CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT POLICY

22-1-1 **PROGRAM ADOPTION.** The City developed this Identity Theft Prevention Program pursuant to the Federal Trade Commission's Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions of 2003. 16 C.F.R. § 681.2. This Program was developed with oversight and approval of the City. After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program on February 9, 2009.

22-1-2 **PROGRAM PURPOSE AND DEFINITIONS.**

(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

(1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;

(2) Detect Red Flags that have been incorporated into the Program;

(3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and

(4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(B) **Red Flags Rule Definitions Used in this Program.** The Red Flags Rule defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" as "a pattern, practice, or specific activity that indicates the possible existence of Identity Theft."

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

All the Utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a "covered account" is:

(1) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and

(2) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

"Identifying information" is defined under the Rules as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

22-1-3 **IDENTIFICATION OF RED FLAGS.** In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

(A) **Notifications and Warnings From Credit Reporting Agencies; Red Flags.**

(1) Report of fraud accompanying a credit report;

(2) Notice or report from a credit agency of a credit freeze on a customer or applicant;

(3) Notice or report from a credit agency of an active duty alert for an applicant; and

(4) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

(B) **Suspicious Documents; Red Flags.**

(1) Identification document or card that appears to be forged, altered or inauthentic;

(2) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;

(3) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and

(4) Application for service that appears to have been altered or forged.

(C) **Suspicious Personal Identifying Information; Red Flags.**

(1) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);

(2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);

(3) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;

(4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);

(5) Social security number presented that is the same as one given by another customer;

(6) An address or phone number presented that is the same as that of another person;

(7) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and

(8) A person's identifying information is not consistent with the information that is on file for the customer.

(D) **Suspicious Account Activity or Unusual Use of Account; Red Flags.**

(1) Change of address for an account followed by a request to change the account holder's name;

(2) Payments stop on an otherwise consistently up-to-date account;

(3) Account used in a way that is not consistent with prior use (example: very high activity);

(4) Mail sent to the account holder is repeatedly returned as undeliverable;

(5) Notice to the Utility that a customer is not receiving mail sent by the Utility;

(6) Notice to the Utility that an account has unauthorized activity;

(7) Breach in the Utility's computer system security; and

(8) Unauthorized access to or use of customer account information.

(E) **Alerts From Others; Red Flag.**

(1) Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

22-1-4 DETECTING RED FLAGS.

(A) **New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

(1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;

(2) Verify the customer's identity (for instance, review a driver's license or other identification card);

(3) Review documentation showing the existence of a business entity; and

(4) Independently contact the customer.

(B) **Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

(1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);

(2) Verify the validity of requests to change billing addresses; and

(3) Verify changes in banking information given for billing and payment purposes.

22-1-5 PREVENTING AND MITIGATING IDENTITY THEFT.

(A) **Prevent and Mitigate.** In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

(1) Continue to monitor an account for evidence of Identity Theft;
(2) Contact the customer;
(3) Change any passwords or other security devices that permit access to accounts;
(4) Not open a new account;
(5) Close an existing account;
(6) Reopen an account with a new number;
(7) Notify the Program Administrator for determination of the appropriate step(s) to take;
(8) Notify law enforcement; or
(9) Determine that no response is warranted under the particular circumstances.

(B) **Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

(1) Ensure that its website is secure or provide clear notice that the website is not secure;
(2) Ensure complete and secure destruction of paper documents and computer files containing customer information;
(3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
(4) Keep offices clear of papers containing customer information;
(5) Request only the last 4 digits of social security numbers (if any);
(6) Ensure computer virus protection is up to date; and
(7) Require and keep only the kinds of customer information that are necessary for utility purposes.

22-1-6 PROGRAM UPDATES. The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

22-1-7 PROGRAM ADMINISTRATION.

(A) **Oversight.** Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or

more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

(B) **Staff Training and Reports.** Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

(1) Require, by contract, that service providers have such policies and procedures in place; and

(2) Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

(D) **Non-Disclosure of Specific Practices.** For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" as defined in Minnesota Statutes Section 13.37 and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility's Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.

22-1-8 - 22-1-10 **RESERVED.**

ARTICLE II - SOCIAL SECURITY NUMBER DISCLOSURE POLICY

22-2-1 DEFINITIONS.

"Person" means any individual in the employ of the City.

"Policy" or "Privacy Policy" means this document, as now or hereafter amended.

"Publicly post" or "publicly display" means to intentionally communicate or otherwise intentionally make available to the general public.

"Social Security Number" means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

22-2-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the City shall do any of the following:

(1) Publicly post or publicly display in any manner an individual's Social Security Number.

(2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.

(4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City shall do any of the following:

(1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the

performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.

(2) Require an individual to use his or her Social Security Number to access an Internet website.

(3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

(C) The prohibitions in subsection (B) do not apply in the following circumstances:

(1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.

(2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.

(3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.

(4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.

(5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS. Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an

individual's Social Security Number. All officers and employees of the City must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

22-2-4 APPLICABIILITY.

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

22-2-5 COMPLIANCE WITH FEDERAL LAW. If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the City shall follow that law.

22-2-6 EMBEDDED SOCIAL SECURITY NUMBERS. Beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

22-2-7 IDENTITY--PROTECTION REQUIREMENTS.

(A) All officers, employees and agents of the City identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the City Council within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The City shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the City amends this Privacy Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

22-2-8 **PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars ($100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars ($750.00)** for each violation thereafter.

22-2-9 **AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the City Council as the City Council shall deem necessary in its sole discretion in order to maintain the City's compliance with the Illinois Identity Protection Act as now or hereafter amended.

22-2-10 **CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]

ARTICLE III - FREEDOM OF INFORMATION POLICY

22-3-1 **PUBLIC RECORDS AVAILABLE.** To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the City shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

22-3-2 **DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.**

(A) The City Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the City under the Freedom of Information Act, insure that the City responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the City shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

(1) Note the date the City receives the written request;

(2) Compute the date on which the period for response will expire and make a notation of that date on the written request;

(3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and

(4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the City, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

22-3-3 **PROCEDURES.** The City shall prominently display at the City Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the City, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the City, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

22-3-4 **REQUESTS TO INSPECT OR COPY.** All requests to inspect or copy records or documents prepared, maintained or under the control of the City shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the City.

(B) The written request shall be submitted to the City Clerk or to the Mayor. If neither the City Clerk nor the Mayor is available, the request shall be submitted to any employee of the City acting under the direction of the City Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the City, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

(1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.

(2) **Fifteen Cents ($0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.

(3) **One Dollar ($1.00)** for each certified copy requested.

(4) **Ten Cents ($0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents ($2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

22-3-5 **REQUEST FOR COMMERCIAL PURPOSES.** The City shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the City shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the City Code.

22-3-6 **FEES.** The City Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

22-3-7 **PUBLIC FILE.** The City Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

22-3-8 **GRANTING OR DENIAL OF REQUESTS.** A request for all records within a category shall be granted unless the request constitutes an undue burden upon the City. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the City and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the City. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

22-3-9 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING. If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

22-3-10 NOTICE OF DENIAL OF REQUEST; APPEALS.

(A) If the City denies the request, the City shall notify the person making the request in writing of:

(1) the decision to deny the request;
(2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
(3) the names and titles or positions of each person responsible for the denial;
(4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
(5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the City asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

(1) a copy of the request for access to records;
(2) the proposed response from the City;
(3) a detailed summary of the City's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the City to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE IV - FAIR HOUSING CODE

22-4-1 DECLARATION OF POLICY.

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the City may be ensured, it is hereby declared the policy of the City to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the City, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

22-4-2 DEFINITIONS. Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Decent, Sanitary, Healthful Standard Living Quarters".** "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B) **"Discriminate".** The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C) **"Financial Institution".** The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D) **"Housing Accommodation".** The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E) **"Owner".** An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F) **"Real Estate Broker".** The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G) **"Real Property".** The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the City.

22-4-3 PROHIBITED ACTS. It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the City:

(A) To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the City or in furnishing of any facilities or services in connection therewith.

(B) To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C) To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D) To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E) To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F) To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G) For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H) For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

22-4-4 **PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars ($100.00)** nor more than **Seven Hundred Fifty Dollars ($750.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the City to specifically enforce, by any legal means, any of the provisions of this Code.

ARTICLE V – INVESTMENT POLICY

22-5-1 **INVESTMENT POLICY.** It is the policy of the City to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

22-5-2 **SCOPE.** This policy includes all public funds of the City.

22-5-3 **PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio.

22-5-4 **OBJECTIVE.** The primary objective, in order of priority, shall be:

(A) **Legality.** Conformance with federal, state and other legal requirements.

(B) **Safety.** Preservation of capital and protection of investment principal.

(C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.

(D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the City's needs for safety, liquidity, rate of return, diversification and its general performance.

22-5-5 **DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

22-5-6 **ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

22-5-7 **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

22-5-8 **AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

22-5-9 **COLLATERALIZATION.** Collateralization may be required, at the discretion of the City, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

22-5-10 **SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

22-5-11 **DIVERSIFICATION.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

22-5-12 **MAXIMUM MATURITIES.** To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

22-5-13 **INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

(A) Control of collusion.
(B) Separation of transaction authority from accounting.
(C) Custodial safekeeping.
(D) Written confirmation of telephone transactions for investments and wire transfers.

22-5-14 **PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

22-5-15 **REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council. A statement of the market value of the portfolio shall be issued to the City Council quarterly.

22-5-16 **INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

ARTICLE VI – ETHICS CODE

22-6-1 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

(A) The regulations of Sections 5-15 **(5 ILCS 430/5-15)** and Article 10 **(5 ILCS 430/10-10 through 10-40)** of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the "Act" in this Article) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5.**

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the City under the Act, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E) For purposes of this Article, the terms "officer" and "employee" shall be defined as set forth in **5 ILCS 430/70-5(c).**

(F) The penalties for violations of this Article shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Article does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Article, however, the provisions of this Article shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a).**

(H) Any amendment to the Act that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the City.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Article shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. The Article shall be deemed repealed without further action by the corporate authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Article shall remain in full force and effect; however, that part of this Article relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the City.

(Ord. No. 1062; 05-04-04)

ARTICLE VII - EQUAL EMPLOYMENT POLICY

22-7-1 **ADOPTION OF CODES.** The City hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A) **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B) **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C) **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D) **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E) **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F) **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G) **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H) **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I) **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J) **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K) **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-7-2 **NON-DISCRIMINATORY PRACTICES.** The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-7-3 **CONTRACTING WITH NON-COMPLAINTS.** The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

(1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

(a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

(b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

(c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.

(d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act

and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

(e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.

(f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

(g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-7-4 **OUTREACH TO ALL.** The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-7-5 **MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

22-7-6 **ACCOMMODATIONS FOR DISABLED.** The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

22-7-7 **COMPLIANCE BY EMPLOYEES.** All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

22-7-8 **DESIGNATED ENFORCERS.** The City designates the Mayor and the City Council to carry out the EEO/AA plan.

ARTICLE VIII - DRUG FREE WORKPLACE

22-8-1 DEFINITIONS.

(A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the City, done by an employee of the City, or an employee of a contractor or subcontractor performing work for the City.

(B) **"Employee"** as used within the meaning of this Article, means an employee of the City as well as an employee of a contractor or subcontractor performing work for the City.

(C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.** (1992 State Bar Edition).

(D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

22-8-2 REQUIREMENTS FOR CITY. The City shall provide a drug free workplace by:

(A) **Publishing a Statement.**

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying employee that, as a condition of employment, the employee will:

(a) abide by the terms of the statement; and

(b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.

(B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the City's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.

(D) If the City receives a grant from the State or Contract for the procurement of any property or services from the State, then the City shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.

(E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

ARTICLE IX – POLICY ON SEXUAL HARASSMENT

22-9-1 STATEMENT OF POLICY. It is the policy of the City to maintain a working environment that is free from all forms of discrimination, including sexual harassment. It is against the policy of the City; and illegal under state and federal law, namely the Civil Rights Act of 1964 and the Illinois Human Rights Act, for any employee, male or female, to sexually harass another employee.

22-9-2 DEFINITION OF SEXUAL HARASSMENT.

(A) Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

(1) Submission to that conduct is made either explicitly or implicitly a term or condition of a employment;

(2) Submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or

(3) The conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(B) Examples of sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

(1) Either explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;

(2) Touching or grabbing a sexual part of an employee's body;

(3) Touching or grabbing any part of an employee's body after that person has indicated, or it is known, that such physical contact is unwelcome;

(4) Continuing to ask an employee to socialize on or off-duty when that person has indicated that she or he is not interested;

(5) Displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;

(6) Continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;

(7) Referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;

(8) Regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;

(9) Retaliation of any kind for having filed or supported a complaint of sexual harassment (such as, but not limited to, ostracizing the person, pressuring the person to drop or not support the

complaint, adversely altering the person's duties or work environment, etc.);

(10) Derogatory or provoking remarks about or relating to an employee's sex or sexual orientation;

(11) Harassing acts or behavior directed against a person on the basis of an employee's sex or sexual orientation; or

(12) Off-duty conduct that falls within the above definition and affects the work environment.

(C) Sexual harassment can also consist of intimidating, abusive or hostile behavior of a nonsexual nature toward an employee on the basis of gender; verbal abuse and hostility that is not sexual in character but is directed solely at females because they are female, or males because they are male, for example, are likewise a violation of this Policy on the same level as harassment of a sexual nature.

(D) Sexual harassment can also take the form of offensive conduct by nonemployees, such as vendors, outside contractors, and the like, against employees in the workplace.

22-9-3 **COVERED EMPLOYEES.** The sexual harassment policy applies to all employees of the City, including, but not limited to, full and part-time employees, permanent and temporary employees, employees covered or exempted from personnel rules or regulations, on or off-duty employees harassing another City employee on or off-duty, employees working under contract for the City, and employees harassing non-employees while the employee is on duty or in City uniform.

22-9-4 **PROCEDURES FOR REPORTING SEXUAL HARASSMENT.**

(A) Any employee who feels subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels comfortable. Complaints may be made orally or in writing to:

(1) The employee's immediate supervisor;

(2) Any supervisor having responsibility over the employee's immediate supervisor;

(3) the Mayor; or

(4) the City Ethics Officer, if any;

(5) the City Attorney.

All employees, in addition, have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) or the Illinois Inspector General's Office for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **one hundred eighty (180) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within **three hundred (300) days**.

(B) Although employees are encouraged to try to resolve disputes with the help of their immediate supervisor, employees have the right to circumvent the chain of command in selecting the person to whom to make a complaint of sexual harassment.

(C) The employee should be prepared to provide the following information to the individual to whom a complaint of sexual harassment is made:

(1) The employee's name, department, and position title;

(2) The name of the person committing the sexual harassment, including person's title, if known;

(3) The specific nature of the sexual harassment, its duration, and employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;

(4) Any witnesses to the harassment; and

(5) Whether the employee has previously reported such harassment and, if so, when and to whom.

(D) The filing of a bona fide complaint or otherwise reporting sexual harassment will not adversely affect the individual's employment status or future terms and conditions of employment.

22-9-5 INVESTIGATION.

(A) In the event the City receives a complaint of sexual harassment, or otherwise has reason to believe that sexual harassment is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and addressed.

(B) The employer is committed, and required by law, to take action if it learns of potential sexual harassment, even if the aggrieved employee does not wish to formally file a complaint.

(C) Every supervisor is responsible for promptly responding to, or reporting, any complaint or suspected acts of harassment. Supervisors should report to the Mayor. Failure by a supervisor to appropriately report to address such sexual harassment complaints or suspected acts shall be considered to be in violation of this policy.

(D) Care will be taken to protect the identity of the complaining party and of the accused party or parties, except as may be reasonably necessary to successfully complete the investigation. It shall be a violation of this policy for any employee who learns of the investigation or complaint to take any retaliatory action that affects the working environment of any person involved in this investigation.

(E) When an allegation of sexual harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint and submit it to the Mayor, or in the event the sexual harassment complaint is against the Mayor, to the City Attorney.

(F) The investigator, as designated by the Mayor, shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

(G) Upon the receipt of a complaint of sexual harassment, the investigator shall immediately:

(1) Obtain a written statement(s) from the person complaining of sexual harassment that includes a comprehensive report of the nature of the sexual harassment complained of, and the time, dates and places where the sexual harassment occurred. The investigator shall orally question the person complaining of sexual harassment about any information in the written statement that is not clear or needs amplification.

(2) Obtain a written statement(s) from witnesses that includes a comprehensive report of the nature of the conduct witnessed, and the times, dates, and places where the conduct occurred, and the conduct of the person complaining of sexual harassment toward the person against whom the complaint of sexual harassment was made. The investigator shall orally question witnesses about any information in their written statements that is not clear or needs amplification.

(3) Obtain a written statement(s) from the person against whom the complaint of sexual harassment has been made. The investigator shall orally question the person against whom the complaint of sexual harassment has been made about any information in the written statement that is not clear or needs amplification.

(4) Prepare a report of the investigation, that includes the written statement of the person complaining of sexual harassment, the written statements of witnesses, the written statement of the person against whom the complaint of harassment was made, and the investigator's notes connected to the investigation, and submit the report to the Mayor. In the event that the sexual harassment complaint is filed against the Mayor, the report shall be submitted to the City Attorney.

(H) The investigator may require any statement to be made under oath. When a statement is made under oath, it should be substantially in the following form:

I, _____, hereby make oath under penalty, of perjury and with full understanding that false statements will result in disciplinary action, including possible job termination, that the following is true:

[INSERT FACTS HERE]
Date: _____

_____
Signature

(I) Upon receipt of a report of the investigation of a complaint of sexual harassment against an employee, the Mayor shall immediately review the report. The Mayor may question the person complaining of sexual harassment, the person against whom the complaint of sexual harassment has been made, witnesses to the conduct in question or any other person who may have knowledge about the conduct in question. The Mayor shall keep written records of the investigation in the same manner prescribed for the investigator. If the Mayor finds the investigation report is adequate, a determination may be made as to whether sexual harassment occurred based on the report, subject to due process hearing rights.

(J) Based on the report and the separate investigation, where one is made, the Mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment, subject to due process hearing rights. In making that determination, the Mayor shall look at the record as a whole and at the totality of the circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of sexual harassment. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

(K) No municipal officer or municipal employee shall take retaliatory action against any employee due to municipal employee's:

(1) disclosure or threatened disclosure of any violation of this policy;

(2) the provision of information related to or testimony before any public body conducting an investigation, hearing, or inquiry into any violation of this policy; or

(3) assistance or participation in a proceeding to enforce the provisions of this policy.

Retaliatory action means reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for an employee's involvement in protected activity pursuant to the policy.

No individual making a report will be retaliated against even if a report is made in good faith and not substantiated. No witness will be retaliated against for participation in an investigation.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics act **(5 ILCS 430/15-10)** provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

(1) discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;

(2) provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee; or

(3) assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act **(740 ILCS 174/15(a))**, an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation **(740 ILCS 174/15(b))**.

According to the Illinois Human Rights Act **(775 ILCS 5/6-101)**, it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act. An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – due within **one hundred eighty (180) days** or **three hundred (300) days** of the alleged retaliation.

22-9-6 SANCTIONS.

(A) If the Mayor determines that the complaint of sexual harassment is founded, or that an employee knowingly made a false report of sexual harassment, he/she shall take immediate appropriate disciplinary action against the employee guilty of sexual harassment or knowingly making a false report, consistent with his/her authority under the municipal charter, ordinances, or rules governing his/her authority to discipline employees.

(B) The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the Mayor believes relate to fair and efficient administration of the City, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the City.

(C) The disciplinary action may include demotion, suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

(D) Any disciplinary action shall be consistent with applicable collective bargaining agreements and the Illinois Human Rights Act and any rules and regulations adopted by the Illinois Human Rights Department.

(E) A written record of disciplinary action taken shall be kept, including verbal commands.

(F) The victim of sexual harassment or false reporting shall be informed of the nature of any disciplinary action taken.

(G) The Mayor may monitor future conduct of the parties involved in order to reasonably insure that the remedial action taken has been effective in stopping the harassment and that no retaliation has occurred.

22-9-7 APPEAL. Any individual aggrieved with the investigation, findings, or remedies pursuant to this Policy may assert any right of appeal contained in the applicable collective bargaining agreements or Illinois Human Rights Act, if appropriate, file a complaint with the Illinois Department of Human Rights, or pursue any other civil remedy.

22-9-8 NOTIFICATIONS. This policy will be distributed to all employees and Department Heads of the City and incorporated into employee handbooks. The Policy shall also be included in any standard operating procedures manual of any department. Every employee shall be required to certify that they have received a copy of this Policy. This certification shall be maintained in each employee's personnel file. The Policy shall also be permanently placed on all employee bulletin boards in every Department. It shall be a violation of this Policy to remove the Policy from any bulletin board or deface this Policy in any manner. Mandatory training sessions on this Policy and the prevention of sexual harassment shall be held for all personnel during appropriate in-service training programs and orientation sessions.

22-9-9 EMPLOYEE RESPONSIBILITY.

(A) It is the duty of all employees, including supervisory personnel, to be familiar with this Policy. Each employee has a stake in preventing sexual harassment and thus shares responsibility with the Mayor in eliminating sexual harassment in the workplace.

(B) No employee shall, in any way, retaliate, harass or discriminate against a person making a complaint of sexual harassment or involved as a witness or otherwise with a complaint of sexual harassment.

(C) In most cases in which the sexual harassment is committed by a non-employee against a City employee in the workplace, the Mayor shall take whatever lawful action is necessary against the non-employee to bring the sexual harassment to an immediate end.

(D) Employees are not only encouraged to report instances of sexual harassment, they are obligated to report instances of sexual harassment. Sexual harassment exposes the City to liability, and part of each employee's job is to reduce the City's exposure to liability.

(E) Employees are obligated to cooperate in every investigation of sexual harassment. The obligation includes, but is not necessarily limited to:

(1) Coming forward with evidence, both favorable and unfavorable concerning a person accused of sexual harassment.

(2) Fully and truthfully making a written report under oath upon request; and

(3) Orally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.

(F) Employees are also obligated to refrain from making accusations of sexual harassment in bad faith.

(G) Disciplinary action may be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

(Ord. No. 1385; 01-02-18)

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