;
4. Unwelcome sexual advances, propositions or inquiries and/or comments about a person's sex life;
5. Persistent, unwanted contact or attention;
6. Inappropriate touching;
7. Shunning and ostracizing;
8. Threats, bullying, coercion, isolation;
9. Actual or threatened physical assault;
10. Verbal assault;

11. Malicious gestures or actions; and
12. Stalking.

Workplace - For the purposes of this policy, the workplace includes, but is not limited to, the physical work site, break rooms, training sessions, business travel, field locations, conferences, work related social gatherings or any other place where the employee is required to be in service to the employer.

**21.06 Unfair Treatment versus Unlawful Discrimination.** Unfair treatment is not necessarily unlawful discrimination. Treating a person unfavorably in comparison to others may violate EEO laws only when that person's protected status is a factor in the treatment.

Employment decisions should be based only on job-related merit factors. All employees should avoid conduct which undermines fair and equal treatment. Although all unfair treatment may not be discriminatory, it is poor personnel management and should be avoided.

**21.07 Confidentiality.** The City will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is necessary for the purposes of investigating the complaint or taking corrective action with respect to the complaint or required by law.

#### **21.08 Processes and Procedures:**

1. What to Do if Accused of Harassment - The Anti-Harassment Policy is based upon the principles of fairness and due process. The employees will be notified in the event that a complaint is made against them. The accused employee should review this policy chapter and develop an action plan for restorative resolution of the complaint. However, the accused should not take it upon himself/herself to talk to the accuser without first consulting their supervisor or Human Resources office. These individuals will help the employee determine how to begin the resolution process.

Once the employee becomes aware that a complaint has been made against them, they are encouraged to become involved in order to resolve the conflict constructively. This will require the willingness to listen and be open to the other person's perspective.

The restorative process focuses on conflict resolution rather than blame or punishment. If this approach is unacceptable to either party or inappropriate due to the seriousness of the allegations, an investigation may take place.

2. What to do if Harassment is Observed in the Workplace - If an employee observes an individual experiencing humiliating, degrading or disrespectful behavior, offering them your support is appropriate. If the support is accepted, use this policy to help the person assess their options. The employee may wish to contact their supervisor or the Human Resources office for advice regarding appropriate action.

If the employee observes any incident that involves a threat to cause bodily harm, assault, sexual assault or any other risk to the individual, they are obligated to report it to their manager or supervisor immediately.

It is misconduct for managers and supervisors who know of workplace harassment not to take immediate corrective action.

3. Harassment by Clients and Members of the Public - The employer's obligation to provide a harassment free workplace extends to include circumstances where employees may be subject to harassment by persons external to the workforce, i.e., clients or members of the public:

The following process and procedures apply to circumstances of harassment of City employees by clients or members of the public:

- A. Employee(s) who are subject to harassment by clients or members of the public are encouraged to report the incident(s) to the Department Director if the harassment is of a serious nature or made in circumstances where the employee feels the harassment may continue or re-occur; or
- B. Upon receipt of such a harassment complaint, the Department Director shall, in consultation with the employee, take such action as is appropriate and reasonable in the circumstance to ensure that the harassment does not continue.

The Department Director shall consider what, if any, policies and procedures are appropriate at the workplace to minimize or control harassment of employees by clients and members of the public. The Department Director is encouraged to consult with Human Resources.

### **21.09 Processes and Procedures for Addressing Harassment in the Workplace:**

1. Dispute Resolution Options - There are several ways to resolve conflict and disputes that involve harassing behavior. The ideal resolution takes place quickly and is handled solely by the individuals directly involved. Since this is not always possible, other mechanisms are described below. A complainant always has the right to request an investigation in lieu of the other steps described below, although the ultimate determination of the appropriate handling of the matter is in the discretion of management.

- A. Individual Problem Solving - If an employee believes they have been subjected to harassment, first they are encouraged to clearly and firmly make known to the alleged harasser that the behavior is objectionable and must stop.

If conflict resulting from the harassing behavior can be resolved by those directly involved, it reduces the disruption in the workplace and contributes to better relationships in the future. Some people are not aware that their behavior constitutes harassment. Often, simply telling them about the offensive nature of their behavior is enough to end it. Employees are encouraged to be proactive and tell the offender to stop. Refer to this policy if necessary. If the employee

wishes assistance in planning their approach with the other employee, they should contact their manager, supervisor, or the Human Resources office.

- B. Facilitated Problem Solving - If the employee is subjected to harassment and is unable to confront the other person or the confrontation does not improve the situation, discuss the problem with your manager, supervisor, or the Human Resources office. These individuals can help assess options, develop an action plan for resolution and implement the plan. They can also help identify and access a facilitator who may assist the disputing parties to work out an acceptable resolution and they can also be responsible for following up to ensure that the conflict has been resolved.
- C. Mediation - If the conflict can not be resolved by the individuals and their local Resources, mediation or a similar third party intervention can be requested upon the mutual agreement of those involved in the conflict.

Trained and experienced mediators should conduct the mediation process. They can assist two or more parties to reach a resolution to their differences or can also help to resolve conflicts among groups.

- D. Formal Investigation - When it is not possible to resolve a conflict through individual or facilitated problem solving or mediation, or depending on the nature of the complaint, a formal investigation may be initiated through a formal complaint (see Formal Complaint Procedures). The formal complaint process is an explicit procedure that will involve an external investigator(s). A formal complaint should never be undertaken frivolously. It requires careful consideration and should usually be a last resort. This process may take longer and involve more people (witnesses).

If a formal complaint and investigation take place, the Department Director will make the final decision, based on the investigator's report, as to whether or not harassment has occurred and will determine the appropriate action to recommend or be taken. If the Department Director is the employee alleged to be harassing another individual, the City Manager shall determine appropriate action based upon the investigation report.

**21.10 FORMAL COMPLAINT PROCEDURES:** Formal harassment complaints can be made to the supervisor, the manager, Department Director, Human Resources Assistant, or the City Manager. Any supervisor, manager or director receiving a complaint should contact the City Manager and Human Resources Assistant. The City Manager will determine the appropriate investigation steps and assign an investigator.

1. Discipline - If it is determined, after investigation, that harassment has occurred; the offending party may be subject to disciplinary action. The discipline may be up to and including termination. All disciplinary action will follow the appropriate Personnel Policy Manual reference or collective bargaining agreement clause.
2. Evidence and Documents Relating to the Investigation - Due to the possibility of



subsequent action, e.g. legal proceedings, arbitration, or judicial review, materials related to the investigation will be retained for the appropriate records retention period through the Human Resources Office.

3. Retaliation - Retaliation is strictly prohibited against anyone that has reported harassment or participated in an investigation. Any signs of retaliation should be reported immediately to a manager, action will result in disciplinary action, up to and including dismissal.
4. Bad Faith Complaints - Complaints should be undertaken with great care because they may result in pain and damage to the respondent's reputation. Complaints made frivolously or in bad faith and without factual basis may constitute defamation and may be actionable by the respondent. Such complaints may result in disciplinary action, up to and including termination.
5. Employee Assistance Program - Employees who require counseling are encouraged to contact and utilize the Employee Assistance Program that is available through the City benefits program.

## Chapter 22

### NO SMOKING POLICY

**22.01 Policy Statement.** The object of this policy is to provide a healthy and productive work environment for all City employees. The policy responds to the growing medical and scientific evidence showing the detrimental effects of smoking on personal health and work performance. The policy also responds to public laws related to smoking in public facilities and to the strong desire of many City employees to work in a smoke-free environment. This policy intends to provide a smoke-free work environment for all employees. It does not intend to infringe upon the personal right and decision of an employee to smoke.

#### **22.02 Definitions:**

Smoking or To Smoke - Inhaling, exhaling, or carrying any burning tobacco or other plant matter. This includes, but is not limited to, cigarettes, cigars, or pipes.

Enclosed Work Area - An area enclosed by a roof and walls with at least one opening for ingress and egress. The area is owned, leased, or rented by the City with intended use by officers and employees of the City.

Common Area - Includes, but is not limited to, employee lounges, lunch rooms, conference rooms, stairways, elevators, hallways, and rest rooms.

Smoking Debris - Includes, but is not limited to, smoke, ash or any other residue resulting from smoking. "Smoking debris" also includes cigarette or cigar butts, cigarette paper, or products packaging tobacco.

City Facility - An enclosed facility, including any automobile, that is owned, leased, or operated by the City and that is frequented by the public or represents the work station of an employee.

Automobile - Any car, truck, pickup, or other equipment or vehicle.

**22.03 Uniform Smoking Policy.** Smoking and the chewing of tobacco is prohibited twenty-four (24) hours of the day, every day, in all enclosed work and common areas, facilities, and automobiles.

Smoking is permitted in outdoor areas unless the smoke could be drawn into a workplace or common area. All employees who elect to smoke in outdoor areas are responsible for the proper maintenance and/or removal of all smoking debris.

The City-wide smoking policy applies to all City work and common areas, whether in an individual or shared office space, or an automobile. The policy also applies to all persons who visit enclosed work and common areas during all hours and days of the year. These persons include all officers, employees, contractors, and members of the general public.

**22.04 Violations.** Discipline may be imposed, in accordance with the Personnel Policy, on any employee who violates the City smoking policy. The primary objective of discipline is to correct the behavior in violation of the policy, not to punish employees who smoke.

## Chapter 23

### WHISTLEBLOWER POLICY

**23.01 Policy Statement.** It is the policy of the City of Toppenish to encourage its employees to report improper governmental action taken by City officers or employees. It is also the policy to protect City employees, who in accordance with City policies and procedures have reported improper governmental actions, from retaliatory action.

#### **23.02 Definitions:**

Improper Governmental Action - Any action by a City officer or employee that is undertaken during the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment, and does the following:

1. violates any Federal, State, or local law or rule;
2. abuses authority;
3. is of substantial and specific danger to public health or safety; and
4. is a gross waste of public funds.

This does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements, or reprimands.

Retaliatory Action - An adverse change in the terms and conditions of an employee's employment.

Emergency - A circumstance that, if not immediately changed, may cause damage to persons or properties.

**23.03 Reporting Procedures.** An employee who becomes aware of an improper governmental action raises the issue first with the employee's immediate supervisor. If the supervisor requests, the employee must submit a written report to the supervisor or to a person designated by the supervisor. The written report states in detail the basis for the employee's belief that an improper governmental action has occurred. When an employee believes that the action involves the immediate supervisor, the employee may raise the issue with the Department Director, City Manager, or any such person whom the City Manager designates to receive reports of improper governmental action.

The employee may report the improper action directly to the governmental agency responsible for investigating improper governmental actions when an employee believes that damage to persons or properties may result if immediate action is not taken.

The immediate supervisor, Department Director, City Manager, or City Manager's designated representative takes prompt action in assisting the City to properly investigate the report of improper action. Employees involved in the investigation (to the extent possible under law), must keep the identity of the reporting employees confidential, unless an employee authorizes, in writing, the disclosure of their identity.

After an investigation has been completed, the employee reporting the improper governmental action is given a summary of the results of the investigation. However, personnel actions taken as a result of the investigation may be kept confidential.

If an employee believes the City's investigation of the improper action is inadequate, the employee may report the action directly to the government agency responsible for investigating improper actions. An employee may also turn to the government agency if they believe the City's action against the improper action is insufficient or believes that the improper action is likely to recur.

If an employee fails to make a sincere attempt to follow the City procedures in reporting an improper governmental action, the employee will not receive the protection provided by the City in these procedures.

**23.04 Protection from Retaliatory Actions.** Employees are prohibited from taking retaliatory action against an employee who, in good faith and accordance with the proper procedures, has reported an improper governmental action.

An employee who believes that they have been retaliated against shall advise the employee's Department Director, the City Manager, or the City Manager's designated representative. The Department Director, the City Manager or representative shall take appropriate action to investigate and address complaints of retaliation.

If the employee's Department Director, the City Manager, or the City Manager's designated representative does not satisfactorily resolve an employee's complaint concerning retaliation, the employee may obtain protection under this Policy and in accordance with State law by providing a written notice to the City Council. The notice must specify the alleged retaliatory action and the relief requested.

An employee shall provide a copy of their written charge to the City Council, with a copy to the City Manager, no later than thirty (30) calendar days after the occurrence of the alleged retaliatory action. After receiving the charge of retaliatory action, the City Council shall respond within thirty (30) calendar days.

Hearing - After receiving the response from the City Council or thirty (30) calendar days after the delivery of the charge to the Council, the employee may request a hearing before a State administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing delivers the request for a hearing to the City Manager within the earlier of these dates: either fifteen (15) calendar days after the delivery of the City Council's response to the charge or forty-five (45) calendar days after the charge was given to the City Council for response.

Hearing Procedure - Upon receiving a request for a hearing, the City Manager, within five (5) working days, applies to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings  
P.O. Box 42488, 4224 Sixth S.E.  
Row Six, Building 1  
Olympia, WA 98504-2488  
(360) 664-8717 Fax (360) 664-8717

The City shall consider any recommendation that the retaliator be suspended, with or without pay. As provided by the administrative law judge, the City shall also consider that the retaliator be discharged.

**23.05 Whistleblower Responsibilities.** The City Manager is responsible for implementing the City's policies and procedures for reporting improper governmental action and for protecting employees against retaliatory actions. The City Manager's responsibilities include ensuring that this policy and these procedures are permanently posted where all employees shall have reasonable access to them; ensuring that this policy and these procedures are made available to an employee upon request; and ensuring that this policy and these procedures are provided to all newly appointed employees.

Department Directors and supervisors are responsible for ensuring that the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including discharge.

A list of agencies, who are responsible for enforcing Federal, State, and local laws and for investigating other issues involving improper governmental action is attached as Appendix A of this Manual. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the City Manager.

## Chapter 24

### AMENDMENTS

**24.01 Amendments to the Personnel Policy:** The City Manager may amend, change, and revise this Personnel Policy. The City Manager will provide written notice to each of the Union presidents of any proposed amendments, changes or revisions to the Personnel Policy Manual. The Union presidents will have thirty (30) days to respond in writing what, if any, comments they may have.

Employee Advisory Committee Recommendations - The Employee Advisory Committee, upon authorization of the City Manager, may review and recommend revisions to this Personnel Policy for the purpose of enabling employees to propose suggestions for revisions.

Employee Recommendations - Any employee may suggest an amendment, change, or revision by submitting suggestions in writing to the City Manager.

The City Manager retains final authority to approve or disapprove proposed revisions made by an employee or by the Employee Advisory Committee.

All amendments, changes, and revisions are made available to all City employees in the manner and form approved by the City Manager.

**24.02 Saving Clause.** If any section, subsection, paragraph, sentence, or phrase is found by a court to be invalid or unconstitutional, such findings shall not affect the remainder of this Personnel Policy.

## Chapter 25

### DEFINITIONS

The following terms, whenever used in the Personnel Policy, are defined as follows:

Accumulated Vacation Leave - The hours/shifts an employee has in their records and that are added on a monthly basis.

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

The length of such leave is solely at the discretion of the City based upon the below authorities, except that the length of the leave shall not exceed the length of the situation for which the leave is authorized.

1. Administrative leave for one (1) week or less may be granted by the Department Director; or
2. Administrative leave in excess of one (1) week may be granted by a Department Director with the approval of the City Manager.

For employees in positions exempt from the Fair Labor Standards Act, administrative leave may also be approved to compensate for unusual, non-customary work demands.

Advancement - A salary increase within the limits of the pay range established for a classification.

Allocation - The official assignment of an individual position to the proper classification according to the duties performed and authority exercised.

Anniversary Date - The initial date of regular employment in a budgeted City position and the date from which vacation leave, sick leave, and longevity will be computed.

Appeal Procedure - The established procedure to follow when an employee files an appeal because of action taken against that employee.

Appeal Rights - The right of an employee to appeal for a hearing as a result of action taken against the employee.

Appointing Authority - The City Manager or the City Manager's designee has the authority to make appointments to fill positions.

Appointment - The offer to and acceptance by a person for a position according to this Policy.



Appointment Date - The date that a newly hired employee (temporary or trial service) begins work for the City.

Armed Forces - Includes the Army, Navy, Marine Corps, Coast Guard, Air Force and their auxiliaries.

At Will Employment - The employment relationship for all employees not covered by a collective bargaining agreement or Civil Service rules and regulations may be terminated at any time by either party with or without cause or notice.

Bereavement - The death of a member of the employee's immediate family and/or the death of a loved one which may require the presence of the employee. The following is the definition for immediate family of the employee or spouse of the employee: Parent, child, spouse, brother, sister, son-in-law, daughter-in-law, grandparent, grandchild, and equivalent step relatives); for other extended family members, the definition is aunts, uncles, nieces, nephews or cousins.

Budgeted Position - A position that is funded in the City's annual budget.

Candidate - An applicant who is participating in the recruitment for a position.

Child - Biological or adopted child, or a stepchild, who is financially dependent on and/or living with an employee.

City - The City of Toppenish, Washington.

City Council - The City Council of the City of Toppenish.

City Department - A major functional sub Office of City government that is accountable through the Department Director to the City Manager.

City Service - The performance of official duties and responsibilities for the City.

Civil Service Commission - A City Council appointed commission that meets as needed to administer the established City of Toppenish Civil Service Rules and Regulations for civil service covered Police and uniform Fire personnel. These Rules and Regulations have been enacted under the provisions of the State of Washington RCW 41.08, RCW 41.14 and City of Toppenish Municipal Code, Chapter 2.33.

Classification - A group of positions with similar or equal duties, responsibilities, and pay ranges.

Classification Title - A name assigned to a position that indicates a particular level of rank and specific duties and responsibilities.

Compensation - The salary/wage and all other forms of valuable consideration earned by, or paid to, any employee in remuneration for services in any position.

Covered Employee - A person in a position covered by the overtime provisions of the Fair Labor Standards Act, also referred to as a "non-exempt" employee.

Demotion - A reassignment to a position or classification with a lower pay range. Demotions may be involuntary if associated with a disciplinary action or voluntary which includes changes by employee preference (location, hours, environment, etc.) and demotion to avoid layoff. In either case, the demotion shall be approved only if the employee is qualified to assume the duties of the new position/classification.

Department Director - The professional employee who administers the operation of a City department and is directly responsible to the City Manager.

Department Guidelines - Guidelines issued by a Department Director and approved by the City Manager designed for specific types of activities within a department's operation.

Disabled War Veteran - A disabled person who has served in active duty of the Armed Forces of the United States during any recognized period of war and who has been discharged or released under other than dishonorable conditions. A "period of war" includes World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the U.S. Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of Congress. (RCW 41.04.005)

Discharge - A disciplinary termination of employment.

Disciplinary Action - There are several types of disciplinary action that may include, either individually or in combination; an official reprimand (verbal or written), disciplinary probation, suspension, reduction in salary, demotion or discharge.

Disciplinary Probation - A form of disciplinary action for a period that generally will not exceed six (6) months.

Diversity Management - The policy of the City that seeks equality in employment opportunities and access to services and programs for all applicants and employees regardless of race, religious creed, ancestry, sex, age, marital status, physical or mental disability, national origin, or any other protected status, and that honors and supports cultural and other work force differences as an enhancement to productivity and service.

Eligibility - A candidate whose name is recorded on an eligibility or reinstatement list.

Eligibility List - A record of the names of persons who have been found qualified through suitable examination for employment in a specific position or classification.

Emergency - As it relates to City operations, an unforeseen circumstance beyond the control of the municipality that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

Employee or Incumbent - A person legally occupying a position in the City service. Such persons include, but are not limited to, the following:

1. Regular Full-Time Employee - Employees who work forty (40) hours (or the designated work week per week in a budgeted position. This person has successfully completed the trial service period and has been retained according to the Personnel Policy provisions.
2. Regular Part-time Employee - Employee's working in a budgeted position whose normal work schedule is less than forty (40) hours per week. This person has successfully completed the trial service period and has been retained according to the Personnel Policy provisions. Regular part-time employees are paid at the equivalent hourly rate of the range and step in the classification to which they are appointed and receive benefits on a pro-rated basis commensurate with their budgeted part-time hours.
3. Trial Service Employee - An employee working in a six- to twelve-month test period in which employee must prove their ability to perform the duties of the appointed position before they can become a regular full-time or regular part-time employee.
4. Temporary Employee - A person appointed to a temporary position or temporarily appointed to a regular position. A temporary position means a position budgeted for a set period of time on an hourly, daily, weekly, seasonal, or call-in basis. This period of time will normally not exceed six (6) consecutive months of continuous employment.
5. Emergency Employee - A person employed to meet unexpected operational emergencies for a temporary period in a position not specifically authorized or funded in the budget.

Employment Date - See Anniversary Date.

Exempt Employee - A person in a budgeted position exempt from the overtime provisions of the Fair Labor Standards Act as an executive, administrative, or professional employee.

Fair Labor Standards Act (FLSA) - A Federal law enacted by the United States Congress in 1938, which sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act ([www.dol.gov/elaws/flsa.htm](http://www.dol.gov/elaws/flsa.htm)).

Family Medical Leave Act (FMLA) - A law enacted on February 5, 1993, which entitles qualified employees to up to 12 weeks of unpaid leave year per for the birth, adoption or placement for foster care of a child, to care for a spouse or an immediate family member with a serious health condition, or when unable to work because of a serious health condition ([www.dol.gov/esa/regs/statutes/whd/fmla.htm](http://www.dol.gov/esa/regs/statutes/whd/fmla.htm)).

Final Earned Rating - The final percentage score attained by a candidate in a Civil Service covered examination for a budgeted position, computed by adding the percentages earned in each part of the examination.

Grievance - A written statement of dissatisfaction about the administration of the Personnel Policy of the City of Toppenish as it affects an individual employee or group of employees.

In loco parentis - In place of a parent.

Interview Panel - An interviewing panel composed of persons who are experienced either in the field of work for which the examination is being conducted or in the technique of evaluating and rating candidates.

Lay-Off - The separation of a regular or regular part-time employee from City service without fault or delinquency on the employee's part. Reorganization, privatization, the lack of work, or the lack of funds may result in the placement of the employee's name on a layoff list.

Lay-Off List - An eligibility list of names of persons arranged in order by seniority who have had regular employment and have been separated from City service.

Military Duty - Training and service performed by an inductee, enlistee, reservist, or any entrant into any of the Armed Forces of the United States and their auxiliaries.

Non-Exempt Employee - See Covered Employee.

Non-Represented Employees - All employees appointed to budgeted positions who are not covered by collective bargaining agreements.

Office - A major unit of a department within the City organization.

Office Manager/Supervisor - An employee who administers a major unit within a City department and who is directly responsible to a Department Director.

Official Reprimand - An oral or written notice to an employee informing the employee of an action or course of conduct on their part that is cause for disciplinary action.

Open Examination - An examination open to all qualified persons including City employees.

Parent - Biological or adoptive parent, or a step-parent.

Performance Appraisal - An appraisal of the quality, quantity, effectiveness, and efficiency of work performed. The appraisal is to communicate with the employee about performance, expectations, departmental standards, provide positive feedback, define specific areas needing improvement, and to develop a specific growth plan to address learning needs. At minimum, informal appraisals are encouraged frequently; formal appraisals are made annually.

Personnel - All persons employed in City service.

Personnel Management - The process of defining and proposing policies for managing City staff and the implementation of those policies in collaboration with responsible managers and supervisors.

Policy - An approved course of action established by the City Manager or other appropriate authority.

Position - The official rank within a given classification and held by an employee with a descriptive title.

Position Classification and Compensation Plan - The City's official plan that classifies budgeted positions and sets compensation rates.

Position Description - A complete and detailed statement about the general responsibilities, essential functions, specific duties, and minimum qualifications of a specific position within a given classification, as well as decision-making responsibilities, level of supervision received and exercised, working conditions, and equipment operated.

Promotion - A change in the employment status of an employee to a position in a higher classification with a higher rate of pay and increased responsibility.

Promotional Examination - Examinations for an unfilled budgeted position open only to active employees of the City.

Promotional List - A list of employees who have been successfully tested for promotion to a more responsible position or positions.

Range - The distance between the minimum and maximum rates of pay within a given classification.

Rate of Pay - See Compensation.

Revised Code of Washington (RCW) – A compilation of all permanent laws now in force in the state of Washington.

Reclassification - The process of reassigning a position to a different classification as a result of a position audit.

Recognized Employee Organization (REO) - A collective bargaining unit.

Recruitment - Activity intended to attract, inform, evaluate, and appoint persons to City service under the provisions of this Personnel Policy.

Regular Employee - See Employee.

Reinstatement List - See Lay-off List.

Rejection - The separation from employment during the employee's trial service period.

Relative - Any person related to the employee including spouses, children, brothers, sisters, half-brothers and sisters, step-brothers and sisters, parents, step-parents, aunts, uncles, nephews, nieces, first cousins, grandparents, grandchildren, and the spouses of the above.

Represented Employees - All employees appointed to budgeted positions who are covered by collective bargaining agreements.

Retirement - Official retirement from a budgeted position and City service that is available when

the requirements of the employee's retirement system are met.

Salary Date - The date on which an employee's rate of pay becomes effective and on which advancements within the pay plan are based.

Separation Date - The last day of an employee's work in City service, after which no vacation or sick leave is accrued or used.

Shall - As used in this Personnel Policy "shall" is mandatory, and is reserved generally for policies governed by Federal or State laws.

Step Date - The date in which the employee moves within their assigned classification pay range to the next higher pay step. An employee's step date is established by the following personnel actions:

- Initial appointment - upon successful completion of the non-represented employees trial service period, the initial step date shall be established; the step date for represented employees will be one year following their appointment date;
- Stand-by Status - An employee required during impending need to be available by a pager or telephone number known to the employee's immediate supervisor and/or the Police Department. Such an employee is prepared to report for duty within thirty (30) minutes and is considered to be on stand-by duty until relieved by the employee's supervisor.

Supervisor - An employee hired and/or appointed by the City Manager at the recommendation of the director of the employee's department to assign/direct and evaluate the work of other employees within designated work unit or Office of the same department.

Suspension - The temporary separation of an employee from their position, with or without loss of pay, for pending disciplinary action, disciplinary action, or for another reason as determined necessary by the employee's supervisor, and for a defined period of time.

Tenure - Status granted to an employee, after a trial service period indicating that the position or employment is regular.

Termination - The separation of an employee from City service. Termination may be by discharge, death, lay-off, resignation, retirement, work completion, contracting out City services, or lack of work or funds. The termination date is the last day of an employee's work in City service. No vacation or sick leave is accrued or used from that date forward.

Training, Education, and Development - The training and educational programs as established or budgeted by Department Directors or the City Manager for personnel in City service. Training and educational programs give opportunities for employees and volunteers to gain knowledge, skills, and abilities to perform more effectively in City service.

Transfer - A reassignment of an employee from one position to another position in the same classification or another classification having the same pay range, involving the performance of

similar duties, and requiring substantially the same basic qualifications.

Trial Service Period - A working test or orientation period during which an employee demonstrates, by actual performance, the employee's suitability for the duties of the position to which the employee has been appointed. The trial service period is for a minimum of six (6) months unless otherwise designated by a collective bargaining agreement.

Unauthorized Leave of Absence - Failure of an employee to notify and receive permission from their immediate supervisor in advance of absence or failure of an employee to report for work at the beginning of their next regularly-scheduled work period. An unauthorized leave of absence includes all or any portion of a workday for which notice and approval has not been provided. An unauthorized leave of absence may be grounds for disciplinary action up to and including termination.

War Veteran - Any person who has received the Armed Forces, Marine Corps, or Navy expeditionary medal for opposed action on foreign soil. This person may belong to any branch of the Armed Forces of the United States. A "period of war" includes World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the U.S. Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of Congress. (RCW 41.04.005)

Weight - The fixed numerical value given to each part of a recruitment examination for an unfilled budgeted position. Such a value sets the relative worth of each part and is used in computing a general average.

Workday - An employee's scheduled daily hours of employment.

Workweek - An employee's schedule of work hours within an appointed week.

Y-rating - The act of "freezing" the salary of an employee when the employee moves to a new range and is currently paid above that range's maximum. The salary is frozen without any increases (including cost of living adjustments) for as long as it takes the employee's new salary range to catch up to the employee's current pay level.

## **APPENDIX A**

### **CITY OF TOPPENISH**

Toppenish City Attorney  
21 West First Avenue  
Toppenish, WA 98948  
(509) 865-4255

Toppenish Police Department  
21 West First Avenue  
Toppenish, WA 98948  
(509) 865-4355

### **YAKIMA COUNTY**

County Prosecutor  
County Courthouse  
Yakima, WA 98901  
(509) 574-1210

Yakima County  
Health District  
Yakima, WA

Yakima County Sheriff's Department  
County Court House  
Yakima, WA  
(509) 574-2500

### **STATE OF WASHINGTON**

Attorney General's Office  
1125 Washington St. SE  
PO Box 40100  
Olympia, WA. 98504-0100  
(360) 753-6200  
(360) 586-9667

State Auditor's Office  
Assistant Attorney General  
State Attorney General's Office  
PO Box 40108  
Olympia, WA 98504-0108

State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600  
(360) 407-6000

Human Rights Commission  
402 Evergreen Plaza Building FJ-41  
711 South Capitol Way  
Olympia, WA 98504-2490  
(206) 753-6770

Department of Labor & Industries  
1 (800) 354-5423



UNITED STATES

USDA, Office of Inspector General  
75 Hawthorne Street, Suite 200  
San Francisco, CA 94105-3920  
(415) 744-2851 Office  
(415) 744-2871 Fax

General Accounting Office  
Fraud Hot Line 800-424-5454  
Consumer Product Safety  
Commission  
(800) 638-2772 Hotline

Environmental Protection Agency  
Criminal Investigations  
1200 Sixth Avenue  
Seattle, WA 98101  
(206) 553-1200 or (800) 424-4EPA

Equal Employment Opportunity Commission  
909 First Ave, Suite 400  
Seattle, WA 98102-1061  
(206) 220-6883

Department of Labor  
Occupational Safety & Health (OSHA)  
200 Constitution Avenue  
Washington, D.C. 20210  
(800) 321-OSHA (6742)