



## STAFF REPORT

DATE: August 2, 2023

**REGULAR**

**TO:** Mayor and City Council  
**FROM:** Karissa Goers, Administrative Services Director  
**AGENDA ITEM:** Adoption of New Policies and Approve Amendments to City of Lake Elmo Personnel Policies

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**BACKGROUND:** The last update to the City of Lake Elmo Personnel Policies was completed in 2018.

**ISSUE BEFORE COUNCIL:** Should the City Council adopt the City Personnel Policies as attached?

**PROPOSAL DETAILS/ANALYSIS:** Consistent with best practices in human resources, recommendations from the League of MN Cities, and maintaining compliance with Federal and State employment laws, the Administration department is recommending the following changes to the City of Lake Elmo Personnel Policies:

The following policies were amended to comply with recent changes in employment laws, recommendations from the League of MN Cities, and updated language for clarification:

- Equal Employment Opportunity
- Personal Communications & Social Media
- Citywide Work Rules & Code of Conduct
- Hours of Work
- Payroll & Compensation
- Benefits
- Holidays – added Juneteenth and clarifying language.
- Annual Leave
- Leaves of Absence
- Harassment Prevention
- Respectful Workplace
- Possession & Use of Dangerous Weapons
- Separation From Service
- Discipline
- Grievance Procedure
- Employee Education & Training
- Drug & Alcohol-Free Workplace
- Cellular Phone Use
- Safety

The following policies are new policies recommended to comply with best practices in human resources:

- Employee Type & Condition
- Diversity, Equity & Inclusion

Additionally, as the City of Lake Elmo moves to a combined full-time career and paid-on-call firefighter department, staff added and updated the following policies with the goal of retention of staff and remaining competitive during the hiring process.

The following updates were made to **the Payroll & Compensation Policy**

- **Firefighter Holiday Leave Bank:** In lieu of holiday pay, career firefighters will accrue leave (8 hours) when City offices are closed for an observed holiday. The eight (8) hours of leave will be earned in the pay period in which the observed holiday falls and can be used at a time mutually agreed upon by the employee and the employee’s supervisor. Accrued hours do not carry over from year to year and are not paid out upon separation of employment.

Firefighters are expected to work on holidays. We are proposing full-time career firefighters have a Firefighter Holiday Leave Bank instead of holiday pay.

- **Non-Exempt (Overtime-eligible) Employees**  
Career firefighters will work 24-hour shifts during a 21-day cycle. They will be compensated at the rate of time- and-one-half for all hours worked over 159 in this 21-day cycle. This differs from city staff who are scheduled to work 40 hours per week.

The following updates were made to **Annual Leave – Paid Time Off Policy**

- Career firefighters who will now work 24-hour shifts and will be expected to take 24 hours of leave in order to take a shift off will earn paid time off in accordance with the schedule below:

<u>Years of Service</u>	<u>Annual Accrual Rates</u>
0-2 Years	6 hours bi-weekly
3-5 years	8 hours bi-weekly
6-10 Years	10 hours bi-weekly
11-15 Years	11 hours bi-weekly
16-24 Years	12 hours bi-weekly
25 Years or More	13 hours bi-weekly

Staff believe that these overall policy recommendations will enhance the effective provision of human resource management functions at the City of Lake Elmo.

**FISCAL IMPACT:** None

**OPTIONS:**

1. Approve and adopt the City of Lake Elmo Personnel Policies updates.
2. Approve some but not all policies, pull specific policies to amend and approve at a later meeting.

**RECOMMENDATION:**

Motion to adopt the City of Lake Elmo Personnel Policy updates.

**ATTACHMENTS:**

- Redlined version of the City of Lake Elmo Personnel Policies



HUMAN RESOURCES & BENEFITS INFORMATION

**PERSONNEL POLICIES**

*Effective ~~August~~ May 2023*

## Table of Contents

To be added.

## INTRODUCTION

### PURPOSE

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This handbook provides information to you, as an employee of the City of Lake Elmo, about certain terms and conditions of your employment. It is not, and should not be considered, an employment contract. Your continued employment, and the conditions of the employment, is solely within the discretion of the City of Lake Elmo. The handbook summarizes major policies and programs related to your employment. They are not intended to be all-inclusive or to cover every situation that may arise. These policies may be amended at any time at the sole discretion of the city and they will supersede all previous personnel policies. Except where noted otherwise, the city administrator or his/her designee is charged with ensuring compliance with these personnel policies. Revisions and amendments shall become effective upon approval by the City Council.

Additional information about many of these policies and programs is available from the city's Administration office. Please take advantage of those resources to assure ~~that~~ you are fully aware of your rights and responsibilities as an employee of the City of Lake Elmo.

Except as otherwise prohibited by law, the City of Lake Elmo has the right to terminate any employee at any time for any or no reason. Employees may similarly terminate employment at any time for any reason.

Nothing in this statement is intended to interfere with, restrain, or prevent concerted activity as protected by the National Labor Relations Act (NLRA). Such activity includes employee communications regarding wages, hours, or other terms or conditions of employment. The City of Lake Elmo employees have the right to engage in or refrain from such activities.

### SCOPE

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These policies apply to all employees of the city, unless covered in a collective bargaining agreement. Except where specifically noted, these policies do not apply to:

1. Elected officials
2. City attorney
3. Members of city boards, commissions, and committees
4. Consultants and contractors
5. Volunteers, except as specifically noted for paid-per-call firefighters.

If any specific provisions of the personnel policies conflict with any current union agreement or civil service rules, the union agreement or civil service rules will prevail. Union employees are encouraged to consult their collective bargaining agreement first for information about their employment conditions. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

These policies serve as an information guide to help employees become better informed and to make their experience with the city more rewarding. Departments and other classes of employees may have special work rules deemed necessary by the supervisor and approved by the city administrator for the achievement of objectives of that department. Each employee will be given a copy of such work rules by the department upon hiring and such rules will be further explained, and enforcement discussed with the employee by the immediate supervisor.

## **DEFINITIONS**

~~For purposes of these policies, the following definitions will apply:~~

### **Authorized Hours**

~~The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee's supervisor.~~

### **Benefits**

~~Privileges granted to qualified employees in the form of paid leave and/or insurance coverage.~~

### **Demotion**

~~The movement of an employee from one job class to another within the city, where the maximum salary for the new position is lower than that of the employee's former position.~~

### **Direct Deposit**

~~As permitted by state law, all city employees are required to participate in direct deposit.~~

### **Employee**

~~An individual who has successfully completed all stages of the selection process, including the probationary period.~~

### **Exempt Employee**

~~Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act.~~

### **FICA (Federal Insurance Contributions Act)**

~~FICA is the federal requirement that a certain amount be automatically withheld from employees' earnings. Specifically, FICA requires an employee contribution of 6.2 percent for Social Security and 1.45 percent for Medicare. The city contributes a matching 7.65 percent on behalf of each employee. Certain employees are exempt or partially exempt from these withholdings (e.g., police officers).~~

### **Fiscal Year**

~~The period from Jan. 1 to Dec. 31.~~

**Full-Time Employee**

Employees who are required to work forty (40) or more hours per week year round in an ongoing position.

**Hours of Operation**

The city's regular hours of operation are Monday through Friday, from 8 a.m. to 4:30 p.m.

**Immediate Family**

The employee's spouse, and the children, grandchildren, parents, grandparents, brothers and sisters, of the employee and the employee's spouse, including all step relations.

**Management Employee**

An employee who is responsible for managing a department or division of the city.

**Non-Exempt Employee**

Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek.

**Part-Time Employee**

Employees who are required to work less than forty (40) hours per week year round in an ongoing position.

**Pay Period**

A fourteen (14) day period beginning at 12:01 a.m. on Saturday through midnight on Friday, fourteen (14) days later.

**PERA (Public Employees Retirement Association)**

Statewide pension program in which all city employees meeting program requirements must participate in accordance with Minnesota law. The city and the employee each contribute to the employee's retirement account.

**Promotion**

Movement of an employee from one job class to another within the city, where the maximum salary for the new position is higher than that of the employee's former position

**Reclassify**

Movement of a job from one classification to another classification because of a significant change in the position's duties and responsibilities

**Seasonal Employee**

Employees who work only part of the year (67 days or less) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn benefits or credit for seniority.

### **Service Credit**

Time worked for the city. An employee begins earning service credit on the first day worked for the city. Some forms of leave will create a break in service.

### **Substitute Firefighter**

Any paid on-call firefighter for the City who, on an occasional and sporadic basis, voluntarily agrees to work an available part-time firefighter shift. Substitute firefighters are not eligible for benefits or seniority. A substitute firefighter shall not exceed 18 hours of shift work per week.

### **Temporary Employee**

Employees who work in positions that have a defined start and end date or are for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn benefits or credit for seniority.

### **Probationary Period**

A six-month period at the start of employment with the city (or at the beginning of a promotion, reassignment, or transfer) that is designated as a period within which to learn the job, unless covered by a collective bargaining agreement stating a different time frame. The probationary period is an integral extension of the city's selection process and is used by supervisors for closely observing an employee's work. An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Nothing in this policy handbook shall be construed to imply that during or after completion of the probationary period, an employee has any vested interest or property right to continued City employment.

Time served in temporary, seasonal, volunteer or interim positions are not considered part of the probationary period. If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted, will not be considered as time worked, and the probationary period will be extended by the length of time taken.

### **Transfer**

Movement of an employee from one city position to another of equivalent pay.

### **Weapons**

Weapons are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

### **Workweek**

A workweek is seven consecutive 24-hour periods. For most employees the workweek will run from Saturday through the following Friday. With the approval of the city administrator, departments may establish a different workweek based on coverage and

service delivery needs (e.g., police department, fire department, park and recreation department).

## **EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

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The City of Lake Elmo is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, recruitment, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Lake Elmo will not discriminate against any employee or job applicant on the basis of race (including traits associated with race, including, but not limited to, hair texture and hair styles such as braids, locs and twists), color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status (including pregnancy, childbirth, and pregnancy-related conditions), or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry, or- any other characteristic protected by applicable federal, state, or local laws and ordinances.

## **DATA PRACTICES ADVISORY**

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Employee records are maintained in a location designated by the city administrator. Personnel data is retained in personnel files, finance files, and benefit/medical files. Information is used to administer employee salary and benefit programs, process payroll, complete state and federal reports, document employee performance, etc.

Employees have the right to know what data is retained, where it is kept, and how it is used. All employee data will be received, retained, and disseminated according to the Minnesota Government Data Practices Act.

## **MEDIA REQUESTS**

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All city employees have a responsibility to help communicate accurate and timely information to the public in a professional manner. Requests for private data or information outside of the scope of an individual's job duties should be routed to the appropriate department or to the data practices authority.

Any employee who identifies a mistake in reporting should bring the error to the city administrator or other appropriate staff. Regardless of whether the communication is in the employee's official city role or in a personal capacity, employees must comply with all laws related to trademark, copyright, software use, etc.

Except for routine events and basic information readily available to the public, All requests for interviews or information from the media are to be routed through the city

administrator. No city employee is authorized to speak on behalf of the city without prior authorization from the city administrator or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites. When responding to media requests, employees should follow these steps:

- If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the city administrator of the request.
- If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a “routine” question, forward the request to the city administrator. 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 he/she can.” Then ask the media representative’s name, questions, deadline, and contact information.

All news releases concerning city personnel will be the responsibility of the city administrator or his/her designee.

When/if the city administrator authorizes a staff person to communicate on behalf of the city in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the city. Account names on social media sites must be clearly connected to the city and approved by the city administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: “The city finished street cleaning on 16 streets in the northwest corner of the city this past week” instead of “The city is doing a great job with street cleaning this year!” Corrections must be issued when needed.
- Generally do not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the city’s Facebook page: “My family visited Hill Park this weekend and really enjoyed the new band shelter.” Employees who have been approved to use social media sites on behalf of the city should seek assistance from the city administrator on this topic.
- Notify the city administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for city business. Employees should be aware that the data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

## **PERSONAL COMMUNICATIONS & SOCIAL MEDIA**

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It is important for city employees to remember that the personal communications of employees may reflect on the city, especially if employees are commenting on city business -or commenting on issues that implicate their city employment. As city representatives, employees share the responsibility of earning and preserving the public’s

trust in the city. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, sex/gender, religion, national origin, disability, sexual orientation, or other protected categories. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times.

The following guidelines apply to personal communications, including various forms such as any social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember that what you write, or post is public, and will be so for a long time. It may also be spread to a larger audiences than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos that you would not want your boss or other employees to read, or that you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible between co-workers online, even if it is done after hours, from home and on home computers.
- The City of Lake Elmo expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that can be reasonably viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race (including traits associated with race, including, but not limited to, hair texture and hairstyles such as braids, locs and twists), national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local commission.
- If you publish something related to city business, identify yourself and use a disclaimer such as, "I am an employee of the City of Lake Elmo. However, these are my own opinions and do not represent those of the City of Lake Elmo."
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some

examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.

- Personal social media account names or email names should not be tied to the city (e.g., Lake Elmo Cop).

## **CITYWIDE WORK RULES & CODE OF CONDUCT**

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### **Conduct as a City Employee**

In accepting city employment, employees become representatives of the city and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of Lake Elmo. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a city employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

The following are job requirements for every position at the City of Lake Elmo. All employees are expected to:

- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.
- Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
- Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
- Report any and all unsafe conditions to the immediate supervisor.
- Maintain good attendance while meeting the goals set by your supervisor.
- Approach our organization and operational duties with a positive attitude and constructively support open communication, creativity, dedication, and compassion.

### **Access to and Use of City Property**

Any employee who has authorized possession of keys, tools, cell phones, pagers, or other city-owned equipment must register his/her name and the serial number (if applicable) or identifying information about the equipment with his/her supervisor.

All such equipment must be turned in and accounted for by any employee leaving employment with the city in order to resign in good standing.

Employees are responsible for the safekeeping and care of all such equipment. The duplication of keys owned by the city is prohibited unless authorized by the city administrator. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

### **Appearance**

Departments may establish dress codes for employees as part of departmental rules. Personal appearance should be appropriate to the nature of the work and contacts with other people and should present a positive image to the public. Clothing, jewelry, or other items that could present a safety hazard are not acceptable in the workplace. Dress needs vary by function. Employees who spend a portion of the day in the field need to dress in a professional manner appropriate to their jobs, as determined by their supervisor. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.

### **Conflict of Interest**

City employees are to remove themselves from situations in which they would have to take action or make a decision where that action or decision could be a perceived or actual conflict of interest or could result in a personal benefit for themselves or a family member. If an employee has any question about whether such a conflict exists, [he/shethey](#) should consult with the city administrator.

### **Falsification of Records**

Any employee who makes false statements or commits, or attempts to commit, fraud in an effort to prevent the impartial application of these policies will be subject to immediate disciplinary action up to and including termination and potential criminal prosecution.

### **Personal Telephone Calls**

Personal telephone calls are not to interfere with city work and are to be completed as quickly as possible. Any personal long distance call costs will be paid for by the employee. Please refer to the cell phone policy for information on use of cellular phones.

### **Political Activity**

City employees have the right to express their views and to pursue legitimate involvement in the political system. However, no city employee will directly or indirectly, during hours of employment, solicit or receive funds for political purposes. Further, any political activity in the workplace must be pre-approved by the city to avoid any conflict of interest or perception of bias such as using authority or political influence to compel another employee to apply for or become a member in a political organization.

## **Smoking**

The City of Lake Elmo observes and supports the Minnesota Clean Indoor Air Act. All city buildings and vehicles, in their entirety, shall be designated as tobacco free, meaning that smoking in any form (through the use of tobacco products such as pipes, cigars, and cigarettes) or “vaping” with e-cigarettes is prohibited while in a city facility or vehicle.

Smoking of any kind, including pipes, cigars, cigarettes, vaping with e-cigarettes, and the use of chewing tobacco, is prohibited for employees while on duty. Employees 18 and over are allowed to smoke only during their breaks and lunch, and only in areas designated for that purpose.

## **ATTENDANCE & ABSENCE**

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The operations and standards of service in the City of Lake Elmo require that employees be at work unless valid reasons warrant absence or an employee has a position that has been approved to work remotely. In order for a team to function efficiently and effectively, employees must fully understand the goals that have been set for them and the time that is required to be on the job. Understanding attendance requirements is an essential function of every city position.

Employees who are going to be absent from work are required to notify their supervisor as soon as possible in advance of the absence. In case of an unexpected absence, employees should call their supervisor before the scheduled starting time and keep in mind the following procedures:

- If the supervisor is not available at the time, the employee should leave a message that includes a telephone number where he/she can be reached and/or contact any other individual who was designated by the supervisor.
- Failure to use the established reporting process will be grounds for disciplinary action.
- The employee must call the supervisor on each day of an absence extending beyond one (1) day unless arrangements otherwise have been made with the supervisor.
- Employees who are absent for three (3) days or more and who do not report the absence in accordance with this policy, will be considered to have voluntarily resigned not in good standing.
- The city may waive this rule if extenuating circumstances warranted such behavior.

This policy does not preclude the city from administering discipline for unexcused absences of less than three (3) days. Individual departments may establish more specific reporting procedures.

For budgetary and confidentiality reasons, non-exempt employees (eligible for overtime pay) are not authorized to take work home or work through lunch without prior approval from their supervisor.

## EMPLOYEE TYPE & CONDITION

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The City of Lake Elmo maintains an employee categorization system for the purposes of establishing employee tenure, setting qualifications for employee benefits, determining hiring policies, and complying with the Federal Fair Labor Standards Act (FLSA) and City Personnel Policies.

### EXEMPT/NON-EXEMPT

All City positions are categorized as either **exempt** or **non-exempt** from the provisions of the FLSA.

**Exempt Employee** – Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act. Exempt employees are salaried employees who do work which has been defined as exempt under the Act.

**Non-exempt Employee** – Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are considered hourly employees and are normally eligible for overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek.

### EMPLOYEE TYPE

#### **Probationary:**

A six-month period at the start of employment with the city (or at the beginning of a promotion, reassignment, or transfer) that is designated as a period within which to learn the job, unless covered by a collective bargaining agreement stating a different time frame. The probationary period is an integral extension of the city's selection process and is used by supervisors for closely observing an employee's work. An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Nothing in this policy handbook shall be construed to imply that during or after completion of the probationary period, an employee has any vested interest or property right to continued City employment.

Time served in temporary, seasonal, volunteer or interim positions are not considered part of the probationary period. If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted, will not be considered as time worked, and the probationary period will be extended by the length of time taken.

#### **Temporary:**

Employees who work in positions that have a defined start and end date or are for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn benefits or credit for seniority.

#### **Seasonal:**

Employees who work only part of the year (67 days or less) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn benefits or credit for seniority.

**Career Firefighter:** A benefit eligible, non-exempt, full-time firefighter for the City who works up to 159 hours in a twenty-one (21) day rotation.

**Substitute Paid on Call (POC) Firefighter:**

~~Any paid on call~~ A firefighter for the City who will serve on an occasional ~~and sporadic~~ basis to complement and/or augment the fire department shift schedule, response call backs and department training and events. ~~voluntarily agrees to work an available part-time firefighter shift.~~ Substitute POC firefighters are not eligible for benefits or seniority. POC firefighters shall work the required minimum of hours per quarter but shall not exceed the maximum of 120 work-hours ~~of shift work~~ per week month.

## EMPLOYEE CONTITION

**Full-Time:**

Employees who are required to work forty (40) or more hours per week year-round in an ongoing position.

**Part-Time:**

Employees who are required to work less than forty (40) hours per week year-round in an ongoing position.

## EMPLOYEE RECRUITMENT & SELECTION

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**Scope**

The city administrator or a designee will manage the hiring process for positions within the city. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to city employment. All hires will be made according to merit and fitness related to the position being filled.

**Features of the Recruitment System**

The city administrator or designee will determine if a vacancy will be filled through an open recruitment or by promotion, transfer, or some other method. This determination will be made on a case-by-case basis. The majority of position vacancies will be filled through an open recruitment process.

Application for employment will generally be made by application forms provided by the city. Other materials in lieu of a formal application may be accepted in certain recruitment situations as determined by the city administrator or designee. Supplemental questionnaires may be required in certain situations. All candidates must complete and submit the required application materials by the posted deadline, in order to be considered for the position.

The deadline for application may be extended by the city administrator. Unsolicited applications will not be kept on file.

Position vacancies may be filled on an “acting” basis as needed. The City Council will approve all acting appointments. Pay rate adjustments, if any, will be determined by the City Council.

### **Testing and Examinations**

Applicant qualifications will be evaluated in one or more of the following ways: training and experience rating; written test; oral test or interview; performance or demonstrative test; physical agility test; or other appropriate job-related exam. For example:

- Keyboarding exercises for data entry positions.
- Writing exercises for positions requiring writing as part of the job duties.
- “In-basket” exercise for an administrative support position (sets up real-life scenarios and items that would likely be given to the position for action, and asks the candidate to list and prioritize the steps they would take to complete the tasks).
- Mock presentation to the City Council for a planning director position, for example.

Internal recruitments will be open to any city employee who: (1) has successfully completed the initial probationary period; (2) meets the minimum qualifications for the vacant position; and (3) is currently in good standing with the city.

The City Council or designee will establish minimum qualifications for each position with input from the appropriate supervisor. To be eligible to participate in the selection process, a candidate must meet the minimum qualifications.

### **Pre-Employment Medical Exams**

The city administrator or designee may determine that a pre-employment medical examination, which may include a psychological evaluation, is necessary to determine fitness to perform the essential functions of any city position. Where a medical examination is required, an offer of employment is contingent upon successful completion of the medical exam.

When a pre-employment medical exam is required, it will be required of all candidates who are finalists and who are offered employment for a given job class. Information obtained from the medical exam will be treated as confidential medical records.

When required, the medical exam will be conducted by a licensed physician designated by the city with the cost of the exam paid by the city. (Psychological/psychiatric exams will be conducted by a licensed psychologist or psychiatrist). The physician will notify the city administrator or designee that a candidate either is or isn't medically able to perform the essential functions of the job, with or without accommodations, and whether the candidate passed a drug test, if applicable. If the candidate requires accommodation to perform one or more of the essential functions of the job, the city administrator or designee will confer with the physician and candidate regarding reasonable and

acceptable accommodations. If a candidate is rejected for employment based on the results of the medical exam, he/she will be notified of this determination.

### **Selection Process**

The selection process will be a cooperative effort between the city administrator or designee and the hiring supervisor, subject to final hiring approval of the City Council. Any, all, or none of the candidates may be interviewed.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to City Council approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.

The city has the right to make the final hiring decision based on qualifications, abilities, experience and City of Lake Elmo's needs.

### **Background Checks**

All finalists for employment with the city will be subject to a background check to confirm information submitted as part of application materials and to assist in determining the candidate's suitability for the position. Except where already defined by state law, the city administrator will determine the level of background check to be conducted based on the position being filled.

### **Probationary Period**

The probationary period is an integral part of the selection process and will be used for the purpose of closely observing the employee's work and for training the employee in work expectations. Training periods apply to new hires, transfers, promotions, and rehires. Probationary periods are six months in duration, but may be extended by, for example, an unpaid leave of absence.

Prior to completion of this orientation period, employees may be dismissed with or without cause by written notice.

All promotions, transfers, and reappointments will be subject to a six (6) month probationary period. During this probationary period employees will continue to be considered regular full-time employees, will accrue seniority and will be protected in discharge procedure as other regular full-time employees.

Successful completion of this probationary period does not guarantee continued employment with the City or change the at-will status of your employment.

## **ORGANIZATION**

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### **Job Descriptions**

The city will maintain job descriptions for each regular position. New positions will be

developed as needed but must be approved by the City Council prior to the position being filled.

A job description is prepared for each position within the city. Each job description will include: position title, department, supervisor's title, FLSA status (exempt or non-exempt), primary objective of the position, essential functions of the position, examples of performance criteria, minimum requirements, desirable training and experience, supervisory responsibilities (if any), and extent of supervisory direction or guidance provided to position. In addition, job descriptions may also describe the benefits offered and potential career path opportunities as a means to entice a qualified pool of applicants. Good attendance and compliance with work rules and policies are essential functions of all city positions.

Prior to posting a vacant position the existing job description is reviewed by the city administrator or designee and the hiring supervisor to ensure the job description is an accurate reflection of the position and that the stated job qualifications do not present artificial barriers to employment. All postings are approved by the City Council.

A current job description is provided to each new employee. Supervisors are responsible for revising job descriptions as necessary to ensure that the position's duties and responsibilities are accurately reflected. All revisions are reviewed and must be approved by the city administrator.

### **Assigning and Scheduling Work**

Assignment of work duties and scheduling work is the responsibility of the supervisor subject to the approval of the city administrator.

### **Job Descriptions and Classifications**

Assignment of job titles, establishment of minimum qualifications, and the maintenance of job descriptions and related records is the responsibility of the city administrator.

### **Layoff**

In the event it becomes necessary to reduce personnel, temporary employees and those serving a probationary period in affected job classes will be terminated from employment with the city before other employees in those job classes. Within these groups, the selection of employees to be retained will be based on merit and ability as determined by the city administrator, subject to approval of the City Council. When all other considerations are equal, the principle of seniority will apply in layoffs and recall from layoffs.

## **HOURS OF WORK**

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### **Definitions**

**Hours of Operation:** The city's regular hours of operation are Monday through Friday, from 8 a.m. to 4:30 p.m.

**Authorized Hours:** The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee's supervisor.

**Workweek:** A workweek is seven consecutive 24-hour periods. For most employees the workweek will run from Saturday through the following Friday. With the approval of the city administrator, departments may establish a different workweek based on coverage and service delivery needs (e.g., ~~police department~~, fire departments, park and recreation departments).

## **Work Hours**

Employee work schedules and opportunities to work remotely will be established by supervisors with the approval of the city administrator. The regular workweek for employees is five eight-hour days in addition to a lunch period, Monday through Friday, except as otherwise approved by the city administrator in accordance with the customs and needs of the individual departments.

Part-time, seasonal, and temporary positions: In order to comply with law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended.- Employees in part-time and temporary positions will not be permitted to work more than 28 hours/week, including hours worked and paid leave (such as annual leave).All shifts, including schedule trades or picked-up shifts, must be pre-approved by supervisor. Unpaid furloughs may be imposed on employees who exceed 28 hours/week. Working a shift without prior approval may result in discipline, up to and including termination of employment. In some rare instances, a seasonal or temporary employee may be offered health insurance in order to comply with federal health care reform laws and regulations.

## **Core Hours**

To ensure employee availability and accountability to the public the city serves, all full-time employees (exempt and non-exempt) are to be at work or available to the public and co-workers during the city's business hours, Monday through Friday, unless away from the work site for a work-related activity or on approved leave.

## **Meal Breaks and Rest Periods**

A paid fifteen (15) minute break is allowed within each four (4) consecutive hours of work. An unpaid thirty (30) minute lunch period is provided when an employee works eight (8) or more consecutive hours. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or lunch time by saving these breaks.

Employees whose duties involve traveling throughout the city may stop along the assigned route at a restaurant or other public accommodation for their fifteen-minute breaks and thirty-minute lunch break. Exceptions must be approved by the supervisor or city administrator.

Departments with unique job or coverage requirements may have additional rules, issued by the supervisor and subject to approval of the city administrator, on the use of meal breaks and rest periods.

### **Adverse Weather Conditions**

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). Employees not reporting to work for reasons of personal safety will not normally have their pay reduced as a result of this absence. Employees will be allowed to use accrued paid time off or compensatory time, or with supervisor approval, may modify the work schedule or make other reasonable schedule adjustments.

Sworn police officers Firefighters and public works maintenance employees will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the city administrator.

## **PAYROLL & COMPENSATION**

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### Definitions

**Direct Deposit:** As permitted by state law, all city employees are required to participate in direct deposit.

**FICA(Federal Insurance Contributions Act):** FICA is the federal requirement that a certain amount be automatically withheld from employees' earnings. Specifically, FICA requires an employee contribution of 6.2 percent for Social Security and 1.45 percent for Medicare. The city contributes a matching 7.65 percent on behalf of each employee. Certain employees are exempt or partially exempt from these withholdings (e.g., firefighters).

**Pay Period:** A fourteen (14) day period beginning at 12:01 a.m. on Saturday through midnight on Friday, fourteen (14) days later.

**Holiday Pay:** Compensation (8 hours) received when City offices are closed for an observed holiday.

**Firefighter Holiday Leave Bank:** In lieu of holiday pay, career firefighters will accrue leave (8 hours) when City offices are closed for an observed holiday. The eight (8) hours of leave will be earned in the pay period in which the observed holiday falls and can be used at a time mutually agreed upon by the employee and the employee's supervisor. Accrued hours do not carry over from year to year and are not paid out upon separation of employment.

Full-time employees of the city will be compensated as determined by the City Council. Unless approved by the Council, employees will not receive any amount from the city in

addition to the pay authorized for the positions to which they have been appointed. Expense reimbursement ~~or for~~ travel expenses may be authorized in addition to regular pay.

Compensation for seasonal and temporary employees will be set by the City Council at the time of hire, or on an annual basis.

Under the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages. While the Minnesota Government Data Practices Act (Minn. Stat. §13.43), specifically lists an employee's actual gross salary and salary range as public personnel data, Minnesota law also requires wage disclosure protection rights and remedies to be included in employer personnel handbooks. To that end, and in accordance with Minn. Stat. §181.172, employers may not:

- Require nondisclosure by an employee of his or her wages as a condition of employment.
- Require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wages.
- Take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.
- Retaliate against an employee for asserting rights or remedies under Minn. Stat. §181.172, subd. 3.

The city cannot retaliate against an employee for disclosing his/her own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the city and/or file a complaint with the Minnesota Department of Labor and Industry at (651) 284-5070 or (800) 342-5354.

## **Direct Deposit**

As provided for in Minnesota law, all employees are required to participate in direct deposit. Employees are responsible for notifying the ~~HR Director~~Administrative Services Director of any change in status, including changes in address, phone number, names of beneficiaries, marital status, etc. When paydays fall on a holiday, deposits will be made the day before the holiday.

## **Improper Deduction and Overpayment Policy**

If an employee believes that an improper deduction or overpayment, or another type of error, has been made, they should immediately contact their supervisor. If the city determines it has made an improper deduction from a paycheck, it will reimburse the employee for the improper amount deducted and take good faith measures to prevent improper deductions from being made in the future.

In cases of improper overpayments, employees are required to promptly repay the city in the amount of the overpayment. The employee can write a personal check or authorize a reduction in pay to cover the repayment. The city will not reduce an employee's pay without written authorization by

the employee. Once the overpayment has been recovered in full, the employee's year to date earnings and taxes will be adjusted (so that the year's Form W-2 is correct) and the paying department will receive the corresponding credit. When an overpayment occurs, the repayment must be made within the same tax year.

In the exceptional situation where the overpayment occurs in one tax year and is not discovered until the next year, the overpayment must be repaid in the year it is discovered, but there will be additional steps and paperwork required. Any overpayments not repaid in full within the calendar year of the overpayment are considered "prior year overpayments" and the employee must repay not only for the net amount of the overpayment, but also the federal and state taxes the city has paid on their behalf. The city is able to recover the overpaid Social Security and Medicare taxes. Accordingly, the city will not require the employee to repay those taxes provided the employee provides a written statement that he/she will not request a refund of the taxes. The overpayment amount will remain taxable in the year of the overpayment since the employee had access to the funds. The employee is not entitled to file an amended tax return for the year but may be entitled to a deduction or credit with respect to the repayment in the year of repayment. Employees should contact their tax advisors for additional information.

## **Time Reporting**

Full-time, non-exempt employees are expected to work the number of hours per week as established for their position. ~~In most cases, this will be 40 hours per workweek.~~ They will be paid according to the time reported on their time sheets. To comply with the provisions of the federal and state Fair Labor Standards Act, hours worked and any leave time used by non-exempt employees are to be recorded daily and submitted to payroll on a bi-weekly basis. ~~This is done electronically through the City's payroll software. Time sheets should be entered and approved by the employee and approved by the employee's immediate supervisor. Approving and submitting electronic time sheets acts as a signature. Each time reporting form must include the signature of the employee and immediate supervisor.~~ Reporting false information on a time sheet may be cause for immediate termination.

## **Overtime / Compensatory Time**

The City of Lake Elmo has established this overtime policy to comply with applicable state and federal laws governing accrual and use of overtime. The city administrator will determine whether each employee is designated as "exempt" or "non-exempt" from earning overtime. In general, employees in executive and professional job classes are exempt; all others are non-exempt.

## **Non-Exempt (Overtime-Eligible) Employees**

~~All~~ ~~O~~vertime-eligible employees will be compensated at the rate of time-and-one-half for all hours worked over 40 in one workweek. Paid holidays do count toward "hours worked."

Career firefighters will be compensated at the rate of time-and-one-half for all hours worked over 159 in the designated 21-day cycle. Firefighter Holiday Leave hours do not count towards "hours worked."

~~Compensation will take the form of either time and one-half pay or compensatory time as determined by the employee~~

Employees may earn compensatory time at the rate of one- and one-half times in lieu of overtime pay, upon mutual agreement between the employee and the employer.  
~~-Compensatory time is paid time off at the rate of one and one-half hours off for each hour of overtime worked.~~

For most employees the workweek begins at 12:01 a.m. on Saturday and runs until the following Friday night at midnight. Supervisors may establish a different workweek based on the needs of the department, subject to the approval of the city administrator.

The employee's supervisor must approve overtime hours in advance. An employee who works overtime without prior approval may be subject to disciplinary action.

Overtime earned will be paid at the rate of time-and-one-half on the next regularly scheduled payroll date, unless the employee indicates on his/her timesheet that the overtime earned is to be recorded as compensatory time in lieu of payment, upon supervisor approval.

~~The maximum compensatory time accumulation for any employee is 40 hours per year. Compensatory time balances should not exceed fifty (50) hours with a maximum carryover of forty (40) hours per year. Once an employee has accrued a balance of earned 40 fifty (50) hours of compensatory time in a calendar year, no further compensatory time may accrue. in that calendar year.~~ All further overtime will be paid. Employees may request and use compensatory time off in the same manner as other leave requests.

All compensatory time will be marked as such on official time sheets, both when it is earned and when it is used. The Finance Department will maintain compensatory time records. As of the last pay period in November of each year, all accumulated compensatory time above the maximum carryover amount of forty (40) hours shall be paid to the employee at the hourly pay rate the employee is earning at that time.

All compensatory time accrued will be paid when the employee leaves city employment at the hourly pay rate the employee is earning at that time.

### **Exempt (Non-Overtime-Eligible) Employees**

Exempt employees are expected to work the hours necessary to meet the performance expectations outlined by their supervisors. Generally, to meet these expectations, and for reasons of public accountancy, an exempt employee will need to work 40 or more hours per week. Exempt employees do not receive extra pay for the hours worked over 40 in one workweek.

Exempt employees are paid on a salary basis. This means they receive a predetermined amount of pay each pay period and are not paid by the hour. Their pay does not vary based on the quality or quantity of work performed, and they receive their full weekly salary for any week in which any work is performed.

The City of Lake Elmo will only make deductions from the weekly salary of an exempt employee in the following situations:

- The employee is in a position that does not earn vacation or personal leave and is absent for a day or more for personal reasons other than sickness or accident.
- To offset compensation received for military pay. If an employee works part of the week in military service, the city still must pay the entire week salary to the employee, but the city shall offset the amount of the military pay for the week against the employee's salary.
- The employee is in a position that earns sick leave, receives a short-term disability benefit or workers' compensation wage loss benefits, and is absent for a full day due to sickness or disability, but he/she is either not yet qualified to use the paid leave or he/she has exhausted all of his/her paid leave.
- The employee is absent for a full workweek and, for whatever reason, the absence is not charged to paid leave (for example, a situation where the employee has exhausted all of his/her paid leave or a situation where the employee does not earn paid leave).
- The very first workweek or the very last workweek of employment with the city in which the employee does not work a full week. In this case, the city will prorate the employee's salary based on the time actually worked.
- The employee is in a position that earns paid leave and is absent for a partial day due to personal reasons, illness, or injury, but:
  - Paid leave has not been requested or has been denied.
  - Paid leave is exhausted.
  - The employee has specifically requested unpaid leave.
- The employee is suspended without pay for a full day or more for disciplinary reasons for violations of any written policy that is applied to all employees.
- The employee takes unpaid leave under the FMLA.
- The City of Lake Elmo may for budgetary reasons implement a voluntary or involuntary unpaid leave program and, under this program, make deductions from the salary of an exempt employee. In this case, the employee will be treated as non-exempt for any workweek in which the budget-related deductions are made.

The City of Lake Elmo will not make deductions from pay due to exempt employees being absent for jury duty or attendance as a witness but will require the employee to pay back to the city any amounts received by the employee as jury fees or witness fees.

If the city inadvertently makes an improper deduction to the salary of an exempt employee, the city will reimburse the employee and make appropriate changes to comply in the future. If an employee thinks that a wage deduction was made in error, please contact the administrative services director promptly.

All employees, in all departments, are required to work overtime as requested by their supervisors as a condition of continued employment. Refusal to work overtime may result in disciplinary action. Supervisors will make reasonable efforts to balance the personal needs of their employees when assigning overtime work.

## **Holiday Compensation**

### **Eligibility**

All benefit eligible employees who are on active status (not a leave of absence) the day preceding and the day following an observed City holiday are eligible to receive holiday compensation. Any employee on a leave of absence without pay from the city is not eligible for holiday pay. Full-time employees will receive eight (8) hours of Holiday Pay on the observed holiday. Part-time employees will be paid on a prorated basis determined by the number of hours they work per week. Career and POC firefighters, seasonal, and temporary employees will not receive Holiday Pay on observed City holidays.

Career firefighters will not receive Holiday Pay on observed City holidays. Career firefighters will receive eight (8) hours of accrued time deposited to their Holiday Leave Bank on the paycheck for the pay period in which the observed holiday falls. Holiday Leave must be preapproved by a supervisor and be used in eight (8) hour increments. Holiday Leave time does not count towards hours worked when determining overtime. Holiday Leave time does not carry over from year to year and it will not be paid out upon separation.

### **Pay for Time Worked on a Holiday**

Non-exempt employees assigned to work on any City observed holiday are paid one-and-one-half times the employee's regular straight time rate for all such hours worked.

## **Leave Policy for Exempt Employees**

Exempt employees are required to work the number of hours necessary to fulfill their responsibilities including evening meetings and/or on-call hours. The normal hours of business for exempt staff are Monday through Friday, 8 a.m. to 4:30 p.m., plus evening meetings as necessary.

Exempt employees are required to use paid leave when on personal business or away from the office for more than fifty (50) percent of their scheduled shift. For example, if they work eight (8) hour days and work 4.25 hours they do not need to take paid leave for the remaining 3.75 hours. If they work four (4) hours, then paid leave should be used for four (4) hours. ~~or more, on a given day.~~

Absences of less than fifty (50%) percent of a regular shift ~~four (4) hours~~ do not require use of paid leave as it is presumed that the staff member regularly puts in work hours above and beyond the normal 8 a.m. to 4:30 p.m. Monday through Friday requirement. Exempt employees must communicate their absence to the city administrator or his/her designee.

If an exempt employee is regularly absent from work under this policy and it is found that there is excessive time away from work that is not justified, the situation will be handled as a performance issue.

If it appears that less than forty (40) hours per week is needed to fulfill the position's responsibilities, the position will be reviewed to determine whether a part-time position will meet the needs of the city. Additional notification and approval requirements may be adopted by the city administrator for specific situations as determined necessary.

## **DIVERSITY, EQUITY & INCLUSION**

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The city of Lake Elmo is committed to fostering, cultivating, and preserving a culture of diversity, equity and inclusion. Our policy is to be welcoming, safe, and equitable to all employees and members of the community. By embracing the diversity of our workforce and community, the city seeks to not only meet, but also exceed, our obligations under federal and state law. The goal of our policy is for the work environment to be free of harassment, discrimination, and retaliation.

Furthermore, it is our belief that:

- We are more efficient when all are valued and included.
- We are more effective when we leverage our different ideas, backgrounds and identities.
- We are more responsive when we acknowledge and reflect the identity and experience of our residents and colleagues.

### **Definitions**

**Cultural Competence:** the ability to interact effectively across difference. We acknowledge that a 'one size fits all' approach is not effective and actively seek ways to make our services accessible and culturally relevant.

**Discrimination:** unfair treatment because of a protected class status.

**Diversity:** Recognizes the unique differences of all individuals. This includes the many apparent and non-apparent ways which people differ in their identity such as: age, gender and gender identity, race, ethnicity, national origin, language, religious beliefs, sexual orientation, veteran status, gender identity, mental or physical ability, marital status, family status, or educational background.

**Equity:** the principle of fairness by seeking to remove barriers and increase access to services. This includes understanding and acknowledging historical and ongoing inequities between groups of people and a commitment to actions that challenge those inequities.

**Harassment:** unwelcome conduct that is based on a protected class status that is intimidating, hostile or abusive. This includes sexual harassment.

**Inclusion:** an environment that is built on respect and which creates a sense of belonging for all who live and work here. By being inclusive we acknowledge and value individual contribution as well as the background and identity of those with whom we work, partner, or serve.

### **Policy Statement**

It is the city's policy to respect culture and reduce bias in our workplace and service delivery.

The commitment to inclusion, diversity, and equity influences the work that is performed by the city, the workplace environment, relationships between employees, and relationships between the city and community. While individual employees have their own beliefs and values, performing work on behalf of the city requires upholding cultural competence and respect to ensure work occurs that not only meets, but also exceeds, our obligations under federal and state law.

The city of Lake Elmo values all diversity and recognizes individual protected-class status as defined under state and federal law and seeks to ensure equal opportunities in all phases of employment. The city expects each employee to cooperate to achieve this goal and personally stand behind the principles as defined within this policy.

All employees of the city are expected to act and perform their work professionally, including respecting cultural differences. Pursuant to the city's Respectful Workplace policy, discrimination, including harassment, will not be tolerated. Any employee found to have exhibited any inappropriate conduct or behavior may be subject to disciplinary action.

Employees who believe they have been subjected to any kind of discrimination that conflicts with this policy should follow the reporting procedures within the city's Respectful Workplace policy.

## **PERFORMANCE REVIEWS**

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### Definitions

**Promotion:** Movement of an employee from one job class to another within the city, where the maximum salary for the new position is higher than that of the employee's former position.

**Demotion:** The movement of an employee from one job class to another within the city, where the maximum salary for the new position is lower than that of the employee's former position.

**Reclassify:** Movement of a job from one classification to another classification because of a significant change in the position's duties and responsibilities.

**Tenure:** The total length of continuous employment with the City, including approved leaves of absence.

**Service Credit:** Time worked for the city. An employee, except those in a seasonal or temporary position, begins earning service credit on the first day worked for the city. Some forms of leave will create a break in service.

**Transfer:** Movement of an employee from one city position to another of equivalent pay.

An objective performance review system will be established by the city administrator or designee for the purpose of periodically evaluating the performance of city employees. The quality of an employee's past performance will be considered in personnel decisions such as promotions, transfers, demotions, terminations and, where applicable, salary adjustments.

Performance reviews will be discussed with the employee. While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable, other performance evaluation data, including subjective assessments,

are not. For those parts of the performance evaluation system deemed not challengeable, an employee may submit a written response, which will be attached to the performance review. Performance reviews are to be scheduled on a regular basis, at least annually. The form, with all required signatures, will be retained as part of the employee's personnel file.

During the probationary period, informal performance meetings should occur between the supervisor and the employee. Conducting these informal performance meetings provides both the supervisor and the employee the opportunity to discuss what is expected, what is going well and not so well.

Signing of the performance review document by the employee acknowledges the review has been discussed with the supervisor and does not necessarily constitute agreement. Failure to sign the document by the employee will not delay processing.

## **BENEFITS**

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Benefits are privileges granted to qualified employees in the form of paid leave and/or insurance benefits.

### **Health, Dental, Life and Disability Insurance**

The city will contribute a monthly amount toward group health, dental, life and disability insurance benefits for each eligible employee and his/her dependents. An employee working 30 hours or more per week (or the equivalent of 130 hours or more per month) is eligible to receive benefits. Employees working 30-39 hours per week will receive pro-rated benefits. Waiting periods will apply as determined by the plan.

The city makes a competitive monthly contribution toward group health, dental, and life insurance benefits. Cost sharing is determined by Resolution of the City Council. Employees are encouraged to look closely at this contribution as part of their overall compensation package with the city.

~~In accordance with federal health care reform laws and regulations, while avoiding penalties, the city will offer health insurance benefits to eligible employees and their dependents that work on average or are expected to work 30 or more hours per week or the equivalent of 130 hours or more per month.~~

The amount to be contributed and the type of coverage will be determined annually by the City Council. For information about coverage and eligibility requirements, employees should refer to the summary plan description or contact the [Administrative Services HR](#) Director.

### **Retirement/PERA**

**PERA (Public Employees Retirement Association):** Statewide pension program in which all city employees meeting program requirements must participate in accordance with

Minnesota law. The city and the employee each contribute to the employee’s retirement account.

The city participates in the [Public Employees Retirement Association](#) PERA to provide pension benefits for its eligible employees to help plan for a successful and secure retirement. Participation in PERA is mandatory for most employees, and contributions into PERA begin immediately. The city and the employee contribute to PERA each pay period as determined by state law. Most employees are also required to contribute a portion of each pay-check for Social Security and Medicare (the city matches the employee’s Social Security and Medicare withholding). For information about PERA eligibility and contribution requirements, contact the [Administrative Services HR](#) Director.

## **HOLIDAYS**

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The city observes the following official holidays for all regular full-time and part-time employees:

<u><b>Holiday Celebrated</b></u>	<u><b>Date Observed</b></u>
New Year’s Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Presidents Day	Third Monday in February
Memorial Day	Last Monday in May
<b>Juneteenth</b>	<b>June 19</b>
Independence Day	July 4
Labor Day	First Monday in September
<del>Columbus Day</del> <b>Indigenous Peoples’ Day</b>	Second Monday in October
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24
Christmas	December 24

Official holidays commence at midnight on the day on which the holiday is observed and continue for twenty-four (24) hours thereafter.

When a holiday falls on a Sunday, the following Monday will be the “observed” holiday and when a holiday falls on a Saturday, the preceding Friday will be the “observed” holiday for city operations/facilities that are closed on holidays.

[When Christmas Eve falls on a Friday, it will be observed the preceding Thursday. When Christmas Eve falls on a Sunday, Christmas will be observed the following Tuesday.](#)

~~Full-time employees will receive pay for official holidays at their normal straight time rates, provided they are on paid status on the last scheduled day prior to the holiday and first scheduled day immediately after the holiday. Part-time employees will receive prorated holiday pay based on the number of hours normally scheduled.~~

~~Any employee on a leave of absence without pay from the city is not eligible for holiday pay.~~

~~Premium pay of 1.5 times the regular hourly wage for employees required to work on a holiday will be for hours worked on the “actual” holiday as opposed to the “observed” holiday.~~

~~Compensation for required work time on a holiday is paid pursuant to the Payroll and Compensation Policy.~~

Employees wanting to observe holidays other than those officially observed by the city may request either vacation leave or unpaid leave for such time off.

## **ANNUAL LEAVE - PAID TIME OFF (PTO)**

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The city believes that time away from work is important to the health and well-being of our employees and as such, provides paid time off (PTO) for eligible employees.

Annual leave can be used for any reason, subject to existing request and approval procedures. As with all paid time off programs, the city needs to ensure that service to the public and work requirements are not adversely impacted. Paid time off (PTO) should be taken in fifteen (15) minute increments. Career firefighters shall take paid time off in twenty-four (24) hour increments.

### **Accrual Rates for Annual Leave**

<u>Years of Service</u>	<u>Annual Accrual Rates</u>
0-2 Years	4.75 hours bi-weekly
3-5 years	6.0 hours bi-weekly
6-10 Years	7.50 hours bi-weekly
11-15 Years	8.50 hours bi-weekly
16-24 Years	9.5 hours bi-weekly
25 Years or More	10 hours bi-weekly

Full-time employees will earn paid time off in accordance with the above schedule.

Part-time employees who work at least 18 hours per week on a regular basis will accrue paid time off on a prorated basis of the full-time employee schedule.

Part-time employees who work less than 18 hours per week on a regular basis, temporary, seasonal employees, and interns will not earn or accrue paid time off.

Career firefighters (who work 24-hour shifts and must take 24 hours of leave to take a shift off) will earn paid time off in accordance with the schedule below:

<u>Years of Service</u>	<u>Annual Accrual Rates</u>
0-2 Years	6 hours bi-weekly
3-5 years	8 hours bi-weekly
6-10 Years	10 hours bi-weekly
11-15 Years	11 hours bi-weekly
16-24 Years	12 hours bi-weekly
25 Years or More	13 hours bi-weekly

Annual leave will not accrue during unpaid leaves. ~~Regular part-time employees will accrue annual leave on a prorated basis based on regular hours worked.~~

For the purpose of determining an employee's PTO accrual rate, years of service will include all continuous time that the employee has worked at the city (including authorized leave, but excluding time worked in a temporary, seasonal position or internship).

No more than 240 hours of annual leave may be carried over into the following year. Any amount above the maximum 240 hours shall be converted to a contribution to MSRS. Such conversion shall be capped at 40 hours per year. The conversion shall take place ~~once a year in the second week of December, in conjunction with issuing the calendar year's final paychecks.~~

Employees leaving the city in good standing will receive 100 percent of their annual leave balance as compensation (applicable taxes will be withheld) with their final pay. Employees have the option of directing those dollars into a 457 deferred compensation plan (subject to IRS maximum deferral regulations and Minnesota law).

## **LEAVES OF ABSENCE**

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### **Definitions**

**Immediate Family:** The employee's spouse, and the children, grandchildren, parents, grandparents, brothers and sisters, of the employee and the employee's spouse, including all step, adoptee, and foster relations.

Depending upon an employee's situation, more than one form of leave may apply during the same period of time (e.g., the Family and Medical Leave Act is likely to apply during a workers' compensation absence). An employee will need to meet the requirements of each form of leave separately. Leave requests will be evaluated on a case-by-case basis.

Except as otherwise stated, all paid time off, taken under any of the city's leave

programs, must be taken consecutively, with no intervening unpaid leave. The city will provide employees with time away from work as required by state or federal statutes, if there are requirements for such time off that are not described in the personnel policies.

### **Funeral Bereavement Leave**

Employees will be permitted to use up to three (3) consecutive working days, with pay, as ~~funeral~~ bereavement leave upon the death of an immediate family member and one (1) day for other family. This paid leave will not be deducted from the employee's paid time off balance.

The actual amount of time off, and ~~funeral~~ leave approved, will be determined by the supervisor or city administrator depending on individual circumstances (such as the closeness of the relative, arrangements to be made, distance to the funeral, etc.).

### **Medical Certification**

Good attendance is an essential job function for all city employees. If unplanned absences are excessive, a doctor's certification may be required. The physician's certification is to state the nature and duration of the illness or injury and verify that the employee is unable to perform the duties and responsibilities of his/her position.

A statement attesting to the employee's ability to return to work and perform the essential functions of the job and a description of any work restrictions may also be required before the employee returns to work.

### **Returning to Work After a Medical Absence**

After a medical absence, a physician's statement may be required on the employee's first day back to work, indicating the nature of the illness or medical condition and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation.

Any work restrictions must be stated clearly on the return-to-work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision. Annual leave may be denied for any employee required to provide a doctor's statement until such a statement is provided.

The city has the right to obtain a second medical opinion to determine the validity of an employee's workers' compensation or sick leave claim, or to obtain information related to restrictions or an employee's ability to work. The city will arrange and pay for an appropriate medical evaluation when it has been required by the city.

### **Unpaid Leave**

Unpaid leaves may be approved in accordance with the city personnel policies. Employees must normally use all accrued annual leave prior to taking an unpaid leave. If the leave qualifies under Parenting Leave or Family and Medical Leave, the employee may retain a balance of forty (40) hours when going on an unpaid leave. Any exceptions

to this policy must be approved by the city administrator.

## **Military Leave**

State and federal laws provide protections and benefits to city employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training or active service not exceeding a total of 15 days in any calendar year. Refer to current state and federal laws for details.

The leave of absence is only in the event the employee returns to employment with the city as required upon being relieved from service, or is prevented from returning by physical or mental disability or other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. Employees on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five years.

Where possible, notice is to be provided to the city at least ten (10) working days in advance of the requested leave. A training notice, signed orders, or battle assembly schedule are examples of typical written notification to share with the city. If an employee has not yet used his/her fifteen (15) days of paid leave when called to active duty, any unused paid time will be allowed for the ~~active-duty~~ active-duty time, prior to the unpaid leave of absence.

Employees returning from military service will be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of (PTO) accrual.

Eligibility for continuation of insurance coverage for employees on military leave beyond fifteen (15) days will follow the same procedures as for any employee on an unpaid leave of absence.

## **Military Leave for Family Members**

The city will not discharge from employment or take adverse employment action against an employee because an immediate family member is in the military forces of the United States or Minnesota.

Nor will the city discharge from employment or take adverse employment action against an employee because they attend departure or homecoming ceremonies for deploying or returning personnel, family training or readiness events or events held as part of official military reintegration programs. Employees may substitute paid leave if they choose to do so.

Employees will be granted up to ten (10) working days of unpaid leave whose immediate family member (defined as a person's parent, child, grandparents, siblings, or spouse) is

a member of the United States armed forces who has been injured or killed while engaged in active service. The 10 days may be reduced if an employee elects to use appropriate accrued paid leave.

Unless the leave would unduly disrupt the operations of the city, employees whose immediate family member, as a member of the United States armed forces has been ordered into active service in support of a war or other national emergency, will be granted an unpaid leave of absence, not to exceed one day's duration in any calendar year, to attend a send-off or homecoming ceremony for the mobilized service member.

### **Civil Air Patrol**

The city will grant employees an unpaid leave of absence for time spent serving as a member of the Civil Air Patrol upon request and authority of the State or any of its political subdivisions, unless the absence would unduly disrupt the operations of the city. Employees may choose to use PTO leave while on Civil Air Patrol Leave but are not required to do so.

### **Jury Duty**

Regular full-time and part-time employees will be granted paid leaves of absence for required jury duty in accordance with current state law.

~~Regular full-time and part-time employees will be granted paid leaves of absence for required jury duty.~~ Such employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the city in order to receive their regular wages for the period. Time spent on jury duty will not be counted as time worked in computing overtime.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued PTO or compensatory time to make up the difference.

Employees are required to notify their supervisor as soon as possible after receiving notice to report for jury duty. The employee will be responsible for ensuring that a report of time spent on jury duty and pay form is completed by the clerk of court so the city will be able to determine the amount of compensation due for the period involved.

Temporary and seasonal employees are generally not eligible for compensation for absences due to jury duty, but can take a leave without pay subject to department head approval. However, if a temporary or seasonal employee is classified as exempt, he/she will receive compensation for the jury duty time.

### **Court Appearances**

Employees will be paid their regular wage to testify in court for city-related business. Any compensation received for court appearances (e.g. subpoena fees) arising out of or in connection with city employment, minus mileage reimbursement, must be turned over to

the city.

### **Victim or Witness Leave**

An employer must allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, to attend criminal proceedings related to the victim's case.; Additionally, a victim of a violent crime , as well as the victim's spouse or immediate family member ~~or is the spouse or immediate family member~~ (immediate family member includes parent, spouse, child or sibling of the employee) ~~of such victim,~~ may have reasonable time off from work to attend criminal proceedings related to the victim's case.

An employee must give at least 48 hours advance notice to the city of their need to be absent unless it is impracticable, or an emergency prevents them from doing so. The city may request verification that supports the employee's reason for being absent from the workplace.

### **Job Related Injury or Illness**

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to the supervisor and make arrangements for a medical appointment.

Workers' compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

### **Administrative Leave**

Under special circumstances, an employee may be placed on an administrative leave pending the outcome of an internal or external investigation. The leave may be paid or unpaid, depending on the circumstances, as determined by the city administrator with the approval of the City Council.

### **School Conference Leave**

Any employee ~~who has worked half time or more for more than twelve (12) consecutive months,~~ may take unpaid leave for up to a total of sixteen (16) hours during any 12-month period to attend school conferences or classroom activities related to the employee's child (under 18 or under 20 and still attending secondary school), provided the conference or classroom activities cannot be scheduled during non-work hours. When the leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the city. Employees may choose to use PTO leave hours for this absence, but are not required to do so.

## Family and Medical Leave

See the City of Lake Elmo Family Medical Leave Policy

## Pregnancy and Parenting Leave

~~Employees who work twenty (20) hours or more per week and have been employed more than one year are entitled to take an unpaid leave of absence under the Pregnancy and Parenting Leave Act of Minnesota. Refer to current state and federal laws for details.~~

~~Employees who work twenty (20) hours or more per week and have been employed more than one year are entitled to take an unpaid leave of absence under the Pregnancy and Parenting Leave Act of Minnesota.~~ All employees are entitled to take an unpaid leave of absence under the Pregnancy and Parenting Leave Act of Minnesota. Female employees for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions as well as a biological or adoptive parent in conjunction with after the birth or adoption of a child is eligible for up to 12 weeks of unpaid leave and must begin within twelve (12) months of the birth or adoption of the child. In the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital.

Employees should provide reasonable notice, which is at least 3 days. If the leave must be taken in less than three days, the employee should give as much notice as practicable. In the case of both spouses working for the same employer, each eligible employee is entitled to 12 weeks of parental leave per 12 month period.

Employees are required to use accrued PTO leave during Parenting Leave. If the employee has any FMLA eligibility remaining at the time this leave commences, this leave will also count as FMLA leave. The two leaves will run concurrently. The employee is entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave. Group insurance coverage will remain available while the employee is on leave pursuant to the Pregnancy and Parenting Leave Act, but the employee will be responsible for the entire premium unless otherwise provided in this policy (i.e., where leave is also FMLA qualifying). For employees on an FMLA absence as well, the employer contributions toward insurance benefits will continue during the FMLA leave absence.

Adoptive parents will be given the same opportunities for leave as biological parents. The leave must be for the purpose of arranging the child's placement or caring for the child after placement. Such leave must begin shortly before or at the time of the child's placement in the adoptive home.

Effective July 1, 2023, the city will inform employees of their parental leave rights at the time of hire and when an employee makes an inquiry about or requests parental leave.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting parental leave rights or remedies.

## **Reasonable Unpaid Work Time for Nursing Mothers**

Nursing mothers and lactating employees will be provided reasonable ~~paid unpaid~~ break times (which may run concurrently with already provided break times) ~~for nursing mothers~~ to express milk, ~~for nursing her child for one year after the child's birth~~. The city will provide a clean, private and secure room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting nursing rights or remedies.

## **Light Duty/Modified Duty Assignment**

This policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. Light duty is evaluated by the city administrator on a case-by-case basis. This policy does not guarantee assignment to light duty.

Such assignments are for short-term, temporary disability-type purposes; assignment of light duty is at the discretion of the city administrator. The city administrator reserves the right to determine when and if light duty work will be assigned.

When an employee is unable to perform the essential requirements of his/her job due to a temporary disability, he/she will notify the Administrative Services Director supervisor in writing as to the nature and extent of the disability and the reason why he/she is unable to perform the essential functions, duties, and requirements of the position. This notice **must** be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability. The notice must include the expected time frame regarding return to work with no restrictions, meeting all essential requirements and functions of the city's job description along with a written request for light duty. Upon receipt of the written request, the Administrative Services Director supervisor is to forward a copy of the report to the city administrator.

The city may require a medical exam conducted by a physician selected by the city to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

It is at the discretion of the city administrator whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis, light duty will not generally be approved beyond six months.

If the city offers a light duty assignment to an employee who is out on workers' compensation leave, the employee may be subject to penalties if he/she refuses such work. The city will not, however, require an employee who is otherwise qualified for protection under the Family and Medical Leave Act to accept a light duty assignment.

The circumstances of each disabled employee performing light duty work will be reviewed regularly. Any light duty/modified work assignment may be discontinued at any time.

## **Bone Marrow/Organ Donation Leave**

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours, unless agreed to by the city, to undergo medical procedures to donate bone marrow or an organ. The 40 hours is over and above the amount of accrued time the employee has earned.

The city may require a physician's verification of the purpose and length of the leave requested to donate bone marrow or an organ. If there is a medical determination that the employee does not qualify as a bone marrow or organ donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting bone marrow or organ donation leave rights or remedies.

## **Elections / Voting**

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off without pay for purposes of serving as an election judge, provided that the employee gives the city at least twenty (20)ten (10) days written notice.

The city reserves the right to restrict the number of employees absent from work for the purpose of serving as an election judge to no more than 20 percent of the total work force at any single worksite.

All employees eligible to vote at a State general election, at an election to fill a vacancy in the office of United States Senator or Representative, or in a Presidential primary, will be allowed time off with pay to vote on the election day. ~~Employees wanting to take advantage of such leave are required to work with their supervisors to avoid coverage issues.~~

City employees who are eligible to vote and who are scheduled to work at least 8 hours during poll hours on a federal or state Election Day will be allowed to take sufficient time off from work to vote. Employees who plan to take time off to vote should request the time off at least 2 days in advance, so that staffing and work plans can be arranged to accommodate the lost hours. The City requests that employees who take voting leave either report to work one (1) hour late or leave work one (1) hour early.

Effective July 1, 2023, employees may be absent from work for the time necessary to vote to include voting during the period allowed for voting in person before election day.

## **Reasonable Accommodations to an Employee for Health Conditions Relating to Pregnancy**

The city will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth without advice of a licensed health care provider or certified doula:

- More frequent or longer restroom, food, and water breaks;
- Seating;
- Limits on lifting over 20 pounds; and/or
- Temporary transfer to a less strenuous or hazardous position, should one be available.

Additionally, an employer must provide reasonable accommodations, including, but not limited to, temporary leaves of absence, modification in work schedule or job assignments, seating, more frequent or longer break periods and limits to heavy lifting to an employee for health conditions related to pregnancy or childbirth upon request, with the advice of a licensed health care provider or certified doula,

Unless such accommodations impose an undue hardship on the city, ~~and~~ The city will engage in an interactive process with respect to an employee's request for a reasonable accommodation.

In accordance with state law, no employee is required to take a leave of absence for a pregnancy nor accept a pregnancy accommodation.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting reasonable accommodations pregnancy rights or remedies.

## **SEXUAL HARASSMENT PREVENTION**

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The City of Lake Elmo is committed to creating and maintaining a work-place free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, ~~and~~ the Minnesota Human Rights Act, and other related employment laws.

In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical sexual harassment.

Discriminatory behavior includes inappropriate remarks about, or conduct related to a person's legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

This policy ~~statement~~ is intended to make all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, and elected officials and members of

~~the public aware of the matter of harassment, but specifically sexual harassment sensitive to the matter of sexual harassment,~~ to express the city's strong disapproval of unlawful ~~sexual~~ harassment, to advise employees against this behavior and to inform them of their rights and obligations. The most effective way to address any sexual harassment issue is to bring it to the attention of management.

Maintaining a work environment free from harassment is a shared responsibility.

This policy is applicable to all city employees, volunteers, applicants, contractors/vendors, members of boards and commissions, City Council members, and members of the public both in the workplace and other city-sponsored social events.

## Definitions

**Unlawful Harassment.** "Unlawful harassment" is conduct that has the purpose or effect of creating an intimidating, hostile, or offensive work environment; has the purpose or effect of substantially and unreasonably interfering with an individual's work performance; or otherwise adversely affects an individual's employment opportunities because of the individual's membership in a protected class.

**Sexual Harassment.** "Sexual harassment" is generally defined under both state and federal law as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where:

- Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of any individual's employment or as a basis for employment decisions; *or*
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Other sexually oriented conduct, whether intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating, or humiliating to workers may also constitute sexual harassment.

~~To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363A.013, subd. 413, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:~~

- ~~• Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or~~
- ~~• Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or~~
- ~~• Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.~~

## Prohibited Behavior

Examples of inappropriate conduct ~~that this policy prohibits~~ may include but are not limited to: unwanted physical contact; unwelcome sexual jokes or comments; sexually explicit posters or pinups; repeated and unwelcome requests for dates or

sexual favors; sexual gestures or any indication, expressed or implied, that job security or any other condition of employment depends on submission to or rejection of unwelcome sexual requests or behavior. In summary, sexual harassment is the unwanted, unwelcome and repeated action of an individual against another individual, using sexual overtones as a means of creating stress.

While it's not possible to list all the additional circumstances that may constitute prohibited conduct under this policy, the following are some examples of conduct that, if unwelcome, may result in discipline up to and including unpaid suspension and/or immediate termination depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

Sexual harassment includes, but is not limited to, the following:

- Unwelcome or unwanted sexual advances, whether they involve physical touching or not. This can include means leering, whistling, making sexual gestures, stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- Verbal or written abuse, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
- Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.
- Displaying sexually suggestive objects, pictures, or cartoons.
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

## **Expectations**

The City of Lake Elmo recognizes the need to educate its employees, volunteers, members of boards and commissions, contractors/ vendors, applicants, elected officials and members of the public on the subject of sexual harassment and stands committed to providing information and training. All employees are expected to treat each other and the general public with respect and to assist in fostering an environment that is free from unwanted harassment.

Violations of this policy may result in discipline, including possible termination. Each situation will be evaluated on a case-by-case basis.

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to any of the following:

1. Immediate supervisor;
- 1.2. Administrative Services Director

- 2.3. City administrator;
- 3.4. Mayor or city councilmember.

In addition to notifying one of the above persons and stating the nature of the harassment, the employee is also encouraged to take the following steps, if the person feels safe and comfortable doing so. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and/or take other reasonable action, and as soon as feasible, a supervisor.:

1. Make it clear to the harasser that the conduct is unwelcome and document that conversation.
2. Document the occurrences of harassment.
3. Submit the documented complaints to your supervisor, administrative services director, city administrator, mayor, or any member of the City Council. Employees are strongly encouraged to put the complaint in writing.
4. Document any further harassment or reprisals that occur after the initial complaint is made.

The city urges that conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate.

Management takes these complaints seriously has the obligation to provide an environment free of ~~sexual~~ harassment. The city is obligated to prevent and correct unlawful harassment in a manner which does not abridge the rights of the accused. To accomplish this task, the cooperation of all employees is required.

In the case of a sexual harassment complaint, a supervisor must report the allegations promptly to the city administrator. If the city administrator is the subject of the complaint, then the supervisor is to report the complaint to the City Attorney. A supervisor must act upon such a report even if requested otherwise by the victim.

The city will take action to correct any and all reported harassment to the extent evidence is available to verify the alleged harassment and any related retaliation. All allegations will be investigated. Formal investigations will be prompt, impartial, and thorough. Strict confidentiality is not possible in all cases of sexual harassment as the accused has the right to answer charges made against them; particularly if discipline is a possible outcome. Reasonable efforts will be made to respect the confidentiality of the individuals involved, to the extent possible. . Any investigation process will be handled as confidentially as practical and related information will only be shared on a need-to-know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

Any employee who makes a false complaint or provides false information during an investigation may be subject to disciplinary action, up to and including termination.

The City is not voluntarily engaging in a dispute resolution process within the meaning of

Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

### **Special Reporting Requirements**

When the supervisor is the alleged harasser, a report will be made to the city administrator who will assume the responsibility for investigation and discipline. For more information about what to do when allegations involve the city administrator, the mayor, or a councilmember, see below.

If the city administrator is the alleged harasser, a report will be made to the city attorney who will confer with the Mayor and City Council regarding appropriate investigation and action.

If a councilmember is the alleged harasser, the report will be made to the city administrator and referred to the city attorney who will undertake the necessary investigation. The city attorney will report his/her findings to the City Council, which will take the action it deems appropriate. Pending completion of the investigation, the city administrator may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens. The city will take reasonable and timely action, depending on the circumstances of the situation.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action. In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The city will take reasonable and timely action, depending on the circumstances of the situation.

### **Retaliation**

The City of Lake Elmo will not tolerate retaliation or intimidation directed towards anyone who makes a complaint of employment discrimination, who serves as a witness or participates in an investigation, and/or takes any other actions protected under federal or state discrimination laws, including when or who is exercising his/her rights when requesting religious or disability accommodation. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, barring any extenuating

circumstances, please report your concern immediately to any of the following:

1. Immediate supervisor;
- ~~1.2.~~ Administrative Services Director
- ~~2.3.~~ City Administrator;
- ~~3.4.~~ Mayor or City Councilmember
- 4.5. In the event an employee feels retaliation has occurred by the City Administrator or the City Council, then reporting may be made to the City Attorney.

~~Supervisors who have been approached by employees with claims of retaliation will follow the response process within “Supervisor’s Response to Allegations of Disrespectful Workplace Behavior” including reporting the allegations within two business days to the city administrator, who will who will decide how to proceed in addressing the claim/complaint~~

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the city administrator, or if the complaint is against the city administrator to the city attorney, who will decide how to proceed in addressing the complaint.

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations

## **RESPECTFUL WORKPLACE POLICY**

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~~The City of Lake Elmo is committed to creating and maintaining a work place free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964 and the Minnesota Human Rights Act.~~ The intent of this policy is to provide general guidelines about ~~the~~ conduct that is, and is not, appropriate in the workplace and other city-sponsored events. The city acknowledges that this policy cannot possibly predict all situations that might arise, and also recognizes that some employees are exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

### **Applicability**

Maintaining a respectful work environment is a shared responsibility. This policy is applicable to all city personnel including contract, regular and temporary employees, volunteers, firefighters, and City Council members.

### **Abusive Customer Behavior**

While the city has a strong commitment to customer service, the city does not expect ~~that~~ employees to accept verbal and other abuse from any customer. An employee may request that a supervisor intervene when a customer is abusive, or they may defuse the situation themselves, including professionally ending the contact.

If there is a concern over the possibility of physical violence, a supervisor should be contacted immediately. When extreme conditions dictate, 911 may be called. Employees should leave the area immediately when violence is imminent unless their duties require them to remain. Employees must notify their supervisor about the incident as soon as possible.

## **Types of Disrespectful Behavior**

~~The following types of behaviors constitute “disrespectful behavior” under this policy because they are a disruption in the workplace and are, in many instances, unlawful: (This is not an exhaustive list) The following behaviors are unacceptable and therefore prohibited, even if not unlawful in and of themselves because they are a disruption in the workplace and are, in many instances, unlawful: (This is not an exhaustive list):~~

### **Violent behavior:**

includes the use of physical force, harassment, bullying or intimidation.

### **Discriminatory behavior:**

includes inappropriate remarks about or conduct related to a person’s legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

### **Offensive behavior:**

may include such actions as: rudeness, angry outbursts, inappropriate humor, vulgar obscenities, name calling, disparaging language, or any other behavior regarded as offensive to a reasonable person based upon violent or discriminatory behavior as listed above. It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, taking into account the sensibilities of employees and the possibility of public reaction.

Although the standard for how employees treat each other and the general public will be the same throughout the city, there may be differences between work groups about what is appropriate in other circumstances unique to a work group. If an employee is unsure whether a particular behavior is appropriate, the employee should request clarification from their supervisor or the city administrator.

### **Sexual harassment:**

Please refer to the Harassment Prevention policy.

~~can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:~~

- ~~• Submitting to the conduct is made either explicitly or implicitly a term or~~

- condition of an individual's employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

**Sexual harassment includes, but is not limited to, the following:**

- Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- Verbal or written abuse, kidding, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others.
- Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.

**Names and Pronouns:**

Every employee will be addressed by a name and by pronouns that correspond to the employee's gender identity. A court-ordered name or gender change is not required.

**Possession and Use of Dangerous Weapons**

Possession or use of a dangerous weapon (see attached definitions) is prohibited on city property, in city vehicles, or in any personal vehicle, which is being used for city business. This includes employees with valid permits to carry firearms.

The following exceptions to the dangerous weapons prohibition are as follows:

- Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on city property.
- A person who is showing or transferring the weapon or firearm to a police officer as part of an investigation.
- Police officers and employees who are in possession of a weapon or firearm in the scope of their official duties.

**Employee Response to Disrespectful Workplace Behavior**

Employees who believe that disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below. However, if the allegations involve violent behavior, ~~sexual harassment, or discriminatory behavior~~, then the employee should use his/her discretion to call 911, and as soon as feasible, a supervisor. is

~~responsible for taking one of the actions below. If employees see or overhear a violation of this policy, they are encouraged to follow the steps below. In the event the disrespectful behavior occurring involves the employee's supervisor, the employee should contact human resources, the supervisor's manager or the city administrator.~~

**Step 1(a).** ~~If you feel comfortable doing so, Politely, professionally,~~ but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions. Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

**Step 1(b).** If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor, the administrative services director, city administrator or city attorney. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter, ~~no later than ten business days after your report.~~ In some situations, such as with an offender from the public it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with the offender.

**Step 1(c).** The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. In the case of violent behavior, all employees are required to report the incident immediately to their supervisor, city administrator, or police. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it within two business days to a supervisor or the city administrator.

**Step 2.** If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the city administrator or city attorney.

## **Supervisor's Response to Allegations of Disrespectful Workplace Behavior**

Employees who have a complaint of disrespectful workplace behavior will be taken seriously.

In the case of sexual harassment or discriminatory behavior, a supervisor must report the allegations within two business days to the city administrator, who will determine whether an investigation is warranted. A supervisor must act upon such a report even if requested otherwise by the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

**Step 1(a).** If the nature of the allegations and the wishes of the victim warrant a simple intervention, the supervisor may choose to handle the matter informally. The supervisor may conduct a coaching session with the offender, explaining the impact of his/her actions and requiring that the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 1(b). Supervisors, when talking with the reporting employee will be encouraged to ask him or her what he or she wants to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly.

However, any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

**Step 2.** If a formal investigation is warranted, the individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations. Formal investigations will be prompt, impartial, and thorough.

The person being interviewed may have someone of his/her own choosing present during the interview.

The investigator will obtain the following description of the incident, including date, time and place:

- Corroborating evidence.
- A list of witnesses.
- Identification of the offender.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

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**Step 3.** The supervisor must notify the city administrator about the allegations (assuming the allegations do not involve the city administrator). For more information about what to do when allegations involve the city administrator, the mayor, or a councilmember, see “Special Reporting Requirements” below.-

**Step 4.** In most cases, As soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations. The alleged violator will have the opportunity to answer questions and respond to the allegations. The city will follow any other applicable policies or laws in the investigatory process.

**Step 5.** After adequate investigation and consultation with the appropriate personnel, a decision will be made regarding whether or not disciplinary action will be taken.

**Step 6.** The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable and to the extent permitted by the Minnesota Government Data Practices Act.

**Step 7.** The city will take reasonable and timely action, depending on the circumstances of the situation.

The city is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

## **Special Reporting Requirements**

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the city administrator who will assume the responsibility for investigation and discipline.

If the city administrator is perceived to be the cause of a disrespectful workplace behavior

incident, a report will be made to the city attorney who will confer with the mayor and City Council regarding appropriate investigation and action.

If a council member is perceived to be the cause of a disrespectful workplace behavior incident involving city personnel, the report will be made to the city administrator and referred to the city attorney. The city attorney will undertake the necessary investigation and report their findings to City Council, or the city council may authorize an investigation by an independent investigator (consultant). The independent investigator will report his/her findings to the City Council. The city will take reasonable and timely action, depending on the circumstances of the situation.  
~~who will undertake the necessary investigation. The city attorney will report his/her findings to the City Council, which will take the action it deems appropriate.~~

Pending completion of the investigation, the city administrator may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action.

### **Confidentiality**

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s).

### **Retaliation**

Retaliation is strictly prohibited.

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

Any employee who makes a false complaint or provides false information during an investigation may be subject to disciplinary action, up to and including termination.

## **POSSESSION & USE OF DANGEROUS WEAPONS**

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Weapons are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

Possession or use of a dangerous weapon (see attached definitions) is prohibited on city property, in city vehicles, or in any personal vehicle which is being used for city business. This includes employees with valid permits to carry firearms.

The following exceptions to the dangerous weapons prohibition are as follows:

- Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on city property.
- A person who is showing or transferring the weapon or firearm to a police officer as part of an investigation.
- Police officers and employees who are in possession of a weapon or firearm in the scope of their official duties.

## **SEPARATION FROM SERVICE**

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### **Resignations**

Employees wishing to leave the city service in good standing must provide a written resignation notice to their supervisor, at least ten (10) working days before leaving.

Exempt employees must give thirty (30) calendar days' notice. The written resignation must state the effective date of the employee's resignation.

No more than two (2) PTO days may be used during the employee's notice period and cannot be used as the last two days of employment. [The employee's last day of performing work \(except when on an approved leave of absence\) will be considered the employee's termination date.](#)

[The City reserves the right to accept some, all, or none of the employee's notice and release an employee before completing their notice period.](#)

Unauthorized absences from work for a period of three consecutive work-days may be considered as resignation without proper notice.

Failure to comply with this procedure may be cause for denying payout of the employee's PTO and any future employment with the city.

Employees who leave the employ of the city in good standing by retirement or resignation will receive pay for 100 percent of unused accrued (PTO).

### **Death**

[Upon the death of an employee, separation pay \(described below\) is paid via direct deposit as required in the Payroll and Compensation policy of this manual.](#)

## Separation Pay

Upon separation of employment with the City, employees will be paid for all hours worked through the last day of employment as well the dollar value of remaining annual leave (determined by multiplying the employee's then hourly-rate by the number of accrued but unused paid time off hours) on their final paycheck, paid by direct deposit.

## DISCIPLINE

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### General Policy

Supervisors are responsible for maintaining compliance with city standards of employee conduct. The objective of this policy is to establish a standard disciplinary process for employees of the City of Lake Elmo. City employees will be subject to disciplinary action for failure to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable city policies.

Discipline will be administered in a non-discriminatory manner. An employee who believes that discipline applied was either unjust or disproportionate to the offense committed may pursue a remedy through the grievance procedures established in the city's personnel policies.

If co-workers raise allegations regarding an employee's actions or behaviors the supervisor and/or the city administrator will investigate ~~the allegation any allegation on which disciplinary action might be based~~ before any disciplinary action is taken.

### No Contract Language Established

This policy is not to be construed as contractual terms and is intended to serve only as a guide for employment discipline.

### Process

The city may elect to use progressive discipline, a system of escalating responses intended to correct the negative behavior rather than to punish the employee. There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these personnel policies implies that any city employee has a contractual right or guarantee (also known as a property right) to the job ~~he/shethey~~ performs.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee.

The following are descriptions of the types of disciplinary actions:

### Oral Reprimand

This measure will be used where informal discussions with the employee's supervisor have not resolved the matter. All supervisors have the ability to issue oral reprimands

without prior approval.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice that the performance or behavior needs to change, and what the change must be. The supervisor will document the oral reprimand including date(s) and a summary of discussion and corrective action needed.

### **Written Reprimand**

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the supervisor with prior approval from the city administrator.

A written reprimand will: (1) state what did happen; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. Employees' signatures do not mean the employee agrees with the reprimand. Written reprimands will be placed in the employee's personnel file.

### **Suspension With or Without Pay**

The city administrator may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans who have completed the initial probationary period, will not be suspended without pay in conjunction with a termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

### **Demotion and/or Transfer**

An employee may be demoted or transferred if attempts at resolving an issue have failed and the city administrator determines a demotion or transfer to be the best solution to the problem. The employee must be qualified for the position to which they are being

demoted or transferred. The City Council must approve this action.

### **Salary**

An employee's salary increase may be withheld or the salary may be decreased due to performance deficiencies.

### **Dismissal**

The city administrator, with the approval of the City Council, may dismiss an employee for substandard work performance, serious misconduct, or behavior not in keeping with city standards.

If the disciplinary action involves the removal of a qualified veteran who has completed the initial probationary period, the appropriate hearing notice will be provided and all rights will be afforded the veteran in accordance with Minnesota law.

## **GRIEVANCE PROCEDURE**

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Any dispute between an employee and the city relative to the application, meaning or interpretation of these personnel policies will be settled in the following manner:

**Step 1:** The employee must present the grievance in writing, stating the nature of the grievance, the date at which the incident allegedly occurred, the facts on which it is based, the provision or provisions of the personnel policies allegedly violated, and the remedy requested, to the proper supervisor within

twenty (20) days after the alleged violation or dispute has occurred. The supervisor will respond to the employee in writing within ten (10) days.

**Step 2:** If the grievance has not been settled in accordance with Step 1, it must be presented in writing, stating the nature of the grievance, the date at which the incident allegedly occurred, the facts on which it is based, the provision or provisions of the Personnel Policies allegedly violated, and the remedy requested, by the employee to the city administrator within five (5) days after the supervisor's response is due. The city administrator or their his/her designee will respond to the employee in writing within ten (10) calendar days. The decision of the city administrator is final for all disputes with exception of those specific components in a performance evaluation subject to a challenge through the Minnesota Department of Administration.

### **Waiver**

If a grievance is not presented within the time limits set forth above, it will be considered "waived." If a grievance is not appealed to the next step in the specified time limit or any agreed extension thereof, it will be considered settled on the basis of the city's last answer. If the city does not answer a grievance or an appeal within the specified time limits, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the city and the employee without prejudice to either party.

The following actions are not grievable:

- While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable, other performance evaluation data, including subjective assessments, are not.
- Pay increases or lack thereof; and
- Merit pay awards.

The above list is not meant to be all inclusive or exhaustive.

## **EMPLOYEE EDUCATION & TRAINING**

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The city promotes staff development as an essential, ongoing function needed to maintain and improve cost effective quality service to residents. The purposes for staff development are to ensure that employees develop and maintain the knowledge and skills necessary for effective job performance and to provide employees with an opportunity for job enrichment and mobility.

### **Policy**

The city will pay for the costs of an employee's participation in training and attendance at professional conferences, provided that attendance is approved in advance under the following criteria and procedures:

## **Job-Related Training & Conferences**

The subject matter of the training session or conference is directly job-related and relevant to the performance of the employee's work responsibilities. Responsibilities outlined in the job description, annual work program requirements and training goals and objectives that have been developed for the employee will be considered in determining if the request is job-related.

CLE or similar courses taken by an employee in order to maintain licensing or other professional accreditation will not be eligible for payment under this policy unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the city.

The supervisor and the city administrator are responsible for determining job-relatedness and approving or disapproving training and conference attendance.

## **Request for Participation in Training & Conferences**

The request for participation in a training session or conference must be submitted in writing to the employee's supervisor on the appropriate form. All requests must include an estimate of the total cost (training session, travel, meals, etc.) and a statement of how the education or training is related to the performance of the employee's work responsibilities with the city.

Payment information such as invoices, billing statements, etc., regarding the conference or training should be forwarded to accounting for prompt payment.

## **Out of State Travel**

Attendance at training or conferences out of state is approved only if the training or conference is not available locally. All requests for out of state travel are reviewed for approval/disapproval by the city administrator.

## **Compensation for Travel & Training Time**

Time spent traveling to and from, as well as time spent attending a training session or conference, will be compensated in accordance with the federal Fair Labor Standards Act.

Travel and other related training expenses will be reimbursed subject to the employee providing necessary receipts and appropriate documentation.

## **Memberships and Dues**

The purpose of memberships to various professional organizations must be directly related to the betterment of the services of the city. Normally, one city membership per agency, as determined by the city administrator is allowed, providing funds are available.

Upon separation of employment, individual memberships remain with the city and are transferred to another employee by the supervisor when possible.

### **Travel & Meal Allowance**

If employees are required to travel outside of the area in performance of their duties as a city employee, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred. In no case will city funds be used to pay for, or reimburse, for events sponsored by or affiliated with political parties. However, ~~the~~ The city will not reimburse employees for meals connected with training or meetings within city limits, unless the training or meeting is held as a breakfast, lunch or dinner meeting. The city will also not reimburse employees for the costs for travel of family members.

Employees who find it necessary to use their private automobiles for city travel and who do not receive a car allowance will be reimbursed at the allowable IRS rate.

Expenses for meals, including sales tax and gratuity, will be reimbursed according to this policy. No reimbursement will be made for alcoholic beverages. Meal expenses will be reimbursed at the IRS rate. Employees must present itemized documentation with reimbursement requests.

A full reimbursement, over the maximum defined, may be authorized if a lower cost meal is not available when attending banquets, training sessions, or meetings of professional organizations.

## **OUTSIDE EMPLOYMENT**

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The potential for conflicts of interest is lessened when individuals employed by the City of Lake Elmo regard the city as their primary employment responsibility. All outside employment is to be reported to the employee's immediate supervisor. If a potential conflict exists based on this policy or any other consideration, the supervisor will consult with the city administrator. Any city employee accepting employment in an outside position that is determined by the city administrator to be in conflict with the employee's city job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

For the purpose of this policy, outside employment refers to any non-city employment or consulting work for which an employee receives compensation, except for compensation received in conjunction with military service or holding a political office or an appointment to a government board or commission that is compatible with city employment. The following is to be considered when determining if outside employment is acceptable:

- Outside employment must not interfere with a full-time employee's availability during the city's regular hours of operation or with a part-time employee's regular work schedule.
- Outside employment must not interfere with the employee's ability to fulfill the

essential requirements of his/her position.

- The employee must not use city equipment, resources or staff in the course of the outside employment.
- The employee must not violate any city personnel policies as a result of outside employment.
- The employee must not receive compensation from another individual or employer for services performed during hours for which he/she is also being compensated by the city. Work performed for others while on approved paid time off or compensatory time is not a violation of policy unless that work creates the appearance of a conflict of interest.
- Departments may establish more specific policies as appropriate, subject to the approval of the city administrator.

City employees are not permitted to accept outside employment that creates either the appearance of or the potential for a conflict with the development, administration or implementation of policies, programs, services or any other operational aspect of the city.

## **DRUG FREE & ALCOHOL-FREE WORKPLACE**

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It is the policy of the City of Lake Elmo to maintain a drug and alcohol-free work environment that is safe and productive for employees, its citizens, and others doing business with the City.

The unlawful use, possession, purchase, sale, or distribution of, or being under the influence of any illegal drug or controlled substance while on City premises or while performing services for the City is strictly prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences. The City of Lake Elmo also prohibits reporting to work or performing work duties under the influence of alcohol and cannabis or consuming alcohol and cannabis while on duty or during work hours. In addition, the City prohibits off-premises abuse of alcohol, cannabis, and controlled substances, as well as the possession, use, or sale of illegal drugs, when these activities adversely affect job performance, job safety, or the City's reputation in the community.

Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the city's intent and obligation to provide a drug-free, alcohol-free, safe, and secure work environment.

- A. ~~The unlawful manufacture, distribution, possession, or use of a controlled substance on city property or while conducting city business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.~~

The city recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate and may contact the administrative services director for other resources.

- B. ~~Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on~~

~~or off work premises while conducting city business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.~~

~~In accordance with federal law, the City of Lake Elmo has adopted the following policy on drugs in the workplace:~~

The City of Lake Elmo prohibits the following:

- A. No employee shall report to work under the influence of alcohol, cannabis, controlled Substances, or other drugs which affect their alertness, coordination, reaction, response, judgment, decision-making, or safety.
- B. No employee shall operate, use, or drive any equipment, machinery, or vehicle of the City while under the influence of alcohol, cannabis, controlled substances or other mood-altering drugs. Such employee is under an affirmative duty to immediately notify their supervisor that they are not in an appropriate mental or physical condition to operate, use, or drive the City's equipment or vehicles.
- C. No employee shall unlawfully manufacture, distribute, dispense, possess, transfer, or use a controlled substance in the workplace or wherever the City's work is being performed.
- D. Engaging in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances may have a negative effect on an employee's ability to perform their work for the City. In such circumstances, the employee is subject to discipline.
- E. When an employee is taking medically authorized drugs or other substances which may alter job performance, the employee is under an affirmative duty to notify the appropriate supervisor of their temporary inability to perform the job duties of their position.

To ensure compliance with this policy, please refer to the *City of Lake Elmo's Drug, Alcohol, and Cannabis Testing Policy* for more information.

Notwithstanding any provision herein, this policy will be enforced at all times in accordance with applicable state and local law. Any employee violating this policy is subject to discipline, up to and including termination.

Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting city business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

## **CITY DRIVING POLICY**

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This policy applies to all employees who drive a vehicle on city business at least once per month, whether driving a city-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature of the job. The city expects all employees who are required

to drive as part of their job to drive safely and legally while on city business and to maintain a good driving record.

The city will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their immediate supervisor on the first work day after any temporary, pending or permanent action is taken on their license and to keep their supervisor informed of any changes thereafter.

The city will determine appropriate action on a case-by-case basis.

## CELLULAR PHONE USE

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This policy is intended to define acceptable and unacceptable uses of city issued cellular telephones. Its application is to ~~insure~~ensure cellular phone usage is consistent with the best interests of the city without unnecessary restriction of employees in the conduct of their duties. This policy will be implemented to prevent the improper use or abuse of cellular phones and to ensure that city employees exercise the highest standards of propriety in their use.

### General Policy

Cellular telephones are intended for the use of city employees in the conduct of their work for the city.

Supervisors are responsible for the cellular telephones assigned to their employees and will exercise discretion in their use. Nothing in this policy will limit supervisor discretion to allow reasonable and prudent personal use of such telephones or equipment provided ~~that~~:

- Its use in no way limits the conduct of work of the employee or other employees.
- No personal profit is gained or outside employment is served.
- All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of cellphones at all times. Employees whose job responsibilities include regular or occasional driving and who are issued a cellphone for business use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances and in accordance with Minnesota law, employees are required to use hands-free operations or pull off into a parking lot and safely stop the vehicle before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times. Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area. Hands-free equipment will be provided with city-issued phones to facilitate the provisions of this policy.
- Reading/sending text messages, making or receiving phone calls, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.

- In accordance with State law, there is an exception to hands free cell phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a state law exception for authorized emergency vehicles while in the performance of official duties.
- Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions. See above “City Driving Policy” for more information on reporting driver’s license restrictions”.

Regardless of who pays the bill, cell phone records about city business are subject to the Minnesota Government Data Practices Act. What this means is that if a request were received, the city would be under the obligation to determine what information is public data and what information is private data and would need access to the employee’s phone records and possibly the phone itself in order to provide the data that is being requested. Therefore, the best practice is to limit usage of personal cell phones for city business to that which is truly necessary or be prepared to produce your cell phone and the associated records if needed.

An employee will not be reimbursed for business-related calls without prior authorization from his/her supervisor. Supervisors may also prohibit employees from carrying their own personal cell phones during working hours if it interferes with the performance of their job duties.

Use of public resources by city employees for personal gain and/or private use including, but not limited to, outside employment or political campaign purposes, is prohibited and subject to disciplinary action which may include termination and/or criminal prosecution, depending on the circumstances. Incidental and occasional personal use may be permitted with the consent of the supervisor.

Personal calls will be made or received only when absolutely necessary. Such calls must not interfere with working operations and are to be completed as quickly as possible. In cases where the city does not regard accounting for personal calls to be unreasonable or administratively impractical due to the minimal cost involved, personal calls made by employees on a city-provided cellular phone must be paid for by the employee through reimbursement to the city based on actual cost listed on the city’s phone bill.

## **Procedures**

It is the objective of the City of Lake Elmo to prevent and correct any abuse or misuse of cellular telephones through the application of this policy. Employees who abuse or misuse such telephones may be subject to disciplinary action.

## **Responsibility**

The city administrator, or designee, will have primary responsibility for implementation and coordination of this policy. All supervisors will be responsible for enforcement

within their departments.

## **SAFETY**

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The health and safety of each employee of the city and the prevention of occupational injuries and illnesses are of primary importance to the city. To the greatest degree possible, management will maintain an environment free from unnecessary hazards and will establish safety policies and procedures for each department. Adherence to these policies is the responsibility of each employee. Overall administration of this policy is the responsibility of each supervisor.

### **Safety Equipment/Gear**

Where safety equipment is required by federal, state, or local rules and regulations, it is a condition of employment that such equipment be worn by the employee.

### **Unsafe Behavior**

Supervisors are authorized to send an employee home immediately when the employee's behavior violates the city's personnel policies, department policies, or creates a potential health or safety issue for the employee or others.

### **Reporting Accidents and Illnesses**

Both Minnesota workers' compensation laws and the state and federal Occupational Safety and Health Acts require that all on the job injuries and illnesses be reported as soon as possible by the employee, or on behalf of the injured or ill employee, to his/her supervisor. The employee's immediate supervisor is required to complete a First Report of Injury and any other forms that may be necessary related to an injury or illness on the job.

### **Access to Gender-Segregated Activities and Areas**

With respect to all restrooms, locker rooms or changing facilities, employees will have access to facilities that correspond to their affirmed gender identity, regardless of their sex at birth. ~~The city maintains separate restroom and/or changing facilities for male and female employees and allows employees to access them based on their gender identity.~~

In any gender-segregated facility, any employee who is uncomfortable using a shared facility, regardless of the reason, will, upon the employee's request, be provided with an appropriate alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule. However, the city will not require a transgender or gender diverse employee to use a separate, nonintegrated space, unless requested by the transgender or gender diverse employee, because it may publicly identify or marginalize the employee as transgender.

Under no circumstances may employees be required to use sex-segregated facilities that are inconsistent with their gender identity.