

# Sample Personnel Handbook for Arkansas Cities and Towns



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# INTRODUCTION

## MESSAGE FROM THE ARKANSAS MUNICIPAL LEAGUE TO CITY OFFICIALS

The Arkansas Municipal League offers this suggested *Sample Personnel Handbook* to help your city establish guidelines concerning various personnel issues. However, employment law is heavily regulated and rapidly changing, and this sample handbook covers only general employment and personnel issues. Therefore, strict reliance on this handbook alone is neither encouraged nor advised and should never replace consultation with your city attorney. We strongly encourage you to continually monitor and update your city's personnel handbook to ensure that it continues to meet the needs of your city from both legal and employee relations standpoints. The League recommends that city officials and city attorneys conduct no less than an annual review of all items in the handbook. While this may be considered a burdensome administrative task, it could result in substantial monetary savings if it helps prevent just one lawsuit or administrative complaint from being filed against your city.

The Arkansas Municipal League legal staff has reviewed the contents of this handbook. Nevertheless, we encourage you to seek the legal advice of your city attorney in all local personnel matters and not rely solely on the contents of this handbook.

If you adopt a personnel handbook, failing to follow and enforce its guidelines may result in legal liability. For this reason, we suggest that the handbook adopted by your city be as simple and concise as possible. We strongly advise you to read this sample handbook, consider and discuss its contents, and develop a handbook that is practical and useful for your city. Before adopting a final version of any handbook, you should ask your city attorney to review it to ensure that it complies with federal and state laws.

Lastly, policies are of no use if city employees, supervisors, department heads, and officials are not advised of them. For that reason, this handbook contains a sample acknowledgement that should be used to ensure that every employee receives, reads, and keeps a copy of your policies.

# **PREFACE**

## **USING THIS HANDBOOK**

### **A. EXPLANATORY NOTES**

Throughout this handbook, we have included explanatory notes in brackets and italics. These explanatory notes, including all information contained in this preface, should not be included in the final version of the handbook that you develop and formally adopt.

### **B. GENDER STATEMENT**

In drafting this sample personnel policy handbook, we have avoided the use of gender-specific pronouns where possible. However, where such avoidances would have led to awkward sentences, we have used the masculine pronoun. This reference should be considered to refer to both genders alike. If you follow the same approach in your personnel handbook, we suggest you adopt a gender statement similar to the one that follows:

Reference is made throughout this manual to the personal pronouns “his,” “him,” and “he.” The use of these words is not intended to imply gender, and consequently, such references mean both male and female.

### **C. A SPECIAL WORD ABOUT UNIFORMED EMPLOYEES**

The Arkansas Municipal League did not attempt to develop separate sample handbooks for uniformed city employees and non-uniformed city employees. Uniformed departments are governed by numerous Arkansas statutes, including Civil Service laws in some cities. City officials should follow the specific statutes that relate to police officers and firefighters. Nothing in these guidelines should be interpreted to conflict with or override state law. To the extent that any state law provides additional or different benefits or rights to uniformed employees, the provisions of these employee guidelines shall be deemed to include those statements of law.

### **D. CHANGING ADOPTED PERSONNEL PROCEDURES**

Municipalities adopting new handbooks or revising old ones will have to repeal any previous handbooks that were adopted by ordinance and passed, by a majority vote of the council, the new or revised personnel handbook. If a new or revised personnel handbook is adopted, all employees should be notified and provided a copy of the new or revised handbook with an acknowledgment form.

# CHAPTER 1

## GENERAL POLICIES

### 1.1 PURPOSE

This Personnel Handbook contains policies, practices and procedures that are necessary to implement and administer the city's personnel system. By adopting this handbook, the city endeavors to achieve consistent treatment for all employees through the establishment of uniform guidelines and systematic procedures.

This handbook contains only general information and guidelines. It is not intended to be comprehensive or to address all the possible applications of, or exceptions to, the general policies and procedures described. For that reason, if you have any questions concerning eligibility for a particular benefit or the applicability of a policy or practice to you, you should address your specific questions to \_\_\_\_\_ [*insert title of appropriate individual*].

This handbook does not represent an employment contract or any aspect of an employment contract and should not be construed as such. The City of \_\_\_\_\_ is an at-will employer under law and nothing in this handbook shall waive the city's at-will status.

### 1.2 SCOPE

All employees of the City of \_\_\_\_\_ are subject to the application of the personnel policies and procedures described in this handbook.

### 1.3 DEFINITIONS

**DESIGNATED CAREGIVER**—Employee who has agreed to assist a physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health under the Arkansas Medical Marijuana Amendment.

**EMPLOYEE**—An individual who is compensated by and provides a service to the city regardless of the number of hours of work performed during any given time period or the length of the term of employment. The term “employee” shall not include any elected official, any voluntary, appointed member of any board, commission or authority, or any person performing services for the city on the basis of a service contract, retainer, or prescribed fee.

**EXEMPT EMPLOYEE**—Employee who is not eligible for overtime or compensatory time as defined by the Fair Labor Standards Act (FLSA).

**FULL-TIME EMPLOYEE**—Employee who is regularly scheduled to work in a position that has daily, weekly, and monthly hours as established by the city council for full-time work.

**IMMEDIATE FAMILY MEMBER**—For purposes of this handbook, this shall mean mother, father, brother, sister, son, daughter, grandparents, son-in-law, daughter-in-law, spouse, spouse's parents, or those relatives who live in the employee's household, including “step” relatives. However, with respect to FMLA leave, “immediate family” means spouse, child, or parent—but not a parent “in-law” with a serious health condition.

**NON-EXEMPT EMPLOYEE**—Employee who is eligible for overtime compensation or compensatory time off as defined by the FLSA.

**OVERTIME**—Hours worked in excess of 40 hours during a regular work week. For firefighters, hours worked in excess of \_\_\_\_\_ during a \_\_\_\_\_ day work period; for law enforcement officers, hours worked in excess of \_\_\_\_\_ during a \_\_\_\_\_ day work period.

[NOTE: The allowable maximum hours for various optional work periods will be found in the publication *The Fair Labor Standards Act - “21 Things You Should Know” on the Arkansas Municipal League's Legal FAQ page: [www.arml.org/resources/legal-faqs](http://www.arml.org/resources/legal-faqs) and included in this publication. Each city with police or firefighting employees should adopt one of the listed work periods.*]

**PART-TIME EMPLOYEE**—Employee who is regularly scheduled to work in a position whose daily, weekly, or monthly hours are less than the hours established for full-time employees.

**QUALIFYING PATIENT**—Employee who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the Department of Health under the Arkansas Medical Marijuana Amendment.

**SUPERVISOR**—Person who has been designated to oversee other employees in a department.

**TEMPORARY EMPLOYEE**—An employee hired for an intermittent or specified period of time, for a season, for a job of limited duration, or for a non-recurring work project.

**WORK WEEK**—Seven (7) day period beginning at 5:00 p.m. on Friday, except for police officers and firefighters and any other employees specifically excluded from this provision by the terms of this handbook.

## 1.4 AMENDMENTS AND REVISIONS

This manual may be amended and revised periodically as necessary at the direction of the city council.

Since personnel practices and procedures are in a constant state of change, the city will continuously review this handbook for amendments or revisions that might better serve the needs of the city and its employees. As such, this handbook has been designed to be routinely updated and amended as the need arises.

The City of \_\_\_\_\_ shall have the exclusive right to change, alter, delete, add, or modify any provision of these personnel policies at any time, with or without notice. Final approval of all changes to the personnel policies shall be approved by action of the city council. Changes made to these policies shall be communicated through standard communication channels and/or through revisions to this manual, however advance notice may not always be possible.

This policy manual supersedes all previous manuals, letters, memoranda, resolutions, and understandings unless otherwise noted.

## 1.5 DISTRIBUTION LIST

A copy of this manual and all subsequent revisions or amendments shall be distributed to all employees and elected or appointed city officials.

# CHAPTER 2

## EQUAL EMPLOYMENT OPPORTUNITY

### 2.1 EQUAL OPPORTUNITY EMPLOYER

The City of \_\_\_\_\_ provides equal employment opportunities (EEO) to all employees and applicants for employment without regard to race; color; religion; sex; national origin; age; disability unrelated to job requirements; genetic information; political status; marital status; status as a veteran or member of the military or national guard; status as a qualifying patient or designated caregiver; or any classification or activity protected by the equal protection clause or other provision of the United States or Arkansas Constitution; in accordance with applicable federal, state, and local laws. The city's commitment in this regard extends to all employment-related decisions and terms and conditions of employment, including hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, discipline, and training.

### 2.2 AMERICANS WITH DISABILITIES ACT

The City of \_\_\_\_\_ abides by the requirements of the Americans with Disabilities Act, the ADA Amendments Act, and state laws governing employment of individuals with disabilities. Qualified individuals with disabilities may be entitled to an accommodation in the application process and/or in the workplace. Any qualified individual with a disability who requires reasonable accommodation in the employment process and/or in the workplace shall notify \_\_\_\_\_ *[insert title of appropriate individual]*.

### 2.3 UNLAWFUL DISCRIMINATION AND HARASSMENT

#### 2.3.1 POLICY

The City of \_\_\_\_\_ expressly prohibits its officials or employees from engaging in any form of unlawful harassment or discrimination, on grounds such as those listed in paragraph 2.1 of this policy or any other ground protected by state or federal constitutions or laws.



Harassment or discrimination of any employee is a serious violation of city policy and will not be tolerated. Neither will workplace retaliation against someone for having complained of harassment.

### 2.3.2 PROHIBITED CONDUCT DEFINED

For the purposes of this policy, “harassment” refers to an annoying, persistent act or actions that single out an employee to that employee’s objection or detriment, because of the employee’s membership in any legally protected class or for some other trait the employee was born with (i.e., race, color, religion, sex, national origin, age, genetic information, political status, marital status, or status as a veteran or special disabled veteran, or the presence of any physical, mental, or sensory handicap). Harassment may be considered a violation of federal and/or state law.

Employees should know that they should not participate in (and do not have to tolerate) the following types of protected class harassment regardless of whether the harasser is a co-worker, supervisor, citizen, or any other person with whom the employee’s job brings him/her into contact:

- Racial harassment
- Harassment due to religion or views concerning religion
- Harassment due to national origin
- Sexual harassment (gender neutral)
- Harassment due to age of employees who are at least 40 years old
- Harassment because of disability or perceived disability
- Harassment based on color
- Harassment based on other protected categories in paragraph 2.1 of this policy

### 2.3.3 DISCRIMINATION AND HARASSMENT GENERALLY

Discrimination or harassment can take many forms and can include slurs, comments, jokes, innuendos, unwelcome compliments, pictures, cartoons, pranks, or other verbal or physical conduct, including but not limited to the following actions:

- Verbal abuse or ridicule. This includes epithets, derogatory comments, slurs or unwanted sexual advances, unwanted sexual invitations, or negative comments because of the employee’s protected class membership;
- Interference with an employee’s work. This includes physical contact such as assault, blocking normal movement, or interferences with the work directed at an individual because of the employee’s protected status;
- Displaying or distributing offensive materials. This includes derogatory or sexual posters, cartoons, emails, calendars, magazines, drawings, or gestures;
- Discriminating against any employee in work assignments or job-related training because of one of the above-referenced bases;
- Unwanted, intentional physical contact, whether it be of a sexual or other nature;
- Making protected status innuendos;
- Requesting favors (sexual or otherwise), explicitly or implicitly, as a condition of employment, promotion, transfer, or any other term or condition of employment;
- Gender-based harassment, including sexual harassment and harassment based on pregnancy, childbirth, or related medical conditions; and/or
- Retaliation for having reported harassment.

Discrimination or harassment based upon a person’s protected status is prohibited by federal and state anti-discrimination laws and violates city policy where it:

- Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
- Has the purpose or effect of unreasonably interfering with an individual’s work performance; or
- Otherwise unreasonably and adversely affects an individual employment opportunity.

### 2.3.4 SEXUAL HARASSMENT

Sexual harassment is illegal and is a serious form of misconduct. Sexual harassment of employees, non-employees, and/or citizens with whom the City of \_\_\_\_\_ has a business, service, or professional relationship, including vendors and clients, is prohibited and will not be tolerated. The City of \_\_\_\_\_ is committed to maintaining a working environment, free from all forms of sexual harassment.

Sexual harassment occurs when the verbal and physical conduct described above is sexual in nature or is gender-based, that is, directed at a person because of their gender. Sexual harassment does not refer to casual conversation or occasional compliments of a socially acceptable nature.

Sexual harassment violates federal and state law and is prohibited under the city's harassment policy when:

- Submission to the conduct is either explicitly or implicitly a term or condition of employment;
- Submission to or rejection of the conduct is used as a basis for an employment decision affecting such individual; and/or
- The conduct unreasonably interferes with the individual's job performance or creates a work environment that is intimidating, hostile, or offensive.

Sexual harassment includes, but is not limited to:

- Inappropriate physical contact, including blocking of movement, brushing against the body, coercive sexual involvement, cornering, grabbing, hugging, kissing, patting, pinching, poking, stalking, any form of sexual assault, and touching;
- Inappropriate visual contact including leering, obscene gestures, and staring;
- Posting of sexually suggestive or derogatory pictures, cartoons, or drawings, even at one's individual work station;
- Unwelcome verbal behavior, such as comments, suggestions, jokes, demeaning remarks, insults, requests, sexual innuendo, suggestive statements, slurs, or other derogatory remarks based on sex;
- Unwelcome or invasive flirting;
- Continued requests for dates and propositioning an individual; and/or
- Unwanted sexual advances, requests or pressure for sexual favors and/or basing employment decisions (such as an employee's performance evaluation, work assignments, advancement) upon the employee's acquiescence to sexually harassing behavior in the workplace.

## 2.4 COMPLAINT REPORTING AND INVESTIGATION

The city is committed to diligently enforcing its harassment policy by promptly and impartially investigating all complaints. When harassment is discovered, the city shall take appropriate disciplinary action, up to and including termination. The complaint procedure is designed to deal with complaints in a fair, discreet, and timely manner to:

- Determine if the conduct alleged in the complaint took place and constitutes harassment that violates federal and/or state law and city policy or constitutes harassment in the form of inappropriate or offensive behavior which violates city policy.
- Stop the offending behavior.
- Restore the complainant's working environment.
- Take steps to prevent retaliation and repetition of the harassment.
- Educate, sanction, or discipline the harasser consistent with the seriousness of the offense.

### 2.4.1 COMPLAINT PROCEDURES

It is every employee's and official's responsibility to ensure that his or her conduct does not constitute harassment in any form. If, however, harassment or suspected harassment has or is taking place:

1. An employee must immediately report the harassment or suspected harassment, in writing, to the \_\_\_\_\_ [*insert title of appropriate individual*]. If the \_\_\_\_\_ [*preceding title*] is the source of the alleged harassment, or is so closely associated with the source of the harassment that the employee does not feel comfortable reporting to that person, the employee may report the complaint to \_\_\_\_\_ or \_\_\_\_\_ [*insert title of appropriate individuals*].
2. Employees have a responsibility to report harassment. Employees should not wait to report the harassment or discrimination until the acts become so pervasive or offensive that they create a hostile working environment. Employees should note that failure to report harassment creates a situation where a harassed employee's situation is much more likely to remain unresolved. The very worst thing for an employee to do in a harassment situation is fail to report it.
3. If the complaint involves sexual harassment and the complaining employee prefers to speak with a person of the employee's same gender, the city will make every effort to accommodate that request.
4. Any supervisor or department head who learns of or receives a complaint of harassment through any means (including witnessing, overhearing, learning of a rumor, or otherwise becoming aware of alleged harassment in the workplace) is obligated to report it to the \_\_\_\_\_ [*insert title of appropriate individual*].

5. Each complaint shall be treated confidentially and be fully investigated internally. A determination of the facts and an appropriate response will be made on a case-by-case basis.

If it is determined that harassment has occurred, the city shall take appropriate corrective disciplinary action, which may include but is not limited to, verbal and/or written warnings, probation, suspension, demotion, and/or termination.

If the investigation does not find that harassment occurred or that the alleged incident(s) did not constitute harassment, the matter shall be referred back to the \_\_\_\_\_ [insert title of appropriate individual] for further appropriate action. For example, if workplace misconduct may have occurred but not harassment, the \_\_\_\_\_ [insert title of appropriate individual] shall determine the manner in which to act upon the findings set forth in the investigation report.

#### 2.4.2 RETALIATION

No employee shall be subject to any form of retaliation or discipline for pursuing a harassment complaint, and no witnesses shall suffer retaliation as a result of their involvement in the investigation. The City of \_\_\_\_\_ will not tolerate harassment or any form of retaliation against an employee who has either instigated or cooperated in the investigation of alleged harassment. Disciplinary action will be taken against those who are found to have violated the city's policy against such retaliation.

#### 2.4.3 FALSE ACCUSATIONS

Employees who have genuinely been subjected to harassment are encouraged to come forward and report it, so that the city can take action to stop the problematic behavior. This is because harassment is harmful to others and cannot be tolerated. Conversely, if false accusations are proven to have been intentionally made against others by an employee who knows (or has reason to know) that the allegations are false, this would be considered equally harmful by the city, and—as is the case of someone proven to be harassing others—would result in appropriate disciplinary action.

## CHAPTER 3

### GENERAL EMPLOYMENT POLICIES

#### 3.1 AT-WILL EMPLOYER

The City of \_\_\_\_\_ is an at-will employer. This means that the City of \_\_\_\_\_ or any of its employees may terminate the employment relationship at any time for any reason with the understanding that neither has an obligation to base that decision on anything but his or her intent to discontinue the employment relationship. No policies, comments, or writings made herein or during the employment process shall be construed in any way to waive this provision.

This handbook is not intended to create any contractual or other legal rights. It does not alter the city's at-will employment policy nor does it create an employment contract for any period of time.

#### 3.2 AUTHORITY TO HIRE AND FIRE

*[NOTE: State law dictates that local government department heads serve at the will of the mayor. See Ark. Code Ann. § 14-42-110. State law does not, however, indicate who has the specific authority to hire and/or fire other non-department head employees of the city.]*

*There are, of course, a variety of options a city may exercise with respect to authority to hire and fire individuals, and it is suggested that a specific option be identified, approved and stated in this section of the handbook. We recommend that this decision-making be done by those in charge of the day-to-day operations of the city, i.e., the mayor and/or the department head.*

*Obviously, the city council could engage in hiring and firing, although, as the policy maker for the city, it is suggested that this is outside the realm of the council's responsibilities. This is a local option that each city may exercise.*

*For example, in a small city, the city council may wish to engage in hiring and firing, whereas in a larger city it may not. Furthermore, in a smaller city, the local government may determine that it is appropriate for both the mayor and the*

*department head to be in some agreement before the employee is terminated and to jointly make that decision. On the other hand, you may wish to simply vest that authority in either the mayor or the department head.*

*Council or city board members should also be aware that they are not individually immune from lawsuits arising from personnel issues. Individual council members are immune from liability for action that is “legislative” in nature, such as passing ordinances or resolutions. This immunity does not apply, however, to administrative or executive action such as making individual personnel decisions or supervising city employees or department heads. Although a council as a whole is not prohibited from making personnel decisions, the council should weigh the risk of personal liability—coupled with the complexity of personal law—against the perceived need to make individual personnel decisions. Regardless of which option you choose, your decision should be clearly stated in the handbook.]*

### 3.3 JOB POSTING AND ADVERTISING

An application for employment will be accepted from anyone who wishes to apply for employment on forms provided by the city. Application forms are available in the office of \_\_\_\_\_ [insert title of appropriate contact person, i.e., personnel director, department head, etc.]. All information provided on the application must be true and correct with the provision of false information being grounds for elimination of consideration for hiring and/or dismissal from city employment.

In the event of a job opening, the position or positions open will be announced and posted in \_\_\_\_\_ [insert name of periodical wherein announcement is placed or location of posting] at least ten (10) days prior to the deadline for receiving applications. Copies of the job announcement will be distributed to city departments and as appropriate, to public and private employment agencies, local newspapers, and other sources that might recruit applicants. Recruitment resources will be notified at least ten (10) days prior to the predetermined cut-off date for receiving applications.

Applications for full-time city employment will not be accepted from anyone under eighteen (18) years of age. Except as otherwise provided by Arkansas law, the \_\_\_\_\_ [insert title of appropriate individual] is authorized to make the final decision with respect to hiring new employees and promoting existing employees.

### 3.4 EMPLOYMENT APPLICATIONS AND RESUMES

The City of \_\_\_\_\_ relies upon the accuracy of information contained in the employment applications and resumes submitted by prospective employees, as well as other information provided throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information may result in the exclusion of the individual from further consideration for employment or, if the person has been hired, in termination or other disciplinary measures.

### 3.5 POST-OFFER PRE-EMPLOYMENT PHYSICALS

Post-offer pre-employment physicals will be required for every applicant to be hired for the city in a permanent employment position. Such examinations shall be paid for by the city. The examinations shall be performed by licensed physicians selected by the \_\_\_\_\_ [insert title of appropriate individual]. A summary report of the examining physician shall be provided to the \_\_\_\_\_ [insert title of appropriate individual] as to whether the applicant can perform the job sought and what, if any, restrictions are necessary to determine any necessary work restructuring or accommodations. Although the physicians may make the medical determinations relative to physical/mental requirements of the job and any direct safety threat determinations, their determinations are only recommendations; final authority to hire rests with the city. Only in cases of emergency may an applicant begin work prior to the post-employment job offer medical examination, but employment is subject to the applicant’s passing such examination.

Reports and records of all physical, psychological and mental exams shall be kept in the offices of the physicians or mental health practitioners with only a summary report provided to the \_\_\_\_\_ [insert title of appropriate individual] to be kept in a confidential file apart from the individual’s personnel file. The city may share such information only in limited circumstances with supervisors, managers, first aid and safety personnel, government officials investigating compliance with the ADA, state workers’ compensation offices, state second injury funds, workers’ compensation insurance carriers, health care professionals when seeking advice in making reasonable accommodation determinations, and for insurance purposes. Should there be a dispute concerning the exam, or should a supervisor be informed as to the need of reasonable accommodation including job restructuring, the report shall be made available to the necessary legal and supervisory or administrative personnel within the city government.

### 3.6 FITNESS FOR DUTY EXAM

Employees who, due to mental or physical disabilities, are rendered unable to perform their essential job functions with or without reasonable accommodation or who pose a direct safety threat to themselves or others shall be subject to a fitness for duty examination. Based on the findings of the exam and other job restructuring factors, the \_\_\_\_\_ [*insert title of appropriate individual*] shall take such action that is necessary to ensure that the requirements of the individual's position are satisfied.

### 3.7 THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991

It is the City of \_\_\_\_\_'s intent to comply with all regulations and requirements of the Omnibus Transportation Employee Testing Act of 1991. City employees required to have a Commercial Driver's License (CDL) must comply with all regulations in the 1991 Omnibus Transportation Act. The Act requires alcohol and drug testing for all city employees whose jobs require a CDL. These tests include pre-employment, post-accident, random, reasonable suspicion, and return-to-duty and follow-up testing. The City of \_\_\_\_\_ will not permit an employee who refuses to submit to requisite testing to perform or continue to perform any activity that requires a CDL. All CDL drivers must obtain from the city of \_\_\_\_\_ the city's written substance abuse policy. CDL drivers are required to read this material and sign a statement acknowledging that they have received a copy of the city's Substance Abuse Policy.

### 3.8 DRUG AND ALCOHOL TESTING

The City of \_\_\_\_\_ has a responsibility to ensure safe-working conditions for its employees and a productive city workforce unimpaired by chemical substance abuse. To satisfy these responsibilities, the city is committed to maintaining a work place that is free from the effects of drugs, alcohol, or other performance-impairing substances. All employees are expected to obey all laws regarding the use of illegal drugs or alcohol. The city prohibits the possession, unlawful manufacturing, distribution of illegal drugs or the abuse of alcohol or prescription drugs while on city premises during work hours.

[*Optional*] This city policy provides for testing for drug and alcohol abuse by employees who hold safety or security sensitive positions which otherwise are not covered by the controlled substance screen requirements of the Federal Motor Carrier Safety Regulation. [NOTE: *the Fourth Amendment to the United States Constitution prohibits random drug testing of many municipal employees, and allows "reasonable suspicion" testing only as to those employees. Employees who are "safety or security sensitive" as defined by court decisions may be randomly tested if the city so provides in its policy. The Arkansas Municipal League operates a non-CDL drug testing program. For further information on this program please refer to the League Publication titled Drug Free Workplace for Non-Commercial Driver's License Employees available at [www.arml.org/services/publications/publications-for-free](http://www.arml.org/services/publications/publications-for-free). For a summary of the law on drug testing, see Municipal Law in Arkansas, Questions and Answers.*]

[*Optional*] The City of \_\_\_\_\_ prohibits the possession, smoking, or otherwise use of medical marijuana on city premises. The City of \_\_\_\_\_ reserves the right to take action based upon the good faith belief that a qualifying patient was under the influence of marijuana while on the premises of the employer or during the hours of employment, provided that a positive test result for marijuana cannot provide the sole basis for the employer's good faith belief. [*The Arkansas Medical Marijuana Amendment of 2016 does not permit a person to possess, smoke, or otherwise engage in the use of marijuana in a public place. The Amendment allows employers to establish and implement a drug-free workplace policy and allows employers to prevent employees from working under the influence of marijuana on employer premises or during employment hours.*]

Any city employee who violates this substance abuse policy, or who is convicted of an alcohol or drug violation, will be subject to disciplinary action, up to, and including dismissal, as allowed by federal, state, and local laws.

#### 3.8.1 FITNESS FOR DUTY

Current abuse of drugs is not a protected disability under the Americans with Disabilities Act (ADA). The city will not hire anyone who is known to currently abuse drugs. Furthermore, all employees are expected to report to work in a fit condition to perform their duties. Employees on official business or representing the city on or off of the work place are prohibited from purchasing, transferring, using or possessing illegal drugs or from abusing alcohol or prescription drugs in any way that is illegal.

An employee reporting or returning to work whose behavior reflects the abuse of alcoholic beverages or drugs may be referred for a medical evaluation to determine fitness for work. Failure to report for an evaluation or follow the



recommendations of the city will result in appropriate disciplinary action, including termination, as allowed by federal, state, and local law.

### 3.8.2 NOTIFICATION

As a condition of employment with the city, employees must abide by the terms of this drug and alcohol policy and report any conviction under a criminal drug or alcohol statute including DWI convictions for violations occurring on or off city premises while conducting city business. A report of a conviction shall be made within five (5) days after the conviction. Failure to report a conviction within the five (5) day period may result in disciplinary action, including immediate termination.

### 3.9 GENETIC INFORMATION.

The city shall not request or require genetic information from an individual or family member, except as specifically allowed by the Genetic Information Nondiscrimination Act of 2008 (GINA). In making any request for medical information, the city shall include the following language to the medical provider:

“The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information,’ as defined by GINA, means, with respect to any individual, information about an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”

*[NOTE: The Genetic Information Nondiscrimination Act of 2008 (GINA) applies to employers with 15 or more employees for each working day in each of 20 or more calendar weeks.]*

## CHAPTER 4

### COMPENSATION AND MATTERS AFFECTING EMPLOYMENT STATUS

*[NOTE: Keep in mind that any employment action, whether positive or negative, should be thoroughly documented, preferably in writing and placed in chronological order within the employee’s personnel file. For suggestions on how to organize a personnel file, please refer to Model Personnel File Folder produced by and available through the Arkansas Municipal League. Regardless of the organizational method used, the League suggests that all employees’ files be maintained consistently, i.e., in the same manner, by the same person, under the same conditions.]*

#### 4.1 ATTENDANCE

Employees shall be in attendance at their work stations in accordance with the rules and regulations established by \_\_\_\_\_. Regular and punctual attendance is an essential job duty for every employee with the city.

#### 4.2 WORK HOURS

Except for police officers and firefighters, the standard workweek shall consist of forty (40) hours per week within a seven-day period, unless otherwise arranged by the \_\_\_\_\_ *[insert title of appropriate individual]* to meet specific departmental needs. Work hours for police and fire employees shall be in accordance with state statutes and departmental regulations.

Departments may vary employee’s schedules based upon departmental necessity. The standard work week is \_\_\_\_\_ through \_\_\_\_\_. Flexible work arrangements are dependent on departmental requirements and are left to the discretion of the \_\_\_\_\_ *[insert title of appropriate individual]*.

The city reserves the right to adjust and change hours of work, days of work and schedules to fulfill its responsibility to the citizens of the City of \_\_\_\_\_. In an emergency, previously scheduled hours of work, days of work, and work arrangements may be altered at the discretion of the \_\_\_\_\_ *[insert title of appropriate individual]*. Changes in work schedules will be announced as far in advance as practicable, but can be changed with little or no notice.

Whenever possible, full-time employee work schedules shall provide a rest period (break) during each four-hour work shift. Reasonable time off for a meal will be provided.

[NOTE: Employers are generally not required by law to provide rest or break periods, however most employers do so in order to maintain morale and enhance productivity through appropriate rest periods.]

### 4.3 UNAUTHORIZED WORK TIME

Because of FLSA regulations, non-exempt employees are not to commence work prior to the scheduled starting time, work during their meal break, or work past the scheduled end of their shift without prior approval of their immediate supervisor.

FLSA non-exempt employees who work unauthorized overtime hours will be subject to disciplinary action including, but not limited to, suspension without pay.

### 4.4 COMPENSATION

#### 4.4.1 REPORTING AND VERIFYING HOURS WORKED

It is each employee's responsibility to monitor and record an accurate status of the hours the employee works per payroll period to ensure that the employee is properly paid for time worked.

[NOTE: See example below for how to format a reporting section that uses a physical payroll form.]

All employees shall report their hours worked on the forms provided by \_\_\_\_\_ [insert title of appropriate individual]. It is the responsibility of each employee to properly complete a timesheet recording the time that the employee worked during every payroll period and to sign each time sheet. By signing the timesheet, each employee is verifying its accuracy. Signed and completed timesheets must be turned in on a \_\_\_\_\_ [insert appropriate timeframe, i.e., daily, weekly, etc.] basis to their supervisors for signatures. The supervisors shall forward the same to \_\_\_\_\_ [insert title of appropriate individual] in a timely manner to ensure that proper records are kept as to vacations, sick leave, hours worked, and overtime accrued and taken.

[NOTE: See example below for how to format a reporting section that uses an electronic system rather than a physical payroll form.]

All employees shall report their hours worked by utilizing the time and attendance system assigned by \_\_\_\_\_ [insert title of appropriate individual]. It is the responsibility of each employee to properly use the system as directed. All employees must submit their time worked each pay period to their supervisor for approval and payroll processing. The supervisors shall forward the same to \_\_\_\_\_ [insert title of appropriate individual] in a timely manner to ensure that proper records are kept as to time work and any leave taken.

#### 4.4.2 PAYROLL RECORDS

\_\_\_\_\_ [insert title of appropriate individual] shall keep and maintain a record of work attendance, vacation, and sick leave earned, used, and accrued, along with any other leave, whether with or without pay. These records shall be available to the department head, and individual employees shall be able to inspect their own records during normal business hours as the requirements of the employee's work duties permit.

#### 4.4.3 PAYROLL PROCEDURES AND PAYDAY

Employees are paid every \_\_\_\_\_ [insert appropriate payday schedule]. When a holiday falls on a regular payday, employees will be paid on the last working day prior to the holiday.

Each employee is responsible for monitoring the accuracy of each paycheck received. Any employee who believes that the employee's paycheck does not properly compensate him/her for all hours worked in a given payroll period should immediately report those concerns to \_\_\_\_\_ [insert title of appropriate individual].

#### 4.4.4 WITHHOLDING OF MEMBERSHIP DUES

Upon receipt of a written request signed by a full-time municipal employee who is represented by a union or professional association, the city will withhold membership dues of the union or professional association from the salary of the employee. The withholding request shall be on a form provided to the employee by the city. The city will transmit all dues that are withheld under this section to the union or professional association representing the employee within five (5) days of the end of the pay period.

A withholding initiated under this section shall be discontinued only upon receipt of a written notice of cancellation signed by the employee.

## 4.5 SALARY BASIS POLICY

The Fair Labor Standards Act (FLSA) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional, and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

### 4.5.1 SALARY BASIS REQUIREMENT

To qualify for exemption, employees generally must be paid a federally-mandated minimum salary and meet additional requirements imposed by the Fair Labor Standards Act.

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work. If the employer makes deductions from an employee's predetermined salary, i.e., because of the operating requirements of the business, that employee is not paid on a "salary basis." If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

### 4.5.2 CIRCUMSTANCES IN WHICH THE CITY MAY MAKE DEDUCTIONS FROM PAY

Deductions from pay are permissible when an exempt employee: is absent from work for one or more full days for personal reasons other than sickness or disability; for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness; to offset amounts employees receive as jury or witness fees, or for military pay; or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions (see policies on penalties for workplace conduct rule infractions). Also, the city is not required to pay the full salary in the initial or terminal week of employment; for penalties imposed in good faith for infractions of safety rules of major significance, or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. In these circumstances, either partial day or full day deductions may be made to the extent allowed by law.

### 4.5.3 CITY POLICY

It is our policy to comply with the salary basis requirements of the FLSA. Therefore, we prohibit all supervisors from making any improper deductions from the salaries of exempt employees.

### 4.5.4 WHAT TO DO IF AN IMPROPER DEDUCTION OCCURS

If you believe that an improper deduction has been made to your salary, you should immediately report this information to \_\_\_\_\_ [*insert title of appropriate individual*] or \_\_\_\_\_ [*insert alternative complaint mechanism(s)*].

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.



## 4.6 OVERTIME AND COMPENSATORY TIME

### 4.6.1 OVERTIME

The city will pay overtime in accordance with the Fair Labor Standards Act (FLSA) at one and one-half times the base rate or hourly rate for all hours worked in excess of the hours per week or work period set forth in the WORK HOURS section of this handbook.

Overtime will be permitted only with prior approval of \_\_\_\_\_ [*insert title of appropriate individual*] prior to the commencement of such work or when absolutely necessary due to emergency conditions. Failure to obtain prior approval before working overtime will result in disciplinary action, including but not limited to suspension without pay.

### 4.6.2 COMPENSATORY TIME

Compensation for overtime may be made in the form of compensatory leave time (“comp time”) to the employee. Compensatory time is accrued at a rate of time and a half for all hours worked in excess of 40 hours per workweek, unless the employee is working in a classification with special overtime rules under FLSA (i.e., police officers and firefighters). No civilian employee may accumulate more than \_\_\_\_\_ hours and no uniformed employee may accumulate more than \_\_\_\_ hours of compensatory time at any given time during the calendar year. Hours in excess of the specified maximum shall be paid at the appropriate overtime rate. Upon termination of employment, any unused compensatory time is to be paid at a rate equal to the employee’s then-prevailing rate of pay.

Each employee shall be responsible for maintaining accurate records of overtime hours worked. However, the overtime and compensatory records of the \_\_\_\_\_ [*insert title of appropriate individual*] shall be final with respect to the number of compensatory leave days earned of an employee. Compensatory leave should be scheduled in the same manner required for vacation days. By signing the acknowledgement enclosed in this handbook, the employee and city agree that compensatory time may be given in lieu of overtime payments. In addition, it is understood that the city may substitute monetary payment at the rate of time and one-half for any outstanding compensatory leave time. After an employee accumulates \_\_\_\_\_ hours of leave time, the city may require the employee to take compensatory leave as determined by \_\_\_\_\_.

### 4.6.3 NON-EXEMPT AND EXEMPT EMPLOYEES

Non-exempt employees are subject to the Fair Labor Standards Act (FLSA) overtime requirements and therefore are subject to the overtime policies set forth in this handbook.

Exempt employees are not subject to the FLSA overtime requirements. Certain employees are classified as exempt based upon the nature of the work, conditions of employment, and by the criteria set forth in the rules and regulations of the FLSA. Exempt employees shall not be eligible for overtime or comp time for hours worked in excess of the regular workweek.

*[NOTE: Sworn law enforcement officers and firefighters may be subject to special exceptions which permit the establishment of work periods up to 28 days. If such work periods are adopted, overtime is not measured in terms of 40-hour work weeks but should be paid for work performed in excess of 171 hours in a 28-day work period for police officers or for work performed in excess of 212 hours in a 28-day work period for firefighters.]*

## 4.7 EMERGENCY SITUATIONS

It is the policy of the city to maintain hours of operation, which make the best use of employees and resources in serving the needs of the public. Emergency situations may from time to time necessitate the closure of city offices. Such situations shall be determined by the city council after consideration of all facts. Essential personnel required to be at work under emergency situations shall receive their normal rate of pay.

At times it may become necessary to close individual offices due to limited staffing levels, special departmental meetings, etc. Department closures shall be approved by the city council. Arrangements shall be made with other departments to handle any emergency situations during the department’s closure. A skeleton crew shall remain in each department to cover phones and assist the public when at all possible.

## 4.8 TEMPORARY AND SEASONAL EMPLOYEES

On occasion, the city may hire temporary or seasonal employees who are hired for a set duration (i.e., in the form of a seasonal employee, such as a lifeguard for an outdoor swimming pool) or for a specific project. These employees are not intended to be employed on a regular basis and are employed at-will. Temporary employees may be hired full- or part-time and are paid for actual hours worked at a rate determined by the department head. Temporary, non-exempt employees are eligible for overtime for hours exceeding 40 hours per workweek, subject to all other overtime policies set forth in this handbook. A temporary employee may be employed for up to six (6) months at which time the temporary status shall be reviewed before employment is continued. Unless otherwise authorized by the city council, temporary and seasonal employees do not qualify for annual leave, sick leave, or other city benefits.

## 4.9 VACANCIES AND PROMOTIONS

It is the intent of the City of \_\_\_\_\_ to hire and promote the most qualified applicant for all vacant positions. To give the employees of the City of \_\_\_\_\_ an opportunity to apply for job vacancies, announcements of job openings will be posted on employee bulletin boards.

In accordance with equal employment opportunity guidelines and this manual, notice of job vacancies will be sent to the appropriate news media and employment agencies throughout the relevant labor market. A job description of each vacant position will be provided upon request.

The final decision regarding promotions shall be made by the \_\_\_\_\_ [*insert title of appropriate individual*] upon the recommendation of the \_\_\_\_\_ [*insert title of appropriate individual*].

## 4.10 TRAINING

The City of \_\_\_\_\_ is committed to continuing training for all employees. If an employee feels that additional training is needed, the employee is responsible for notifying the employee's department head. Expenses incurred in on-the-job training should be assumed by the city.

## 4.11 PERFORMANCE EVALUATIONS

All employees will participate in a performance review session, at least annually, with their supervisor. This review is intended to provide support for the individual; to improve the performance of the individual by providing meaningful, constructive feedback on the adequacy of performance; and to assist in the development and fulfillment of professional growth goals and job responsibilities.

Formal and documented reviews, as well as casual and undocumented discussions with your supervisor, will be a part of your performance evaluation. To the extent practicable, evaluations will be based on the direct supervisor's direct observations of each employee's performance, the quality and quantity of each employee's performance, and any additional efforts undertaken by the employee.

Your signature on formal review forms will serve as notice that the review has taken place and not whether you agree or disagree with the contents. Completed formal evaluation forms will be placed in the employee's personnel file. Please note that a performance evaluation does not necessarily mean a salary adjustment.

## 4.12 JOB SAFETY

The City of \_\_\_\_\_ strives to provide a healthy and safe working environment. Safety is largely the use of good judgment and careful work habits. If an employee is unsure of how to perform a task safely, he should ask his supervisor or department head for the correct method.

Unsafe conduct constitutes misconduct. The following safety rules should always be observed:

- Follow all departmental safety rules.
- Use all mechanical safeguards on or for employee equipment.
- Immediately cease using and report any faulty or potentially faulty equipment to the supervisor or department head.
- Immediately report any unsafe or potentially unsafe working condition or equipment.
- Immediately report any and every accident to the supervisor or department head.

Violence or threats of violence are strictly prohibited and, if confirmed, may be grounds for immediate termination.

Examples of such conduct include: harassing or threatening phone calls, email or written communication directed towards an employee or his or her friends/family members; stalking; and the destruction of personal and/or city property.

Dangerous items of any nature such as weapons, explosives, or firearms will not be permitted on city property, or in an employee's possession while conducting city business offsite. Of course, theft of any kind will not be tolerated.

[NOTE: The League has established a Loss Control Program to help cities reduce risks and prevent accidents. The League Loss Control specialist will conduct an on-site safety inspection to interested cities at no charge. Cities that wish to use the services of the Loss Control Program may call League headquarters at (501) 374-3484.]

#### 4.13 REFUSAL TO WORK

A city employee's commitment is to public service. Any work stoppage, slowdown, strike, or other intentional interruption of the operations of the city shall cause the employee to forfeit his or her employment and result in the termination of the employee from the City of \_\_\_\_\_, as allowed by federal, state, and local law.

#### 4.14 RESIGNATION/TERMINATION

Employees who wish to terminate their employment with the City of \_\_\_\_\_ are urged to notify the city at least two (2) weeks in advance of their intended termination. Such notice should preferably be given in writing to the employee's department head or supervisor. Although not required, proper notice generally allows the city sufficient time to calculate all final accrued monies due the employee for his or her final paycheck. Without adequate notice however, the employee may have to wait until after the end of the next normal pay period to receive such payments.

Employees who plan to retire are urged to provide the city with a minimum of two (2) months notice. This will allow ample time for the processing of appropriate pension forms to ensure that retirement benefits to which an employee may be entitled commence in a timely manner.

All employment relationships with the City of \_\_\_\_\_ are on an at-will basis. Thus, although the City of \_\_\_\_\_ hopes that the relationship with employees are rewarding, the city reserves the right to terminate the employment relationship of any employee at any time for any lawful reason.

#### 4.15 EXIT INTERVIEWS

Employees whose employment has terminated may be requested to participate in an exit interview and sign an exit interview form at the time of termination. During the interview, matters of final pay and benefits will be discussed, and the employee will be required to return any city property in the employee's possession or which was entrusted to him/her.

#### 4.16 JOB DESCRIPTIONS

It shall be the responsibility of the \_\_\_\_\_ [insert title of appropriate individual] to maintain a job description on file for each position in the department. The job description should include scope of responsibility, essential job functions, minimum qualifications, working conditions, physical requirements, and an employee acknowledgment.

## CHAPTER 5

### BENEFITS

#### 5.1 VACATIONS

##### 5.1.1 POLICE DEPARTMENT

Pursuant to Ark. Code Ann. § 14-52-106, each employee shall be granted a minimum accrual of an annual vacation of not less than fifteen (15) working days with full pay.

All employees of the police department shall accumulate vacation time at the rate of one and one-quarter (1¼) working days for each month of working service. A working day is defined for purposes of this section as eight (8) hours, regardless of the length of a shift typically worked by the employee. Vacation time for December shall accrue on the first day of the month so that the employee will have the vacation time available to use before the end of the year.

The police chief shall see that employees of the police department take all of their vacation time before the end of the calendar year, or shortly thereafter.

## 5.1.2 FIRE DEPARTMENT

Pursuant to Ark. Code Ann. § 14-53-107, each employee shall be granted a minimum accrual of an annual vacation of not less than fifteen (15) days with full pay.

All employees of the fire department shall accumulate vacation time at the rate of one and one-quarter (1¼) calendar days for each month of working service. The chief shall require all employees to take their vacations in increments of five (5) or more consecutive days. A working day is defined for purposes of this section as eight (8) hours, regardless of the length of a shift typically worked by the employee. Vacation time for December shall accrue on the first day of the month so that the employee will have the vacation time available to use before the end of the year.

*[NOTE: The statutes cited above have not been reproduced in their entirety. Before your city adopts a personnel handbook, please review the statutes and edit these sections accordingly.]*

## 5.1.3 VACATION TIME FOR NON-UNIFORMED EMPLOYEES

*[NOTE: The following provides a sample vacation policy only. The vacation days discussed are not required by law, and with the exception of uniformed personnel discussed above, cities and towns are not obligated to provide the number of vacation days discussed below. You should determine the number of vacation days available to employees and state them clearly in the handbook that you develop and adopt.]*

After six months of full-time employment, employees accrue five (5) working days of paid vacation annually. After one (1) year of full-time employment, employees accrue ten (10) working days of paid vacation annually. After five (5) year of full-time employment, employees accrue fifteen (15) working days of paid vacation annually.

#### 5.1.4. VACATION ACCRUAL RATE

YEARS OF SERVICE	VACATION
Less than 6 Months	None
6 months But Less Than 1 Year	5 Working Days
1 Year But Less Than 5 Years	10 Working Days
5 Years or More	15 Working Days

Accrued vacation time will be paid if the employee leaves the employment of the city. No more than five (5) vacation days may be carried over six (6) months past the anniversary date without prior written approval of the \_\_\_\_\_ [insert title of appropriate individual]. Accrued vacation days not taken within this time period will be deemed used.

Policies concerning vacation time for non-uniformed employees in no way alter the City of \_\_\_\_\_'s at-will employment policy as described in this personnel handbook.

#### 5.1.5 SCHEDULING VACATIONS

Each full-time employee may take accrued vacation with full pay at such time as is mutually agreed upon between the employee and their supervisor. All vacation leave must have the advance approval of the employee's supervisor, so that the leave fits in to the overall scheduling of the department. Employees should notify their department heads at least \_\_\_\_\_ days in advance of being absent for vacation time. The permissible number of employees taking vacation any one time will be governed determined by the \_\_\_\_\_ [insert title of appropriate individual, i.e., department head, etc.] based upon departmental work loads. The city reserves the right to alter vacation schedules.

Approval of vacation leave requests falls under the discretion of \_\_\_\_\_ [insert title of appropriate individual]. The \_\_\_\_\_ [insert title of appropriate individual] evaluates each request on a case-by-case basis and determines approval based on the timeliness of the request and the departmental needs. Maximum vacation leave to be taken at any one time is fifteen (15) days, unless advance approval is granted.

#### 5.2 HOLIDAYS AND HOLIDAY PAY

The appropriation made by the city council for salaries shall include additional pay for holidays for all agents, servants, and employees of the city, including, but not limited to, uniformed employees, as provided by the laws of the State of Arkansas.

[NOTE: The following holidays are provided by way of example only. Cities are not obligated to provide the following holidays with pay and should determine which, if any, to observe as paid days off.]

HOLIDAY	DAY/DATE
New Year's Day	January 1st
Martin Luther King Jr. Day	Third Monday in January
George Washington's Birthday or Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veterans' Day	November 11th
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	Fourth Friday in November
Christmas Eve	December 24th
Christmas Day	December 25th

The City of \_\_\_\_\_ will publish a holiday schedule for the sequent year no later than \_\_\_\_\_ of each year. The city reserves the right to change observance of any published holiday. Firefighters and law enforcement officers shall be paid for each holiday established by the city, in addition to their regular rates of pay. This additional pay shall be [CHOOSE ONE OF THE FOLLOWING TWO METHODS] prorated and paid during the regular payroll periods [OR] paid

in one lump sum annually on the \_\_\_ day of December. Holiday pay is defined for purposes of this section as pay for an eight (8) hour day, regardless of the length of a shift typically worked by the employee.

### 5.3 INCLEMENT WEATHER

In the event city offices are open but a non-essential employee is unable to report to work due to inclement weather conditions, the employee may elect to use vacation, or accrued comp time. The employee must report their absence to their immediate supervisor to remain in pay status for any such absence. Failure to report your absence could result in disciplinary action, up to and including termination.

The decision regarding inclement weather will be communicated [*place where inclement weather will be communicated, such as local television states and/or city website*].

Essential personnel are those employees who are required to provide mandatory services, and who must be on the job regardless of weather conditions. \_\_\_\_\_ [*insert title of appropriate person here*] will ensure that those employees designated as essential services for their department are aware of this designation and understand that they are required to report to or remain at work.

### 5.4 SICK LEAVE

#### 5.4.1 POLICE DEPARTMENT

Pursuant to Ark. Code Ann. § 14-52-107, law enforcement officers, regardless of their titles, shall accumulate sick leave at the rate of twenty (20) working days per year beginning one (1) year after the date of employment. If unused, sick leave shall accumulate to a maximum of sixty (60) days. A working day is defined for purposes of this section as eight (8) hours, regardless of the length of a shift typically worked by the employee.

Time off may be charged against accumulated sick leave only for such days that an officer is scheduled to work. No sick leave, as provided in this section, shall be charged against any officer during any period of sickness, illness, or injury for any days which the officer is not scheduled to work.

If, at the end of his term of service, upon retirement or death, whichever occurs first, any police officer has unused accumulated sick leave, he shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death. Payment for unused sick leave will not be made when the officer's employment terminates for any reason other than death or retirement. Payment for unused sick leave in the case of a police officer shall not exceed sixty (60) days' salary (Ark. Code Ann. § 14-52-107).

*[NOTE: With respect to the last sentence of the foregoing paragraph, the city may pass an ordinance allowing payment for up to ninety (90) days of unused sick leave under Ark. Code Ann. § 14-52-107(c).]*

#### 5.4.2 FIRE DEPARTMENT

*[NOTE: In August 2005, the Arkansas Legislature revised Ark. Code Ann. § 14-53-108 and changed the statutory sick leave provisions pertaining to firefighters.*

*Significantly, the new revisions mandate that all firefighters employed by cities of the first and second class shall accumulate sick leave in accordance with a municipal ordinance at the rate of not less than ten (10) working days nor more than twenty (20) working days per year, beginning one (1) year after the date of employment.*

*Cities of the first class, cities of the second class, and incorporated towns shall have the option of providing sick leave for firefighters to accumulate at a rate of fifteen (15) twenty-four-hour working days per year beginning with the date of employment and decreasing to twelve (12) twenty-four-hour working days beginning four (4) years after employment.*

*The sick leave statute states that the number of days of sick leave in effect for firefighters employed by cities of the first and second class on January 1, 2005, shall remain in effect until changed by municipal ordinance. However, if the ordinance in effect falls short of the minimum number of sick days as discussed above, the ordinance should be changed accordingly to comply with the mandated minimum days.*

*In cities having sick leave provisions through ordinance, the total sick leave accumulated by the individual firefighter shall be credited to him or her and new days accumulated under the provisions of this section until the maximum prescribed below is reached.*

*If the governing body of the employing municipality successfully reduces the accrual rate, no firefighter shall have any previously earned sick leave reduced in value.*



*The following suggested language reflects other changes effected by the new revisions to the sick leave statute.]*

In accordance with municipal ordinance and Ark. Code Ann. § 14-53-108, all firefighters shall accumulate sick leave in accordance with a municipal ordinance at the rate of \_\_\_\_\_ working days per year, beginning one (1) year after the date of employment. For purposes of calculating sick days, a “working day” shall be calculated as that period of time a firefighter is on duty within a 24-hour period. If a firefighter is on duty for twelve (12) hours or more in a 24-hour period, a working day shall not be less than twelve (12) hours or more than 24 hours.

*[NOTE: If you are a city of the first or second class or an incorporated town and choose to provide sick leave for firefighters to accumulate at a rate of fifteen (15) twenty-four-hour working days per year beginning with the date of employment and decreasing to twelve (12) twenty-four-hour working days beginning four (4) years after employment, you should use the following language in lieu of that above: “In accordance with municipal ordinance and Ark. Code Ann. § 14-53-108, all firefighters shall accumulate sick leave in accordance with a municipal ordinance at the rate of fifteen (15) 24-hour working days per year beginning with the date of employment and decreasing to twelve (12) 24-hour working days beginning four (4) years after employment.”]*

If unused, sick leave shall accumulate to a maximum of 1,440 hours.

*[NOTE: The city by ordinance authorizes the accumulation of a greater amount, in no event to exceed a maximum accumulation of two thousand one hundred sixty (2,160) hours. If you enact an ordinance authorizing a greater accumulation, the sick leave statute states that the number of days of sick leave in effect for firefighters employed by cities of the first and second class on January 1, 2005, shall remain in effect until changed by municipal ordinance. However, if the ordinance in effect falls short of the minimum number of sick days as discussed below, the ordinance should be changed accordingly to comply with the mandated minimum days.]*

*[NOTE: Cities of the first or second class or incorporated towns which have chosen to provide its firefighters with fifteen (15) 24-hour working days per year (later decreasing to twelve (12) 24-hour working days) should use the following language with respect to payment of unused leave, in lieu of the language suggested above: “If unused, sick leave shall accumulate to a maximum of one hundred (100) 24-hour working days.”]*

Unused accumulated sick leave shall not be used for the purpose of computing years of service for retirement purposes.

Time off may be charged against accumulated sick leave only for the days that a firefighter is scheduled to work. No sick leave as provided in this section shall be charged against any firefighter during any period of sickness, illness, or injury for any days that the firefighter is not scheduled to work.

If at the end of his or her term of service, upon retirement or death, whichever occurs first, any firefighter has unused accumulated sick leave, he or she shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death.

Payment for unused sick leave in the case of a firefighter, upon retirement or death, shall not exceed three (3) months’ salary.

*[NOTE: The city may, by ordinance, authorize a greater amount, but in no event to exceed four and one-half (4 ½) months’ salary. If your city enacts an ordinance authorizing a greater amount, reflect that figure here in lieu of the 3 months discussed above.]*

### 5.4.3 NON-UNIFORMED EMPLOYEES

*[NOTE: The following provision references a specific number of sick days for illustration purposes only. Except as discussed above with respect to police officers and firefighters, cities are not obligated to provide the same number of sick days as discussed below.]*

The City of \_\_\_\_\_ recognizes that inability to work because of illness or injury may cause economic hardships. For this reason, the City of \_\_\_\_\_ provides paid sick leave to full-time employees. Eligible employees accrue sick leave at the rate of one and two-thirds (1⅔) working days per month. A working day is defined for purposes of this section as eight (8) hours, regardless of the length of a shift typically worked by the employee

Any sick leave days which are not used in any calendar year may be carried over as accumulated sick leave days for the succeeding calendar year up to a maximum of sixty (60) days.

An employee may be eligible for sick leave days for the following reasons:

- Personal illness or physical incapacity.
- Quarantine of an employee by a physician or health officer.

- Illness, injury, or death in the employee's immediate family, as defined in the definitions section of this policy, which require the employee's presence.
- Necessity of medical or dental care, including medical, dental, psychological, and optical visits.

An employee who is unable to report for work due to one of the previously listed sick leave reasons shall report the reason for his absence to the employer's supervisor or someone acting for the employee's supervisor within two (2) hours from the time the employee is expected to report for work. Sick leave with pay may not be allowed unless such report has been made as aforementioned.

Employees who are absent more than three (3) consecutive days due to illness or injury may be required by the supervisor or department head to submit a physician's statement. Employees absent from employment due to illness and under a physician's care may be requested to present a certificate of release to the department head before returning to work.

An employee who uses all of his or her accrued sick leave days shall thereafter be placed on an inactive, without-pay status, except as required to provide a reasonable accommodation as required by the Americans with Disabilities Act.

An employee may use earned sick leave while receiving workers' compensation benefits only to the extent that the leave augments the employee's workers' compensation benefit to the amount equal to that employee's regular rate of pay. An employee may use sick leave in this fashion for a maximum of six months.

Non-uniformed employees will not be paid for accrued sick days upon termination of employment with the city.

*[NOTE: This section does not govern leave under the Family and Medical Leave Act (FMLA).]*

## 5.5 FUNERAL OR BEREAVEMENT LEAVE

Funeral leave with pay up to a maximum of three (3) calendar days will be granted to all city employees in cases of death or in the circumstances of death in the immediate family (as defined in the definitions section of this policy) only. Any leave requested more than three (3) calendar days must be charged to accrued vacation or compensatory leave.

Travel time may be granted upon prior approval from the \_\_\_\_\_ *[insert title of appropriate individual]* in addition to the three (3) days where travel time of more than eight (8) hours is necessary.

The \_\_\_\_\_ *[insert title of appropriate individual]* may grant funeral leave of not more than one (1) day for an employee to be a pallbearer or attend a funeral of someone not within the immediate family.

## 5.6 MATERNITY LEAVE

Employees affected by pregnancy, childbirth or related medical conditions will be treated the same for all employment-related purposes as persons with non-pregnancy-related health impairments, illnesses, or injuries. An employee's accrued sick leave and vacation leave will be granted for maternity use, after which leave without pay must be used, in accordance with the city's family medical leave policy, if applicable.

In the event the Family Medical Leave Act is inapplicable, the employee may use accrued sick leave and/or accrued annual leave as required to the extent of exhaustion of sick leave and annual leave benefits.

### 5.6.1 NURSING MOTHERS

*[NOTE: The Affordable Care Act amended section 7 of the FLSA—effective March 23, 2010—to require employers to provide reasonable break time for an employee to express breast milk, and a secure place, other than a bathroom, to express breast milk. More information can be found at the Department of Labor's website [www.dol.gov/whd/nursingmothers](http://www.dol.gov/whd/nursingmothers).]*

Nursing mothers will be allowed reasonable unpaid break time to express breast milk. This may run concurrently with other paid or unpaid break already provided. If the employee's work space is not private and secure, we will make a reasonable effort to provide a location where the mother may express. Employees shall make reasonable efforts to minimize the disruption of the employer's operations.

## 5.7 UNIFORMED SERVICES

Certain rights to re-employment after service in the uniformed services, as well as provisions relating to pension and health benefits are established in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC 4301 et seq., and in Ark. Code Ann. § 21-4-102. It is the city's policy to honor and comply with the provisions of those statutes.



The Uniformed Services Employment and Reemployment Rights Act (USERRA) prohibits discrimination against persons because of their service in the military. USERRA prohibits an employer from denying any benefit of employment on the basis of an individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. USERRA also protects the right of veterans, reservists, National Guard members, and certain other members of the uniformed services to reclaim their civilian employment after being absent due to military service or training.

A summary of rights afforded by the Uniformed Services Employment and Reemployment Rights Act (USERRA) is contained in a poster developed by the U.S. Department of Labor and re-printed in Appendix A of this handbook. As an employer, the city shall provide to persons entitled to rights and benefits under USERRA a notice of the rights, benefits, and obligations of such persons and such employers under USERRA.

In addition, under Ark. Code Ann. § 21-4-102, employees who are members of a military service organization or National Guard unit shall be entitled to a military leave of fifteen (15) days with pay plus necessary travel time. As mentioned below, the FLSA provides further rights to family members of military personnel.

## 5.8 FAMILY MEDICAL LEAVE

The Family Medical Leave Act (FMLA) of 1993 requires cities with fifty (50) or more employees to offer up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. The FMLA also allows an employee who is the spouse, son, daughter, parent, or nearest blood relative of an injured Armed Services member to take the 12 weeks of unpaid leave plus an additional 14 weeks, for a total of 26 weeks. Eligible city employees may take unpaid leave for the following reasons:

- The birth and care of the employee's child;
- The placement of a child into an employee's family by adoption or by foster-care arrangement and to care for the newly placed child;
- For spouse, son, daughter, or next of kin of an eligible service member to care for an injured service member that is seriously injured or ill in the line of active duty, up to 26 weeks during a "single 12-month period;"
- The care of an immediate family member (spouse, child or parent, but not a parent "in-law") who has a serious health condition;
- The inability of a city employee to work because of a serious health condition which renders the employee unable to perform the essential functions of his or her job; and
- For any qualifying exigency when the employee's spouse, son, daughter, or parent is a covered military member (on active duty or is notified of an impending call to active duty) in support of a contingency operation.

You must conclude leave for the birth of a child or for adoption or foster care within twelve (12) months after the event. However, leave may begin prior to birth or placement, as circumstances dictate.

Leave entitlements for medical reasons are predicated upon the existence of a serious health condition suffered by you or an immediate family member as defined by the FMLA. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential medical care facility; or
- Continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

Generally, a condition will be considered a serious health condition if the condition or its treatment causes an employee to be absent from work on a recurring basis or for more than three calendar days.

The Family Medical Leave Act (FMLA) requires that the city maintain the health coverage of an employee eligible for FMLA under any group plan during the time the employee is on FMLA leave.

### 5.8.1 FMLA ELIGIBILITY

To be eligible for the FMLA benefits employees must: 1) be employed by the city for at least one year; and 2) have worked 1,250 hours over the previous twelve (12) months preceding the date of the leave is requested to begin. In addition, the employee must work at a location where at least 50 employees are employed by the employer within 75 miles. An employee returning from fulfilling his or her National Guard or Reserve military obligation shall be credited with the hours of service that would have been performed but for the period of military service in determining whether the employee worked the 1,250 hours of service.

Employees are required to use all sick leave which they have accrued, prior to going on leave without pay. The city shall not require the use of annual leave as part of family medical leave. The employee, at the employee's option, may use annual leave as part of family medical leave. Such paid leave status shall be included in the total of the 12 work weeks.

### 5.8.2 CALCULATION OF LEAVE

[NOTE: There are four (4) permissible methods for calculating the 12-month period during which the 12 weeks of FMLA leave may occur. The method described below is an illustration of one of the four permissible methods. You should decide which method best suits your city's needs and clearly state the method in the handbook which your city adopts. For other methods, please see the League publication *Family and Medical Leave Act Guide*.]

Employees eligible for FMLA may use up to 12 weeks of leave during a 12-month period measured forward from the date the employee's first FMLA leave begins. Therefore, the 12-month period will begin on the first date FMLA leave is taken. The next 12-month period will begin on the first day FMLA leave is taken after completion of any previous 12-month period.

### 5.8.3 USE OF PAID TIME OFF BENEFITS

When leave is taken under the Family Medical Leave Act, you will be required to first use your available annual and accrued sick and vacation leave concurrently with FMLA leave during the twelve (12) week family leave before becoming eligible for unpaid leave. That portion of family leave of absence which is taken using annual and accrued leave days will be with pay, according to the city's annual leave policy. Using paid time off benefits does not add to the total length of the maximum 12-week leave permitted.

For example, Employee A has two (2) weeks of accrued vacation leave and two (2) weeks of accrued sick leave. Employee A requests and is granted 4 weeks of FMLA leave. This leaves Employee A with eight (8) remaining weeks of available FMLA leave.

[NOTE: An employee using leave for the birth of a child is required to use annual and accrued leave for leave taken for physical recovery after childbirth. For other employees, you may make sick leave run concurrently with FMLA leave (29 CFR sec. 825.07) as provided in this sample policy, if you gave the written notice required in section 825.300(c)(1), see especially subsection (iii). See also the Designation Notice section of the League's *Family and Medical Leave Act Guide*.]

### 5.8.4 INTERMITTENT OR REDUCED LEAVE

In circumstances where FMLA leave is sought for your own serious health condition, or that of a family member, you may take leave intermittently or be placed on a reduced work schedule, if medically necessary. In addition, when you chose to use FMLA for the birth or adoption of a child, you may also take leave intermittently or be placed on a reduced work schedule. However, this may only be done with prior permission and approval of the \_\_\_\_\_ [insert title of appropriate individual]. If you request intermittent or reduced leave status, the city may in its sole discretion temporarily transfer you to another job, with equivalent pay and benefits, if another position would better accommodate that intermittent or reduced schedule. Furthermore, if the need to use leave is foreseeable and based on pre-planned and pre-scheduled medical treatment, you should schedule the treatment in a manner that does not unduly disrupt the city's operations.

### 5.8.5 NOTIFICATION

You must provide \_\_\_\_\_ [insert title of appropriate individual] with thirty (30) days' written notice of your need to be absent for FMLA purposes when the need is foreseeable or predictable. The city will provide appropriate forms on which to make known your need to be absent. However, if emergency circumstances prevent 30 days' written notification, you must notify \_\_\_\_\_ [insert title of appropriate individual] as soon as possible.

### 5.8.6 LEAVE PROVISIONS FOR SPOUSES BOTH WORKING FOR THE CITY

In the event a husband and wife both work for the city, the maximum combined leave for both spouses is 12 weeks, if FMLA leave is taken for the adoption or birth of a healthy child, or to take care of a sick parent.

If FMLA leave is taken to care for an ill child, spouse, or for the employee's own serious illness, then each spouse is entitled to 12 total weeks of leave.

### 5.8.7 JOB RESTORATION

Employees granted FMLA leave will be returned to the same position held prior to the leave or one that is equivalent in pay, benefits, and other terms and conditions of employment. However, certain highly-compensated, “key,” salaried employees, although eligible for FMLA leave, are not guaranteed restoration to their positions if they choose to take leave. Such employees will be informed of this status when they request leave. If the city deems it necessary to deny job restoration for such employees while they are on FMLA leave, the city will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

### 5.8.8 EMPLOYEE BENEFITS

During an employee’s FMLA leave of absence, the employee’s health care benefits will continue. Both the city and the employee will be required to pay the customary portions of the monthly health premium. The employee’s failure to pay his or her share of the premium may result in loss of coverage. \_\_\_\_\_ [*insert title of appropriate individual*] will advise the employee of the payment due dates. If the employee’s payment is more than 30 days overdue, the health care coverage will be dropped by the city. Prior to dropping an employee from coverage for non-payment, \_\_\_\_\_ [*insert title of appropriate individual*] will provide the employee with at least 15 days’ written notice before the date coverage is to cease.

If the employee unequivocally informs the city that the employee does not intend to work at the end of the leave period, the city’s obligation to provide health benefits ends. If the employee chooses not to return to work for reasons other than a continued serious health condition which would otherwise entitle the employee to FMLA leave or other circumstances beyond the employee’s control, the employee is required to reimburse the city the amount which it contributed toward the employee’s health coverage during the leave period.

For purposes of this section, an employee who returns to work from FMLA leave for at least 30 calendar days is deemed to have returned to work. In addition, an employee who transfers directly from FMLA leave to retirement or who retires within the first 30 days after returning from FMLA leave is deemed to have a returned to work status.

An employee on FMLA leave will not be allowed to accrue employment benefits, such as vacation pay, sick leave, pension, etc. However, employment benefits which accrued up to the day on which the FMLA leave began will not be lost. The use of FMLA leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

Employees who fail to return to work on the first working day following the end of their FMLA leave will be deemed to have terminated their employment with the city, unless the employee otherwise notifies \_\_\_\_\_ [*insert title of appropriate individual*] prior to the end of the FMLA leave.

### 5.8.9 CERTIFICATION

Medical certification, by a qualified health care provider, of the need for FMLA leave for medical reasons is required. A certification form may be obtained from \_\_\_\_\_ [*insert title of appropriate individual*]. This form should be filled out and returned to \_\_\_\_\_ [*insert title of appropriate individual*]. When the leave is foreseeable and at least 30-days’ notice has been provided, the employee must provide the certification before the leave begins. When prior notice of the leave is not possible, the employee must provide the requested certification within 15 calendar days of the employee’s departure, unless it is not practicable under the circumstances to do so, despite the employee’s diligent good faith efforts. Employees who do not provide certification within these 15 calendar days must provide a reasonable explanation for the delay along with the certification.

Qualified health care providers include: doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, clinical social workers, and physician assistants authorized to practice under State law and performing within the practice under State law. Qualified health care providers also include Christian Science practitioners listed with the First Church of Christ, Scientist, in Boston, Massachusetts.

### 5.8.10 RELEASE TO RETURN TO WORK

A medical doctor's release is required for all city employees who return to work from a medical leave of five (5) working days or longer, which is taken for the employee's own serious health condition. Such release shall be provided to \_\_\_\_\_ [*insert title of appropriate individual*] prior to returning to work.

### 5.8.11 DISPUTE RESOLUTION

If a disagreement occurs over the medical opinion provided by your physician, the city may require a second medical opinion, from a qualified health care provider chosen by the city. The city will pay for a second or, if necessary, a third medical opinion. In the event a third opinion is deemed necessary, the city and the employee will jointly select the third qualified health care provider. The third opinion will be considered final.

Additional information and forms may be obtained from \_\_\_\_\_ [*insert title of appropriate individual*].

### 5.9 LEAVE FOR WITNESS OR JURY DUTY

[NOTE: Employers are not required to provide paid leave for witness or jury duty.]

Employees will be granted paid leave for witness or jury duty. Employees are also permitted to retain the allowance for services from the court for such service. To qualify for jury or witness duty leave, employees must submit to the \_\_\_\_\_ [*insert title of appropriate individual*] a copy of the summons or other relevant court related paperwork as early as possible upon receipt thereof. In addition, proof of service must be submitted to the employee's supervisor when the employee's period of jury or witness duty is completed.

[NOTE: Firefighters are not exempt from jury duty. The statute providing for exemption was repealed in 1997.]

### 5.10 MISCELLANEOUS LEAVE

The attendance of employees at seminars and training programs is considered part of continual professional development. Attendance of such seminars and programs must be preapproved by \_\_\_\_\_ [*insert title of appropriate individual*]. Compensation for travel time and attendance at programs will be made in accordance with 29 Code of Federal Regulations [C.F.R.] sections 785.10 through 785.41.

The city will pay all reasonable out-of-pocket expenses for lodging, travel costs, meals, etc., pursuant to its regular expense policy. However, no such expenses will be reimbursed without receipts documenting payments of such expenses.

The misrepresentation or altering of claims for reimbursement may result in the filing of criminal complaints, as well as disciplinary action.

[NOTE: An expense policy should be developed and distributed to all employees.]

### 5.12 EMPLOYEE HEALTH BENEFITS

The City of \_\_\_\_\_ provides a group health plan for all of its full-time employees. Detailed information on the policy and coverage will be given to employees at the time of hire. Additional information may be obtained from the \_\_\_\_\_ [*insert title of appropriate individual*].

### 5.13 OCCUPATIONAL INJURIES

All city employees are covered under the Arkansas State Workers' Compensation laws. Any employee incurring an "on-the-job" injury should immediately notify the employee's supervisor who will arrange for appropriate medical treatment and prepare the necessary reports required for the employee to be compensated. Rules and regulations concerning Workers' Compensation have been posted on bulletin boards located \_\_\_\_\_ [*specify location*].

### 5.14 ACCIDENTAL INJURY

[NOTE: Employers are not required to provide paid leave for absences due to accidental injuries sustained off-duty, except as required by the Family Medical Leave Act and the Americans With Disabilities Act.]

If any full-time employee is involved in an accident which is not job-related and the injury sustained in such accident necessitates that the employee be absent from work, the employee shall be entitled to receive pay at a regular salary for the number of days of accumulated sick leave credited to that employee at the time the accident occurred.

# CHAPTER 6

## STANDARDS OF CONDUCT

### 6.1 COMMUNICATING WITH THE PUBLIC

Employees of the City of \_\_\_\_\_ shall at all times be civil, orderly, and courteous in their conduct and demeanor towards the public. Each employee should treat members of the public with respect and efficiently provide responses to their inquiries or requests. This attitude or approach to public service cannot be overemphasized.

When an employee is uncertain of the correct response to an inquiry or request from the public, the employee should refer the inquiry to the individual or the department which can provide the most satisfactory response to the inquiry. It is better to admit lack of knowledge than to provide erroneous information.

#### 6.1.1 COMMUNICATING ON BEHALF OF THE CITY

The \_\_\_\_\_ [*insert title of appropriate individual*] is authorized to communicate on behalf of the city in interviews, publications, news releases, on social media sites, and related communications. Other employees may represent the city if approved by one of these individuals to communicate on a specific topic. When speaking on behalf of the city or while carrying out your official duties:

- Employees must identify themselves as representing the city. Account names on social media sites must clearly be connected to the city and approved by \_\_\_\_\_ [*insert title of appropriate individual*].
- All information must be respectful, professional, and truthful. Corrections must be issued when needed.
- Employees need to notify \_\_\_\_\_ [*insert name of appropriate individual*] if they will be using their personal technology (cell phones, home computers, cameras, etc.) for city business. Employees should be aware that the data transmitted or stored may be subject to the Freedom of Information Act (FOIA).

#### 6.1.2 HANDLING REQUESTS FOR INFORMATION PURSUANT TO FOIA

Any citizen of the State of Arkansas may request to inspect, copy, or receive copies of public records pursuant to the Freedom of Information Act. Any requests must immediately be forwarded to the public records custodian. If the employee receiving the request is not the custodian, the employee must notify the requester of this fact and identify the custodian.

#### 6.1.3 HANDLING MEDIA REQUESTS

With the exception of routine events and basic information that is readily available to the public, all requests for interviews or information from the media are to be routed through the \_\_\_\_\_ [*insert title of appropriate individual*] or the custodian of the records in the case of a records request. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, and websites. When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda) provide the information and notify \_\_\_\_\_ [*custodian of the records*] of the request.
2. If the request is regarding information about city personnel, potential litigation, controversial issues, and opinion on a city matter, or if you are unsure if it is a “routine” question, immediately forward to the \_\_\_\_\_ [*insert title of appropriate person*] or in the case of a records request, to \_\_\_\_\_ [*custodian of the records*]. An appropriate response would be, “I’m sorry, I don’t have the full information regarding that issue. Let me take some basic information and submit your request to the appropriate person who will get back to you as soon as she/he can.”
3. Ask the media representative’s name, questions, deadline, and contact information.

### 6.2 PERSONAL COMMUNICATIONS

It is important for employees to remember that the personal communications of employees may reflect on the city, especially if employees are commenting on city business. The following guidelines apply to personal communications including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements.



- Remember that what you write is public, and will be so for a long time. It may also be spread to large audiences. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information that you would not want your boss or other employees to read, or that you would be embarrassed to see in the newspaper.
- If you publish something related to city business, identify yourself and use a disclaimer such as, “I am an employee of the City of \_\_\_\_\_. However, these are my own opinions and do not represent those of the City of \_\_\_\_\_.”
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. For example, a building inspector could not use the city’s logo, email, or working time to promote his/her side business as a plumber.

### 6.3 UNIFORMS AND PERSONAL APPEARANCE

Uniforms or uniform allowance will be provided to personnel of certain departments as authorized by the \_\_\_\_\_ [insert title of appropriate individual]. Personnel who are provided uniforms or uniform allowance shall wear uniforms at all times while on duty. Uniforms shall be kept as neat and presentable as working conditions permit. Employees must not wear uniforms while off duty except to and from your scheduled shift or work assignment. It is essential that an employee not be viewed by the public as a representative of the city in any official capacity unless authorized to do so.

Employees not required to wear uniforms should dress in appropriate professional departmental attire. If an employee is unsure what constitutes appropriate attire, then the employee should check with the employee’s supervisor or department head.

### 6.4 GUIDELINES FOR APPROPRIATE CONDUCT

The City of \_\_\_\_\_ expects its employees to accept certain responsibilities, adhere to acceptable principles in matters of personal conduct, and exhibit a high degree of personal integrity at all times. This not only involves a sincere respect for the rights and feelings of others, but also demands that both while at work and in their personal lives, employees refrain from behavior that might be harmful to the employees, co-workers, the citizens, and/or the city.

Whether an employee is on-duty or off-duty, the employee’s conduct reflects on the city. An employee should observe the highest standards of professionalism at all times.

Types of behavior and conduct that the city considers inappropriate include, but are not limited to the following:

- Falsifying employment or other city records;
- Violating any city nondiscrimination and/or harassment policy;
- Soliciting or accepting gratuities from citizens;
- Excessive absenteeism or tardiness;
- Excessive, unnecessary, or unauthorized use of city property;
- Reporting to work intoxicated or under the influence of non-prescribed drugs or participation in the illegal manufacture, possession, use, sale, distribution, or transportation of drugs;
- Buying or using alcoholic beverages while on city property or using alcoholic beverages while engaged in city business, except where authorized;
- Fighting or using obscene, abusive, or threatening language or gestures;
- Theft of property from co-workers, citizens, or the city;
- Unauthorized possession of firearms on city premises or while on city business;
- Disregarding safety or security regulations;
- Insubordination;
- Neglect or carelessness resulting in damage to city property or equipment.

Should an employee’s performance, work habits, overall attitude, conduct, or demeanor become unsatisfactory and in violation of either of the above-referenced items or any other city policies, rules, or regulations, an employee will be subject to disciplinary action up to and including dismissal.

### 6.5 ABSENTEEISM AND TARDINESS

Regular attendance is essential to the effective business operations, and the City of \_\_\_\_\_ expects all of its employees to report to work on time and on a regular basis. Unnecessary absences and tardiness are expensive, disruptive, and place an unnecessary burden on fellow employees, supervisors, city government as a whole, and the taxpayers who

receive city services. Should an employee be unable to report to work on time because of illness or personal emergency, the employee should give proper notice to his or her supervisor.

Excessive absences or tardiness, unexcused absences and tardiness, falsification of reasons for any absence or tardiness, absences/tardiness which form unacceptable patterns (i.e., regularly reporting late on Monday mornings or calling in absent on Fridays), or failing to provide proper medical documentation to support absences/tardiness may result in disciplinary action.

“Proper notice” is defined by the city as notice in advance of the time an employee should report for work or no later than one (1) hour thereafter if advance notice is impossible.

An absence of an employee from duty, including any absence of one (1) day or part thereof, (other than an absence authorized by this personnel handbook or by law) that is not authorized in advance by the department head or the employee’s supervisor will be deemed absence without leave. Such absence shall be without pay.

## 6.6 OUTSIDE EMPLOYMENT OR MOONLIGHTING

If an employee is considering additional employment, he or she should discuss the additional employment with his or her department head or supervisor for approval.

If, as an employee of the city, an employee participates in additional employment, it must not interfere with the proper and effective performance of his or her job with the city. The work of a full-time employee of the city shall have precedence over any other occupational interest or pursuit of the employee. A full-time employee is expected to be available for work during all regular working hours and for overtime as required. An employee’s outside employment must not be of a nature that adversely affects the image of the city, or of a type that may be construed by the public to be an official act of the city or which in any way violates these policies. city uniforms shall not be worn during outside employment unless approved in advance by the \_\_\_\_\_ [*insert title of appropriate individual*].

## 6.7 VOTING

City employees are encouraged to exercise their legal right to vote and, if necessary and requested in advance, reasonable time will be granted for the purpose.

## 6.8 OUTSIDE COMPENSATION

No reward, gift, or other form of remuneration in addition to regular compensation shall be received from any source by employees of the city for the performance of their duties as employees of the city. If a reward, gift, or other form of remuneration is made available to any employee, it shall be credited to a designated employee fund with approval of the \_\_\_\_\_ [*insert title of appropriate individual*].

## 6.9 USE OF NARCOTICS, ALCOHOL AND TOBACCO

Employees of the City of \_\_\_\_\_ shall not use habit-forming drugs, narcotics, or controlled substances unless such drugs are properly prescribed by a physician.

The consumption of alcohol or other intoxicants is prohibited while an employee is on duty. Employees are not to consume intoxicants while off duty to such a degree that it interferes with or impairs the performance of their duties. Employees involved in any unauthorized use, possession, transfer, sale, manufacture, distribution, purchase, or presence of drugs, alcohol or drug paraphernalia on city property or reporting to work with detectable levels of illegal drugs or alcohol will be subject to disciplinary action including termination, as allowed by federal, state, and local laws.

Smoking, or the use of any tobacco product, is not allowed inside any city-owned facility or vehicle. The city complies with all aspects of the Arkansas Clean Indoor Act of 2006. Any employee violating this policy is subject to disciplinary action up to and including termination and may be required to pay a fine if levied by the Arkansas Department of Health.

## 6.10 DRUG-FREE WORKPLACE

It is the policy of the City of \_\_\_\_\_ to create a drug-free workplace in keeping with the spirit and intent of the Drug-Free Workplace Act of 1988 and its amendments. The use of controlled substances is inconsistent with the conduct expected of employees, subjects all employees and visitors to city facilities to unacceptable safety risks, and undermines the city’s ability to operate effectively and efficiently. Therefore, the unlawful manufacture, distribution, dispensation, possession, sale, or use of a controlled substance in the workplace, while engaged in city business for the City of \_\_\_\_\_, or on the city’s premises is strictly prohibited. Such conduct is also prohibited during non-working hours to the extent that,

in the opinion of the city, it impairs an employee's ability to perform on the job or threatens the reputation and integrity of the city.

To educate employees on the danger of drug abuse, the city has established a drug-free awareness program. Periodically, employees will be required to attend training sessions at which the dangers of drug abuse, the city's policy regarding drugs, the availability of counseling, and the city's employee assistance program will be discussed. Employees convicted of controlled substances related violations in the workplace must inform the city within five (5) days of such conviction or plea. Employees who violate any aspect of this policy may be subject to disciplinary action up to and including termination, as allowed by federal, state, and local law. At its discretion, the city may require employees who violate this policy to successfully complete a drug abuse assistance or rehabilitation program as a condition of continued employment.

## 6.11 USE OF CITY ASSETS AND RESOURCES

### 6.11.1 TELEPHONES

Telephones are to be used to conduct city business. Long distance or toll calls of a personal nature are prohibited unless prior approval is received in writing from \_\_\_\_\_ [*insert title of appropriate individual*]. Although occasional, limited personal telephone calls are permitted, they should be kept to a minimum in time and frequency and should not interfere with work performance of the employee or the employee's colleagues. Discretion should be used in discussing confidential information using cellular communication. Employees are responsible for taking reasonable precautions to prevent theft and/or vandalism of cellular equipment.

City-issued cellular or mobile telephones should be used for city business-related purposes. Personal calls are to be minimized. The city reserves the right to monitor the billing and use of all city-issued cellular/mobile telephones and has the authority to withhold any unauthorized amounts from the employee's wages.

By accepting the use of city-issued cellular telephones, employees agree to promptly reimburse the city for all personal calls made which are deemed by the city to be excessive in frequency or duration.

Employees are responsible for maintaining a record of the phone numbers and names of persons or businesses that have been called, or who call, for personal reasons and provide a copy of the records to \_\_\_\_\_ [*insert title of appropriate individual*]. In the alternative, the required information may be noted on the monthly cellular service billing. The employee shall attach a copy of the receipt or check to the cellular phone bill to show reimbursement has been made to the city for any personal calls.

Any employee who violates the conditions of these policies relating to cellular/mobile phone usage is subject to having the use of the employee's city-issued cellular/mobile phone terminated.

### 6.11.2 COMPUTERS AND OTHER TECHNOLOGICAL RESOURCES

To help maximize its employees' efficiency in carrying out their respective job duties, the City of \_\_\_\_\_ provides various information and technology resources such as email, computers, software/ computer applications, networks, the Internet, the intranet, facsimile machines, cell phones, pagers, and other wireless communication devices and voicemail systems. Please remember that these tools are city property and must be used in a manner that reflects positively on the city and all who work here. Occasional, limited personal use of these resources is permitted, but should not interfere with your work performance, or the work performance of your colleagues. Employees, however, should have no expectation of privacy as to their use of city property. The city has the right to access and monitor any and all messages and files on electronic equipment owned by it and will do so as deemed necessary and appropriate. Employees will be held accountable for all usage of their systems and shall keep their keywords and passwords confidential to protect their assigned equipment and their files from misuse. Employees shall not access or copy software or data belonging to others or to the city. Reading another employee's files is prohibited unless authorized by the department head. Employees shall not transport software or data provided by the city to another computer site without prior authorization from the department responsible for the data.

The city will not tolerate inappropriate or illegal use of these assets and reserves the right to take appropriate disciplinary actions, as needed, up to and including termination of employment. Such inappropriate use of these resources can include, but is not limited to, the following:

- Hacking;
- Pirating software or audio/video files;
- Soliciting;



- Distributing literature for outside entities;
- Sending inappropriate emails;
- Accessing, viewing, or downloading inappropriate websites, i.e., sites advocating hate, violence, sexually explicit material, or promoting illegal activities;
- Distributing confidential information to persons/entities who are not entitled to such information;
- Storing or placing unlawful information on a computer or the network;
- Copying system files without proper authorization;
- Copying copyrighted materials without proper authorization;
- Use of abusive or otherwise objectionable language in either public or private messages;
- Sending messages that are likely to result in the loss of the recipient's work or systems use;
- Sending "chain-letters," jokes, lists, or any other types of use that would cause congestion or disrupt the operation of the networks or otherwise interfere with the work of others;
- Decryption of system or user passwords.

Only software which has been purchased or approved by the City of \_\_\_\_\_ may be loaded or used on any of its computers. All software, programs, applications, templates, data, and data files stored in, residing on, or developed with city computers, networks, or storage media are property of the city and shall not be removed from the workplace without proper authorization. The city's software and software manuals should not be duplicated or reproduced in any manner which would violate the license agreements which pertain to usage of the software.

Computer equipment, including software, should not be removed from city premises without prior written approval from \_\_\_\_\_ [*insert title of appropriate individual*].

The city reserves the right to monitor and inspect, without notice, the use of its information and technology resources.

### 6.11.3 INTERNET ACCESS

Internet access is provided to employees to conduct city business. Employees accessing the Internet are to do so for business-related purposes only. The city reserves the right to monitor Internet use to assure that Internet use is for legitimate business purposes and that access to the Internet is not abused by any one employee.

Downloading files without the express consent of the department head is prohibited. Files downloaded from the Internet, or any other outside service, may contain a computer virus and must be scanned by a virus checking software prior to being used on a city computer. Uploading to the Internet is prohibited unless authorized by the department head to avoid interception and unauthorized access to information.

### 6.11.4 ELECTRONIC MAIL AND CONFIDENTIALITY

The City of \_\_\_\_\_ provides electronic mail for business purposes. The city maintains the ability to access any messages left on or transmitted over the system. Employees should not assume that such messages are confidential or that access by the city or its designated representative will not occur. Therefore, any personal use of the city's electronic mail system shall be kept to a minimum.

The electronic mail system shall not be used to solicit or further commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations; to create any unwelcome, offensive, or otherwise disruptive messages including sexual innuendo, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin, or disability; or to send or receive copyrighted materials, trade secrets, proprietary or financial information, or similar materials without prior written authorization from the owner of the material.

Employees are not authorized to retrieve or read email messages that are not sent to them.

### 6.11.5 REMOVAL OF CITY PROPERTY

No city owned, leased, or licensed equipment or documents may be removed from city premises without prior written approval from \_\_\_\_\_ [*insert title of appropriate individual*].

### 6.11.6 USE OF PRIVATELY OWNED ELECTRONIC COMMUNICATIONS EQUIPMENT FOR PUBLIC JOB RELATED PURPOSES

Employees with personal privacy concerns should be aware that there may be consequences to using privately owned electronic communications equipment (including privately owned cell phones) for work related purposes. If an

employee uses privately owned equipment for work related purposes, such as work related text messages or emails, the records of the privately owned equipment might be subject to disclosure to the public by the Arkansas Freedom of Information Act. Employees are therefore encouraged to use city-owned communications equipment and city-owned software (such as city email) when communicating for job related purposes.

## 6.12 WAIVER OF PRIVACY

Employees waive their right to privacy in anything created, stored, sent, or received on the city's computer or telecommunications system. The city reserves the right to inspect any data, emails, social media content, files, settings, or any other aspect of access made by a city-owned computer or related system and will do so on an as-needed basis as determined by the \_\_\_\_\_ [*insert title of appropriate individual*]. Employees understand that any information created, stored, sent, or received on the city's computer or telecommunications system may be subject to the provisions of the Freedom of Information Act, regardless of whether the information is business-related or personal to the employee. Therefore, any such information may be accessed and/or inspected at any time by any member of the public unless it is exempted by law from disclosure.

## 6.13 CITY VEHICLES

On occasion, the city may permit certain employees to use its vehicles to conduct city business. A valid and current driver's license must be in possession of the operator and maintained at all times. When using a city vehicle, employees shall exhibit due care at all times and shall comply with all federal, state, and local laws pertaining to operation of the vehicle.

The use of city vehicles is restricted to city business purposes only. Employees using city vehicles shall not pick up or transport any private parties not directly involved with the work of the city. With prior permission of the \_\_\_\_\_ [*insert title of appropriate individual*], employees may transport spouses in city vehicles when attending conferences or meetings. Employees will be allowed to take home a city vehicle for "on-call" purposes only as designated by his or her department director.

Employees using city vehicles are individually responsible for all fines or penalties assessed to the employee as a result of speeding tickets or other traffic offenses for which the employee is cited while using a city vehicle.

Thefts or accidents involving city vehicles must be reported immediately to the police and \_\_\_\_\_ [*insert title of appropriate individual*]. The improper, careless, negligent, destructive, reckless, or unsafe use of city equipment or vehicles may result in disciplinary action.

## 6.14 POLITICAL CAMPAIGNS

No city employee shall campaign on city time for any candidate or ballot measure at a federal, state, or local level. Employees are prohibited by law and this policy from using city equipment, property, funds or other resources to campaign for a candidate or ballot measure. After working hours, employees are free to campaign and support candidates and ballot measures in federal, state, county, and local campaigns as long as they do not use city property, funds, equipment or resources. No campaign banners, campaign signs, or other campaign literature shall be placed on any cars, trucks, tractors, or other vehicle belonging to the city.

## 6.15 DISCIPLINARY ACTION

Should an employee's performance, work habits, overall attitude, conduct, or demeanor become unsatisfactory including, but not limited to, violations listed in this handbook, or any other city policy, rule, regulation, or directive, the employee may be subject to disciplinary action up to and including dismissal.

Disciplinary action may include, but is not limited to:

- Warning or Reprimand. A warning or reprimand is action used to alert the employee that his or her performance is not satisfactory or to call attention to the employee's violation of employment rules and/or regulations. city employees may be officially reprimanded orally or in writing.
- Suspension. Suspension involves the removal of an employee from his or her job. An employee may be suspended with or without pay.
- Demotion. A demotion is an action that places the employee in a position of less responsibility and less pay.
- Termination. A termination is a removal of an employee from city employment.

## 6.16 PROCEDURE FOR REVIEW OF DISCIPLINARY ACTION

*[NOTE: Some cities maintain some level of appeal or a grievance procedure for employees who have been disciplined and/or terminated. It is recommended that any such procedure be eliminated from your manual and/or practices. Prior to the elimination, notice should be given to your employees. If you are still inclined to have such a procedure, then it is recommended that the procedure require the employee, within a time certain, to file a letter requesting the appeal, and that the specifics of the appeal process be clearly and concisely laid out in your manual. Those procedures should be very simple and should involve as few steps as possible.]*

# CHAPTER 7

## MISCELLANEOUS INFORMATION

### 7.1 POLICY STATEMENT

The City of \_\_\_\_\_ possesses the sole right to operate and manage the affairs of the city.

### 7.2 CONFLICTS

The policies in this handbook will be followed unless they are found to conflict with federal, state, or local laws, which shall take precedence.

### 7.3 SEVERABILITY

Should any of the provisions contained in this handbook be found contrary to federal, state, or local law, the remaining provisions of this handbook shall remain in full force and effect.

To the extent that any law provides additional or different benefits or rights to employees, the provisions of this handbook shall be deemed to include those statements of law.

### 7.4 POLICY CHANGES

The City of \_\_\_\_\_ reserves the right to suspend, revoke, or revise any of the policies contained this handbook at any time.

### 7.5 CHANGE OF ADDRESS

Employees changing their home address or telephone number must notify his or her department head of this change so that personnel files can be kept current. This is important in case the city must mail the employee any information or documents, such as tax statements. Also, if there is any change in the employee's marital status, the employee should report it to his or her department head.

# CHAPTER 8

## FORMS

### APPENDIX A

RECEIPT OF CITY OF \_\_\_\_\_ PERSONNEL HANDBOOK  
(To be placed in employee's personnel file)

I, \_\_\_\_\_, acknowledge receipt of the City of \_\_\_\_\_ Personnel Handbook.  
I understand that this handbook is not a contract.

I understand that reading this handbook constitutes one of my job duties and that I am required to perform my job duties in accordance with the policies contained in this handbook and any additional rules, regulations, policies or procedures which may be imposed by the city or the department in which I work whether or not I read this handbook. I understand that my failure to read this handbook, as required, does not excuse me from being covered by or complying with its provisions.

I understand that if I have any questions about the provisions contained in this handbook, I should direct them to \_\_\_\_\_ [*insert title of appropriate individual, i.e., supervisor, city attorney, mayor, personnel director*].

Signed \_\_\_\_\_

Date \_\_\_\_\_

I, \_\_\_\_\_ [*insert name and title of individual*], provided a copy of the City of \_\_\_\_\_ Personnel Handbook to \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed \_\_\_\_\_

Date \_\_\_\_\_

## APPENDIX B

### EMPLOYMENT RECORDS RELEASE

TO: \_\_\_\_\_

You are hereby authorized and requested to give to \_\_\_\_\_, or to any of its duly authorized representatives, any and all employment information whatsoever including, but not limited to, copies of my personnel file, including disciplinary reports, memos, statements, results of or physicals, drug testing results, and any and all other information which they may request concerning my employment.

You are authorized to release any information relating to my employment, including but not limited to, any information relating to my employment or otherwise maintained by you during the entire term of my employment relationship with you. This authorization is continuing in nature and does not expire unless you receive written, signed and acknowledged notice from me or my authorized agent. A photocopy of this release shall be as valid as an original.

\_\_\_\_\_  
EMPLOYEE (Signature)

\_\_\_\_\_  
EMPLOYEE (Printed Name)

STATE OF ARKANSAS

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

*[NOTE: This Release should be used to obtain information from previous employers in order to make informed hiring decisions. A similar release should be used for current or past employee to sign when he or she wishes for you to release information to another prospective employer.]*







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Sample Personnel Handbook for Arkansas Cities and Towns