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CHAPTER I – GENERAL PROVISIONS

Section 1 – Authority

The Mayor and Board of Aldermen, as specified in Chapter 18 of the Municipal Code establishing a personnel system for the City of Crestwood, are authorized to establish Civil Service Rules and Regulations.

Section 2 – Purpose

In accordance with the ordinance creating a personnel system, it is the purpose of these Civil Service Rules and Regulations to establish procedures concerning various personnel activities and operations.

Section 3 – Intent

These Civil Service Rules and Regulations only outline the major employment policies of the City of Crestwood. The rules and regulations are not intended to be and shall not be considered all-inclusive. The rules and regulations are not intended to be a substitute for the good judgment, common sense, and discretion of City personnel. These rules and regulations supersede and replace all previous civil service rules and regulations.

Classified, permanent, full-time employees who are not serving a probationary period of any kind are subject to the Disciplinary Action provisions of and the Grievance, Complaint and Appeal procedure set forth in Chapter IX. All other employees are employed “at will” and the City expressly reserves the legal right to discharge or terminate such employees at any time and for any reason, with or without prior notice. Likewise, employees have the legal right to terminate their employment at any time and for any reason. The Civil Service Rules and Regulations are not a contract and are not intended to create any contractual obligations on the part of the City to employ any individual for any definite duration.

As circumstances arise in which the City may determine that changes to these policies are necessary, the City reserves the right to change these policies at any time and reserves the unilateral right to do so at any time without prior notice to its employees. Accordingly, no statement in these rules and regulations is intended as a contractual commitment or obligation of the City to any employee.

Likewise, no City employee with hiring authority has the right to enter into any employment agreement with another city employee or applicant contrary to the provisions of this section of the Civil Service Rules and Regulations without Board of Aldermen approval.

These policies and procedures shall not be inconsistent with, but complementary to, related state and federal laws and regulations. If any provision becomes invalid due to subsequent passage or interpretations of related legislation or court rulings, the remaining provisions shall not be invalidated. In addition, specific provisions of any employee benefit plan documents shall be controlling with respect to any such benefits.

In all cases where masculine gender is used, it also indicates feminine.

Section 4 – Positions Covered

The Civil Service Rules and Regulations shall cover all employees in classified service, as specified in Chapter 18 of the Municipal Code. All employees are covered by the Civil Service Rules and Regulations except the elected officials, City Administrator, Police Chief, Fire Chief, Public Works Director, Parks and Recreation Director, City Attorney, Prosecuting Attorney(s), Municipal Judge(s), and all other individuals designated as contract, temporary or seasonal employees, unless otherwise designated to be included by the Board of Aldermen.

Section 5 – Administration

The City Administrator, as Personnel Director, or his designee shall administer these Rules and Regulations in accordance with Chapter 18 of the Municipal Code, which establishes a personnel system.

Section 6 – Interpretation

It shall be the responsibility of the Personnel Director to administer, interpret, and on occasion, recommend to the Board of Aldermen appropriate amendments. Supervisory personnel shall refer questions regarding the application of these Civil Service Rules and Regulations to the City Administrator, as Personnel Director.

Section 7 – Department Rules and Regulations

It is expected that due to differences in operating conditions and requirements, department rules and regulations may be necessary as a supplement to these Civil Service Rules and Regulations, but shall not be in conflict with this document. The Personnel Director must approve all department rules and regulations.

Section 8 – Civil Service Board

The Civil Service Board shall have the power and be required to:

- A. Advise the Board of Aldermen and Personnel Director on the problems concerning personnel administration;
- B. Make any investigation that the Civil Service Board may deem desirable concerning appropriate changes or additions to the Civil Service Rules for classified employees or procedures or general policies that unfairly or adversely affect classified employees and report to the Board of Aldermen at least once a year in writing on its findings, conclusions and recommendations;
- C. Approve civil service rules;
- D. Hear appeals of grievances regarding claimed violations, misinterpretations or misapplications of the Civil Service Rules and Regulations, Department Rules and Regulations or disciplinary action affecting employment with the City; Hear appeals for disciplinary action.
- E. Perform such other duties with reference to personnel administration, not inconsistent with provisions of the city, as the Board of Aldermen may require by ordinance;

- F. Meet quarterly, or as directed by the Mayor, Board of Aldermen, or Chairman of the Civil Service Board, or as requested by the City Administrator.
- G. Review the classification and pay plan annually; and
- H. Render decisions on grievance appeals.

Section 9 – Americans with Disabilities Act (ADA)

The City will provide reasonable accommodation for qualified persons with disabilities who are employees, or applicants for employment, and who can perform the essential functions of the job with or without accommodations. Discrimination against job applicants or employees because they are disabled is prohibited, and will not be tolerated.

If the employee becomes disabled but wishes to continue his employment and needs a reasonable accommodation, the employee shall notify his supervisor who will work with the employee and the Personnel Director to determine if a reasonable accommodation can be made.

Section 10 – Equal Employment Opportunity

It is the policy of the City of Crestwood to provide and promote equal employment opportunities for all applicants and employees. It is the City's policy not to discriminate against any employee or applicant for employment because of race, age, color, religion or creed, gender, national origin, ancestry, political affiliation, sexual orientation, disability or other legally protected status.

City Employees are expected to treat fellow employees and the public in a non-discriminatory manner.

CHAPTER II – ETHICS AND CONDUCT

Section 1 – Outside Employment

No employee may engage in any paid employment in addition to his employment with the City of Crestwood without the written approval of the Department Head. The standards used for approval or disapproval of outside employment shall be based on the extent to which the outside employment will, or could, cause a conflict of interest or impact negatively upon the satisfactory performance of the employee.

Section 2 – Confidential Information

An employee may not directly or indirectly make use of, or permit others to make use of, confidential information acquired by virtue of employment with the City.

Section 3 – Media/Press Relations

No employee in the Classified Service shall act as a spokesperson with respect to inquiries from the media/press regarding City matters without approval from the City Administrator.

Section 4 – Gifts and Gratuities

Gratuity in any form creates the perception of favoritism. While money by vendors to secure favorable consideration is seldom attempted, vendors may attempt to secure favoritism by offering gifts or providing entertainment to City officials. The City hereby adopts a policy requiring the disclosure of gifts and/or favors having a face or market value at or above \$100. This disclosure shall be in written form, prepared and delivered by the individual employee to the City Administrator who shall maintain the permanent record of such disclosures. The written disclosure shall include the following information with respect to the gift or favor: the employee receiving; the company (and representative) offering; the face or market value; the nature of the gift or favor; and the disposition.

Section 5 – Political Activity

Employees of the City of Crestwood are encouraged to exercise their right to vote, but no employee shall make use of City supplies, uniforms, logos, time or equipment to aid a political candidate, political party, or political cause, or use a City position to persuade, coerce, or intimidate any person in the interest of a political candidate, political party, or political cause.

City employees may not participate in, or assist any candidate for, elections to City office except by individual ballot. Any employee may, however, participate or contribute to the election or appointment of public officials to offices outside the political jurisdiction of the City of Crestwood.

Section 6 – Employee Candidacy for Office

Any City employee who becomes a candidate for any City elective office or is appointed and accepts a position on a City advisory board shall immediately forfeit his position with the City. Conversely, no member of a City advisory board can apply for employment with the City without resigning from the City advisory board. If an employee is already a member of a City advisory board at the time of the adoption of the Civil Service Manual, the employee will be exempted from

this requirement. If he chooses at a later date to apply for re-employment and is rehired, he will receive full credit for past service in computing continuous service, vacation, sick leave, leave of absence, reduction in work force, or any other benefit or employment condition provided the rehire falls within the established time frame regarding continuous service.

Any City employee who becomes a candidate or is chosen to fill an elective office other than City-elective offices shall immediately place on file with the Personnel Director a statement indicating:

- A. That no City time or equipment will be used to assist in the campaign or in carrying out the responsibilities of the elective office; and
- B. The steps to be taken to assure that the employee's City job responsibilities will be carried out effectively, both during the campaign and for the duration of his incumbency.

Section 7 – Harassment

As set forth in Sections 18-31 through 18-33 of the Municipal Code, the City of Crestwood prohibits harassment based on such factors as race, age, color, religion or creed, gender, national origin, ancestry, political affiliation, sexual orientation and mental or physical disability.

The City of Crestwood will not tolerate any conduct which constitutes harassment of any employee or any individual working in a City of Crestwood facility by any person, including co-workers, other City staff or officials, vendors, or any non-employee who is working in a City of Crestwood facility.

A. Definition:

1. *Harassment.* Ethnic slurs, racial "jokes," offensive or derogatory comments or other verbal or physical conduct based on an individual's race/color constitute unlawful harassment if the conduct creates an intimidating, hostile, or offensive working environment or interferes with the individual's work performance. Harassment may also include offensive slurs, "jokes" or other similar unwelcomed conduct.
2. *Sexual harassment.* Harassment on the basis of sex includes unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment occurs when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- a. The victim as well as the harasser may be a woman or man.
- b. The victim does not have to be of the opposite sex.

- c. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- d. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- e. Unlawful sexual harassment may occur without economic injury to or discharge of the victim. The harasser's conduct must be unwelcomed.

B. Complaint Procedure:

1. Reporting Violations: Employees are encouraged to report any incident of harassment by any City of Crestwood employee or any other person. Employees should report incidents promptly to their Supervisor, Department Head or any other member of management with whom the employee feels comfortable. An employee is not required to complain first to his or her Supervisor or Department Head.

Management employees who receive a complaint, or observe, or become aware of possible harassment must immediately report it to the Personnel Director to ensure proper handling. Failure to do so will result in disciplinary action, which may include the management employee's dismissal. When the Personnel Director is informed of a possible harassment, he will immediately report this possible harassment to the Mayor. The Board of Aldermen will be given a notification of incident when a complaint is filed.

2. Investigating Complaints: Every complaint or report of harassment will be investigated thoroughly and promptly. For any complaint which is lodged against a Department Head, or for any other complaint the Personnel Director deems appropriate, the Personnel Director, with the consultation of the City Attorney, shall appoint an investigator who is not an employee of the City to conduct the investigation. For any complaint that is lodged against the City Administrator, the Mayor, with the consultation of the City Attorney, shall appoint an investigator who is not an employee of the City to conduct the investigation.

All complaints will be handled as confidentially as possible, and only those individuals directly involved with or investigating the complaint will be informed of the investigation findings.

The investigation findings will be documented, and the complaining employee and alleged harasser will be kept advised of the progress of the investigation and of the investigator's findings and conclusions.

The City of Crestwood will not tolerate any form of retaliation against any employee for making a complaint about harassment, reporting a possible incident of harassment, or cooperating in the investigation of a complaint.

C. Discipline

In the case of City employees, if the investigation determines that harassment occurred, the City of Crestwood will discipline the offender and take any other appropriate remedial action. Disciplinary action for a violation of this policy can range

from written warnings up to and including discharge, depending on the circumstances. With regard to acts of harassment by non-employees, remedial action within the ability of the City of Crestwood will be taken.

D. Appealing decisions

If the complaining employee is dissatisfied with the handling of the investigation and/or its findings and conclusions, the employee may submit a letter of appeal to his Department Head within seven (7) working days of being notified of the findings and conclusions. The Department Head will review the investigation documentation and any other information and will provide a written response to the complaining employee within fifteen (15) working days. If the complaining employee is dissatisfied with the Department Head's decision, the employee may submit a letter of appeal to the Personnel Director within seven (7) working days of being notified of the Department Head's decision. The Personnel Director shall review the decision of the Department Head and provide a written response to the complaining employee within fifteen (15) working days.

Where the Department Head is the subject of the complaint, the employee may submit a letter of appeal directly to the Personnel Director within fifteen (15) working days of being notified of the finding and conclusions of the investigation. The Personnel Director shall review the investigation documentation and any other information and provide a written response to the complaining employee within fifteen (15) working days.

If the employee is dissatisfied with the Personnel Director's written response, he may follow the appeal process outlined in Chapter IX, Section 3 E for further review by the Civil Service Board.

Where the City Administrator as Personnel Director is the subject of the complaint, the employee may submit a letter of appeal directly to the Civil Service Board within fifteen (15) working days of being notified of the findings and conclusions.

Section 8 – Internet & Email Policy (adopted October 1999)

The City of Crestwood provides access to and use of Internet/Intranet communications for the purpose of enhancing the delivery of legitimate local government services. All accounts provided by the City are the property of the City and their assignment and use, including monitoring of email by its users, shall be accomplished in a manner that is consistent with established procedures.

- A. Usage of Internet/Intranet communications (email) is deemed a privilege and may be revoked at any time by the Personnel Director, Department Head, or System Administrator.
- B. Limited personal use of email is authorized unless one of the following conditions is present:
 - 1. The use detracts from the employee's primary responsibilities as determined by the employee's Department Head.

2. The use is determined to be in conflict with an existing City of Crestwood Personnel Rule or Regulation.
 3. The use is determined to be of an offensive nature or is directed at another person in a defamatory manner.
- C. Use or access to or by the City of Crestwood Internet/Intranet system shall not, under any circumstances, be used or propagated for the financial or political gain of the individual user's given access.
- D. Access to any adult or pornographic site is strictly prohibited absent the existence of one of the following:
1. A legitimate police investigation. Under these circumstances, police policy regarding the initiation and documentation of such an investigation shall allow for such access to further the investigation.
 2. An administrative inquiry authorized by the Personnel Director wherein information relevant to the investigation must be acquired / accessed.

RESPONSIBILITIES

- A. Employees are expected to use good judgment while using the Internet/Intranet system. It is to be clearly understood that all correspondence, including Email and electronic documents, developed with City equipment and technology are the property of the City of Crestwood.
- B. Each system user is required to be compliant with existing City policies and procedures, including personnel confidentiality, computer security, and virus detection. Questions regarding the aforementioned topics should be addressed to the individual's Department Head.
- C. Users are prohibited from transmitting commercial ventures, religious or political causes, threatening, and obscene or harassing materials through City technologies. Any material which could be construed as sexually explicit, scandalous, defamatory, libelous, or discriminatory, based upon an individual's race, age, color, religion or creed, gender, national origin, ancestry, political affiliation, sexual orientation or other legally protected status is banned from the system.
- D. Users must respect the integrity of the system and other computers connected to the system. Consequently, users shall not engage in behavior which may interfere or disrupt the network, users, services, programs, software or equipment.
1. Behavior which may violate this provision includes the distribution of advertising, propagation of computer viruses, or using the network to make unauthorized entry to another computer accessible via the network.
 2. The downloading of material from the Internet is restricted to work related material.

MAINTENANCE OF AND PUBLISHING TO CITY WEBSITE

- A. The City of Crestwood maintains a City Website for the purpose of providing information to employees, residents, businesses and other interested users of the Internet to further the legitimate business of the City. The website contains information regarding the business of each City Department, City events, meeting notices, employment notices, budgets, and other documents of interest which include the following:
 - 1. Agendas and minutes of Boards and Committees in the City of Crestwood
 - 2. City newsletters
 - 3. Brochures
 - 4. News releases
 - 5. Calendar of events
 - 6. Informal advisories
 - 7. City-related items that may not be available by other means

- B. The publication of material to the website will be strictly interpreted to provide appropriate and positive information regarding City services. To accomplish this:
 - 1. The posting of information will be executed only by those individuals receiving specific authorization to do so from the Personnel Director, Department Head, or System Administrator.
 - 2. No personal information of any kind including, but not limited to, political preference or opinions, shall be posted to the site.

CHAPTER III – RECRUITMENT AND SELECTION

Section 1 – Employment Opportunities

The recruitment, selection, appointment, and promotion of employees shall be in such a manner as to promote equal employment opportunities for all individuals without regard to race, age, color, religion or creed, gender, national origin, ancestry, political affiliation, sexual orientation, or disability.

Section 2 – Vacant Positions

Department Heads shall be responsible for notifying the City Administrator, as Personnel Director, of vacant or soon-to-be vacant authorized positions in their Departments. The notification shall include the job title and the job value. The Personnel Director shall review the information and determine whether the vacancy shall be filled.

In selecting a person to fill a vacancy, the City shall make reasonable effort to fill the position internally by promotion of highly qualified employees of the City of Crestwood. All vacancies shall be announced to City employees: a vacancy announcement shall be posted as soon as the position is opened for at least seven (7) working days in a specified location for each Department.

Section 3 – Recruitment for Vacant Positions

The Personnel Director shall publicize all full-time vacancies by posting announcements and by other such means necessary to attract well-qualified candidates for the position. The announcement shall specify the title and salary range of the vacant position, any minimum qualification requirements, application process, the final date on which applications shall be received, and other pertinent information. Every reasonable effort shall be made to publicize vacancies so that all interested individuals are informed and qualified individuals are attracted to compete. Job announcements with open application submission dates must remain open at least seven (7) calendar days, and may be closed when sufficient applicant response has been received.

Section 4 – Application Forms

Application shall be made on the City of Crestwood Application for Employment forms. Such forms shall include information covering education, training, experience, and other pertinent factors. All applications shall be signed by the applicant.

Section 5 – Disqualification

The Personnel Director may reject any application which indicates that the candidate does not possess the minimum qualifications required for the position. Applicants may also be disqualified for the following reasons depending on the circumstances: (Municipal Code Section 18-13)

- A. The applicant is physically unfit for the performance of duties of the position.
- B. The applicant has been convicted for the use of drugs or intoxicants.
- C. The applicant has been convicted of a felony.

- D. The applicant made false statements on his application.
- E. The applicant has an unsatisfactory employment record that demonstrates unsuitability for employment with the City.
- F. The applicant has failed to submit his application within the prescribed time limit.

Section 6 – Qualification of Applicants

The Personnel Director or his designee shall review all applications for employment to determine whether the applicant meets the established standards for employment. When appropriate, written and/or verbal examinations may be used. Such tests shall be practical in character and shall relate to the duties and responsibilities of the position for which the applicant is being examined. The Personnel Director will refer applicants meeting the minimum employment standards to the employing Department Head.

Section 7 – Entrance Selection and Appointment

The hiring team, which will consist of the Personnel Director, Department Head, and members of the hiring department's staff, will review the applicants who meet the minimum employment standards. From this applicant pool, the hiring team will select the candidates to be interviewed. After completion of the interview process, the team will determine the most qualified candidates and make a recommendation to the City Administrator.

The City Administrator, along with the Department Head, will interview the recommended candidates and will make a selection from those candidates or will reject the recommended candidates as applicants to be employed. If the applicants are rejected, the hiring team shall make another recommendation to the City Administrator. When an applicant is selected, the City Administrator shall authorize a written offer of employment.

Section 8 – Promotional Selection and Appointment

The Personnel Director, with the recommendation from the Department Head, shall select the employee to be promoted from the register of qualified candidates. After review of the recommended promotion, the Personnel Director may reject the candidate to be promoted. If a candidate for promotion is rejected, the Department Head shall make another recommendation to the Personnel Director.

Section 9 – Emergency Appointment

When an emergency involving the serious impairment of the public business makes it impossible to fill a vacant position by normal procedures, the Department Head, with the approval of the Personnel Director, may appoint any qualified person to such position on a temporary basis to prevent cessation of public business or loss, or serious inconvenience to the public. Such an appointment shall be for a period not to exceed forty-five (45) calendar days unless an extension is authorized by the Personnel Director, during which time the normal selection procedures will be followed to permanently fill the position. Compensation for emergency appointment shall be at a rate that is within the range of the current job value established for a comparable position.

Section 10 – Employment of Relatives and Management Reporting Relationships:

- A. No person shall be offered employment by the City or appointed to any office of the City (including any appointment made for the purpose of filling a vacancy for elective office) who is related as the husband, wife, brother, sister, mother, father, son, daughter, son-in-law, daughter-in-law, brother-in-law, or sister-in-law of any person then holding a City elective office.
- B. This section shall not be construed to terminate or otherwise limit the continued employment of any employee of the City or appointed official of the City who holds such employment or office immediately prior to the time his relative of the degree described in subsection (1) of this section is duly elected, or appointed, and is sworn into his elected or appointed office. This section also shall not be construed to prohibit or otherwise limit the City, solely due to the relationship between any employee or appointed official and any such relative then holding a City elective office, from considering for promotion or advancement or from promoting or advancing such employee or appointed official in accordance with the City's standard policies and normal procedures.
- C. The City permits family members (parent, spouse, child, sibling, grandparent, grandchild, aunt, uncle, cousin, in-law, or step relative) to work for the City. The City will not, however, consider, accept or allow employment of a family member whose employment would result in a supervisor/subordinate relationship or possible conflict of interest.
- D. Due to the potential for conflicts of interest, negative employee morale, and appearance of favoritism, the City will not permit or allow a dating or romantic relationship between a supervisor/subordinate, between Department Heads or between the City Administrator and any other employee.

CHAPTER IV – CLASSIFICATION PLAN

Please refer to Chapter V of the Crestwood Civil Service Rules and Regulations.

CHAPTER V – CITY OF CRESTWOOD PAY PLAN

A position classification plan and pay plan are established in order to recruit and retain the highest quality employees, communicate and reinforce the values and goals of the City, engage employees in the City's success, and reward high performing employees for successful achievements. The classification and pay plan apply to all full-time employees of the City, whether they are in the classified or unclassified service. Temporary, seasonal, developmental/training, or part-time employees are addressed in Section 4 of this Chapter.

Section 1 – Classification of Positions

All positions in the city service shall be inventoried and a salary range established for each position. No City employee will be classified or paid at a salary that is not established in the City's classification and pay plans. The City Administrator, as Personnel Director, may create or eliminate positions, however the appropriation for those positions is subject to approval by the Board of Aldermen.

Section 2 – Job Descriptions

The City Administrator (or designee), with the assistance of Department Heads, will prepare and maintain a job description for each position that will include a job title, essential functions and responsibilities, necessary knowledge, skills, abilities, and other requirements of the position.

Job descriptions are intended to describe generally the kinds of activities performed by employees in the established position. They do not constitute an employment agreement between the City and the employee. The City Administrator can modify any aspect of a job description as the needs of the City and the requirements of the position change.

All employees will be given a copy of their respective job description at the time they are hired and/or at the time of promotion and will have the opportunity to discuss it with their supervisor.

Department Heads may formulate a list of supplemental job duties for positions in their department so long as these duties do not contradict or significantly expand the provisions of the job description.

Section 3 – City Employees' Merit Pay Plan

The City Administrator is responsible for preparing a uniform and equitable pay plan that consists of a minimum and maximum range of pay for each position in the classification plan. The range of pay shall be adequate to provide reasonable and consistent progression in the pay range based on job performance. All employees will receive any increases earned during the course of 2017 under the currently existing pay plan, and then enter the new pay plan at their current salary, except for those who may be below the minimum salary for their position. Those employees will be raised to the minimum salary for their position. Any employees entering the pay plan at a salary above the maximum for their range will continue to receive their current salary.

- A. New Employees – New hires are generally hired at the minimum rate in the appropriate classification unless his/her qualifications are such that it is to the City's advantage to offer a higher starting pay within the range. Hiring at an advanced rate shall be based upon years of experience or the skill and qualifications of the individual and shall require the

approval of the City Administrator. Appropriate documentation by the Department Head that such action is to the benefit of the City shall be provided with the recommendation.

- B. Promotions – When an employee is promoted to a position with a higher pay range, the employee’s pay shall be increased to at least the minimum rate for the higher pay range to ensure a starting pay commensurate with that given to new hires with equivalent training and experience for that position.
- C. Demotions – A demotion occurs when an employee is moved to a job with a lower pay range. Demotions can occur due to poor performance, necessity of organizational change, or developmental assignment. A demoted employee’s salary will be decreased to fall within the pay range of the position to which that employee is demoted, relative to their value in the new position.
- D. Market Adjustments – From time to time, the City Administrator may recommend and the Board of Aldermen may approve adjustments to the minimum and/or maximum range for any or all positions in the City’s classification plan. Market adjustments do not increase individual employee salaries, rather they adjust the minimum and maximum salary range(s).

Any employees earning below the minimum salary for their position will be increased to the new minimum. Any employees earning at the maximum salary for their position will receive the same salary, however now any future merit increases can raise their salary.

For the purposes of providing a market adjustment to union police officers, it is the city’s intention to provide a \$4,000 per employee salary increase effective January 1, 2018, in addition to any step increase earned during 2017.

- E. Cost of Living Adjustments – Annually, the City Administrator may recommend, and the Board of Aldermen may appropriate, an amount of funding to be used for cost of living adjustments. Cost of living adjustments will be applied on an equal percentage basis to all City employees (increasing their salary), and will also increase the minimum and maximum salary ranges for all positions.

Cost of living adjustments will become effective for the first payroll cycle that starts after the start of the next fiscal year.

- F. Merit Increases – Annually, the City Administrator may recommend, and the Board of Aldermen may appropriate, an amount of funding to be used for merit increases, thereby establishing a merit pool. The size of the merit pool is expected to vary year-by-year as resources and the market allows. The City Administrator and Department Heads are responsible for the process of allocating merit pool funds to City employees. They may be assisted by any other supervisors deemed necessary.

Merit pool funds will be allocated based on the performance of each individual employee in their position, measured against established job performance criteria. Such criteria may include their level of knowledge, skills, ability, personal work traits, compliance with established City or departmental rules and regulations, past performance, and any other

criteria that are indicative of performance. Regular performance evaluations are expected to serve as a major criterion in determining merit, but are not necessarily the only criterion. It is expected that high performing employees will generally receive greater merit increases than employees whose performance, while satisfactory, is not as good.

Merit increases will be granted upon approval by the City Administrator. Merit increases will become effective for the first payroll cycle that begins after the start of the next fiscal year.

Section 4 – Union Firefighters Pay Plan

Pursuant to the terms of a certain Collective Bargaining Agreement between the City and Local 2665, IAFF, union firefighters will be compensated using a Performance Step Plan through December 31, 2019.

The Performance Steps are as follows:

	Step C	Step D	Step E	Step F	Step G	Step H	Step I	Step J
Firefighters	\$45,180	\$47,439	\$49,811	\$52,301	\$54,916	\$58,211	\$61,704	\$65,406
Paramedics	\$49,754	\$52,242	\$54,854	\$57,596	\$60,476	\$64,105	\$67,951	\$72,028

New employees may be hired above the first step for their pay grade if an exception has been granted by the City Administrator, as Personnel Director, based on employee qualifications and/or needs of the City. Employees promoted shall be moved to the appropriate step of the new grade to allow a minimum pay increase of 5%. Such pay increases shall be effective at the beginning of the new pay period.

Entry level is Step C and the top of the range is Step J. The step percentage increases are: 5%: C to D, D to E, E to F, F to G, 6% G to H, H to I, and I to J, for each step.

Movement from step-to-step is based upon the following increments: C to D, D to E, and E to F, 1 year for each step; F to G, G to H, H to I, and I to J, 2 years for each step.

Movement from one step to another step is contingent upon an employee’s performance appraisal evaluation form. All supervisors will complete a performance evaluation of their employees by August 31 each fiscal year for the preceding 12-month period of August 1 to July 31.

Movement from Steps C to D, D to E, and E to F requires an overall performance rating of Acceptable or above each year at the step. An overall rating of Unacceptable results in no step increase. A Superior performance rating or above while at Step D may result in a two-step increase.

Movement from Steps F to G and G to H requires an overall performance rating of Superior, or above, for two years at each step (two Superior ratings or above within a three year period is acceptable provided the third performance rating is not below Acceptable).

Movement from Steps H to I, and I to J, requires an overall performance rating of Exceptional for two years at each step (two Exceptional ratings or above within a three year period is acceptable provided the third performance rating is not below Superior).

To achieve the rating of Acceptable, Superior, or Exceptional there must be no more than 1 item graded lower than the overall performance rating (i.e. all items graded Superior except 2 items graded Acceptable or lower will be an overall Acceptable performance rating while only 1 item graded Acceptable or lower may result in an overall Superior performance rating.)

An employee will be eligible for a step increase at the beginning of the first pay period of the new fiscal year.

All employees eligible for a step increase will receive the step increase at the beginning of the first full pay period of the new fiscal year. The employee will be eligible for a step increase only if the date of the most recent personnel transaction which affects an employee (date of hire, promotion, demotion, reclassification, delay in performance pay increase due to extended initial probationary period, or an extended absence from work) occurs before July 1 of the previous year.

Section 5 – Part-time, Temporary, Developmental/Training and Seasonal Employees

The rate of pay for part-time, seasonal and temporary employees shall be at the discretion of the Department Head, with approval by the City Administrator. Factors which may be considered in determining the appropriate rate include: 1) The current market rate for such positions; 2) the employee's past tenure and performance; 3) how the temporary or part-time position's job duties compare to full-time positions; 4) availability of budget funding.

New hires or reassigned/transferred full-time employees who have promising credentials but do not currently meet the full criteria of a job description may be hired on a training or developmental basis. Training/developmental employees may be compensated below the minimum established salary for their position, the specific rate to be determined by the Department Head, with approval by the City Administrator.

Section 6 – Acting Pay

Employees who are temporarily assigned to work in a higher paid position for more than 30 days, and are temporarily assigned to perform duties not called for in their regular job description, shall be paid the minimum salary for that position for the duration of that assignment after the initial 30 days. The exception to this rule is an employee serving as Acting City Administrator. Salary changes associated with becoming Acting City Administrator must be approved by the Board of Aldermen.

Section 7 – Fair Labor Standards Act and Overtime

The Fair Labor Standards Act (FLSA) establishes standards for minimum wages, maximum hours, overtime pay, and child labor. All employees at every level in the City are responsible for compliance with the FLSA. The Personnel Director is responsible for the administration and interpretation of the FLSA.

The FLSA permits departments to pay employees for overtime work in one workweek with paid time off (compensatory time) in another workweek. Compensatory time is earned at a one and one-half time rate for non-exempt employees (up to the caps in the Civil Service Rules and Regulations).

Section 8 – Wage-Hour Policy

A. Declaration of Police and Fire Civil Service Work Periods

Work periods for police personnel not working on 8-hour shifts, shall have a maximum work hours standard of 86 hours in a 14-day cycle for their regular time.

Fire personnel not working on 8-hour shifts shall have a maximum work hour's standard of 106 hours in a 14-day cycle for their regular time.

Police and Fire personnel are subject to state civil service statutes; where those statutes are more restrictive than the FLSA, those statutes will be followed.

B. Definition of "Time"

Department Heads are responsible for ensuring that employees adhere to established work schedules. Unscheduled work, including overtime, should be performed only with proper authorization. Work time is referred to as "Hours Worked," it is all time the City requires, suffers, or permits a non-exempt employee to be on duty primarily for the City and its business.

A workday is, for most employees, the standard period of twenty-four hours, which begins at 12:01 a.m. and ends at midnight. A workweek is the time span of seven consecutive twenty-four hour periods within which the City calculates overtime hours and corresponding compensation for non-exempt employees, i.e., hours "over 40." A workweek begins at 12:01 a.m. on Thursday morning and ends at midnight on the following Wednesday, for most employees. This must not be confused with the "work schedule."

Except for Fire and Police employees not working 8-hour shifts, and except for exempt employees, overtime work is time worked "over 40" hours in a workweek.

Except for Fire and Police employees not working 8-hour shifts, a work schedule is the work schedule for a full time non-exempt employee, which is usually 40 duty hours in each workweek.

Coded hours is non-work time charged to vacation leave, compensatory time, short term sick leave/family leave, major medical sick leave, occupational injury, jury or court duty, military leave, inactive time, compensatory time or holidays that fall on an employee's regular day off.

Coded hours are not considered as hours worked for overtime purposes, except business time and training time.

"On-Call" time occurs when an employee is not required to remain on the City's premises but is asked to leave word at his/her home or with his/her supervisor as to where and how he/she might be reached for callback. On-Call time is not work time, therefore, it is not paid time.

Travel performed outside an employee's normal work schedule as a result of assigned duties may constitute work time. The Personnel Director or designee must be consulted in advance of such travel to receive approval for such travel and to determine whether or not such travel time is work time. Travel time from home to work and from work to home is not considered work time.

Attendance at Training Sessions and Other Meetings – Time spent attending training required by the City is normally considered compensable hours of work. Voluntary attendance at training or other meetings or at specialized or follow-up training, even if required by law for certification, outside of an employee’s regular work schedule, is not work time. However, employees may be compensated for the training time if the Department Head consults with the Personnel Director and the Personnel Director approves in advance of such training.

C. Recording Work Time (Hours Worked)

Work time (hours worked) must be recorded exactly the way it is worked. The dates worked and the number of hours worked each day must accurately reflect what actually occurred. Employees who fail to accurately record work time or who falsify time records are subject to disciplinary action, up to and including termination.

Examples of inappropriate practices in recording work time which are violations of this policy and the FLSA include:

1. Not recording work performed at home, which work may only be performed with proper authorization.
2. Not recording work performed during a meal period.
3. Permitting employees to arrive early and work, or to stay late and work, and not recording the time worked.
4. Permitting an employee to leave early on a day in one workweek and permitting the employee to report early, stay late, or work during meal periods as “make up” in another workweek, without recording the partial day absence or the overtime work.
5. Maintaining dual time records, such as, one set for pay purposes and another set for actual time worked.
6. Permitting an employee to record “coded hours” (vacation, sick, etc.) as “hours worked.”
7. Permitting an employee to record “hours worked” as “coded hours.”

Non-exempt Employees who fail to record on a Time and Attendance record sheet time worked in excess of forty (40) hours per week or such other pre-determined work period for certain Police and Fire employees are subject to disciplinary action, up to and including termination.

CHAPTER VI - PROBATION

Section 1 – Objective

The probationary period shall be regarded as an integral part of the selection process and shall be used to closely observe the employee's work, to provide the most effective means by which an employee can adjust to his new position, and for rejecting any employee whose performance is not satisfactory.

Section 2 – Duration

The Department Head shall, in writing, establish the length of the probationary period for each position in the Department. The probationary period established by the Department Head shall be for a minimum of six (6) months to a maximum of twelve (12) months, depending upon the length of time required to become fully functional in the position. When an employee is hired, the probationary period established for the position will be communicated in writing to the employee and placed in the personnel file. If a Department Head requests in writing an extension of an established probationary period before expiration, the City Administrator, as Personnel Director, may extend the probationary period of a particular employee up to three (3) months beyond the end of the established probationary period. The extension request and approval must be in writing and placed in the employee's personnel file.

Section 3 – Evaluation of Performance

After the employee has completed one-half of the established probationary period, the Department Head shall report to the Personnel Director in writing, observations of the employee's work, and judgment as to whether or not the employee's performance has been satisfactory. During the probationary period, the employee's supervisor shall tell the employee when he is not performing satisfactorily. At least fifteen (15) days prior to the expiration of an employee's probationary period, the Department Head shall notify the Personnel Director, in writing, whether or not an employee has satisfactorily completed his probationary period.

Section 4 – Dismissal

During the probationary period, the Department Head may remove an employee who is unable or unwilling to satisfactorily perform the duties of the position or whose habits and dependability do not merit his retention. The Department Head shall immediately report such removal to the Personnel Director and to the employee, and shall not have appeal rights unless there is alleged discrimination because of race, age, color, religion or creed, gender, national origin, ancestry, political affiliation, sexual orientation or disability.

Section 5 – Promotional Probation

The probationary period shall be used in connection with promotional appointments in the same manner as it is used for entrance appointments. Absent extraordinary circumstances warranting permanent separation from the promoted position for employment, if an employee is removed from his position during his probationary period following a promotion, he shall have the option to return to his previous position, or a comparable or lesser position for which he is qualified, if one is available.

CHAPTER VII – SEPARATIONS

Section 1 – Type of Separation

Separations of employees from positions in the classified service shall be designated as one of the following and shall be accomplished in the manner indicated: resignation, compulsory resignation, lay-off, disability, death, retirement, dismissal, or forfeiture by virtue of a rule contained in the Civil Service Rules and Regulations.

Section 2 – Resignation

To resign in good standing, an employee shall give written notice to his Department Head at least ten working days prior to the effective date of his resignation. Absent extenuating circumstances, failure to comply with this rule shall be entered on the service record of the employee.

Section 3 – Compulsory Resignation

Any employee who, without valid reason, fails to report to work for three consecutive working days without authorized leave shall be separated from the payroll and reported as a Compulsory Resignee.

Section 4 – Lay-off

When deemed necessary because of shortage of funds or work, or other material changes in duties or organization, or for related reasons which do not reflect discredit upon the service of the employee, the City Administrator, as Personnel Director, will identify the numbers of positions by job title to be vacated, which may result in the lay-off of an employee in the classified service. When any position so vacated is refilled within a period of one year following a lay-off, the individuals who held the positions prior to the lay-off have first right of refusal once the positions are restored, provided they are able to efficiently perform the duties of such positions, as determined by previous performance evaluations, and that they are available. Should such reduction in force occur, lay-offs will be made by classification from the department affected according to the following factors (unless otherwise agreed to in a collective bargaining agreement), as determined by the Department Head, upon approval of the Personnel Director:

- A. Length of continuous service
- B. Ability
- C. Efficiency
- D. Conduct
- E. Competence
- F. Attendance
- G. Training

Where the other factors are relatively equal, length of continuous service shall be controlling.

Section 5 – Disability

If an employee is unable to perform the essential functions of his position, with or without reasonable accommodations, because of a disability, the City may transfer that employee to a

different position if one they can perform with reasonable accommodations is available, otherwise the City may dismiss that employee. The City reserves the right to require any employee to undergo a physical or psychological examination if the City determines that there is an issue with respect to the employee's ability to perform the essential functions of his job or whether a reasonable accommodation is necessary to enable the employee to perform the essential functions of his position.

Section 6 – Death

When an employee dies while in the service of the City of Crestwood, all compensation due in accordance with Section 11 of this chapter shall be paid to the legal representative of the employee's estate or any other properly designated individual.

Section 7 – Retirement

The City provides a retirement benefit for employees through the Local Government Employees Retirement System (referred to as LAGERS) of the State of Missouri. The Board of Aldermen selects the level of benefit provided to employees from among the LAGERS options available. The City begins making contributions to the LAGERS plan for an employee after that employee has completed six months of continuous service as a full-time employee with the City. After the employee is covered by the plan for five years, the employee becomes vested and is entitled to the benefits of the plan upon retirement. When an employee meets the conditions set forth in LAGERS and/or Police and Fire Department Pension Plans, he may retire and shall receive compensation due in accordance with Section 11 of this chapter.

Upon retirement, City employees with at least fifteen (15) years of service who have reached the normal retirement age (currently age fifty-five (55) for sworn police and fire personnel and age sixty (60) for all other employees of the City) as defined by LAGERS will be eligible for health insurance coverage to be provided by the City until such employees are qualified for Medicare or they reach age sixty-five (65), whichever comes first. The City shall pay a portion of such health insurance premium, in an amount equal to the amount which is currently being paid by the city for coverage of single employees.

If the employee has not worked with the City for fifteen (15) years or has not reached normal retirement age, health insurance is available for the employee through COBRA. The employee can continue under the City's health insurance coverage; however, the employee bears the full cost of the insurance. The employee and his dependents are eligible for COBRA for eighteen months after the retirement date as outlined in Section 11 of this chapter.

Section 8 - Dismissal

After notifying the Personnel Director, the Department Head may dismiss an employee for cause as outlined in Section 2 of Chapter VIII. The employee shall be furnished with a written Notice of Dismissal, which advises the employee of his right to appeal the dismissal charge. If the employee wishes to appeal the dismissal, he may do so as provided in Chapter IX, Section 4.

Section 9 – Continuous Service

Continuous service shall mean the period of time that an employee is employed by the City, commencing with the date of employment and ending with the date of separation. Lay-offs not

exceeding one (1) year (or absence due to sickness or injuries received while on the job with the City) shall not constitute a break in service. If an employee terminates voluntarily and under favorable conditions and is subsequently rehired by the City within one hundred twenty (120) days of the termination, continuous service will be reinstated, less the time absent due to the voluntary termination.

Section 10 – City Equipment

At the time of separation and prior to final compensation, all resources, assets, and other items of City property in the employee's custody shall be transferred to the Department Head and the employee shall sign certification to this effect. Any amount due because of a shortage in the above or for reimbursement of a tuition shall be withheld from the employee's final compensation.

Section 11 – Rights of Employees

Employees who separate from City employment shall receive payment for all earned salary and certified compensatory time, and those employees who have completed six or more months of service shall receive payment for all unused accrued annual vacation, subject to deductions as outlined in Section 10 of this chapter (Ref. Chapter 18, Section 12 of Crestwood Code).

Employees who separate from employment shall be eligible for COBRA. The employee can continue under the City's health insurance coverage; however, the employee bears the full cost of the insurance.

PROVISIONS OF COBRA

- A. General - If an employee resigns or is separated from employment with the City, or if an employee's work hours are reduced, and if this event makes the employee or the employee's dependents no longer eligible to participate in one of the City's group health insurance plans, the employee and employee's eligible dependents may have the right to continue to participate in the health insurance plan for up to eighteen (18) months at the employee's or eligible dependent's expense. If the employee is determined to be disabled under the Social Security Act at the time of the employee's separation from employment or if the reduction in hours occurs within sixty (60) days of these events, the employee may be entitled to continuation of coverage for up to twenty-nine (29) months.
- B. Extended Coverage - Eligible dependents may also extend coverage, at their expense, for up to thirty-six (36) months in the City's group health insurance plans in the event of an employee's death, divorce, legal separation, or enrollment for Medicare benefits; or when a child ceases to be eligible for coverage as a dependent under the terms of the plan. The eighteen (18) month continuation of coverage period provided in the event of an employee's separation from employment or reduction in working hours may be extended to thirty-six (36) months for the employee's spouse and dependent children if, within that eighteen (18) month period, the employee dies or becomes divorced or legally separated; or if a child ceases to have dependent status. In addition, if an employee enrolls for Medicare during the eighteen (18) month period, the employee's spouse and dependent children may be entitled to extend their continuation of coverage period to thirty-six (36) months, starting on the date that the employee enrolls in Medicare.
- C. Cost of Continuation of Coverage - If an employee or an employee's eligible dependents elects to continue as members of the City's health insurance plans, the employee will pay

the applicable premium charged the City by its carriers. The premium is 100% of the employee premium the City is charged by the Health Insurance Carrier.

- D. Termination of Continuation of Coverage - Continuation of coverage may end if any of the following events occur:
1. The City of Crestwood no longer provides group health coverage to its employees.
 2. The premium for continuation of coverage is not paid.
 3. The COBRA recipient becomes an employee covered under another group health plan.
 4. The COBRA recipient becomes eligible for Medicare.
 5. The COBRA recipient becomes divorced from a covered employee and subsequently remarries.
 6. A dependent child reaches the dependent child age limit or marries.
- E. Notice - The Finance Department will notify the employee of his right to continued coverage when the employee separates from employment or his hours are reduced. The employee has sixty (60) days from the date of loss of coverage to inform the Finance Department that he wants continuation of coverage. Forms must be completed to continue or discontinue coverage. The employee has forty-five (45) days to pay the initial premium. Subsequent payments are due the first of each month.

CHAPTER VIII – DISCIPLINARY ACTION

Section 1 – General Provisions

The following provisions shall govern disciplinary actions affecting employees in the classified service. A Department Head or supervisor, where stated, subject to the appeal rights of the employee, shall have the following options for disciplinary action:

- A. Reprimand. A Department Head or supervisor may submit a written reprimand to an employee when a verbal warning has not resulted in the expected improvement, or when more severe initial action is warranted. A copy shall be filed with the City Administrator, Personnel Director, and placed in the employee's personnel file. The reprimand will be signed by the Department Head, Employee, and Personnel Director and will explain the infraction and provide corrective measures. A written reprimand shall bear two (2) dates – the date it is prepared, and a suspense date of thirteen (13) months from the date it is written. The reprimand shall be removed from the employee's record on completion of term or by successful appeal.

In the event an additional written reprimand is issued to an employee during the term of an existing written reprimand and the appeal of any unexpired reprimands is unsuccessful, they shall be fastened together, becoming a single document, with the removal date of the document being the suspense date on the most recent reprimand.

When a written reprimand is removed from the employee's personnel file, it shall be signed by the City Administrator dated, and must bear a statement as to the reason for its removal (completion of term or successfully appealed). The removed document is to be given to the employee for his own records. A copy of the document shall be archived in a file accessible only to the City Attorney and Civil Service Board for a period of five (5) years, to be used for evidentiary purposes should the need arise.

- B. Suspension. A Department Head may, for cause, suspend without pay, an employee in his department for up to ten (10) days. A written statement specifically setting forth reasons for suspension shall be furnished to the employee. Copies shall be filed with the Personnel Director. With the prior approval of the Personnel Director, the length of the suspension may be extended. (Any suspension, and all records relating to an appeal process, if any, shall become a permanent part of the employee's personnel record).
- C. Demotion or Reduction in Salary. With the prior approval of the City Administrator, a Department Head may reduce the salary of an employee, for cause, to a lower percentage of the job value. A written statement of the reasons for such action shall be furnished to the employee. Copies shall be filed with the City Administrator. Any demotion, or salary reduction, and all records relating to an appeal process, if any, shall become a permanent part of the employee's personnel record.
- D. Dismissal. See Chapter VII, Section 8.

Section 2 – Reasons for Disciplinary Action

Listed below are some reasons that might be cause for disciplinary action referred to in Section 1 of this Chapter, but disciplinary action is not limited to the offenses listed:

- A. Conviction of a felony or of a misdemeanor involving moral turpitude.
- B. Absence without leave.
- C. Excessive tardiness.
- D. Abuse of sick leave.
- E. Insubordination.
- F. Inefficiency, negligence, or incompetence in the performance of duties.
- G. Careless, negligent, or improper use of City property or equipment.
- H. Willful false statements to supervisors, officials or the public.
- I. Violation of City ordinances, administrative regulations, departmental rules, or personnel policy.
- J. Under the influence of alcohol or illegal drugs when reporting for work, becoming under the influence of alcohol while on duty, or partaking of illegal drugs while on duty. Prescribed medication may be taken within the limits set by a physician so long as it is medically necessary.
- K. Instigation of, participation in, or leadership of a strike, work stoppage, slow-down, or artificial restriction of productive work.

Section 3 – Emergency Relief from Duty

If determined to be in the best interests of the City, a non-Department Head supervisor may relieve an employee from duty with pay for disciplinary purposes. Relief from duty shall be limited to the time the action is initiated by the supervisor until the beginning of the employee's next scheduled work period. The supervisor shall report the action and circumstances to the Department Head, who shall review the action and initiate any further disciplinary action that may be warranted. This action shall not become a part of the employee's permanent record unless the Department Head takes further disciplinary action.

CHAPTER IX – GRIEVANCE AND APPEALS

Section 1 – Policy

To accomplish the work of the City most effectively, prompt consideration and equitable treatment of employee grievances is required. It is the desire of the City to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there may be grievances which will be resolved only after a formal appeal and review. No employee shall be disciplined or discriminated against in any way for using the grievance procedure.

Section 2 – Definition

A grievance is an allegation made by an employee who believes he has suffered injury or damage because of misinterpretation, misapplication, or violation of these Civil Service Rules and Regulations, departmental rules and regulations, or disciplinary action affecting his employment with the City.

Section 3 – Grievance Procedure

- A. Grievance shall be filed in writing within fourteen (14) calendar days of the occurrence of the act generating the grievance. The grievance shall include:
 1. The name of the aggrieved party;
 2. A statement of fact upon which the grievance is based;
 3. Identification of all rules and regulations alleged to have been violated, misinterpreted, or misapplied (citing specific sections of the Civil Service Rules and Regulations or departmental rules and regulations);
 4. The date on which the event(s) first occurred;
 5. The date of initial submission of the grievance in writing;
 6. Other information which the aggrieved party deems relevant; and
 7. The remedy or relief requested.
- B. An employee shall first present his grievance to his immediate supervisor, who shall make careful inquiry into the facts and circumstances of the complaint. The supervisor shall attempt to resolve the problem promptly and fairly, and report his findings within five (5) working days.
- C. An employee who is dissatisfied with the decision of his supervisor may submit and file his grievance, in writing, to his Department Head. The Department Head shall make a separate investigation and inform the employee, in writing, of his decision and the reasons therefore, within five (5) working days after receipt of the employee's grievance.
- D. If the employee is dissatisfied with the Department Head's decision, he may obtain a

review by the City Administrator by submitting a request, in writing, within five (5) working days following the receipt of the Department Head's decision. The City Administrator, as Personnel Director, shall make an investigation and conduct whatever hearings he deems necessary and shall, within ten (10) working days after receipt of the employee's request for review, inform the employee in writing of his findings and decision.

- E. The employee may, within five (5) working days following receipt of the Personnel Director's decision, submit a written request for further review to the Personnel Director, who shall notify the Civil Service Board within five (5) working days.

The Civil Service Board shall review the complaint and determine if the complaint concerns interpretation of the Civil Service Rules and Regulations or departmental rules and regulations and is, therefore within the jurisdiction of the Board. Upon completion of said review, the Board may take the following action(s):

- A. Return the complaint to the employee within fifteen (15) days, and inform him that the complaint is not an interpretation of the Civil Service Rules and Regulations or departmental rules and regulations and is, therefore, not within the purview of the Civil Service Board; or
- B. Request that the employee and/or Personnel Director (or his designee) submit any further documents and/or information in writing; and/or
- C. Conduct an informal hearing, at which the employee and the City Administrator (or his designee) may present further information and/or answer questions from the Civil Service Board.
- D. Refusal to provide documents and/or information requested by the Civil Service Board may be used inferentially against the party in possession of said documents and/or information.

After having gathered the necessary information and/or documents, the Civil Service Board shall submit its decision, in writing, to the City Administrator. Said decision shall normally be rendered within thirty (30) days of receipt of the request for review. The decision of the Civil Service Board shall be recorded in the Personnel Office, a copy placed in the affected employee's personnel file, and a copy submitted to the affected employee. The decision of the Civil Service Board shall be final.

Section 4 – Grievance to Appeal Violation, Misinterpretation, Misapplication of Civil Service Rules and Regulations, Departmental Rules and Regulations, or Disciplinary Action Affecting Employment with the City

- A. An employee may appeal any alleged violation, misinterpretation, misapplication of Civil Service Rules and Regulations, Departmental Rules and Regulations, or disciplinary action affecting employment with the City in writing within five (5) working days of the action by filing a grievance directly to the Personnel Director (Section 3.D).
- B. The employee grievance shall follow the grievance procedure beginning with Section 3.D as specified in Chapter IX.

C. The employee shall have the right, at all levels, to a closed hearing and may be represented by legal counsel, or anyone else of his choosing, at such hearing.

Section 5 – Extension of Time Limits

The established time limits within which grievances must be filed, answers given, and appeals made, may be extended by mutual agreement of the parties involved.

CHAPTER X – ATTENDANCE AND LEAVE

Section 1 – Hours of Work

The Department Head, with the approval of the City Administrator, as Personnel Director, shall establish the hours of operation for each department. The work schedule shall be placed on file with the Personnel Office and it will be the responsibility of the Department Head to notify the Personnel Office of any changes.

Section 2 – Overtime and Compensatory Time

Any overtime worked must be budgeted, must be in accordance with departmental policy, and must have the prior approval of the Department Head. Eligible employees shall receive compensation for overtime in the form of overtime pay or, at the Department Head's discretion, compensatory time off, each at the overtime rate of time and one-half.

If a non-exempt employee has worked over forty hours in a seven (7) day period from Thursday to Wednesday, only those hours actually worked are used in determining whether or not an employee will be eligible for an overtime rate. Vacation time, sick time, compensatory time, or excused leave are not considered hours worked and therefore are not eligible to be calculated at the overtime rate. An employee will only receive time and one half for the hours actually worked in excess of forty hours, if the total number of hours actually worked exceeds forty hours. If an employee is being paid for more than a forty hour work week, but the week includes vacation, sick, comp time or excused leave, and the total number of hours actually worked does not exceed forty hours, the employee will be paid at a normal rate of pay.

The policy will not apply if an employee has taken vacation and is subsequently called into work on an emergency. If an employee is called in from a vacation, the employee will receive overtime for the hours of time worked during his requested vacation. Additionally, this policy will not apply to employees if they are called in for snow plowing operations.

The Police Department and Fire Department shall develop separate administrative written policies to be approved by the City Administrator outlining departmental pay practices for shift employees, including overtime and compensatory time

Unused compensatory time can be carried into the next calendar year provided it does not exceed 60 hours.

No employee classified in a position with supervisory responsibility shall be eligible for overtime compensation unless he has the written prior approval of the City Administrator.

Section 3 – Holidays

- A. The following days are designated as holidays: New Year's Day, Martin Luther King Day, Presidents' Day, one-half day on Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Veteran's Day, Christmas Day, one-half day on Christmas Eve, and one-half day on New Year's Eve.

Other workdays may be declared holidays by the Mayor with the approval of the Board of Aldermen. When a holiday falls on Saturday, the preceding Friday shall be observed

as the holiday. When a holiday falls on a Sunday, the following Monday shall be observed as the holiday.

- B. Employees who regularly work a shift other than Monday through Friday and who are required to work on holidays falling within their shift, and do not receive time off for holidays, shall be paid eight hours (four hours for half-days) times their hourly rate as holiday pay. Fire Department personnel working 56 hours per week shall receive eight hours (four hours for half days) times their annual salary, divided by 2,080 as holiday pay.
- C. Employees who normally work a forty (40)-hour work week, Monday through Friday, or who work a non-rotating shift of forty (40) hours per week, and who are not normally required to work on holidays but are required (due to special circumstances) to work on a holiday shall receive eight (8) hours (four hours for half-days) times their regular hourly rate as holiday pay, plus one and one-half times their hourly rate for any hours worked on that day.
- D. Employees who work a non-rotating shift of forty hours per week who are not required to work on a holiday shall receive eight (8) hours (four hours for half-days) times their regular hourly rate as holiday pay or may, upon the request of employee and approval of the Department Head, receive eight (8) hours (four hours for half-days) compensatory time.
- E. To be eligible to receive holiday pay, an employee must be on the active payroll on the date of the holiday and must have worked or must have been excused by their supervisor on their last scheduled work day before, and their first scheduled work day after the holiday.

Section 4 – Holidays for Part-Time Employees

Part-time employees shall receive holiday compensation on a pro-rata basis.

Section 5 – Annual (Vacation) Leave

- A. Rate of leave accrual (other than Fire Department affected by A(1) below): Employees accrue annual leave at the rate of 3.08 hours for each two-week pay period worked. After completing five (5) consecutive years of service, annual leave shall be accrued at the rate of 4.62 hours for each two-week pay period worked. After completing fifteen (15) consecutive years of service, annual leave shall be accrued at the rate of 6.16 hours for each two-week pay period. After completing twenty five (25) consecutive years of service, annual leave will accrue at the rate of 7.69 hours. Part-time employees working less than 80 hours in a pay period shall receive a pro-rata accrual computed as follows: Number of Hours Worked divided by 80 times accrual rate.

Full-time employees working less than a full day pay period shall receive a pro-rata accrual. No employee may take annual leave beyond that which is already accrued.

- 1. Rate of Accrual for Fire Department Personnel: Fire Department personnel who are required to work rotating duty shifts averaging 56 hours per week shall accrue annual leave at the rate of 5.54 hours for each two-week pay period. After completing five (5) consecutive years of service, annual leave shall be accrued at the rate of 8.31 hours for each two-week pay period worked. After completing fifteen (15) consecutive years

of service, annual leave shall be accrued at the rate of 11.08 hours for each two-week pay period worked. After completing twenty five (25) consecutive years of service, annual leave will accrue at the rate of 13.85 hours. Full-time employees working less than a full pay period shall receive a pro-rata accrual.

- B. Request for Leave. A request for annual leave shall be submitted in writing to the employee's immediate supervisor. Leave may be taken only after approval by the employee's Department Head. The vacation schedule shall be arranged in each department so, insofar as practicable, the department can function without the hiring of additional, temporary help.
- C. Maximum Accumulation: Unused annual leave may be carried into the next calendar year provided it does not exceed 160 hours. If an employee is unable to take vacation leave during a calendar year because of requirements of the City, then a greater number of hours may be carried into the next calendar year with the prior approval of the Personnel Director. Any leave in excess of 160 hours must be scheduled and may only be taken by the end of the first quarter of the following year.

A part-time employee will be allowed to carry over a prorated amount based upon the scheduled working hours.

- D. Annual leave taken shall be subtracted on an hour-for-hour basis from the employee's accrued annual leave.

Section 6 – Sick Leave

- A. Situations Covered By Sick Leave
 - 1. Illness or injury to the employee.
 - 2. To attend an appointment with a health care provider for medical or dental examinations or treatments for which arrangements cannot be made outside of working hours.
 - 3. To attend to a member of the employee's immediate family whose health care requires the employee's presence. A health care provider's statement may be required.
 - 4. Pregnancy and birth of a child.
- B. Reporting Sick Leave. The employee shall report to his supervisor the reason for his use of sick leave prior to his scheduled work time, if possible. If this is not possible, he shall see that his absence is reported within a maximum of thirty (30) minutes after the time he is scheduled to report for work, or sooner if required by departmental rules. Failure to do so may be cause for denial of sick leave with pay for that day and for each subsequent day that prior notification has not been given. Special consideration will be given to emergency situations.
- C. Doctor's Certificate. A medical certificate signed by a licensed physician may be required by the Department Head to substantiate leave requests for sick leave for the following reasons:

1. Any period of absence consisting of three or more consecutive days.
 2. A request for sick leave while on holiday or annual leave.
 3. Sick leave of any duration if absence from duty recurs frequently or habitually, provided that an employee has been notified that a certificate will be required.
 4. Sick leave taken the day before or after a holiday.
- D. Rate of Accrual. Employees accrue sick leave at the rate of 3.7 hours per two-week pay period worked. Sick leave may not be taken in increments of less than one hour. One (1) hour of sick leave will be subtracted from the employee's accrued sick leave for each hour the employee is absent on sick leave. Part-time employees working less than eighty (80) hours in a pay period shall receive a pro-rata accrual computed as follows: Number of Hours Worked divided by 80 times 3.7.
- Full-time employees working less than a full pay period shall receive a pro-rata accrual.
1. Fire Department personnel working a 56-hour shift shall accrue sick leave at the rate of 11.08 hours per two-week pay period worked. Sick leave shall be subtracted from their accrued sick leave credits on an hour-for-hour basis. Full-time employees working less than a full pay period shall receive a pro-rata accrual.
- E. Maximum Accumulation. Unused sick leave may be accumulated and carried forward; however, the accumulated unused sick leave shall not exceed 720 hours.

Section 7 – Occupational Injury and Illness

In cases of occupational injury or illness incurred in the performance of an employee's City job, the employee shall be granted "occupational injury pay" effective immediately. It is the policy of the City to provide employees with injury compensation payments in compliance with the Workers' Compensation Laws of the State of Missouri. On-the-job injuries and work-related illnesses that are compensable under the law are covered by this policy.

For absences for which Worker's Compensation benefits are received, the employees may choose between receiving only his Worker's Compensation benefits (in which case no sick leave will be deducted), or receiving his regular salary, reimbursing the City with the Worker's Compensation benefit check received, with the difference between his regular salary and the Worker's Compensation benefit check deducted from sick leave.

Section 8 – Funeral Leave

Funeral leave of up to three working days, but not to exceed three (3) calendar days, shall be granted with pay for employees in the event of death in the employee's immediate family. For purposes of definition, "immediate family" refers to the employee's spouse, parent, grandparent, brother, sister, child and the employee's spouse's parent, grandparent, brother, sister, or any relative living in the employee's household. A one-day extension for travel beyond a 300-mile radius of the City of Crestwood may be granted by the employee's Department Head.

Section 9 – Military Leave

- A. In accordance with the Uniformed Services Employments Rights Act of 1994 as well as Missouri Statues (Public Law 93-508 applies), an employee who is to perform active duty or training or inactive duty or training in the armed forces of the United States, including but not limited to the military reserves, shall be granted a leave of absence, as permitted by law. Further, an employee who leaves for such services shall have his military pay supplemented by the City in an amount not to exceed his regular City pay. All seniority-based benefits will continue to accrue throughout the military service.

An employee who leaves his job to serve in the armed forces is entitled to all rights provided for under state and federal law during the performance of military duty and, upon completion of the military duty, to reinstatement as provided by law. Reinstatement rights are conditioned upon the employee fulfilling the basic requirements for reinstatement under state and federal law.

The request for military leave should be in writing to the employee's immediate supervisor, accompanied by a copy of the official orders. The request for leave and the copy of the official orders will be placed in the employee's personnel file.

- B. An employee who is a member of the National Guard or an organized military reserve of the United States and is required to take annual periods of training will be allowed military leave without relinquishing his pay for a period not to exceed fifteen (15) calendar days per year. The employee shall be paid the difference between his base pay and the amount paid for military service during the period of his leave. Employees will be granted a leave of absence without loss of benefits to which he may otherwise be entitled.

Section 10 – Civil Leave

An employee shall be given time off for jury duty or when subpoenaed to appear before any public body or commission. The employee shall be paid the difference between his base pay and the amount paid for jury duty or subpoenaed appearance for a time not to exceed twenty (20) working days.

Section 11 – Leave Without Pay

Leave of absence without pay may be granted to an employee with the approval of the Department Head and City Administrator for a period not to exceed six (6) consecutive months. No accrual of privileges or benefits is allowed for an employee who is on leave of absence. Consideration for leave without pay will be given for reasons such as personal illness or disability, illness or disability of a member of the employee's household, or continuing education. The needs of the City will be the controlling factor.

Section 12 – Voting Leave

An employee shall be given up to a maximum of three hours leave, with pay, to vote, provided that he shall have given a 24-hour advance written notice and the polls are not open for three consecutive hours outside of his workday.

Employees with regular working hours from 8 A.M. to 4:30 P.M. may be allowed to leave work at

4 P.M. if the extra 30 minutes is necessary for them to be able to vote.

Those employees in the Fire Department who are unable to vote prior to commencing their shift at 8 A.M. may be allowed to report for work at 9 A.M., if the extra hour is necessary for them to be able to vote.

Section 13 – Unexcused Leave

An employee shall be deemed to be on unexcused leave for absences which the employee has not met the requirements of an excused leave (such as sick leave, annual leave, etc.). An employee shall not be paid for unexcused leave.

In the case of Fire Department personnel working a 56-hour week, unexcused leave shall be deducted from their base bi-weekly pay at the hourly rate determined by dividing the employee's annual salary by 2,912.

Section 14 – Family and Emergency Medical Leave

In accordance with the Family and Medical Leave Act of 1993 and as recorded in Section 2-146 of the City's Municipal Code, the City of Crestwood adopts the following policy:

- A. Definition: A "family or medical leave of absence" is defined as an approved absence available to eligible employees under certain circumstances for consecutive or intermittent periods of up to twelve (12) weeks in any twelve-month period. **[NOTE: The "Rolling" year is described in Section D below.]**

- B. Circumstances under which leave may be taken include:
 - 1. The birth of a child.
 - 2. The placement of a child with the employee for adoption or foster care.
 - 3. Situations where an employee is needed to care for a child, spouse, or parent who has a serious health condition.
 - 4. An employee's serious health condition which prevents him from performing the essential functions of his job.
 - 5. Military Family Leave Section 585(a):
 - a. Military Care Giver Leave: Eligible employees who are the spouse, son, daughter, parent or next of kin of a covered service member with a serious illness or injury incurred in the line of duty on active duty, will be able to take up to 26 work weeks of leave in a single 12 month period.
 - b. Qualifying Exigency Leave: Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain "qualifying exigencies". The specified qualifying exigencies are (1) Short-notice deployment – seven or fewer days before deployment; (2) Military events and related activities; (3) Childcare and school activities; (4) Financial and legal arrangements; (5) Counseling; (6) To spend time with the Military Member during rest

and recuperation leave for up to five work days; (7) Post-deployment activities for 90 days following the Military Member's return; and (8) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

C. Definition of a serious health condition: A serious health condition is defined as an illness, injury, impairment, or physical or mental conditions that involve:

1. Inpatient care in a hospital, hospice, or residential medical care facility;
2. Absence from work for more than three consecutive full calendar days, that also involves continuing treatment by a health care provider (1) two or more times or (2) once, followed by a regimen of continued treatment; or
3. Treatment by a health care provider for a chronic or long-term health condition that if not treated, would likely result in a period of absence from work for more than three full calendar days, and for prenatal care.

Under the multiple-visit prong, the two visits must occur within 30 days of the beginning of the period of incapacity and the first visit must take place within seven days of the first day of incapacity.

D. Eligibility. Federal law governs which employees may be eligible for family or medical leave and provides certain conditions or limitations.

To qualify for leave under this policy, an employee (including a part-time employee) must:

1. have been employed by the City for at least twelve (12) months; and
2. have worked at least one thousand two hundred fifty (1,250) hours during the twelve-month period prior to the commencement of the requested leave.

Portions of this policy may not apply to certain key executive and key administrative employees. Please check with the City Administrator or his approved designee to determine whether you are eligible.

An eligible employee is only entitled to a total of twelve (12) weeks leave in any given twelve (12) month period regardless of qualifying conditions that may arise in any twelve (12) month period, except for Military Caregiver Leave.

A husband and wife who are both employed by the City are only entitled to a combined total of twelve (12) weeks of leave for the birth or placement of a child or for the care of a sick parent. Married employees will receive twelve (12) weeks each of leave for their own serious illness, or to care for a child with a serious illness.

E. Use of paid leave required. If an employee is entitled to paid leave or time off under another city policy, the employee must take all of that time off prior to taking any unpaid leave under this policy. Paid leave shall run concurrently with the otherwise unpaid FMLA leave and shall be used, beginning with sick leave (if a qualifying sick leave event); once sick leave is exhausted, compensatory time shall be used; and once compensatory time is exhausted, vacation time. When an employee has taken all available accrued paid leave, any additional leave taken under this policy will be unpaid.

F. Requirements for Leave – Medical Certification. The City requires medical certification if an employee requests leave due to a serious health condition or to care for a seriously ill family member.

1. If it is the employee's own health condition, the medical certification must include, among other things, a statement from the treating physician that the employee is unable to perform the functions of his or her position, relevant medical facts concerning the condition, when the condition began and the likely duration of the requested leave.
2. If leave is required to care for a family member with a serious health condition, the medical certification must include an estimate of the amount of time the employee will be needed to care for the family member. The following conditions must be met:
 1. The certificate must state when the health condition began;
 2. The treating physician's judgment concerning the probable duration of the condition; and
 3. Relevant medical facts concerning the health condition (such as diagnosis and course or treatment).

Under certain circumstances, the City may require a second medical opinion and a periodic reevaluation, for which the City will pay. If the medical certification provided by the employee and the second opinion differ, the City may require that a third opinion be obtained, which will also be paid for by the City.

G. Benefits During Leave of Absence. Employees taking family and medical leave under this policy are eligible to continue coverage under the City's existing group health plan for the duration of the leave under normal conditions and requirements. If an employee does not return to work after the completion of approved leave, the employee will be required to reimburse the City for premiums paid to maintain the employee's group health coverage unless the failure to return to work was for reasons beyond the employee's control. Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the leave.

H. Return to Active Employment. The City requires that the employee provide a "Fitness-for-duty" certification that he is able to return to work. The certification must address the employee's ability to perform the essential functions of his job. Also, where reasonable job safety concerns exist, the City requires a fitness-for-duty certification before an employee may return to work when the employee takes intermittent leave. Upon return from approved family and medical leave, most employees will be returned to his previous position if possible, or an equivalent position if his previous position is no longer available.

I. Intermittent Leave Schedule. Leave may be taken on a continuing or intermittent basis if medically necessary for a serious health condition of the employee or a family member or for qualifying exigencies. If leave is requested on a sporadic schedule or intermittent basis due to planned medical treatment, the City may require the employee to transfer temporarily to a different, equivalent position to permit the City to adjust to recurring periods of absence or a part-time schedule. For birth, adoption or foster care of a child, intermittent leave or a reduced work schedule must be requested by the employee and

approved by the Department Head. The City may require that FMLA leave be taken in increments of one hour. **[NOTE: The new regulations only allow transfer when the leave is for planned medical treatment.]**

J. Notification and Reporting

1. When the need for leave is foreseeable (such as the birth, adoption or placement of a child and in cases of planned medical treatment), the employee must notify the City at least thirty (30) days in advance of the requested leave, by written notice to the employee's Department Head. Within five business days of receiving the employee's notice of the need for FMLA leave, the City will provide the employee with an "Eligibility Notice" and, if the employee is eligible, a "Notice of Rights and Responsibilities". The Eligibility Notice tells the employee whether or not he had met the minimum qualifications for FMLA eligibility, and if not, at least one reason. The Rights and Responsibilities Notice informs the employee of his rights and obligations under the Act.
2. Within five business days of obtaining sufficient information to determine whether the employee is entitled to FMLA leave (often after the employee provides a complete and sufficient medical certification), the City will provide a written "Designation Notice". This will inform the employee whether his requested leave will be designated as FMLA qualifying.
3. When the need for leave is not foreseeable, notice must be given in person (or by telephone in cases of medical emergencies) and may be given by the employee's spouse or other representative only if the employee is unable to do so.
4. When thirty (30) days' advance notice is not possible, notice must be given as soon as possible after the employee learns of the need for the leave.
5. When planning medical treatment, the employee should consult with his Department Head and supervisor when giving notice and shall make reasonable efforts to schedule the leave so as not to unduly disrupt the City's operations. (Ord. No. 3616, § 1, 6-13-00)
6. Employees must also notify the City if the requested leave is for a reason for which FMLA leave was previously taken or certified.

- K. Legal Requirements. FMLA makes it unlawful for any employer to: (a) interfere with, restrain, or deny the exercise of any right provided under FMLA; and (b) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

CHAPTER XI – EMPLOYEE DEVELOPMENT

Section 1 – Training

The City Administrator, as Personnel Director, shall be responsible for the development and promotion of in-service training of employees to improve the quality of City services and to assist employees in preparing themselves for advancement in City employment.

Section 2 – Reimbursement for Training Expense

An employee who enters a job-related training program with the prior approval of his Department Head and the City Administrator may be reimbursed for expenses such as tuition and books upon successful completion of the program. Approval for such training and/or reimbursement may be dependent upon budget allocation. An expense advance may be issued if recommended by the Department Head and approved by the City Administrator. If an advance is provided, the employee will be required to sign a loan agreement which will be forgiven if the employee satisfactorily completes the training and the employee receiving the advance remains an employee of the City for a period of not less than one (1) year after completion of the training for which the advance was given.

Section 3 – Performance Evaluation

The Personnel Director shall prepare a system for evaluating the work performance of all employees in classified service. The primary purpose of the employee performance evaluation shall be to inform employees how well they are performing their work and how they can improve work performance. The performance evaluation may also be used to determine salary increments as a basis for training, promotion, demotion, transfer, or dismissal and for such other purposes as set forth in these Civil Service Rules and Regulations.

- A. On original appointment or hire date, on promotion, or on transfer, all employees (except temporary employees) shall be evaluated prior to completion of their probationary period and annually thereafter, twenty (20) working days prior to the anniversary date of their original appointment or hire date, or date of last promotion or increase in pay. An employee shall not be eligible for a pay increase until the Performance Evaluation Form and Personnel Action Form have been completely processed.
- B. Evaluations shall be prepared by the employee's immediate supervisor and reviewed by the evaluator's supervisor and appropriate Department Head. An employee in a supervisory position who is leaving the position shall be required to submit Performance Evaluation Forms for all employees under his supervision who have not been evaluated within the previous six-month period. All completed evaluations shall be forwarded to the Personnel Director for inclusion in the employee's personnel files.
- D. The evaluator shall discuss each performance evaluation with the employee being evaluated, except at the time of an employee's separation from service. If an employee disagrees with any statement in an evaluation, he may submit, within ten (10) days following the conference with his supervisor, a written statement, which shall be attached to the Performance Evaluation Form and forwarded through the Department Head to the Personnel Director. This written statement will be included in the employee's personnel file.

- E. If the employee believes that his evaluator has violated any Civil Service Rules or Regulations in determining the employee's performance rating, he may follow the appeal process outlined in Chapter IX, Section 3E for further review by the Civil Service Board.

- F. Performance evaluations shall be confidential and shall be made available to: (1) the employee evaluated (or his representative); (2) the employee's supervisor and Department Head; (3) the Personnel Director (or his representative), and (4) the Civil Service Board.

CHAPTER XII - SAFETY

Section 1 – Responsibility for Safety

It is the responsibility of the City to provide safe working conditions, tools, equipment, and work methods for employees. All employees are responsible for promptly reporting any safety hazards to their supervisor or other proper authority. All employees shall use the safety equipment provided, and shall follow all safety rules and safe working methods. Violation of safety rules shall be considered the same as violation of any department rule, and an employee in violation may be subject to disciplinary action.

Section 2 – Reporting of Accidents

Any on-the-job accident or injury shall be reported immediately to the supervisor. The supervisor shall immediately report the injury to the Personnel Director (or his designee). It is the responsibility of the supervisor to arrange for prompt medical attention, if necessary.

For further reference: Occupational Safety and Health Administration (OSHA) information can be found under Part 29CFR (Code of Federal Regulations).

CHAPTER XIII - Alcohol & Controlled Substance Testing Policy

Section 1 – Policy Statement

It is the policy of the City to provide safe, dependable, and economical services to its citizens and to provide safe working conditions for its employees, and to comply with the requirements of federal law and regulations related to the Omnibus Transportation Employee Testing Act of 1991. It is also the policy of the City of Crestwood to provide healthy, satisfying, working environments for its employees.

To meet these goals, it is the policy of the City to take measures to ensure that its employees are not hampered in their ability to perform assigned duties in a safe, productive and healthy manner; to create a work place environment free from the adverse effects of alcohol and controlled substances abuse or misuse; to prohibit the unlawful manufacture, distribution, dispensing, possession or use of alcohol and controlled substances; and to encourage employees to seek professional assistance when personal problems, including alcohol and controlled substance dependency, adversely affect their ability to perform assigned duties.

Special procedures apply to safety-sensitive positions. It is the purpose of the Omnibus Transportation Employee Testing Act of 1991 and this policy to establish a program designed to:

- A. Help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.
- B. Assure covered employee fitness for duty.
- C. Protect the City employees and the public from the risks posed by the use of alcohol and controlled substances.

It is also the purpose of this policy to comply with all applicable federal and state regulations governing work place alcohol and controlled substance abuse programs mandated under the above-noted act. This act mandates urine drug testing and breathalyzer alcohol test for safety-sensitive positions, and prevents performance of safety-sensitive functions when there is a positive test result. The federal law has also established standards for collection and testing of urine and breath specimens, the reporting of certain drug-related offenses, protective measures for certain employees tested, for the preservation of confidentiality, and for certain reporting requirements.

Section 2 – Applicability

The policy applies to employees who perform safety-sensitive functions defined in the Omnibus Transportation Employee Testing Act and its implementing regulations, including employees who are required to possess a commercial driver's license (CDL) for the operation of a commercial vehicle as defined and regulated under state law.

Section 3 – Definitions

Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol concentration: the concentration of alcohol in a person's breath expressed as in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol use: the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT): A person proficiently trained in the operation of the Evidential Breath Testing Device (EBT) he is using and in alcohol testing procedures. Proficiency shall be demonstrated by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation, and calibration checks, the fundamentals of breath analysis for alcohol content; and the procedures required in this part for obtaining a breath sample, and interpreting and recording EBT results. Only courses of instruction for operation of EBTs that are equivalent to the Department of Transportation (DOT) model course as determined by the National Highway Traffic Safety Administration (NHTSA) may be used to train BATs to proficiency.

Commercial Driver's License (CDL): a license issued pursuant to state law, which authorizes an individual to operate a commercial motor vehicle.

Commercial Motor Vehicle: a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property and defined as a commercial motor vehicle by state law (302.700 RSMo.) and the Act:

- A. Has a gross combination weight rating of 26,001 or more pounds inclusive of towed unit with a gross vehicle rating of more than 10,000 pounds; or
- B. Has a gross vehicle weight rating of 26,001 or more pounds; or
- C. Is designed to transport 16 or more passengers, including the driver; or
- D. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placed under the Hazardous Materials Regulations.

Confirmation Test: A second test conducted after an initial alcohol or drug test to confirm the presence of alcohol or drug metabolites in an employee's system. Confirmation test for alcohol will be conducted using approved evidential breath testing device, and for drugs by testing urine by means of gas chromatography and mass spectrometry (GC/MS)

Controlled Substance: the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated for testing in 49 CFR 40 including: opiates (heroin), amphetamines, cocaine, marijuana (THC Metbolite) and phencyclidine (PCP).

Delay: Failure to immediately report to the test site to participate in the required testing under this policy.

Evidential Breath Testing Device (EBT): A device approved by the National Highway Transportation and used to measure breath alcohol concentration.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who

has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any other relevant biomedical information.

Reasonable Suspicion: Circumstances, observable signs, or articulated behaviors which suggest and constitute a basis for determining reasonable suspicion of alcohol intoxication or drug use. This may include, but it is not limited to:

- A. A pattern of abnormal or erratic behavior.
- B. A work-related accident.
- C. Direct observation of drug or alcohol use.
- D. Presence of the physical symptoms of drug or alcohol use.

Safety-Sensitive Employee: Any employee who operates a commercial motor vehicle for the City and holds a commercial driver's license (CDL).

Safety-Sensitive Function: All occasions where a commercial motor vehicle driver is performing, ready to perform, or immediately available to perform the following tasks:

- A. Waiting to be dispatched, unless the driver has been relieved from duty.
- B. Inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- C. Driving.
- D. Loading and unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments loaded or unloaded.
- E. Performing the driver requirements relating to accidents.
- F. Repairing, obtaining assistance, or remaining in attendance upon a disable vehicle.

Screening Test: the initial drug or alcohol test to determine whether an employee has a controlled substance or prohibited concentration of alcohol in his system. Screening tests for alcohol are by breath test, and, for controlled substances, a urine test by immunoassay, enzyme process or other method approved by 49 CFR 40.

Substance Abuse Professional (SAP): a licensed physician (medical doctor or osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of or clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

Section 4 – Policy Administrator

The City Administrator, as Policy Administrator, shall be the controlled substance and alcohol policy administrator for the City of Crestwood. Any inquiries concerning this policy, its application,

its administration, or its interpretation shall be made to the policy administrator.

The Policy Administrator shall maintain a current list of the City positions that are governed by this policy. The list shall be available for inspection in the Administrative Office of the City of Crestwood by any individual who is applying for a position with the City, any current City employee, or the public. Current City employees shall be notified if they are subject to this policy.

The Policy Administrator shall develop all forms necessary to carry out the provisions of this policy, unless the forms are provided under the federal regulations (Part 40 CFR). The forms shall be provided to appropriate persons who are responsible for the implementation and management of this policy.

Section 5 – General Rules

- A. An employee is prohibited from the operation of a commercial motor vehicle and/or from engaging in any work-related functions, for alcohol related conduct:
 - 1. While consuming alcohol;
 - 2. While having a blood-alcohol concentration of 0.02 or greater;
 - 3. Within four hours of consuming alcohol;
 - 4. After refusing to submit to an alcohol test; or
 - 5. Consuming alcohol within eight hours after an accident, as specified in this policy.
- B. An employee is prohibited from the unauthorized use and/or possession of a controlled substance at any time, whether on or off duty. In the event an employee is authorized to use a controlled substance by medical prescription, it is the employee's duty to inform the prescribing doctor that they perform safety sensitive functions while at work and to obtain from that doctor a release to perform safety-sensitive functions while at work and a release to perform such work while taking or using the prescribed substance. The employee is prohibited from using the prescribed substances other than in the amount and manner prescribed. Violation of these requirements will be cause for disciplinary action up to and including termination.
- C. An employee is prohibited from the unauthorized possession of alcohol while on duty.
- D. Notification of Employer by Employee of Violation/Conviction

Any employee whose job performance requires the possession of a valid Commercial Driver's License (CDL) must notify the policy administrator of any conviction for a violation of any state or local law relating to motor vehicle traffic control (other than parking violations) within thirty (30) days of the conviction. In addition, an employee who loses the CDL for a violation or as a consequence of the law or any administrative action shall notify the Policy Administrator and the employee's immediate supervisor of the loss of the CDL. Failure to notify the Policy Administrator of the loss of the CDL shall result in disciplinary action up to and including immediate termination.

Any employee convicted of illegal conduct related to controlled substances shall report the conviction to the policy administrator and to his immediate supervisor. Any conviction resulting from this illegal conduct may result in disciplinary action, and failure to report the conviction shall result in disciplinary action up to and including termination of employment.

- E. An employee who violates any of these provisions or tests positive for drugs or alcohol will be subject to disciplinary action up to and including termination of employment.

Section 6 – Controlled Substance and Alcohol Testing Provisions

Employees subject to this policy shall be subject to controlled substances and alcohol testing including the following types of tests: pre-employment testing, random testing, reasonable suspicion testing, post-accident testing, return to duty testing, and follow-up testing to rehabilitation programs.

A. Pre-Employment Testing

Pre-Employment urine drug testing, if mandated by federal regulations, shall be required of all applicants for positions covered by this policy as a condition of the application procedure. Receipt of satisfactory test results is required prior to commencement of employment and/or engaging in safety-sensitive functions for the first time. The failure of a controlled substance or alcohol test disqualifies an applicant from appointment to the City. An applicant who tests positive will not qualify for rehabilitation services through the City.

B. Reasonable Suspicion Testing

Reasonable suspicion urine and/or breath alcohol testing shall be made on the basis of documented objective facts and circumstances, which are consistent with the effects of controlled substance use. The determination that reasonable suspicion exists must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, and body odor of the employee.

The observations for controlled substances may include indication of the chronic and/or withdrawal effects of controlled substances. Reasonable suspicion observation and reports can only be made by supervisory or management personnel who are trained to detect the signs and symptoms of controlled substance and alcohol use and who may reasonably conclude that an employee may be adversely affected or impaired in the employee's work performance due to the use of the controlled substance or alcohol.

The observing supervisor or manager, whether or not he is the immediate supervisor, is required to complete the appropriate required documentation within twenty four (24) hours of the observed behavior or before the results of a controlled substance test are released, whichever is sooner. Additionally, at the time of the observation, the supervisor will notify the Crestwood Police Department so that appropriate law enforcement documentation can be performed. The observed employee shall be immediately removed from all work-related activities and driven to the testing facility. The employee will be placed on unpaid administrative leave pending the results of the test. If a confirmatory test reveals that the employee was not under the influence of alcohol or a controlled substance; the employee will be reinstated with all back pay and receive all benefits which were accumulated during the leave period.

Reasonable suspicion testing shall be required and completed whenever possible within two hours of the observation, but in any case no later than before eight hours after the observation for breath alcohol testing and thirty-two (32) hours for controlled substance testing. The employee shall be immediately removed from all work activities and driven to the testing facilities. The observing supervisor or manager will document the reasons for not promptly conducting the tests.

C. Post-Accident Testing

Federal Highway Administration regulations require alcohol and controlled substance testing following an accident for any employee who was performing safety-sensitive functions if the accident involved a fatality or for any employee who receives a citation for a moving traffic violation. The City may require testing for all employees whose performance may have contributed to the accident, as well as the employee(s) who was (were) involved in the accident when injury to a person requires transport to a medical treatment facility, or disabling damage to one or more vehicles requires towing from the accident site to occur.

Post-accident testing shall be required and completed whenever possible within two hours of the accident occurrence, but in any case no later than before eight hours after the accident for breath alcohol testing and thirty-two (32) hours for controlled substance testing. An employee involved in an accident shall refrain from alcohol consumption for eight hours following the accident or until the employee undergoes a post-accident alcohol test, whichever occurs first. If at all possible, the employee will undergo post-accident testing while on duty. The City will document the reasons for not promptly conducting the required tests.

Any employee who leaves the scene of an accident without appropriate authorization prior to submission to controlled substance and alcohol testing shall be considered to have refused the tests and the employee may be terminated for such action. To prevent any further injury, medical attention or assistance in responding to the accident shall take precedence over the post-accident testing procedure.

D. Random Testing

Random testing shall be conducted on all employees covered by this policy.

1. Random testing shall be unannounced and conducted with unpredictable frequency throughout the year, using an established, scientifically-based selection method.
2. At least 25% of all safety-sensitive positions are tested for alcohol each calendar year and not less than 50% of all safety-sensitive positions are tested for controlled substances each year.
3. Testing shall be conducted whenever and as ordered by appropriate supervisory personnel, but no less frequently than required by federal law and regulation. Whenever possible random testing will occur while an employee is on duty.

E. Return-to-Duty Testing

Return-to-duty urine drug and alcohol testing shall be required for all employees who previously tested positive for either category of substance or who admitted alcohol or substance abuse and received treatment for such abuse. To return to duty, the employee must test negative and be evaluated and released to return to work by a Substance Abuse Professional (SAP).

F. Follow-up testing

Follow-up testing of an employee allowed to return to work is required. The employee will be required to submit to frequent, unannounced random urine drug and breath alcohol testing for at least six times in the in the twelve months that immediately follow his return to work. Follow-up testing may be continued for a period of up to sixty (60) months from the employee's return to work date. Whenever possible, follow-up testing will occur while an employee is on duty.

G. Confirmatory Testing

Any employee who questions the results of a required urine drug test under this policy may request that an additional test be conducted. The test must be conducted on a split sample that was provided at the same time as the original sample and the test analysis shall be conducted at a qualified laboratory that is different from the original testing site. The employee shall pay all costs for employee-requested testing unless the second test invalidates the original test. An employee's request for a re-test must be made to the medical review officer within seventy-two hours of the notice to the employee of the initial test result. Requests made after the seventy-two (72) hour limit will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. Confirmatory testing will not take place while an employee is on duty.

H. Failure to Test

Upon being ordered to submit to testing, an employee shall report immediately to the test site. No delay of any type may be granted or taken. Delay in reporting by the employee shall be treated as a refusal to test and shall subject the employee to all of the consequences of a positive test result. Failure to provide a sufficient sample or for providing an adulterated sample shall be considered a refusal to test and shall subject the employee to all of the consequences of a positive test result. An employee who states at the time of the test that he is physically unable to provide an adequate urine or breath sample shall be evaluated by a licensed physician selected by the City.

I. Consequences of Testing Positive

An employee who tests positive will be immediately removed from duty and be placed on unpaid administrative leave pending the results of a confirmatory test and/or disciplinary action. The City is not required to return an employee who has tested positive or otherwise violated this policy to a safety-sensitive position or to retain him as an employee. Moreover, an employee cannot be returned to safety sensitive duties until he has been evaluated by a substance abuse professional (SAP), has complied with recommended rehabilitation, and has received a negative result on a return-to-duty test.

Section 7 – Testing Procedures and Results

A. Alcohol testing

Federal regulations require breath testing to be done ~~on~~ using Evidential Breath Testing devices approved by the National Highway Safety Administration.

An initial screening test is conducted first. Any result that is less than 0.02 blood alcohol concentration is considered negative. If the blood alcohol concentration is 0.02 or greater, a second confirmatory test must be conducted. Any employee who tests with a blood alcohol concentration of 0.02 or greater shall be removed from service for at least twenty-four (24) hours.

Any employee who is found to have engaged in prohibited alcohol conduct under this policy shall be immediately removed from work-related activity, and the employee shall not be permitted to resume work until the employee is:

1. Evaluated by a SAP,
2. Complies with the rehabilitation, if such is offered, and
3. Has tested negative in a follow-up test.

B. Controlled Substance Testing

1. Controlled substance testing is conducted by analyzing an employee's urine specimen at a laboratory certified and monitored by the U.S. Department of Health & Human Services.
2. The testing for controlled substances is a two-stage process. First, a screening test is conducted. If the test is positive for one or more of the controlled substances, a confirmatory test is conducted for each identified controlled substance. The confirmatory test is a gas chromatography/mass spectrometry (GC/MS) analysis.

The urine specimen shall be divided into two bottles and sealed, one bottle labeled "primary" and the other bottle labeled "split" specimen. Only the primary specimen shall be used for testing. The split will remain sealed and be stored in case of additional testing. If the analysis of the primary specimen confirms the presence of illegal controlled substance, the employee shall have seventy-two (72) hours to request that the split specimen be sent to another DHHS certified lab for analysis.

All drug test results shall be reviewed and interpreted by a Medical Review Officer (MRO) before being reported to the City. Any employee who tests positive on the confirmatory test shall be interviewed by the City of Crestwood Medical Review Officer. The MRO will attempt to determine if there is an alternative medical explanation for the test result. The employee will be notified of the results, whether positive or negative. As previously stated, an employee may request a confirmation test of a positive result.

Section 8 – Results

- A. Any employee who is found to have engaged in prohibited alcohol or controlled substance abuse conduct under this policy shall be immediately removed from work-related activities.

The employee shall be placed on unpaid leave. The employee shall not be permitted to resume work until he is (1) evaluated by a SAP, (2) complies with the rehabilitation contract if such is required, and (3) has tested negative in a return-to-duty test.

B. Employee Assessment

An employee who tests positive for the presence of a controlled substance or alcohol above the minimum thresholds set forth in the federal regulations shall be evaluated by a SAP. The SAP shall evaluate each employee who tests positive to determine what assistance, if any, the employee needs to resolve problems associated with the controlled substance or alcohol.

Assessment by a SAP does not protect the employee from disciplinary action or guarantee continued employment or reinstatement by the City of Crestwood. The City of Crestwood Civil Service Manual (Chapter VIII, Sections 1 and 2) provides guidance to the discipline that may be imposed, unless otherwise stated in this policy.

Section 9 – Rehabilitation

A. Any employee who voluntarily presents himself to appropriate City officials for the treatment and/or rehabilitation for a controlled substance or alcohol-related problem prior to being investigated or detected shall be permitted to retain his employment with the City and to seek rehabilitation under a rehabilitation contract with the City. Any employee who does not voluntarily come forward with a problem before testing positive or otherwise violates this policy will be subject to discipline up to and including discharge. Nonetheless, if it is determined by the SAP that the employee is in need of assistance for a controlled substance or alcohol-related problem under this policy, he may be reinstated, at the City's discretion, after completion of a rehabilitation plan acceptable to the City, provided the employee agrees to adhere to the terms of the rehabilitation contract with the City. Failure to complete the rehabilitation assistance plan shall be considered a resignation by the employee ~~for~~ from employment with the City.

B. Rehabilitation Contract

If the City decides to permit reinstatement after rehabilitation, the employee will be required to sign and adhere to a rehabilitation contract which consists of the following conditions, each of which must be met:

1. The employee shall agree to undertake and successfully complete the rehabilitation assistance plan established for him by the SAP or by a rehabilitation professional accepted by the City of Crestwood.
2. The employee agrees to refrain from any violation of this policy and from the use of controlled substances and alcohol, consistent with the plan of rehabilitation and this policy.
3. The employee provides a release of all medical records to establish the rehabilitation assistance plan and to allow the City to verify compliance with the rehabilitation assistance plan once it has been established.
4. The employee agrees to unannounced random testing for up to sixty (60) months subsequent to the employee's return to work, consistent with the policy.

5. The employee agrees to submit to return-to-work testing demonstrating that the employee ~~is~~ has tested negative under controlled substance and/or alcohol test standards.
6. The employee agrees that any future controlled substance or alcohol violations shall be considered as the employee's resignation, without recourse.
7. The employee will be placed on sick leave while attending the rehabilitation program. Sick leave may be used for inpatient and outpatient treatment. If available, the employee will be required to use any available sick leave for the rehabilitation program. If no sick leave is available, time off used for the rehabilitation program will be treated as unpaid medical or personal leave. If the employee is placed in an inpatient rehabilitation program, he may use time provided under the Family and Medical Leave Act (FMLA). After exhausting all sick leave, if necessary, the employee may choose to use the FMLA intermittent leave provisions should he be placed in outpatient care.

Section 10 – Contractual Support Professionals

The City of Crestwood shall secure a contract with an appropriately certified testing laboratory to conduct the controlled substance testing analysis and reporting required under this policy and under the federal regulations in compliance with the standards established under the federal regulations. The City of Crestwood may contract for the required alcohol testing.

The City of Crestwood shall engage the services of an independent contractor to serve the City of Crestwood as the MRO, properly credentialed and trained in compliance with the federal regulations, who shall not be an employee of the City of Crestwood. The MRO shall, as a part of the engagement contract, maintain all relevant records and provide the required reports that the City of Crestwood needs to comply with the federal reporting requirements.

The City of Crestwood shall appoint a Substance Abuse Professional (SAP) to provide services under this policy and to comply with the federal regulations.

Section 11 – Education & Training

The City of Crestwood shall provide all covered employees with a copy of this policy and materials related to the effects of the use and/or abuse of alcohol and controlled substances. The City of Crestwood shall also provide information to employees regarding the types of treatment and rehabilitation programs that are available. To confirm receipt of this policy and any revisions, and related educational materials, an employee must sign, date, and have witnessed by his supervisor all the materials provided.

The City of Crestwood shall provide training for all supervisors and managers who are responsible for the administration and enforcement of this policy. The training, at a minimum, shall include at least sixty (60) minutes of training on the physical and behavioral effects on alcohol use and abuse and its side effects on the work environment and performance indicators, and the consequences of alcohol consumption while performing work-related activities. The training shall include an overview of this policy and its implementation and application to employees. The training, at a minimum, shall include at least sixty (60) minutes of education on the physical and behavioral effects on personal health, safety, and on the work environment and performance indicators of

controlled substance use and abuse, the side effects of controlled substance abuse, and the consequences of prohibited activity involving controlled substances. Training shall also include a component related to objective observation for reasonable suspicion testing, documentation and record-keeping. The training may also provide components related to City of Crestwood, sponsored or supported referral programs and employee assistance efforts that are sanctioned to deal with alcohol and controlled substance use and abuse problems.

Section 12 – Confidentiality

All records developed and/or acquired pursuant to this policy shall be maintained under strict confidentiality by the City of Crestwood's Personnel Director, the testing laboratory, the MRO, and the SAP, when and as applicable. The records shall be maintained separately from other personnel records kept by the Personnel Director and shall be kept in a secured location with other medical records. Materials shall not be released to others without the written consent of the affected employee, except under provisions provided in the federal regulations, as needed with regard to the rehabilitation contract, in litigation or quasi-judicial and administrative proceedings related to positive test results and/or to matters initiated by the employee. Applicants may request the results of pre-employment tests within sixty (60) days of learning the disposition of the employment application.

Any person who breaches the confidentiality provisions of this policy shall be subject, without recourse, to immediate termination from employment and/or any contractual relationships with the City of Crestwood.

Section 13 – Disciplinary Issues

Unless otherwise specified in this policy, the City of Crestwood policies related to disciplinary action shall be followed when imposing discipline for violation of the Alcohol and Controlled Substance Testing Policy.

An employee's acceptance of the rehabilitation plan and contract does not a bar the City from imposing disciplinary action related to violations of this policy.

Any supervisor or manager who knowingly permits an employee to violate this policy or engage in work activity while consuming alcohol or a controlled substance or fails to enforce this policy shall be subject to immediate termination from employment.

This policy does not displace any other penalties that may be imposed or be incurred as a result of violation of City of Crestwood policy, or state and federal laws, or as provided in the workers' compensation laws.

Section 14 – Coordination with other Laws & Policies

This policy shall be administered in compliance with other federal, state, and local laws related to employee health & welfare policies, benefit programs and other related policies of the City of Crestwood. In the case of apparent conflicts between this policy, other policies, and applicable laws, the Policy Administrator, upon advice from the City Attorney, shall make the appropriate rulings to resolve the potential conflicts whenever possible.

In the event that any part of this policy is judicially determined to be in conflict with any law or to

be in violation of any law or is rendered ineffective because of some state or federal legislative enactment, the part(s) shall be void, but the remainder of the policy shall remain in effect. Parts that are void or voided shall be replaced as soon as possible so as to maintain the full effect of this policy and/or to bring it into compliance with relevant laws.