

## **ARTICLE II. GENERAL PROVISIONS**

### **A. Purpose**

These Personnel Policies and Procedures are to be used to supplement, interpret, and otherwise implement and uphold the merit system provisions of the Charter of the City of Independence, Missouri, and the standards for a merit system of personnel administration. Appointments and promotions in the classified service of the City will be made solely on the basis of merit and fitness. Disciplinary action will be in accordance with the standards and procedures set out in these Personnel Policies and Procedures. The City will not discriminate in decisions regarding employment against any individual based on that individual's race, color, sex, religion, national origin, ancestry, age, disability, or political affiliation.

Nothing in these Personnel Policies and Procedures will be construed as a contract between the City and any employee. These Personnel Policies and Procedures shall not be construed as a covenant by the City for employment of any individual for any specified term. They shall not limit the City's ability to hire, promote, demote, terminate, or discipline any employee in any manner consistent with the provisions of the above paragraph. The City reserves the right to unilaterally amend any provision of these Personnel Policies and Procedures. No technical violation by the City of any procedure set out herein shall form a basis for any court action for breach of contract.

### **B. Amendment and Adoption**

Recommendations for amendment to these Personnel Policies and Procedures may be made by the Personnel Director, City Manager, or the Personnel Board. Proposed amendments will be publicly posted on City bulletin boards for at least ten (10) consecutive calendar days, together with notice of the time and place of hearing by the Personnel Board. At the time of hearing, interested employees and their representatives may present written or oral requests or recommendations to the Board regarding the proposed amendments. The submission of such requests or recommendations will not prevent the adoption of the proposed amendments. Following the hearing, the Board shall forward the proposed amendments to the Council with its recommendations, including modifications made as a result of the comments made at the hearing. The Board may, but will not be required to, hold additional hearings on the proposed amendments or any modifications thereto. Amendments to these Personnel Policies and Procedures will become effective upon adoption by the Council.

### **C. Positions Covered**

These Personnel Policies and Procedures will be applicable to all employees in the Classified and Unclassified Services, except as may be excluded herein.

### **D. Administration**

The Personnel Director, under the supervision of the City Manager, has responsibility for the administration of these Personnel Policies and Procedures.

### **E. Department Rules and Regulations**

Department directors may formulate and enforce department rules governing working conditions, employee conduct and performance within their department, so long as such rules do not conflict with the provisions of these Personnel Policies and Procedures, any Work Agreement covering employees of the department, or any applicable law.

### **F. Working Agreements**

Work agreements with bargaining units recognized by the City will be considered as addenda

to the Personnel Policies and Procedures.

If a conflict exists between any agreement and the Personnel Policies and Procedures, the agreement will prevail. However, if there is no conflict the Personnel Policies and Procedures will prevail.

#### G. Equal Employment Opportunity Policy

1. General Policy. The City of Independence will promote and ensure equal employment opportunity for all persons without regard to race, color, sex, religion, national origin, ancestry, age, disability, or political affiliation.

The City of Independence assures no discrimination will occur in recruitment, selection, training, advancement, compensation, working conditions, demotion, layoff and termination.

The City Council, by Resolution, has adopted an affirmative action plan for the City, the goal of which is to achieve a work force in each occupational group which corresponds to the actual availability of qualified minorities and females.

#### 2. Sexual Harassment Prohibited

a. General Policy. Sexual harassment in the work place is not acceptable and will not be tolerated. All employees will avoid any unwelcome behavior or conduct toward any other employee or the public which could be interpreted as sexual harassment.

b. Sexual Harassment Defined. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: (1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (2) submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual; or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

Activities which might constitute sexual harassment include, but are not limited to, unwelcome sex-oriented verbal "kidding"; unwelcome "teasing" or jokes of a sexual nature; subtle pressure for sexual activity; physical contact such as patting, pinching, or constant brushing against another's body; or demands for sexual favors.

c. Responsibility for Enforcement. It is the responsibility of each employee, department director and supervisor to create an atmosphere free of sexual harassment. This includes informing all employees of the policy on sexual harassment and making clear that behavior that creates a hostile work environment will not be tolerated.

3. Other Harassment Prohibited. No employee will engage in conduct which constitutes harassment of another employee on the basis of that employee's race, color, sex, religion, national origin, ancestry, age, disability or political affiliation.

4. Complaint Procedure.

a. Employees who experience discrimination, sexual harassment, or any other form of harassment may file a complaint in accordance with the procedures set out in Article VIII of these Policies. However, the employee making the complaint will have the option of filing the complaint with his or her supervisor, with anyone within the employee's direct supervisory chain of command, or with the City's Personnel Department.

b. Applicants who believe they have been discriminated against or harassed in any manner may file a complaint with the Personnel Department or the Human Relations Commission in accordance with prescribed procedures.

5. Disability Accommodation Policy

a. It is the policy of the City to provide equal opportunity in employment for all qualified individuals regardless of disability. In addition, the City will make reasonable accommodation of the impairments of qualified individuals with disabilities to the extent required by law, unless undue hardship to the City would result. The City is committed to complying with the Americans With Disabilities Act (ADA) and its amendments, and accommodating the needs of any qualified individual who has a physical or mental impairment which substantially limits his or her ability to perform the essential duties of the job. Although the City cannot guarantee that a reasonable accommodation can be found, the City will review each situation on a case-by-case basis to determine if a disability exists, if it is covered by ADA guidelines, whether or not an accommodation can be made, and whether the individual is otherwise qualified for the job in question.

b. If any applicant or employee believes in good faith that a reasonable accommodation is needed because of a disability, such applicant or employee must contact the Human Resources Department and request an accommodation. An applicant with a disability needing an accommodation in the examination or interview process shall request an accommodation from the Human Resources Department at least forty-eight (48) hours in advance of the test or interview. Requests for accommodations are not to be made to any supervisor or manager. If any supervisor or manager receives what such supervisor or manager believes may be a request for an accommodation, such supervisor or manager should contact or refer the employee to the Human Resources Department.

c. The City is committed to participating in an interactive accommodation process. An individual who requests a reasonable accommodation will normally be required to meet with the Human Resources Department to discuss the need for accommodation

and to complete a "Request for Accommodation" form. This form includes information regarding the nature of the disability, how it affects the individual's ability to perform all essential job duties, information regarding medical treatment of the disability or impairment, information regarding the health care provider who has provided such treatment, the individual's suggestions for reasonable accommodation, and other relevant information. The City may also contact the individual's health care provider or other third parties (such as rehabilitation counselors) to verify the existence of the disability or impairment, obtain relevant medical information and records, and suggestions for accommodation. The individual's input is an important part of the process. The City may request that the individual provide a medical evaluation, as well as personal input, regarding the individual's disability and suggested reasonable accommodation(s). The City maintains the right to require the individual to be evaluated by a physician selected by the City. After the City has received all the information needed to adequately review the request, the City will make a decision about the request and will discuss it with the individual.

d. Requests for accommodation will be processed as quickly as reasonably practicable under the circumstances. Any individual who requests an accommodation is required to fully cooperate in the process, including providing relevant information and providing any required Health Insurance Portability and Accountability Act (HIPAA) consent in order for the City to contact and obtain information from the individual's health care provider(s). If the individual fails or refuses to provide any needed HIPAA consent, the City will terminate its processing of the individual's request for accommodation. If the individual is an employee, the employee will be expected to fully perform all essential functions of the employee's job without accommodation and may be subject to disciplinary and performance-related actions, up to and including discharge, if the employee is unable to perform all essential functions of the job. If the individual is an applicant, the application for employment will be withdrawn from consideration.

e. While a request for accommodation is being processed, an employee may be placed on paid or unpaid leave of absence, assigned to a different job, or provided with light or modified duty, as determined by the City. An employee's base rate of pay will not normally be changed while the employee's request for accommodation is being processed, but any form of supplemental compensation may be affected if appropriate.

f. Although it is not possible to make a comprehensive list of all possible accommodations that might be reasonable, the following are among the accommodations that might be reasonable depending on the circumstances: modifications to the job application process, modifications to the work environment, modifications to the methods by which a job is performed, providing special equipment or devices to perform a job, reassignment to an open job for which an employee is qualified and for which the employee can perform the essential job duties, providing a part-time or modified work schedule, modifying training methods and materials, providing readers or interpreters, placing an employee on short-term

leave of absence, or combinations of listed items.

g. Individuals requesting accommodation should understand that not all possible accommodations are reasonable in nature. For example, the City is not required to lower its performance or behavior standards, eliminate essential job duties, bump another employee from a job, maintain an employee's compensation rate, or permit unscheduled, or erratic, unpredictable, intermittent, or excessive absenteeism or tardiness as a reasonable accommodation. In addition, working from home, obtaining regular assistance from another employee to perform essential job duties, and eliminating certain duties in a job rotation are generally not reasonable accommodations except in extraordinary circumstances. The ability of an employee to perform essential duties with the use of mitigating measures or devices, such as medication or special equipment, may be taken into account if determining if an accommodation is needed or reasonable. For example, if an employee can control an impairment with medication or assistive devices and thereby perform essential job duties, no reasonable accommodation would normally be needed or reasonable.

h. The City will determine if a reasonable accommodation is available and can be made. If more than one reasonable accommodation is available, the City may take into account the requesting individual's preference of accommodation, but the City has the right to make the final selection of the accommodation to offer. Any requesting individual has the right to refuse any accommodation that is offered by the City under this policy. However, in such event, if the individual is an employee, the employee will be expected to fully perform all essential functions of the job without accommodation and may be subject to disciplinary and/or performance-related actions, up to and including discharge, if the employee is not able to perform all essential functions in a manner acceptable to the City and as expected from other employees who hold the same job. If the individual refusing an offered accommodation is an applicant, the application for employment will be withdrawn from consideration.

i. The City's decision regarding the reasonable accommodation to be offered or that there is not a reasonable accommodation available that can be made, shall reside with a committee consisting of the Human Resources Director, the relevant Department Director, and the City Counselor. All decisions of that committee shall be final, subject only to further appeal to the City Manager. An appeal to the City Manager shall be made in writing within 14 calendar days after the final decision of the committee.

#### H. Keeping of Animals on City Property.

1. The keeping of animals on City property, either temporarily or permanently, is prohibited, except as set out below. The keeping of animals on City property is allowed in the following limited circumstances:

a. Animals being kept by Animal Control in the normal course of its business with the City.

b. Dogs which are commissioned for use by the Police Department in the normal course of the business of the Police Department.

c. Animals whose presence on City property has been specifically authorized by the City Manager, or by resolution of the City Council.

2. The City will not accept liability for any damages or injury caused by an animal being kept on City property, whose presence thereon is not specifically authorized as set out in paragraph "1" above. Should any animal whose presence on City property is not specifically authorized cause damage or injury to any property or person, the City will seek reimbursement for the damages and/or injury from the employee or employees who brought the animal onto City property, or encouraged its presence on City property by providing it with food and/or shelter.

3. Any employee bringing an animal onto City property without proper authorization, or encouraging the unauthorized presence of an animal on City property by providing it with food and/or shelter may be subject to disciplinary action under Article VII, Section H, of these Policies and Procedures.

4. The keeping of any animal on City property must be in compliance with all applicable provisions of the City Code, unless specifically exempted by ordinance of the City Council.