



Personnel Policy Manual

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City of Apple Valley Personnel Policy Manual

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1: GENERAL INFORMATION

1.1 Personnel Policy Manual

PURPOSE

It is the purpose of these policies to establish a uniform and equitable system of personnel administration for employees of the City of Apple Valley, connect the city's mission to individual conduct, clarify organizational expectations, support compliance with laws and regulations, mitigate organizational risk, and enhance productivity and efficiency in the city's operations. Their provisions do not establish terms and shall not be construed as contractual provisions. They are not intended to be all-inclusive or to cover every situation that may arise.

SCOPE

All employees of the city shall be covered by these policies except as otherwise stated or the extent to which a policy is superseded by a specific provision of a collective bargaining agreement.

For purposes of these policies, elected officials shall generally be considered employees, except where stated otherwise or where it is impractical or not feasible due to the nature of elected officials' employment.

The following individuals are not covered by these policies unless stated otherwise:

- (1) Members of city boards, commissions, and committees
- (2) Consultants and contractors
- (3) Volunteers
- (4) Firefighters
- (5) Other positions so designated

If any specific provisions of the personnel policies conflict with any current collective bargaining agreement, the collective bargaining agreement will prevail. These policies do not create new rights or diminish existing rights in any city collective bargaining agreement. Employees represented by a collective bargaining agreement are encouraged to consult their agreement first for information about their employment conditions.

Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law. Where these policies differ from state or federal law, the applicable law will be followed.

Nothing in these policies shall be construed to hinder or suppress the lawful concerted activities of employees for their mutual aid or protection with respect to terms and conditions of employment.

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

Employees are responsible for knowing, understanding, and complying with personnel policies, as well as work rules, operating procedures, or guidelines that relate to their position, employment, or role at the city. Employees who fail to comply with these policies may be subject to discipline, up to and including termination of employment.

The city's personnel pay and benefit plan will be adopted separately by the City Council.



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ADOPTION

These policies may be amended at any time at the sole discretion of the city and they will supersede all previous personnel policies. Revisions and amendments shall become effective upon approval by the City Council. Non-substantive changes, such as technical corrections to spelling, grammar, etc., or formatting changes may be made to these policies without prior City Council approval.

The City Council provides the City Administrator, or designee, with the full scope of responsibility and authority to interpret and administer these policies and promulgate appropriate procedures, rules, regulations, guidelines, and forms.

The city reserves the right to operate and manage its affairs in all respects in accordance with existing and future laws and regulations. These rights shall specifically include, but not be limited to, the right to adopt, amend, repeal or terminate the personnel policies. Where it is determined that a strict application of the personnel policies would cause undue hardship, the city shall have the right to interpret the policies in a manner to avoid undue hardship.

DEFINITIONS

When used in this manual the following terms shall have these meanings ascribed to them, unless otherwise noted.

Appointing Authority. The City Council of the City of Apple Valley has the authority to employ persons in or to make appointments to positions with the City of Apple Valley.

Automated Clearing House (ACH). An electronic network for financial transactions in the United States, including direct deposit of payroll payments.

Calendar Year. A 12-month period beginning January 1 and ending December 31.

Casual Employee. An individual that is employed as a temporary, seasonal, or variable hour employee. Except as provided by a collective bargaining agreement or otherwise prohibited by law, casual employment with the city is "at-will." The city has the right to terminate any casual employee at any time for any or no reason, with or without cause. Casual employees may similarly terminate employment at any time for any or no reason, with or without cause. The terms and conditions of casual employment may be modified subsequent to employment at the sole discretion of the city and may be terminated without cause.

City. Hereinafter the term city shall refer to the City of Apple Valley as the employer, the City Council, and its agents.

City Attorney's Office. Dougherty, Molenda, Solfest, Hills & Bauer P.A. 14985 Glazier Avenue, Suite 525, Apple Valley, Minnesota 55124-7580. (952) 423-3136

Compensatory Time. Paid time off, earned at a rate of one and one-half hours for each overtime hour worked, received by a non-exempt employee instead of cash overtime pay.

Contractor. A non-employee person or entity hired by the city to perform work or to provide goods or services at a specified price and/or within a specified time. Includes independent contractors and sub-contractors.

Employment Date. An employee's date of employment shall be the first date of paid consecutive employment as an employee with the city.

Exempt Employee. An employee who is exempted from the provisions of the Fair Labor Standards Act.

Firefighter. An individual serving as a paid on call volunteer firefighter for the city. Does not refer to other employees whose job assignment includes firefighting duties.

Full-Time Employee. An individual employed in a position so designated in the pay and benefit plan that is regularly scheduled for a 40 hour work week for 52 weeks in a calendar year.

Non-Exempt Employee. An employee who is subject to the provisions of the Fair Labor Standards Act.



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Paid Leave. Leave of absence when using annual leave, holiday leave, compensatory time, or approved short-term disability benefits.

Part-Time Regular Employee. An individual employed in a position that is regularly scheduled for 52 weeks in a calendar year, for a minimum of 14 hours per week but fewer than 30 hours per week.

Protected Class. Race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, membership on a local human rights commission, lawful participation in the Minnesota Medical Cannabis Patient Registry, or any other status protected by law.

Regular Duties: Regular duties of the employee's position, including essential job functions.

Seasonal Employee. An individual who customarily works six months or less in a year, and where the nature of the position is such that an employee typically works during a period that begins at the same time every year (e.g., summer or winter).

Schedule I, II, and III Employees. Classification titles of full-time regular positions as listed in the city's Pay and Benefit Plan.

Special Unpaid Leave. Approved unpaid leave provided under the Family and Medical Leave act (FMLA), Uniformed Services Employment and Reemployment Rights Act (USERRA), or required jury duty service under statute.

Supervisor. Individual in a position with supervisory discretion and authority with regard to other city employee(s). Includes department heads, managers, and supervisors.

Temporary Employee. An individual employed in a temporary position which is of limited duration. Temporary positions may have a defined start and end date or may be for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule.

Temporary Medically Certified Condition: A medical condition in which the employee is unable to perform his/her regular duties immediately due to injury, illness, pregnancy or other similar circumstances. The condition must be diagnosed and certified by a licensed physician, in writing, clearly stating the medical restrictions and when the employee will be able to return to regular duties.

Variable Hour Employee. An individual employed in a position which is not regularly scheduled for 52 weeks in a calendar year, and where the hours are variable or uncertain and may vary significantly.

2: HIRING AND SEPARATION

This chapter in its entirety does not apply to elected officials.

2.1 Recruitment and Selection

POLICY

This policy supports the city in its recruitment and employment efforts to engage in non-discriminatory practices that foster a diverse workforce whose knowledge, skills, abilities and service orientation support the city's mission.

Selection of a candidate for a vacancy shall be made on the basis of qualifications for the vacant position, regardless of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, membership on a local human rights commission, lawful participation in the Minnesota Medical Cannabis Patient Registry, or any other status protected by law.



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The city reserves the right to review the employment of family members of an employee to determine appropriate employment action. Applicants for any position, including promotions and transfers, may be rejected for the position if any of the following circumstances exist:

1. When an employee would directly supervise, evaluate, audit, or participate in disciplinary actions affecting another member of his or her family.
2. When confidentiality of city data or the city's auditing/financial/internal control function would be compromised.
3. When there is the potential for, or appearance of, inappropriate influence relating to policy decisions.

PROCEDURES

Procedures for recruitment, interviewing, and selection of personnel shall be under the direction and authority of the Human Resources Manager in compliance with all applicable statutes, rules, and regulations.

Recruitment

Depending on the position and the city's needs, the city may recruit internally, externally, or both. Position vacancies within the city may be posted internally, if practical, for five calendar days. Internal posting may be concurrent with external posting. The city may post an announcement of a position opening on the city's web site.

Candidates must complete and submit required application materials by the posted deadline in order to be considered. The deadline for application may be extended by the Human Resources Manager. Unsolicited applications will not be kept on file.

The city may, at its sole discretion, make an offer of promotion or transfer to a qualified employee in lieu of internal and/or external posting of a vacancy.

Selection

The City Administrator or hiring manager works in cooperation with Human Resources to develop the selection process for any vacancies. The process may include written/verbal performance tests, evaluation of training and experience, interviews, developmental assessment, or any combination of these. Any job offer made to an external candidate will be contingent on a criminal history check. The city may in its discretion conduct a driving record check, background investigation, and/or reference check of an applicant for a position when justified by job requirements or required by law.

Some applicants may also be required to complete a physical examination, psychological examination and/or drug and alcohol test as a condition of employment. The city will select the physician or psychologist to assess the candidate's ability to perform the essential functions of the job.

Employment in any position is subject to approval by the City Council. However, at the discretion of the City Administrator, or designee, a provisional appointment may be approved prior to the Council's employment action.

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

Pre-Employment Medical Exams

The Human Resources Manager may determine that a pre-employment medical examination, which may include a psychological evaluation, is necessary to determine fitness to perform the essential functions of any city position. Where a medical examination is required, an offer of employment is contingent upon the city's receipt of the acceptable result of the medical exam.

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



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When required, the medical exam will be conducted by a licensed physician designated by the city with the cost of the exam paid by the city. Psychological exams will be conducted by a licensed psychologist or psychiatrist. The physician will notify the Human Resources Manager or designee that a candidate either is or isn't medically able to perform the essential functions of the job, with or without accommodations, and whether the candidate passed a drug test, if applicable. If the candidate requires accommodation to perform one or more of the essential functions of the job, the Human Resources Manager or designee will confer with the physician and candidate regarding reasonable and acceptable accommodations. If a candidate is rejected for employment based on the results of the medical exam, he/she will be notified of this determination.

Equal Employment Opportunity

The City of Apple Valley is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, recruitment, selection, lay-off, disciplinary action, termination, compensation and selection for training.

The City of Apple Valley will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Family Member. Mother, father, husband, wife, son, daughter, brother, sister, or grandparent of the employee or employee's spouse.

2.2 Background Checks

In addition to city employees, this policy applies to firefighters. This policy may be applied to consultants, contractors, and volunteers at the discretion of the city.

POLICY

It is important for all city staff and visitors to have a safe and secure environment and for the city to take prudent action to protect its funds, property, and other assets. Therefore, the city provides this process of background check/investigation to minimize organizational risk, to comply with federal and state regulations that require it for specified positions, and to help responsible authorities make sound employment and contracting decisions.

Applicants

The City of Apple Valley conducts background checks on all prospective employees, as well as selected promotions and transfers in the city. Background checks will be conducted on temporary, volunteer, and contract positions as deemed necessary.

Offers of employment are contingent upon completion of a background check with satisfactory results when required by law or city policy. Background checks, as determined by the nature of the position, may include but are not limited to checks in the areas of education, licensing, employment, criminal history, driving record, sex and violent offender registry, credit report, civil judgments/liens, social security history and references.

The city will not inquire into or consider the criminal record or criminal history of applicants until the applicant has been selected for an interview, unless otherwise required by law.



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The Apple Valley Police Department is authorized by the City Council to do a criminal history and/or driving record background investigation as referenced by this policy. No such investigation may be performed by the Police Department unless the individual authorizes the Police Department in writing to perform the investigation and release the information to the Human Resources Manager and other city staff on a need-to-know basis. An individual is not legally required to provide the requested information. If the information is not provided, the city will be unable to conduct the required background inquiries and will not be able to process the application nor be able to give further consideration for the position.

If the city denies an applicant a position with the city solely or in part because of the applicant's prior conviction of a crime, subject to the exceptions listed in Minnesota statute, the Human Resources Manager shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial or disqualification;
2. The opportunity to request reconsideration of the city's decision and to provide the city competent evidence of rehabilitation and present fitness for the position within five days of the notice of denial;
3. The applicable complaint and grievance procedure as set forth in statute;
4. The earliest date the person may reapply for employment with the city; and
5. That all competent evidence of rehabilitation presented will be considered upon reapplication.

Candidates for positions working with children will not be selected if they have been convicted of any crime listed in the Minnesota Child Protection Background Check Act. Generally, this includes child abuse crimes, murder, manslaughter, felony level assault or any assault crime committed against a minor, kidnapping, arson, criminal sexual conduct, and prostitution-related crimes.

Current Employees

Background checks will be conducted on current employees who are applicants for sworn police positions, department head level positions, and other positions which are required by law.

The city also reserves the right to conduct periodic verification updates on current employees in other situations.

Contractors and Volunteers

In order to select qualified contractors and volunteers, the city may conduct background checks.

If a background check is completed, it will include a review of the criminal record of the primary independent contractor and any other sub-contractors or staff of the primary contractor or volunteer. The background check will consist of a minimum review of the criminal history and sex/violent offender registry. Additional checks including driving record and civil judgments/liens may be conducted based on the nature of the work. A background check may be completed at least once every twelve months or any time after a six month break in contract activity.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Background check/investigation. Review of an individual's background, which may include any combination of the following: verification of education, licensing, credentials, employment, criminal history, driving record, sex and violent offender registry, credit report, civil judgments/liens, social security history, and references.

2.3 Probationary Period

The probationary period is an introductory period of employment that allows the city and the employee to determine if the employee is suited for the job.



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POLICY

All newly hired or rehired full and part-time regular employees shall serve a 12-month probationary period. At any time during a probationary period, an employee may be discharged at the sole discretion of the city. No cause for discharge is necessary.

A full or part-time regular employee shall serve a six-month probationary period in any job classification in which the employee has not previously served a probationary period, if the employee has previously completed the initial 12-month probationary period. At any time during the 6-month probationary period, the employee may be returned to his or her previous position at the sole discretion of the city.

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

A casual employee will not serve a probationary period and may be discharged at the sole discretion of the city at any time for any reason or no reason. No cause for discharge is necessary.

2.4 Transfer

This policy establishes the City of Apple Valley's position transfer provisions.

POLICY

In the event an employee transfers to a different position for any reason, either voluntarily or involuntarily, the employee's placement on the appropriate salary schedule shall be at the discretion of the city.

An eligible employee shall serve a six-month probationary period in any job classification in which the employee has not previously served a probationary period, if the employee has previously completed the initial 12-month probationary period.

2.5 Reassignment

POLICY

The city retains the full right and authority to assign and/or reassign job duties consistent with the tasks of the position.

2.6 Resignation

The city requires a notice period in order to prepare for the transition of duties, staffing plans, and turnover of projects and work in progress.

POLICY

An employee wishing to resign from the city in good standing shall provide the city with a written notice of resignation at least 14 calendar days in advance of the effective date of the resignation.

A department head wishing to resign from the city in good standing shall provide the city with a written notice of resignation at least 30 calendar days in advance of the effective date of the resignation.

An employee is expected to work his/her regular schedule during the notice period preceding resignation, and leave may be denied during the notice period. An employee shall be paid through the last day actually worked. Except where otherwise provided by law or city policy, an employee shall not be permitted to use paid leave hours, holidays, or unpaid leave to extend employment beyond the last day actually worked. The last day actually worked will be recorded as the employee's official date of separation from employment.



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These provisions may be waived at the discretion of the City Administrator or designee. Failure to comply may be cause for denying payment of unused annual leave and future employment by the city.

PROCEDURES

An employee wishing to resign in good standing should give written notice to his/her immediate supervisor and/or department head.

The supervisor or department head will forward the notice to the Human Resources department for inclusion in the employee's personnel file. The City Administrator or designee is authorized to accept an employee's resignation.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Good standing. Constitutes circumstances in which an employee resigns with advance written notice as described in this policy and works his/her regular schedule during the notice period. Discharge for cause shall not be a separation in good standing.

Department head. Schedule III positions and exempt positions reporting directly to the City Administrator.

2.7 Lay Off

This policy establishes the City of Apple Valley's lay off provisions.

POLICY

The city may lay off a full-time employee whenever such action is necessary due to the discontinuance of a position.

A full-time employee who is laid off from employment due to discontinuance of a position shall be provided with a minimum of 30 days advance notice of such lay off.

Part-time and casual employees may be separated from employment due to discontinuance of a position without advance notice.

Layoff will be considered permanent dismissal.

3: EMPLOYMENT PRACTICES

3.1 Hours of Work and Overtime

This policy establishes the city's standard work period and overtime provisions.

This policy does not apply to Elected Officials.

POLICY

The City of Apple Valley's standard workweek for a full-time employee is five eight-hour days in addition to break periods, comprising 40 work hours per seven-day period, including approved leaves of absence. Variations to the standard workweek may be authorized by the City Administrator or designee for the benefit of city operations. The city's workweek for the purpose of determining overtime shall be calculated from Saturday through the following Friday. The city may unilaterally modify the workweek for any or all positions or classes of positions.



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Employees participating in the annual leave program are required to account for all regularly scheduled hours of their work period, either through hours worked or use of accrued paid leave. Unpaid leaves are not permitted, except where provided by law or city policy. Refer to Leaves of Absence section for additional information. Department heads may authorize leave makeup within a workweek for non-exempt employees. Department heads may authorize leave makeup within a reasonable period for exempt employees.

Overtime

A city employee may be required to work overtime. All overtime worked by a non-exempt employee must be pre-approved and authorized by the appropriate supervisor. The city retains sole discretion to determine when employees must work overtime. An employee who works overtime without prior approval may be subject to disciplinary action.

Non-exempt employees who work more than 40 hours within a workweek, inclusive of approved paid leave time, shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay for such hours worked in excess of 40 hours.

Seasonal employees hired to work at city recreational facilities that are open for less than seven months during a calendar year will be paid overtime for hours worked in excess of 48 hours per week.

A non-exempt full-time employee called back to work at a time other than the employee's regularly scheduled hours, shall be compensated for a minimum of three hours at one and one-half times the employee's straight time hourly rate of pay. Extension or early report to an employee's scheduled work hours shall not qualify for the three-hour minimum call back.

Exempt employees are not eligible for overtime compensation. Full-time non-exempt employees who are eligible for overtime may request compensatory time be placed in a compensatory time bank in lieu of payment for earned overtime. The maximum time allowed to accumulate in an employee's compensatory time bank shall not exceed 80 hours.

The maximum time deposited into an employee's compensatory time bank, exclusive of hours carried forward from the previous year, shall be limited to 160 in total per calendar year.

An employee may request to cash out all or part of the employee's compensatory time bank at the employee's current base pay rate at the end of any regular pay period.

Compensatory time banks will be cashed out at the existing rate of pay immediately prior to an employee transfer or promotion into a position which is exempt from overtime.

Exempt Employees

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

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

The city may make deductions from the weekly salary of an exempt employee in the following situations:

- The employee is absent for a full workweek and, for whatever reason, the absence is not charged to paid leave (for example, a situation where the employee has exhausted all paid leave).
- The very first workweek or the very last workweek of employment with the city in which the employee does not work a full week. In this case, the city will prorate the employee's salary based on the time actually worked.



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- The employee is in a position that earns paid leave and is absent for a partial day due to personal reasons, illness, or injury, but paid leave has been denied or paid leave is exhausted.
- The employee is suspended without pay for a full day or more for disciplinary reasons for violations of any written policy that is applied to all employees.
- The employee takes unpaid leave under the FMLA.

Leave for Exempt Employees

Exempt employees are required to work the number of hours necessary to fulfill their responsibilities including meetings and/or on-call hours outside the normal workday hours.

Exempt employees are required to use paid leave when on personal business or away from the office for four hours or more, on a given day. Absences of less than four hours do not require use of paid leave, as it is presumed that the staff member regularly puts in work hours above and beyond the normal weekly requirement. Exempt employees must reasonably communicate their absences to their supervisor.

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

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

Hours Limits for Other Than Full-Time Employees

Part-time regular employees shall not work more than 28 hours per week, including hours worked, paid leave, and special unpaid leave. All shifts, including schedule trades or picked-up shifts, must be pre-approved by a supervisor. Unpaid leaves of absence or furloughs may be imposed on an employee who exceeds 28 hours per week. Working an extra shift without prior approval may result in discipline, up to and including termination of employment.

Variable hour employees shall not regularly work more than 28 hours per week, including hours worked, paid leave, and special unpaid leave. A variable hour employee may have a period of employment at greater than 28 hours per week only if it is reasonably expected to be of limited duration and it cannot be determined that the employee is expected to work on average at least 30 hours per week over a 12-month measurement period.

Seasonal employees shall not work longer than six months in a calendar year. A seasonal employee shall not be rehired or transferred to another position with the city until the employee has had a break in service of either: A) 13 weeks, or B) at least 4 weeks and longer than the last period worked. A break in service does not necessarily mean termination, but a consecutive period where no hours worked are credited to the employee.

Meal and Rest Breaks

An employee shall be provided sufficient time to eat a meal when working eight or more consecutive hours, and sufficient time to use the nearest convenient restroom within every four consecutive hours of work.

An authorized break of less than 20 minutes will be counted as hours worked. An authorized bona fide meal break of 30 minutes or more will be unpaid.

A full-time employee working a shift of 8 or more consecutive hours will typically be provided an unpaid meal break of 30 minutes and two paid break times of 15 minutes.

Department heads may authorize employees to combine the 30-minute unpaid meal break and rest breaks into an extended lunch break time.

Departments with unique job or coverage requirements may have additional rules, issued by the department head and subject to approval of the City Administrator, on the use of meal breaks and rest breaks.



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Employees are expected to use breaks as intended. Employees shall not skip or work through a break period to earn pay or compensatory time. Employees shall not skip or work through a break period in order to arrive at the workplace later than the designated starting time or to leave the workplace earlier than the designated quitting time, except in limited instances approved by the department head.

Unauthorized breaks and unauthorized extensions of authorized breaks will not be counted as hours worked and may result in discipline.

3.2 Flexible Work Arrangements

This policy does not apply to Schedule III, part-time, or casual employees; employees represented by a collective bargaining agreement; or elected officials.

Flexible Work Arrangements have a potential for enhancing city performance. Flexible Work Arrangements have been shown to decrease employee stress and increase employee engagement, morale, loyalty and productivity.

Departments may have informal systems in place to support flexibility on an occasional basis. With supervisory approval, an employee may adjust their hours to attend to a personal matter. This policy does not preclude such departmental discretion. This policy addresses instances in which an employee and department head want to institute a regular arrangement that consistently differs from the standard work hours.

POLICY

An eligible employee may request a Flexible Work Arrangement. Employees and department heads are expected to follow this policy in proposing or considering a Flexible Work Arrangement.

A Flexible Work Arrangement is intended to create flexible conditions that help employees integrate their work and personal lives more effectively. A successful Flexible Work Arrangement serves the needs of the individual employee, their work group, and the city.

A Flexible Work Arrangement must meet the operational needs of the city and should not negatively affect the workload of coworkers either by shifting burdens or creating delays or additional steps in the work flow.

Eligibility of Employee

A non-probationary full-time Schedule I or II employee may be eligible for a Flexible Work Arrangement. Probationary employees are not eligible for a Flexible Work Arrangement.

An employee will not be granted a Flexible Work Arrangement unless their prior performance has demonstrated the skills and qualities necessary to succeed in the proposed Flexible Work Arrangement.

Request and Approval

The employee initiates a request for a Flexible Work Arrangement by submitting a proposal to the department head. Department heads shall approve or deny a Flexible Work Arrangement request. Department heads are responsible for consulting with the employee's immediate supervisor when considering a Flexible Work Arrangement request.

The primary criterion for a department head determining if a Flexible Work Arrangement is appropriate is if it meets the business needs of the city. Eligibility varies for different types of arrangements, and some alternatives may not be appropriate for particular jobs and office necessities. Operational needs, staffing patterns, space considerations, and health and safety issues may prevent granting a Flexible Work Arrangement request.

A department head may limit the number of Flexible Work Arrangements in a workgroup in order to ensure effective operation of city business. A department head may limit or suspend a Flexible Work Arrangement during periods of high demand on city staff, such as seasonally or during other peak busy periods.



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A Flexible Work Arrangement shall be initiated on a trial basis, and may be discontinued at any time at the request of the employee or department head. Reasonable notice of discontinuation will be given when possible. The city reserves the right to suspend or discontinue the arrangement immediately in case of unanticipated circumstances regarding employee performance or operational needs.

The employee must be willing and able to alternate work hours as requested by the city to attend to operational needs. There may be times when the employee is required to work or travel outside of scheduled work hours.

Flexible Work Arrangements are at the sole discretion of the city. The city's Employment Complaint Resolution policy does not apply to decisions regarding Flexible Work Arrangement requests.

If the employee and department head agree to a Flexible Work Arrangement, they shall document and sign an agreement describing the Flexible Work Arrangement. Agreements shall be time-specific with a date for review and reconsideration. Modifications and renewals shall be documented appropriately. The original agreement and any modifications or renewals shall be submitted to Human Resources and will be maintained in the employee's personnel file, with a copy to the employee and the department head.

Flexible Work Arrangement Options

- 1) Compressed Workweek. An arrangement which condenses the standard workweek of five 8-hour days into fewer, longer days.
- 2) Flextime. An arrangement that allows an employee to alter the starting and/or ending time of the 8-hour workday. Core hours when the employee must be at the worksite are generally required. The core period may vary depending upon the requirements of the position and the operational needs of the department.

Under either option above, the employee will have 40 scheduled work hours each workweek. A Flexible Work Arrangement shall not cause the employee's regularly scheduled hours to exceed 40 per workweek.

Overtime

A non-exempt employee who is participating in a Flexible Work Arrangement shall be eligible for overtime or compensatory time for hours actually worked in excess of 40 per workweek, not including paid leave hours. The employee will not be eligible for overtime or compensatory time for hours worked outside their regularly scheduled workday, unless such hours cause the employee to exceed 40 hours actually worked in the workweek.

Holidays

Paid holiday leave for an eligible full-time employee pursuant to the city's policy is paid in the amount of eight hours of holiday leave for a city-designated holiday, including for an employee who is participating in a Flexible Work Arrangement.

An employee who is participating in a compressed workweek arrangement shall revert to a schedule of five 8-hour days during any week in which a city-designated holiday occurs.

3.3 Time Reporting

In compliance with statute and for accountability to the public, employees must accurately record and report hours worked for payroll purposes.

This policy does not apply to Elected Officials.

POLICY

Non-exempt employees are expected to work the number of hours per week as established for their position. They will be paid according to the time reported on their time sheets.



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To comply with the provisions of the federal and state Fair Labor Standards Acts, hours worked and any leave time used by non-exempt employees are to be recorded daily and submitted to payroll on a bi-weekly basis. Each time reporting form must include the acknowledgement of the employee and approval of the immediate supervisor.

Knowingly reporting false information on a time sheet may be cause for immediate termination.

3.4 Compensation

In addition to all employees, this policy applies to firefighters.

POLICY

Employees of the city will be compensated according to schedules adopted by the City Council. Unless approved by the City Council, employees will not receive any amount from the city in addition to the pay authorized for the positions to which they have been appointed. Expense reimbursement or travel expenses may be authorized in addition to regular pay.

An employee's actual gross salary and salary range are public personnel data under the Minnesota Government Data Practices Act.

In accordance with the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages.

The city will not:

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

3.5 Payroll Direct Deposit

In addition to all employees, this policy applies to firefighters.

Direct deposit of payroll checks supports the city's efforts to gain efficiencies, reduce the cost of processing checks, and enhance fraud protection. Direct deposit benefits employees by providing a safe, convenient, and confidential way to transfer funds directly into an employee's checking and/or savings account at multiple financial institutions.

POLICY

As provided for in Minnesota Statute, the City of Apple Valley requires direct deposit for all employees paid by the payroll system.

All employees are required to have their payroll checks directly deposited into a banking account of their choice.

Employees must complete a Direct Deposit Enrollment Form to indicate the type of account, bank name, and other information necessary to complete the direct deposit transaction.

PROCEDURES

Employees complete a direct deposit authorization/change form. A pre-notification is sent to the employee's financial institution(s) to ensure routing and account numbers are correct before an actual deposit is made into the account(s). This process takes one pay period to complete, with the deposit being made on the following pay period.



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If the City of Apple Valley inadvertently deposits funds into an employee's account to which the employee is not entitled, a reversal of the direct deposit will be recovered from the account as soon as practicable. The employee will be notified prior to recovering any funds. If the funds cannot be recovered through the Automated Clearing House (ACH), the employee will be responsible for returning the funds to the city within three business days from the event.

3.6 Tip Income

The City of Apple Valley allows non-exempt employees in Food and Beverage service at Valleywood Golf Course to receive tips from the public they serve. This program is intended to supplement the income of the Food and Beverage staff by recognizing the service they provide.

POLICY

Eligibility

A non-exempt employee performing duties in Food and Beverage service at Valleywood Golf Course shall be eligible to receive tips. All other employees are prohibited from accepting gratuities.

In order to receive tip income, the eligible employee must complete the City of Apple Valley Tip Income Agreement, which will be retained in the employee's personnel file. An employee shall not accept tips or gratuities until the City of Apple Valley Tip Income Agreement is completed.

An employee who receives tip income shall comply with all provisions of reimbursement and reporting requirements as described in the Procedures section of this policy.

Any employee who does not comply with the requirements of this policy or who falsifies information contained in the reports may be subject to discipline, up to and including termination of employment.

PROCEDURES

Reimbursement

All cash tips received shall be entered into the point-of-sale system each day by the employee when they clock out of the system. These tips will appear on the employee's paycheck as non-cash earnings, and the appropriate taxes will be withheld.

A manager or supervisor will give any tips paid via check to the employee at the end of their shift directly from the funds in the cash register. Tips paid via check shall be entered into the point-of-sale system each day by the employee. These tips will appear on the employee's paycheck as non-cash earnings, and the appropriate taxes will be withheld.

Tips specified on a debit/credit card receipt must be entered into the point-of-sale system at the time of the transaction by the employee. These tips will be paid to the employee on their following paycheck, with the appropriate taxes withheld.

Reporting Requirement

All cash and credit/debit card tips shall be entered into the register system on a daily basis. This is the method utilized to capture tip income for each employee.

At the end of each bi-weekly pay period, an Activity Details report is generated from the register system which recaps the "Non-cash" (credit/debit card) and "Declared" (cash) tips. These tips are entered into the payroll system and appear as earnings on the employee's check.

A copy of the monthly point-of-sale report will be provided to the employee, and should be kept with their records for tax purposes.

A copy of the monthly point-of-sale report shall be signed by the employee and sent to payroll by the 10th of following month.



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The tips reported above will be shown on the employee's W-2 statement as income at year end.

3.7 Personnel Data Practices

In addition to all city employees, this policy applies to firefighters, volunteers, contractors, and applicants for employment.

Individuals have the right to know what personnel data is retained, where it is kept, and how it is used.

POLICY

All employee data will be received, retained, and disseminated according to the Minnesota Government Data Practices Act. Employee records are maintained in a location designated by the Human Resources Manager. Personnel data may be retained in personnel, background investigation, benefit, and medical files. Information is used to administer employee salary and benefit programs, process payroll, complete state and federal reports, document employee performance, etc.

Employee Data

Personnel data is generally private. However, in most cases, the following personnel data on current and former employees, volunteers, and contractors of a government entity is public and must be provided to any person or entity requesting the data:

- (1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; terms and conditions of employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;
- (2) job title and bargaining unit; job description; education and training background; and previous work experience;
- (3) date of first and last employment;
- (4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;
- (5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action;
- (6) the complete terms of any agreement settling any dispute arising out of an employment relationship;
- (7) work location; a work telephone number; badge number; work-related continuing education; and honors and awards received; and
- (8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes.

The above list is not exhaustive.

Private personnel data may be released to the subject of the data, people who have permission from the subject of the data; city employees whose job assignments reasonably require access to the data; individuals who have obtained a court order for the information; and any other person or entity authorized by state or federal law.

Applicant data

In most cases, the following personnel data on current and former applicants for employment by a government entity is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability.



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Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. "Finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

3.8 Group Insurance Benefits

Full-time employees and elected officials are eligible to receive certain city provided group insurance benefits as determined and approved by the City Council.

The information in this section is intended to provide employees with a general overview of city benefits. The City of Apple Valley's benefit package is periodically reviewed and updated.

POLICY

Group Insurance

The selection of carriers and determination of benefits for employee group insurance plans shall be at the sole discretion of the city except as provided by law. The city determines by separate resolution any amount of city contribution toward the cost of such insurance. Any additional costs of insurance in excess of the amount provided by the city shall be payable by the employee via payroll deduction.

Eligibility and Effective Dates

Eligibility and effective dates for group insurance and benefits are determined by the appropriate plan document or applicable administrative policy.

In accordance with federal health care laws and regulations, the city will offer health insurance benefits to eligible employees and their dependents, if the employee is defined as full-time by the applicable federal health care law. In order to comply with health care law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended.

If there are any differences between benefits as described in this policy or any benefits summary, and the legal plan documents or contracts, the plan documents or contracts shall govern.

3.9 Public Employees Retirement Association (PERA)

POLICY

Public Employees Retirement Association (PERA) provides pension benefits for eligible employees.

Participation in PERA, contribution rates, vesting, and benefits are mandated by state law. For most employees, contributions into PERA begin immediately. The city and the employee contribute to PERA each pay period as determined by state law. Most employees are also required to contribute a portion of each pay check for Social Security and Medicare, and the city matches the employee's Social Security and Medicare withholding.

3.10 Injured on Duty

In addition to city employees, this policy applies to firefighters and volunteers.

This policy establishes a process for the reporting of injuries and payment of lost wages for employees injured on duty.

POLICY

An employee injured on the job shall immediately notify an appropriate supervisor. If the injury requires attention by a medical doctor, the employee is required to seek medical attention.



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Workers' Compensation insurance may reimburse an employee for a portion of the regularly scheduled work hours when unable to work for three days or more.

Injury on Duty Pay

A full-time employee who is, in the ordinary course of employment, while acting in a reasonable and prudent manner and in compliance with established rules and procedures of the employer, injured during the performance of the employee's duties and thereby unable to work, shall be paid the difference between the employee's regular pay and the Workers' Compensation insurance payments for a period not to exceed 720 scheduled working hours per injury, not charged to the employee's leave or other accumulated paid benefits, after a 24 scheduled working hour initial waiting period per injury. The 24 hour scheduled working hour waiting period shall be charged to the employee's leave account less Workers' Compensation insurance payments, if any, for said 24 scheduled working hour period.

Any injury that does not result in compensation under the workers' compensation law shall not be compensable in accordance with this policy.

An eligible full-time employee who is unable to work and who has exhausted the 720 scheduled working hours eligibility period for Injury on Duty Pay may draw from the employee's accumulated paid leave for that fraction of their scheduled day(s) not covered by worker's compensation wage loss benefits.

In no instance shall the total amount of monies received by an employee exceed the employee's current base rate of pay.

PROCEDURES

In case of an emergency or urgently needed medical care, call 911 or seek care immediately.

Employees must report all accidents and injuries to their supervisors immediately, no matter how small or insignificant an injury appears to be. The supervisor will provide the injured employee with a CorVel ID Card and Certified Managed Care Instruction Brochure. If medical care is needed, the injured employee must call the CorVel Access Line to obtain an appointment with an approved provider. If the injury requires urgent or emergency attention by a medical doctor, seek immediate medical attention.

The employee should present the CorVel ID Card to the medical provider when they begin treatment.

The Supervisor's Report of Accident or Injury must be completed and forwarded to Human Resources immediately. If additional or ongoing medical care is necessary, employees will need to work with CorVel and the Worker's Compensation Insurance Carrier for approval of procedures.

The report of injury must be reported to the insurance carrier within three days of the injury or illness. Human Resources is responsible for reporting to the insurance carrier. Supervisors are responsible for reporting immediately to Human Resources.

3.11 Temporary Modified Duty

This policy does not apply to casual employees and elected officials.

This policy establishes guidelines for the assignment of alternate duty work on a temporary basis for an employee who is unable to perform his/her regular duties due to a temporary medical condition.

POLICY

A full-time or part-time regular employee may be eligible for a temporary modified duty assignment if he or she has a temporary medically certified condition which restricts performance of regular duties and from which recovery appears to be certain and timely. The condition must be diagnosed and certified by a licensed physician, in writing, clearly stating the medical restrictions and when the employee will be able to return to regular duties.



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The determination regarding the need for and availability of temporary modified duty work is under the sole discretion of the City Administrator or designee. Assignment of temporary modified duty is determined and reviewed on an individual case by case basis.

The department in which the individual is temporarily assigned must have a need for a service that the employee can provide within their skill level, experience, knowledge and abilities. Work assignments and work schedules shall be determined by the supervisor in accordance with the need for service. The temporary duty may or may not be full-time.

The employee's temporary modified duty assignment may continue until the employee is able to return to their regular duties or until the need for the alternative duty work ceases or up to a maximum of 90 days, whichever occurs first. An extension of up to 90 days may be granted at the discretion of the City Administrator or designee.

The circumstances of each employee performing temporary modified duty work will be reviewed every 30 days or as needed to determine needs for service, continued qualification and the need for such temporary modified duty.

Temporary duty assignments for employees unable to perform the essential functions of their job may be withdrawn at the time it is determined by medical authority that the employee is unable to return to the employee's former regular position.

This policy shall not be construed or interpreted to mean that any employee has a right to a temporary modified duty assignment nor that the city is compelled to assign an individual to temporary modified duty status.

Whenever an employee is unable to perform his/her regular duties due to a temporary medically certified condition, the employee shall notify his/her immediate supervisor, in writing, as to the nature and extent of the condition and the reason why he/she is unable to perform the job duties. This notice must be accompanied by a physician's report containing diagnosis, current treatment, any work restrictions related to the condition, and the expected date of return to regular duties. The city may require an independent evaluation conducted by a physician selected by the city to verify diagnosis, current treatment, and expected length of condition and work restrictions.

3.12 Employee Recognition

This policy applies to full-time and part-time regular employees and volunteers.

POLICY

The City Administrator or designee may establish a program to recognize employee service to the city and reward milestone years of service for regular employees and volunteers.

Service Recognition Event

The city may hold an annual event to recognize employee service to the city. All employees covered by this policy, and recent retirees, may be invited to the event. If the invitation includes a non-employee guest, the non-employee guest shall be charged a reasonable fee to attend the event.

Service Recognition Awards

Full-time employees and part-time regular employees who earn annual leave are eligible for an employee service award after milestone years of continuous eligible service to the city.

The City Administrator or designee may determine the recognized milestone years of service and appropriate awards.

For purposes of an employee service award, eligible service shall be based on calendar years of continuous service from the first date an employee began earning annual leave. An employee rehired following separation from employment will not receive credit for prior periods of employment.



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Retirement Celebrations

To celebrate the service of an employee covered by this policy upon their retirement, the City Administrator or designee may authorize a commemorative gift for presentation to the retiree.

The city may pay reasonable costs for refreshments at an employee gathering in honor of the retiree upon their retirement, when approved in advance by the department head.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Retiree. A full-time or part-time regular employee leaving employment with the city in good standing, who meets the age and service requirements to draw a retirement pension benefit from Public Employment Retirement Association.

3.13 Performance Reviews

This policy does not apply to elected officials.

The City of Apple Valley's performance review policy encourages regular performance feedback and goal-setting in order to:

- Motivate employees and supervisors
- Guide employees toward what needs to be done to refine their job skills
- Identify training and development opportunities
- Assist in making staffing and compensation decisions
- Provide quality communication time between employees and supervisors
- Improve performance of the individual and the City of Apple Valley

POLICY

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

Performance reviews will be discussed with the employee. While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable using the city's employment complaint resolution process, other performance evaluation data, including subjective assessments, are not. For those parts of the performance evaluation system deemed not challengeable, an employee may submit a written response, which will be attached to the performance review.

Signing of the performance review document by the employee acknowledges the review has been discussed with the supervisor and does not necessarily constitute agreement. Failure to sign the document by the employee will not delay processing. The completed document will be retained as part of the employee's personnel file.

Schedule

Each full-time and part-time regular employee must have a current (within the preceding 12 months) performance review completed and on file by April 15th of each year.



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During a probationary period, informal performance meetings should occur frequently between the supervisor and the employee. Conducting these informal performance meetings provides both the supervisor and the employee the opportunity to discuss what is expected, what is going well and not so well. The employee should have a formal review completed by the end of the probationary period.

A department head may establish a performance review program and schedules for casual employees in their department.

3.14 Employment Complaint Resolution

Employees have a right to be heard relative to concerns or complaints pertaining to employment. This policy provides a process and options for employees seeking resolution of a work related concern.

This policy does not apply to elected officials.

POLICY

If a complaint alleges a violation of the terms of a collective bargaining agreement, such complaint must be pursued as a grievance, rather than a complaint under this policy.

If a complaint alleges a violation of the Discrimination and Harassment policy, such complaint must be pursued under the Discrimination and Harassment policy.

Penalty or retaliation against an employee who initiates issue resolution, makes a complaint, or participates in a problem resolution review will not be tolerated and will be subject to disciplinary action up to and including termination.

Employees may choose to utilize the resources provided through the Employee Assistance Program (EAP), recognizing the confidential EAP does not constitute a report to or knowledge on the part of the city.

The following steps shall be utilized to facilitate an orderly process for allowing an employee's concerns to be heard.

1. Immediate Supervisor

Employees who are experiencing a work related conflict or have a complaint are encouraged to resolve it directly through discussions with the subject of the concern. In some situations, this may be difficult or inappropriate. In these cases, the employee should discuss the matter with his/her supervisor in an attempt to resolve the concern.

If the employee is not satisfied with the results, the employee may file a complaint with the department head.

2. Department Head

Employees who have a complaint requiring department head management intervention in relation to a work related issue should prepare written documentation, with supporting details, of the conflict situation or complaint and submit it to the department head.

Please note: Written documentation is not required in order for the complaint to be made; however, it is strongly encouraged to allow the city to best understand the issues involved and take appropriate action.

Upon receipt of the written complaint, the department head, or designee, shall meet with the employee in a timely manner to hear and consider the employee's complaint and shall issue a written response to the employee in a timely manner.

The department head, or designee, shall take steps to investigate the employee's complaint and take necessary actions, such as:

1. Take action appropriate to the authority of the department head, or designee, to resolve the employee complaint; or



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2. Inform the complainant it is the conclusion of the department head, or designee, that the complaint provides no basis for city action.

3. Administrative Level

If the employee is not satisfied with the resolution provided at the department head level or with the progress of the issue resolution process, the employee may submit the issue to the City Administrator, or designee, for review.

The City Administrator, or designee, shall review as necessary, and issue a written statement of disposition of the issue in a timely manner. The decision of the City Administrator shall be final.

Human Resources may participate at any stage of the complaint process to assist in facilitating resolution.

3.15 Discipline

The objective of this policy is to establish a standard disciplinary process for employees of the City of Apple Valley. City employees will be subject to disciplinary action for failure to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable city policies.

This policy does not apply to elected officials.

POLICY

Discipline will be administered in a non-discriminatory manner. The supervisor and/or other city official will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

The city will discipline, suspend, demote, or discharge full-time and part-time regular employees for just cause only. The following are deemed appropriate forms of discipline; however, the level and order of discipline shall be at the discretion of the city, based upon the nature of the infraction:

- (1) Verbal reprimand and warning;
- (2) Written reprimand;
- (3) Suspension without pay;
- (4) Demotion; or
- (5) Discharge.

Written reprimands, suspensions, demotions, and discharge shall be issued in written notice to the employee.

Verbal and written reprimands may be carried out by the appropriate supervisor, with approval of the department head. Additionally, a supervisor may temporarily relieve an employee of duties for the remainder of a shift or work assignment with pay.

Suspension without pay, demotion, and discharge may be carried out by the City Administrator, or designee. The City Council shall take final action relative to the discharge of an employee.

Except as provided by a collective bargaining agreement or otherwise prohibited by law, casual employment with the city is "at-will." The city has the right to terminate any casual employee at any time for any or no reason, with or without cause.

A department shall provide a copy to Human Resources of any discipline issued to an employee.

3.16 Reasonable Unpaid Break Time for Nursing Mothers

In addition to city employees, this policy applies to firefighters.



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POLICY

In compliance with Minnesota statute and the amended Fair Labor Standards Act, and to ease the transition of mothers returning to work following the birth of a child, the City of Apple Valley will provide a nursing mother with reasonable unpaid break time to express breast milk during the work day.

The break time must, if possible, run concurrently with any break time already provided to the employee. The break time must not unduly disrupt the operations of the city.

The city will provide a room or other location in close proximity to the work area, where the employee can express her milk in privacy. The location will be a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public.

Breaks to express breast milk will not be paid. Employees may use normal break and lunch periods to accommodate their nursing needs. However, if the breaks needed to express breast milk exceed standard daily break time, the employee must use personal time, either in the form of accrued, unused paid leave time or an unpaid break.

PROCEDURES

An employee, who needs accommodation to express breast milk, should speak to her supervisor or Human Resources or to determine a reasonable break schedule and a suitable location for expressing breast milk.

3.17 Reasonable Accommodation to a Qualified Individual With a Disability

In addition to city employees, this policy applies to firefighters and applicants.

POLICY

In accordance with the Americans with Disabilities Act (ADA), as amended by the Americans with Disabilities Act Amendments Act (ADAAA), the city will provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment—unless such accommodation would cause the city an undue hardship.

Procedures

When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

The city will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job, unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation, or if the accommodation creates an undue hardship to the city.

Requesting Accommodation

Generally, an applicant or employee must let the city know that he or she needs an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to a medical condition.

An applicant with a disability should contact Human Resources to request an accommodation in the application process.

An employee with a disability should contact their supervisor or Human Resources to request an accommodation.

Reasonable Accommodation



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A reasonable accommodation is a change in the workplace or the way things are customarily done that provides an equal employment opportunity to an individual with a disability. A reasonable accommodation enables an individual to apply for a job, perform a job, or have equal access to the workplace and employee benefits.

There is often more than one way to accommodate a situation or activity. In order for an accommodation to be considered reasonable, however, it must not:

- Compromise essential requirements of a job, activity, or facility;
- Cause an undue administrative or financial hardship;
- Compromise safety of the employee or others;
- Fundamentally alter an essential job duty.

The city will work with an individual through an interactive process to determine if an accommodation is reasonable and available. Different jobs may require different accommodations.

The city will not require an employee to take a leave or accept an accommodation, and the city shall not retaliate against an employee for requesting or obtaining accommodation.

Interactive Process

The city utilizes an interactive process for determining reasonable accommodations. The process is confidential and individualized. The city is committed to providing reasonable accommodations for employees with disabilities in a timely manner.

Determining and arranging employment accommodations is a partnership between the employee and the city (i.e., the supervisor, Human Resources, and others as needed). The individual requesting job accommodations is an active participant in an interactive process to provide reasonable accommodations that provide an equitable opportunity to engage in, while not fundamentally altering, the job duties.

Roles and Responsibilities

Employee

The employee's role in the interactive process is to discuss the impacts of his or her disability (including work restrictions), provide information and documentation on an as-needed basis, and share what disability accommodations have worked in the past.

In most situations, the employee is responsible for requesting accommodations as early as possible.

The employee is responsible to provide documentation from an appropriately qualified health or other service professional who is knowledgeable about the employee's condition. Documentation can vary in length and format, but should focus on the ways the condition currently affects the employee, especially in the work environment.

Supervisor

The supervisor's role in the interactive process is to share his or her knowledge of the essential elements of the job. It is also the supervisor's role to contact Human Resources if he or she believes that the recommended job accommodations compromise the essential requirements of a job or fundamentally alter a job.

The supervisor is responsible for contacting Human Resources when an employee requests an accommodation.

Human Resources

The role of Human Resources in the interactive process is to work with the employees and their supervisors to identify barriers to accessing the job duties or city facilities, and assist in determining reasonable accommodations that mitigate impact of the barriers, but do not fundamentally alter the essential functions of the job.

3.18 Reasonable Accommodation to an Employee for Health Conditions Relating to Pregnancy

In addition to city employees, this policy applies to firefighters.

An employee must work for the city for at least 12 consecutive months immediately preceding the request and average at least 20 hours or more per week during those 12 months to be eligible.

POLICY

The city will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth:

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

A pregnant employee shall not be required to obtain the advice of her licensed health care provider for the above accommodations.

Unless such accommodations impose an undue hardship on the city, the city will engage in an interactive process with respect to an employee's request for a reasonable accommodation. The city will not require an employee to take a leave or accept an accommodation, and the city shall not retaliate against an employee for requesting or obtaining accommodation under this section.

3.19 Pre-Retirement Employment Transition

This policy does not apply to part-time and casual employees and elected officials.

The City of Apple Valley recognizes the mutual value in some circumstances, for a retiring full-time employee to work a reduced schedule for a limited period leading to retirement.

Eligibility

To request a Pre-Retirement Employment Transition, an employee must:

- Meet the age and service eligibility requirements for a retirement pension benefit from Public Employees Retirement Association (PERA);
- Have worked for the City of Apple Valley as a full-time employee for at least five consecutive years immediately prior to the Pre-Retirement Employment Transition;
- Agree to work at least 20 hours per week, but not more than 30 hours per week during the Pre-Retirement Employment Transition.

Benefit

During an approved Pre-Retirement Employment Transition:

- (1) The employee will earn annual leave and holiday leave at 50% of the rate in effect immediately prior to the Pre-Retirement Employment Transition; and
- (2) The employee will remain on the city's group insurance plan and receive a city contribution toward benefits. The city contribution amount will be 50% of the amount approved for a full-time regular employee.



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- a. Approval of this benefit is subject to compliance with the city's group health plan contract provisions in effect during the time of the anticipated Pre-Retirement Employment Transition.

Requirements

A Pre-Retirement Employment Transition shall not exceed nine months immediately preceding the employee's retirement date. At the conclusion of the Pre-Retirement Employment Transition, the employee shall be separated from employment.

During a Pre-Retirement Employment Transition, reasonable time off may be approved by the employee's supervisor. The employee must use available paid leave hours during the approved time off. The employee must account for the agreed-upon work schedule through either hours worked or approved time off. The Pre-Retirement Employment Transition shall not be used to extend employment by continuous or excessive use of paid leave.

PROCEDURES

An eligible employee may make a request for a Pre-Retirement Employment Transition to their department head. The request must be accompanied by the employee's written notice of retirement, including retirement date.

Approval of a Pre-Retirement Employment Transition is at the sole discretion of the City Administrator or designee, upon recommendation by the department head.

3.20 Health Care Savings Plan

This policy applies only to department heads.

Establishment

The city shall implement a tax-advantaged Health Care Savings Plan (HCSP), administered by Minnesota State Retirement System (MSRS) for employees as defined in this policy. The Health Care Savings Plan is designed specifically to address future healthcare-related costs of employees after separation from employment. The Health Care Savings Plan shall allow employees, as a group defined by this policy, to designate pre-tax compensation to pre-fund eligible post-employment expenses. Contributions, interest and gains, and withdrawals from the Health Care Savings Plan shall be tax-free to the fullest extent possible under state and federal statute.

Authorization and Administration

The Health Care Savings Plan (HCSP) is administered by Minnesota State Retirement System (MSRS). The HCSP is an employer-sponsored program that allows employees to invest in a tax-free medical savings account while employed by a Minnesota public employer. Minnesota State Statute authorizes MSRS to offer this program to governmental employees in Minnesota including city, state, county, school districts, and governmental subdivisions.

Participation

Participation in the HCSP shall be mandatory for all employees as defined in this policy.

Contribution Calculations

Contributions to the HCSP shall be calculated using the employee's appropriate pay rate at the time of conversion. Contributions are mandatory.

Contribution Methodology

Funding of the HCSP shall be in accordance with established contribution methods:

- (1) Annual Leave Contributions Upon Separation From Employment: An employee, who is eligible to be compensated for annual leave in accordance with Personnel Policy 5.2 Annual Leave, shall have 100 percent of the employee's accrued, unused annual leave in excess of 120 hours, contributed to the employee's HCSP account upon separation from employment.



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- (2) Salary Contributions: One and one-quarter percent of the employee's gross earnings per pay period shall be contributed to the HCSP.

Account Fees

HCSP account fees are established by MSRS and shall be paid from the employee's HCSP account.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Department head. Schedule III positions and exempt positions reporting directly to the City Administrator, excluding an individual serving in a temporary acting assignment in such position.

4: CONDUCT

4.1 Employee Conduct

In addition to city employees, this policy applies to firefighters and volunteers.

The purpose of this policy is to establish standards of conduct for city employees and provide guidance with respect to such standards. This policy shall not be construed to interfere with lawful concerted activity by employees.

POLICY

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

General Conduct

Employees are expected to conduct themselves, both on and off duty, in a manner that promotes the public's trust and confidence in city services.

The conduct of an employee on the job shall be such that it does not bring negative public opinion on the city. All employees are expected to:

- Use available working hours to the best advantage in carrying out work-related duties.
- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.
- Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
- Conduct themselves professionally toward both customers and staff, and respond to inquiries and information requests with patience and every possible courtesy.
- Report any and all unsafe conditions to the immediate supervisor.
- Maintain good attendance while meeting the goals set by the supervisor.



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This employee conduct policy is established to make employees aware of minimum standards of conduct which are expected of a City of Apple Valley employee. In addition to the rules of conduct set forth in this policy, employees are also expected to comply with standards and rules of conduct established in the applicable department, division, office, shop, work area, etc., and to follow common sense standards of acceptable employee behavior.

These basic rules are not an all-inclusive list. Employees are expected to use good judgment and common sense and to comply with rules of conduct which are generally accepted in a working environment.

Employees should be aware that certain types of off-duty activities may be considered misconduct. Any reports of off-duty misconduct will be reviewed on a case-by-case basis. The review will take into consideration the employee's job duties, the conduct, and the nexus between the conduct and the employment relationship.

For more information regarding city expectations relative to conduct, consult with your supervisor or Human Resources.

Attendance and Absences

Employees are required to maintain regular and reliable attendance unless absences are approved. In situations where leave is designated as Family Medical Leave, the FMLA policy shall apply.

Employees who are going to be absent from work are required to notify their supervisor as soon as possible in advance of the absence. In case of an unexpected absence, employees should contact their supervisor before the scheduled starting time. If the supervisor is not available at the time, the employee should leave a message that includes a telephone number where he/she can be reached and/or contact any other individual who was designated by the supervisor.

The employee must contact the supervisor on each day of an absence extending beyond one day unless arrangements otherwise have been made with the supervisor.

Failure to use the established reporting process will be grounds for disciplinary action. Individual departments may establish more specific reporting procedures.

An employee who is absent for three days or more and who does not report the absence in accordance with this policy, will be considered to have voluntarily resigned not in good standing. The city may waive this rule if determines that extenuating circumstances warranted such behavior.

This policy does not preclude the city from administering discipline for unexcused absences of less than three days.

For budgetary and data practices reasons, non-exempt employees are not authorized to take work home or work through break times without prior approval from their supervisor.

Availability

Employees are expected to be reasonably available for communication and for work in an emergency. The employee is responsible for notifying his or her supervisor and Human Resources of any changes to home address or phone number.

City Data Practices and Retention

Employees shall comply with all applicable city data practices and retention statutes, policies, rules, and standards.

City Property

City property is for business use only. City property, including vehicles, tools, equipment, or other resources provided to employees by the City of Apple Valley shall not be used for personal use or gain except as authorized by policy, the City Administrator or designee.



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Any employee who has authorized possession of keys, tools, cell phones, tablets, laptops, or other city-owned equipment must register his/her name and the serial number (if applicable) or identifying information about the equipment with his/her supervisor. All such equipment must be turned in and accounted for by any employee leaving employment with the city in order to resign in good standing.

Employees are responsible for the safekeeping and care of all such equipment. Employees are expected to treat city property in a manner that will maintain the longevity of the item. Employees must operate all city equipment in a safe manner, and extreme care must be exercised to prevent damage. Employees are expected to leave equipment in good working condition for other staff members. Broken, damaged or defective equipment must be reported immediately to a supervisor.

Defacing, mutilating, misusing or otherwise abusing city equipment or property, or the property of others that is under the care and custody of the city, or the property or equipment of others that is used to provide services to the city is prohibited.

The duplication of keys owned by the city is prohibited unless authorized by the City Administrator or designee.

City-Owned Vehicles

Department heads will determine when it is appropriate for an employee to use city-owned vehicles. Use of city-owned vehicles is restricted to city business and incidental uses which occur in the course of city business. Incidental personal use should be during an authorized break and must not substantially alter the employee's scheduled work activities or route to/from a work site. Some departments may have additional guidelines regarding vehicle use.

Employees are expected to obey all applicable laws and policies and to operate vehicles in a manner that reduces the risk of damage to the vehicle or injury to the employee or others. Seat belts must be worn at all times, and use of cell phones and other mobile devices is limited to city business purposes when safe.

An employee involved in an accident, damage to public or private property, or damage to the assigned vehicle must immediately notify his or her supervisor.

Conflicts of Interest

It is expected that all employees will exercise good judgment in avoiding activities or situations where conflicts of interest with city business exist or could be perceived to exist.

Disturbing Others

Employees shall refrain from disturbing other employees in the performance of their work.

Dress and Appearance

Employees are expected to dress in a manner appropriate to the performance of their duties, to wear clothing that is clean and well maintained, conservative and in good taste, and to observe professional grooming and personal hygiene practices. Supervisors will determine appropriate dress standards for employees in their work groups.

Personal appearance should be appropriate to the nature of the work and contacts with other people and should present a positive image to the public.

In certain employee groups, uniforms will be required. Employees are expected to keep uniforms clean and well maintained. Employees should keep in mind that while wearing city uniforms or clothing with city logos, they are representing the city to the public even if not on duty.

Endorsement

No city employee shall endorse a product or service in their official capacity as a city employee, unless authorized by the City Council.

Falsification of Records

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

Gifts and Gratuities

Employees are prohibited from accepting, requesting, or soliciting gifts or gratuities from members of the public or any interested party.

Following are instances when an employee may be allowed to accept an unsolicited gift:

- Services of insignificant monetary value.
- A trinket or memento of insignificant value.
- A plaque or similar memento recognizing individual services in a field of specialty or for a charitable cause.
- Food or beverage given at a reception, banquet meal or meeting away from the workplace provided by an organization at which the employee makes a speech or answers questions as part of a program.
- Gifts given because of the employee's membership in a group (in which a majority of group members are not officials) and an equivalent gift is given to other group members.
- Informational material of unexceptional value.

At times, employees may be approached by individuals or businesses wishing to make donations to the city. In the case of unsolicited donations, employees should refer the individual or business to the appropriate department head for consideration.

Employees seeking donations for city-sponsored programs or events must obtain permission from the City Administrator or designee before soliciting gifts on behalf of the city.

Insubordination

Employees are required to obey the directions and lawful orders of the city at all times, whether given directly by supervisors or by designee. Employees must refrain from engaging in any verbal or physical conduct towards supervisors which disrupts the city's operations or tends to undermine supervisory authority or control.

Language

Employees are expected to use professional and courteous language appropriate for the workplace.

Outside Employment

Full-time and part-time regular employees shall not engage in any other employment, activity or enterprise for private gain which interferes with the employee's ability to perform required job duties for the city or which might be construed to be a conflict of interest between the employee's regular duties with the city and the outside employment.

Full-time and part-time regular employees are required to provide a written disclosure annually to the City Administrator or designee, relative to engaging in any other employment, activity, or enterprise for private gain.

The City Administrator, or designee, may prohibit outside employment, activity, or enterprise of employees for private gain. Consideration will be given to the following conditions:

- Whether the outside activity interferes with the employee's ability to perform required job duties for the city; and

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- Whether private gain or advantage is realized from the use of city time, staff, facilities, equipment, supplies, or influence of city employees; and
- Whether the outside activity might be in fact, or have the appearance of, a conflict of interest with employee's regular duties as a city employee.

Personal Phone Calls and Use of Cell Phones

Personal telephone calls and use of cell phones for other than city business should be limited to necessity, must not interfere with city work, and must be completed as quickly as possible.

Supervisors may prohibit possession or use of personal cell phones by employees during work time.

Political Activities

An employee may express personal opinions on political subjects and candidates. An employee may take an active part in political management and political campaigns as long as it does not interfere with the employee's job performance or job duties and such activities occur outside working hours.

An employee may not, directly or indirectly, during working hours or on city property, solicit or receive funds for political purposes.

An employee of the city may not, at any time, use authority or official influence because of their employment to compel any person to do any of the following: apply for membership in any political organization; pay or promise to pay any assessment, subscription, or contribution for political purposes; or take part in any political activity.

Private or Confidential Information

In the performance of city business, an employee may have access to information or records that are private or confidential. Disclosure of private or confidential information shall be made only in accordance with established city policies and procedures as well as state and federal law. Employees unsure about the release of information must consult their supervisor or the City Clerk prior to releasing information.

Representation

An employee shall not represent or engage in any activity with intent to represent a city position on any issue, matter, or subject unless authorized by the City Administrator or designee.

Reporting of Injury, Illness, or Impairment

Any illness, injury, or impairment that could inhibit performance of an employee's regular duties must be immediately reported to the appropriate supervisor. An employee must immediately report all injuries sustained on the job to a supervisor regardless of the nature, cause, or seriousness.

Safety

Every effort must be made to develop and maintain a safe and healthy environment for employees and visitors. The elimination of unsafe acts, conditions and procedures with regard to city operations is of the utmost importance.

Employees must understand and follow all established safety regulations and procedures. The wearing or use of proper personal or general protective equipment is mandatory at all times.

Solicitation

Employees may solicit donations, contributions, or promote appropriate fund-raising or other activities by posting the event or item in a neutral location in the city, such as a break room or lunch room, whereby an employee may voluntarily make a donation or participate in the activity. The city reserves the right to remove such items if determined to be inappropriate conduct and/or materials without prior notification to the employee.



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An employee may not directly solicit donations, contributions, or request participation in an activity from other employees or members of the public, during work hours or in their official capacity as a city employee.

Certain fund-raising activities may be exempted by the City Administrator or designee from this provision.

Theft

The theft, attempted theft, or unauthorized possession of any property or money belonging to the city, another employee, or any other person or entity when such property is under the care of the city is prohibited.

Work Performance

Employees are expected to perform assigned work in a conscientious and efficient manner to the satisfaction of their supervisor. Delaying, interfering with, or hindering productivity is prohibited.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Interested Party. A person or representative of a person or association who has a financial interest in a decision an employee is authorized to make.

4.2 Discrimination and Harassment

In addition to all city employees, this policy applies to firefighters and volunteers.

The City of Apple Valley will provide a work environment free from unlawful discrimination and harassment based on protected class status as defined in the policy below. The city is committed to addressing all incidents of conduct or communication in violation of this policy.

POLICY

The City of Apple Valley will not tolerate any individual engaging in verbal, written, physical, or other conduct or communication which has the purpose or effect of substantially interfering with a person's employment, or which creates an intimidating, hostile, or offensive work environment because of a person's protected class status including race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, membership on a local human rights commission, lawful participation in the Minnesota Medical Cannabis Patient Registry, or any other status protected by law.

Harassment is generally defined as unwelcome or offensive verbal, written, physical or other conduct or communication toward an individual because of protected class status. Harassment may occur when:

- (1) Submission to such conduct or communication is either explicitly or implicitly made a term or condition of employment;
- (2) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting that individual's employment such as promotion, assignment, demotion, discipline, or discharge; or
- (3) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creating an intimidating, hostile or offensive working environment.

Depending on the circumstances, harassment may include, but is not limited to:

- (1) Verbal harassment (e.g., certain unwelcome epithets, slurs, negative stereotyping, jokes, pranks or other threatening, intimidating, hostile or offensive acts because of protected class status) whether delivered in person, through voicemail, or other electronic means;



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(2) Written harassment (e.g., using, displaying or circulating certain unwelcome poems, letters, cartoons, or other visual or physical renderings that denigrate or show hostility or aversion toward an individual or group because of protected class status) whether delivered by paper, email, texting, or other electronic means;

(3) Physical harassment (e.g., certain unwelcome gestures, impeding movement or other threatening, intimidating, hostile or offensive contact that is directed toward an individual because of protected class status).

Sexual Harassment. In the case of sexual harassment, no employee shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to unwanted sexual advances will adversely affect the individual's employment including, but not limited to, performance evaluation, wages, advancement, assignment, duties or any other condition of employment or career development. Sexual harassment includes, but is not limited to: unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, such as repeated offensive sexual flirtation, advances or propositions, unrequested touching, continual or repeated verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words, overly personal words or conduct, and the display in the workplace of sexually explicit objects. Sexual harassment can occur between members of the same sex, and the victim as well as the harasser may be a woman or a man.

The harasser may be a coworker or a manager in an employee's work unit or another unit, or someone who is not an employee who is encountered in the course of work for the City of Apple Valley.

The city will determine whether particular conduct violates this policy by assessing the totality of the circumstances on a case-by-case basis. Conduct in violation of this policy or other inappropriate conduct may result in disciplinary action, and could include immediate termination of employment.

Employee Responsibility. Employees must conduct themselves in accordance with this policy. An employee who experiences conduct or communication in violation of this policy should, whenever possible, directly inform the offending individual that the conduct is unwelcome, offensive, or improper and must stop. If the employee feels uncomfortable approaching the offending individual or if the conduct continues, the employee must inform their direct supervisor, department head, Human Resources, or the City Administrator. Likewise, an employee who suspects that conduct or communication in violation of this policy is occurring at the city must immediately contact their direct supervisor, department head, Human Resources, or the City Administrator.

Supervisor Responsibility. All supervisors must conduct themselves in accordance with this policy. Each supervisor is responsible for ensuring that employees comply with this policy.

A supervisor who receives a complaint, or knows or has reason to believe that conduct or communication which may be in violation of this policy is occurring, must notify Human Resources or the City Administrator within two business days. A supervisor must act upon such a report even if requested otherwise by the victim.

Confidentiality. Complaints of discrimination, harassment, or other unlawful employment practices will be kept confidential to the extent possible consistent with the law and the city's need to investigate the matter. However, a person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s). Employees must keep all information regarding an internal Discrimination/Harassment complaint investigation confidential consistent with the law.

Retaliation. Retaliation against a person who complains in good faith of a violation of this policy or participates in good faith in an investigation under this policy is prohibited. If the city finds that retaliation has occurred, individuals who engaged in the retaliatory behavior may be subject to discipline up to and including termination, regardless of whether the original complaint is substantiated. (*Refer also to Investigations Policy*)

PROCEDURES

Internal Complaint Procedure and Investigation:



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(1) Any employee who believes that they have been subjected to conduct or communication in violation of this policy must immediately notify their supervisor, manager, department head, Human Resources or the City Administrator. To allow the city to best understand the issues involved, each person making a complaint is strongly encouraged to complete a written Complaint Form.

A department head, manager, or supervisor who receives a complaint shall notify Human Resources or the City Administrator within two business days.

(2) Human Resources, the City Administrator, or designee will proceed with a formal or informal investigation and resolution process. The city will take steps to address the situation quickly and effectively.

(3) At the conclusion of the investigation, the city will notify the complainant and any other person who has a need to know of the disposition of the complaint in accordance with the law.

Review. If the employee is not satisfied with the resolution or with the progress of the complaint process, or if the employee is not comfortable submitting a complaint to Human Resources or the City Administrator, the employee may submit the complaint to the City Attorney's Office for review. The City Attorney's Office or designee, shall review as necessary, and issue a written statement of disposition in a timely manner.

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

RELATED INFORMATION

This policy will be published yearly through internal city communications and shall be posted at each of the city's locations.

This policy, as well as the Employee Internal Discrimination/Harassment Complaint Form, shall be available to employees from their supervisor and Human Resources.

4.3 Respectful Workplace

In addition to all city employees, this policy applies to firefighters and volunteers.

Maintaining a respectful work environment is a shared responsibility. The intent of this policy is to provide general guidelines about the conduct that is and is not appropriate in the workplace. The city acknowledges that this policy cannot possibly predict all situations that might arise, and also recognizes that some employees are exposed to disrespectful behavior, and even violence, by the nature of their jobs.

POLICY

Types of Disrespectful Behavior

The following types of behaviors are disruptive, unacceptable, and prohibited in the workplace and are, in many instances, unlawful:

Violent behavior. Includes the use or threat of physical force, harassment, bullying, or intimidation.

(Refer also to Workplace Violence Prevention Policy)

Discriminatory behavior. Includes inappropriate remarks or conduct related to a person's race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, membership on a local human rights commission, lawful participation in the Minnesota Medical Cannabis Patient Registry, or any other status protected by law.

(Refer also to Discrimination and Harassment Policy)

Offensive behavior. May include such actions as: rudeness; angry outbursts; inappropriate humor; vulgar obscenities; name calling; foul or disparaging language; gossip; asking personal or prying questions; condescending or short tone of voice; eye rolling; sarcastic comments; undermining or impeding a person's work; withholding necessary information; tampering with a person's personal belongings or work equipment; or any other behavior regarded as offensive to a reasonable person based upon violent or discriminatory behavior as listed above.

It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, taking into account the sensibilities of employees and the possibility of public reaction.

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

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

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

Sexual harassment. Can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

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

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

(Refer also to Discrimination and Harassment Policy)

Employee Response to Disrespectful Workplace Behavior

Employees who believe that disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below.

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

Step 1(b). If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor, Human Resources, or the City Administrator.

Step 1(c). Any employee who observes violent behavior, sexual harassment, or discriminatory behavior, or receives any reliable information about such conduct, must immediately report it to a supervisor, Human Resources, or the City Administrator. *(Refer to Discrimination and Harassment Policy).*

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

Supervisor's Response to Allegations of Disrespectful Workplace Behavior

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

In the case of sexual harassment or discriminatory behavior, a supervisor must report the allegations within two business days to Human Resources or the City Administrator. A supervisor must act upon such a report even if requested otherwise by the victim (*Refer to Discrimination and Harassment Policy*).

In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

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

Step 2. If a formal investigation is warranted, the individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations. The investigator will obtain the following description of the incident, including date, time and place: 1) corroborating evidence, 2) a list of witnesses, and 3) identification of the offender.

Step 3. The supervisor must notify Human Resources or the City Administrator about the allegations.

Step 4. As soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations. The alleged violator will have the opportunity to answer questions and respond to the allegations.

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

Step 6. The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable.

Special Reporting Requirements

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to Human Resources or the City Administrator who will assume the responsibility for investigation and discipline.

If the City Administrator is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the City Attorney's Office. The City Attorney's Office or designee shall review as necessary and issue a written statement of disposition in a timely manner.

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

Confidentiality. Complaints of disrespectful workplace conduct will be kept confidential to the extent possible consistent with the law and the city's need to investigate the matter. However, a person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s). Employees must keep all information regarding an internal complaint investigation confidential consistent with the law.

Retaliation. Retaliation against a person who complains in good faith of a violation of this policy or participates in good faith in an investigation under this policy is prohibited. If the city finds that retaliation has occurred, individuals who engaged in the retaliatory behavior may be subject to discipline up to and including termination regardless of whether the original complaint is substantiated. (*Refer also to Investigations Policy*)

4.4 Investigations

In addition to all city employees, this policy applies to firefighters and volunteers.

The purpose of this policy is to provide guidance for conducting internal investigations of alleged violations of city policies, rules, and standards of conduct.

POLICY

The City of Apple Valley is committed to ensuring that all city-initiated investigations are conducted in a fair, impartial, thorough, thoughtful manner and in compliance with all applicable laws.

When an agent of the City of Apple Valley (i.e., department head, manager, supervisor) receives a complaint or other information indicating a possible violation of law or city policy, the city will conduct an investigation.

Off Duty Conduct

Allegations of off-duty misconduct will be investigated on a case-by-case basis. Factors to be considered may include, but are not limited to, whether an individual's alleged conduct:

- Could seriously damage the city's public image or potential business relationship with the city;
- Reasonably makes it difficult or impossible for co-workers, customers, or others with an actual or potential business relationship with the city to deal with the employee;
- Renders an employee unable to perform his or her duties or appear at work;
- Leads to refusal, reluctance, or inability of other employees to work with him or her;
- Poses a threat to the safety of other workers; or
- Undermines the ability of the city to direct the work force.

Cooperation with the City

It is a basic requirement of the job that employees cooperate fully with the city in any investigation concerning individual conduct or the conduct of other employees. Cooperation includes the requirement that employees provide truthful information and do not conceal information or provide misleading information.

Selection of Investigator

The city has the sole discretion to utilize any combination of internal staff, legal counsel, and/or a third-party independent investigator, to conduct an investigation.

The City Administrator or designee will approve the retention of any third party for purposes of conducting a city-initiated investigation regarding employee misconduct.

Investigative Leave

An employee may be placed on an administrative leave during an investigation at the discretion of the city, with or without notice, in any situation the city deems to warrant removing the employee from the worksite. The leave may be paid or unpaid at the discretion of the city, based on the facts and circumstances of the investigation. The leave, and paid or unpaid status of the leave, may be reviewed and amended upon conclusion of the investigation.

Confidentiality

Complaints will be kept confidential to the extent possible consistent with the law and the city's need to investigate the matter. However, a person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. In certain instances, Human Resources and/or management may be obligated to further report or take action on a complaint, even if the person reporting requests otherwise. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s). Employees must keep all information regarding an internal complaint investigation confidential consistent with the law.

Risk Assessment

The City of Apple Valley will make a reasonable effort to ensure that complainant(s) or person(s) providing information during an investigation are not exposed to any threats of violence, intimidation or personal risk. If any such situations are identified or have occurred, the city will proceed with the appropriate response, as advised by Human Resources, legal counsel, Police Department, or other professionals. Any city employee found to have engaged in threatening behavior will be subject to disciplinary action up to and including termination, in accordance with the city's Workplace Violence Prevention Policy.

Investigative Timeline

The City of Apple Valley will make reasonable efforts to initiate an investigation into allegation(s) of misconduct and conclude the investigation in a timely fashion, as appropriate.

Retaliation

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

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

An employee, who feels retaliation is occurring within the workplace, barring any extenuating circumstances, should report the concern immediately to any of the following:

1. Supervisor or department head;
2. Human Resources;
3. City Administrator; or
4. In the event an employee feels retaliation has occurred by the City Administrator, then reporting may be made to the City Attorney's office.

Supervisors who know or have reason to know of claims of retaliation must report the allegations within two business days to Human Resources or the City Administrator. A supervisor must act upon such a report even if requested otherwise by the victim.



City of Apple Valley Personnel Policy Manual

5: LEAVES OF ABSENCE

5.1 Leaves of Absence

In addition to city employees, this policy applies to firefighters.

POLICY

Depending upon an employee's situation, more than one form of leave may apply during the same period of time. An employee will need to meet the requirements of each form of leave separately. Leave requests will be evaluated on a case-by-case basis.

Except as otherwise stated, all paid time off, taken under any of the city's leave programs, must be taken consecutively, with no intervening unpaid leave.

The city will provide employees with time away from work as required by state or federal statutes, if there are requirements for such time off that are not described in the personnel policies.

5.2 Annual Leave

This policy does not apply to casual employees or elected officials.

The City of Apple Valley provides paid time off from work under its annual leave policy. Employees are encouraged to schedule time off for relaxation to promote good physical and mental health while maintaining a sufficient accrual balance to cover unplanned absences.

POLICY

Annual leave shall be taken as either planned leave which will be scheduled in advance; or when necessary, unplanned leave which will require notification of the city within a timely manner on the employee's scheduled workday.

For any period during which an employee is not being paid, the employee shall not earn annual leave. An employee shall not be eligible to be compensated for annual leave, or earn additional annual leave during the time an employee is receiving disability insurance payments.

Planned annual leave may be denied or approval withdrawn when the granting of such planned annual leave would result in insufficient personnel to carry out necessary functions as deemed appropriate by the city.

An employee shall not be eligible to use more than double the amount of annual leave earned in a calendar year without prior approval of the City Council.

If use of annual leave suggests abuse, the employee may be subject to disciplinary action up to and including discharge.

An employee, who leaves the employment of the city in good standing and has returned all city property, shall be compensated for all accrued and unused annual leave following separation from employment. The city shall be solely responsible for determining whether an employee has left employment in good standing.

Department heads are responsible for determining the procedure for requesting time off and/or reporting unplanned absences. Department heads may implement a paper based and/or electronic time off approval and notification system that meets the needs of the department.



City of Apple Valley Personnel Policy Manual

Accrual Schedules

Eligible Full-Time Employees

Full-time Schedule I and Schedule II employees shall, at a minimum, earn annual leave in accordance with the following schedule. An employee's initial date of employment shall be used to determine the appropriate hours of annual leave to be accrued. The City Administrator, or designee, may authorize modification of an employee's annual leave accumulation schedule.

- (1) 0 – 5 years: 4.62 hours per 2 weeks of work
- (2) 6 – 10 years: 6.16 hours per 2 weeks of work
- (3) 11 – 15 years: 7.69 hours per 2 weeks of work
- (4) 16 – 20 years: 8.31 hours per 2 weeks of work
- (5) 21+ years: 9.23 hours per 2 weeks of work

Schedule III employees shall earn annual leave in accordance with the following schedule. The City Administrator, or designee, may authorize modification of an employee's annual leave accumulation schedule.

- (1) 0 – 5 years: 6.16 hours per 2 weeks of work
- (2) 6 – 15 years: 7.69 hours per 2 weeks of work
- (3) 16+ years: 9.23 hours per 2 weeks of work

Annual leave may not accrue in excess of 800 hours. Any hours in excess of 800 shall be forfeited.

Eligible Part-Time Employees

Eligible part-time employees, as defined in this section, shall earn annual leave at one-half the schedule described in this section. An employee's initial date of regular employment shall be used to determine the appropriate hours of annual leave to be accrued. The City Administrator, or designee, may authorize modification of an employee's annual leave accumulation schedule.

Annual leave may not accrue in excess of 400 hours. Any hours in excess of 400 shall be forfeited.

Annual Leave Cash Out

An employee, who has an accrued and unused balance of 160 or more hours of annual leave, may make an irrevocable election annually by December 31, to receive cash compensation in lieu of up to 16 hours of annual leave earned in the subsequent year.

Such election shall be made in writing in a format determined by the city and received in Human Resources by December 31.

Upon making such election, annual leave earned beginning the start of the first pay period in January of the subsequent year, up to the amount elected by the employee, shall not be credited to the employee's annual leave bank, but instead shall be paid to the employee at the employee's base pay rate on the earliest of:

- 1) When requested by the employee on one regular pay check in the calendar year subsequent to the employee's election, provided the elected number of hours have been earned; or
- 2) The first pay check in December of the year subsequent to the employee's election; or
- 3) Upon the employee's separation from employment.



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DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Initial Date of Employment. An employee's initial date of employment shall be the first date of consecutive employment as a regular employee with the city, except as may otherwise be determined and agreed to by the city and employee.

Eligible Part-time Employee. An employee who is: 1) Routinely scheduled for at least 20 hours per week, but less than 30 hours per week; and 2) Regularly scheduled for 52 weeks of the year; and 3) Employed in a position the city considers long-term and subject to the city's and the employee's rights to terminate.

5.3 Short Term Disability

This policy does not apply to part-time or casual employees or elected officials.

POLICY

Full-time employees participating in the annual leave program are eligible for a short term disability policy to be effective following 21 calendar days of continuous absence because of total disability due to illness, injury, or pregnancy.

An employee shall be eligible to collect the short term disability benefit until the earlier of: 1) the employee becomes eligible for long term disability, or 2) six months following the date of the qualifying injury, illness, or pregnancy. The city may request, at any time, that an employee provide a medical doctor's statement including verification of illness and/or ability to return to work.

An employee shall be eligible to receive the city's insurance contribution toward the purchase of group insurance during the period of time the employee is receiving short term disability insurance benefits, not to exceed six months from the qualifying date of illness or injury.

The city will, upon request, pay the employer contribution amount due to PERA for an employee's purchase of service credit and salary from an authorized short term disability leave of absence if all of the following conditions are met:

1. The request is received by the city no later than 120 days after the end of the employee's authorized short term disability leave of absence; and
2. The employee has returned to full, unrestricted duty actively working a regular full-time schedule with the city; and
3. The employee provides the city with evidence of payment of the employee contribution amount due to PERA.

Refer to the short term disability plan document for details about the plan and benefits. If there are any differences between benefits as described in this policy, and the plan documents or contracts, the plan documents or contracts shall govern.

Short-term disability benefits run concurrently with any other applicable leave allotments pursuant to city policy or statute (e.g., FMLA leave, Pregnancy/Parenting Leave, Medical Leave, etc.)

5.4 Holidays

This policy does not apply to casual employees, Liquor Operations employees, or elected officials.

The City of Apple Valley provides paid holidays in support of employee well-being and a great place to work.



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POLICY

The City of Apple Valley provides paid holidays to full-time and eligible part-time employees.

The following are paid holidays for eligible employees:

- | | |
|---------------------------------|--------------------------------|
| (1) New Year’s Day | (7) Veteran’s Day |
| (2) Martin Luther King, Jr. Day | (8) Thanksgiving Day |
| (3) President’s Day | (9) Day after Thanksgiving |
| (4) Memorial Day | (10) Christmas Floater |
| (5) Independence Day | (11) Christmas Day |
| (6) Labor Day | (12) Personal Floating Holiday |

Whenever one of the above listed holidays (except Christmas Floater) falls on a Sunday, the following day shall be observed as a holiday, and whenever one of the above listed holidays (except Christmas Floater) falls on a Saturday, the preceding day shall be observed as a holiday.

Christmas Floater will be: December 23 if December 25 is a Saturday or Sunday; December 24 if December 25 is a Tuesday, Wednesday or Friday; or December 26 if December 25 is a Monday or Thursday.

Exceptions to the listed holidays in divisions regularly scheduled for operation on Saturday and/or Sunday will be determined at the discretion of the city.

An eligible full-time employee shall be paid 8 hours for the observed holidays. An eligible part-time employee shall be paid 4 hours for the observed holidays. An eligible employee shall be paid for the observed holidays even if the employee is not scheduled to work on a particular holiday. An employee shall not be paid for an observed holiday which occurs while the employee is on an unpaid leave of absence.

If a non-exempt employee is required to work on a holiday observed by the city, the employee shall be compensated for the time worked at one and one-half times the employee’s regular base rate of pay for those hours actually worked on such holiday.

Eligible employees shall receive one paid Personal Floating Holiday per calendar year. The Personal Floating Holiday for a full-time employee shall be used in an increment of 8 hours. The Personal Floating Holiday for an eligible part-time employee shall be used in an increment of 4 hours. Any Personal Floating Holiday not used during the calendar year shall be forfeited.

Holiday Leave Bank in Lieu of Paid Holidays for Eligible Employees in Retail or Hospitality Services Settings

Certain city functions operate regularly in a retail or hospitality services schedule and setting. In such settings, the city may provide a holiday leave bank for certain employees, in lieu of paid holidays.

The City Administrator, or designee, shall determine which positions will receive a holiday leave bank in lieu of paid holidays.

When so designated, an eligible Schedule I, II, and III employee shall be credited with 96 hours of holiday leave time in a holiday leave bank, on January 1 of the calendar year in lieu of holidays.

When so designated, an eligible part-time regular employee who is eligible to earn annual leave shall be credited with 48 hours of holiday leave time in a holiday leave bank, on January 1 of the calendar year in lieu of holidays.

Requests for use of holiday leave time shall be made in writing by the employee and in accordance with normal time off request procedures. The city reserves the sole right to grant holiday leave time.



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Holiday leave time shall not accumulate from year to year. Any unused holiday leave hours remaining in the employee's holiday leave bank on December 31 shall be forfeited.

Holiday leave time for a new employee or an employee leaving employment shall be appropriately prorated to reflect the actual holidays observed by the city under this policy as of the date of the event affecting employment status. If an employee leaving employment has taken more holiday leave time than the appropriate prorated amount, the difference shall be deducted from the employee's final paycheck.

An employee shall not use holiday leave in addition to hours worked on any holiday observed under this section. An employee shall not use holiday leave to exceed the employee's normally scheduled number of hours per work period.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Eligible Part-time Employee. An employee who is: 1) Routinely scheduled for at least 20 hours per week, but less than 30 hours per week; and 2) Regularly scheduled for 52 weeks of the year; and 3) Employed in a position the city considers long-term and subject to the city's and the employee's rights to terminate.

5.5 Liquor Operations Holidays

This policy applies only to employees assigned to the Liquor Operations division.

POLICY

The City of Apple Valley provides paid holidays in support of employee well-being and a great place to work while achieving the city's goal of running a profitable and successful retail liquor operation. All holidays observed under this policy are without regard to holidays as may be observed by other operations within the city.

Section 1: Full-Time Schedule I, II, and III and Part-Time Regular Employees

Observed Holidays

The following holidays are observed under this section:

- | | |
|---------------------------------|--------------------------------|
| (1) New Year's Day | (7) Veteran's Day |
| (2) Martin Luther King, Jr. Day | (8) Thanksgiving Day |
| (3) President's Day | (9) Day after Thanksgiving |
| (4) Memorial Day | (10) Christmas Eve |
| (5) Independence Day | (11) Christmas Day |
| (6) Labor Day | (12) Personal Floating Holiday |

If one of the above listed holidays falls on a day on which the liquor stores are closed, no alternate day shall be observed as such holiday.

A non-exempt employee who is scheduled to work on a holiday observed under this section shall be paid for those hours actually worked on the holiday at one and one-half times the employee's regular base rate of pay.

Holiday Leave

An eligible Schedule I, II, and III employee shall be credited with 96 hours of holiday leave time in a holiday leave bank, on January 1 of each year in lieu of holidays.

A regular part-time employee who is eligible to earn annual leave shall be credited with 48 hours of holiday leave time in a holiday leave bank, on January 1 of each year in lieu of holidays.



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Requests for use of holiday leave time shall be made in writing by the employee and in accordance with the normal leave procedures of the Liquor Operations division. The city reserves the sole right to grant holiday leave time.

Holiday leave time shall not accumulate from year to year. Any unused holiday leave hours remaining in the employee's holiday leave bank on December 31 shall be forfeited.

Holiday leave time for a new employee or an employee leaving employment shall be appropriately prorated to reflect the actual holidays observed by the city under this policy as of the date of the event affecting employment status. If an employee leaving employment has taken more holiday leave time than the appropriate prorated amount, the difference shall be deducted from the employee's final paycheck.

An employee shall not use holiday leave in addition to hours worked on any holiday observed under this section. An employee shall not use holiday leave to exceed the employee's normally scheduled number of hours per work week.

Section 2: Part-Time Retail Liquor Store Clerks

Observed Holidays

The following holidays are observed under this section:

- | | |
|----------------------|----------------------|
| (1) New Year's Day | (5) Thanksgiving Day |
| (2) Memorial Day | (6) Christmas Eve |
| (3) Independence Day | (7) Christmas Day |
| (4) Labor Day | |

If one of the above listed holidays falls on a day on which the liquor stores are closed, no alternate day shall be observed as such holiday.

A non-exempt employee who is scheduled to work on a holiday observed under this section shall be paid for those hours actually worked on the holiday at one and one-half times the employee's regular base rate of pay.

An employee not scheduled to work on a holiday observed under this section shall not receive compensation for such holiday.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Full-Time Schedule I, II, or III Employee. Individual employed in a full-time position included in Schedule I, II, or III of the approved Pay and Benefit Plan.

Part-Time Regular Employee. Individual employed in a regularly scheduled part-time position included in the approved Pay and Benefit Plan.

Part-Time Retail Liquor Store Clerk. Individual employed in a retail liquor store sales clerk or lead sales clerk position included in the approved Pay and Benefit Plan.

5.6 Bereavement Leave

This policy does not apply to part-time or casual employees or elected officials.

The City of Apple Valley provides full-time employees paid leave in the event of a death in the immediate family.



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POLICY

A full-time employee may request up to three consecutive working days of bereavement leave in the event of a death of an immediate family member.

Approved bereavement leave is not charged against an employee's annual leave balance.

The department head is responsible for approving or denying requests for bereavement leave. The actual amount of bereavement leave approved will be determined by the department head depending on the individual circumstances (such as closeness of the family member, arrangements to be made, distance to funeral/service, etc.)

Bereavement leave is intended to be taken within 30 days after the death in the immediate family. The City Administrator, or designee, may grant an exception to this timeframe.

PROCEDURES

When an employee has need to take leave because of a death in the immediate family, the employee will complete a Bereavement Leave Request form and submit it to the department head.

The approved bereavement leave request form must be forwarded to Payroll in conjunction with the time sheet entry for the pay period in which bereavement leave is taken.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Immediate family. Spouse, parent (including stepparent or legal guardian), child (including stepchild or foster child), sibling (including stepsibling), grandparent, grandchild, aunt, uncle, parent-in-law, grandparent-in-law, brother/sister-in-law, and son/daughter-in-law.

5.7 Family and Medical Leave

The federal Family and Medical Leave Act (FMLA) provides job-protected leave for eligible employees in certain circumstances.

In addition to city employees, this policy applies to firefighters.

Eligibility

To qualify to take FMLA leave under this policy, an employee must meet all of the following conditions:

- Have worked for the city for 12 months (or 52 weeks) prior to the date the leave is to commence. The 12 months or 52 weeks need not have been consecutive; however, the city will not consider any service 7 years prior to the employee's most recent hire date.
- Have worked at least 1,250 hours during the 12-month period prior to the date when the leave is requested to commence. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave are not counted in determining the 1,250 hours eligibility test for an employee under FMLA.

POLICY

Types of Leave Covered

Leave will be granted to an eligible employee for any of the following reasons:

- The birth of a child, including prenatal care, or placement of a child with the employee for adoption or foster care;



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- To care for a spouse, child, or parent who has a serious health condition;
- Due to a serious health condition that makes the employee unable to perform the essential functions of the position; and
- A covered military member's active duty or call to duty or to care for a covered military member (Military Caregiver and Qualified Exigency Leave) (described below).

Length and Amount of Leave

The length of FMLA leave is not to exceed 12 weeks in any 12-month period. The leave year is calculated based on a rolling backward basis.

The entitlement to FMLA leave for the birth or placement of a child for adoption expires 12 months after the birth or placement of that child.

How Leave May be Taken

FMLA leave may be taken in 12 (or less) consecutive weeks, may be used intermittently (a day periodically when needed) or may be used to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave shall not exceed a total of 12 workweeks.

Intermittent leave may be taken when medically necessary for the employee's serious health condition or to care for a seriously ill family member. Intermittent leave must be documented in the medical certification form as medically necessary.

If an employee is taking leave intermittent or leave on a reduced schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as to not disrupt the city's business.

In instances when intermittent or reduced schedule leave for the employee or employee's family member is foreseeable or is for planned medical treatment, including recovery from a serious health condition, the city may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

Intermittent/reduced scheduled leave may be taken to care for a newborn or newly placed adopted or foster care child only with the city's approval.

Notice

An employee requiring FMLA leave must provide written or verbal notice of the need for the leave to his/her supervisor.

When the need for the leave is foreseeable, the employee must give verbal or written notice to his/her supervisor at least 30 days prior to the date on which leave is to begin.

If 30 days' notice cannot be given, the employee is required to give as much notice as practicable, including following required call-in procedures.

If an employee fails to give 30 days' notice for a foreseeable leave with no reasonable explanation for the delay, the leave may be denied until 30 days after the employee provides notice.

Certification and Documentation Requirements

For leave due to an employee's serious health condition or a family member's, the city will require the completion of a Medical Certification form by the attending physician or practitioner. The form must be submitted to Human Resources within 15 calendar days after requested. If the form is not submitted in a timely fashion, the employee must provide a reasonable explanation for the delay. Failure to provide medical certification may result in a denial or delay of the leave.



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The city may require an employee obtain a second opinion from a provider which the city selects. If necessary to resolve a conflict between the original certification and the second opinion, the city may require the opinion of a third doctor. This third opinion will be considered final. An employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

When leave is due to an employee's own serious health condition, a fitness for duty certification (FFD) may be required before an employee can return to work. Failure to timely provide such certification may eliminate or delay an employee's right to reinstatement under the FMLA.

If an employee is using intermittent leave, and reasonable safety concerns exist regarding the employee's ability to perform his or her duties, a FFD certificate may be required as frequently as every 30 days during periods when the employee has used intermittent leave.

Recertification

Recertification of the need for leave may be required if the employee requests an extension of the original length approved by the city or if the circumstances regarding the leave have changed. Recertification may also be required if there is a question as to the validity of the certification or if the employee is unable to return to work due to the serious health condition.

Reinstatement

Employees returning from Family and Medical Leave will be reinstated in the same position or a position equivalent in pay, benefits, and other terms and conditions of employment.

An employee's reinstatement rights are the same as they would have been had the employee not been on leave. Thus, if an employee's position would have been eliminated or an employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

Notice of Intent to Return from FMLA Leave

The city requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

Effect on Benefits

An employee granted leave under this policy will continue to be covered under the city's group health and dental insurance plan under the same conditions and at the same level of city contribution as would have been provided had they been continuously employed during the leave period.

The employee will be required to continue payment of the employee portion of group insurance coverage while on leave. If paid leave is being used during an FMLA leave, the employee's share of group health plan premiums must be paid by the method normally used during paid leave (usually payroll deduction). An employee on unpaid FMLA leave must make arrangements to pay the normal employee portion of the insurance premiums in order to maintain insurance coverage.

Arrangements for payment of the employee's portion of premiums must be made by the employee with the city.

All paid benefits run concurrently with unpaid FMLA benefits. For example, short term disability (STD) benefits, if available, will run concurrently with unpaid FMLA leave so that an employee will receive STD benefits while taking up to 12 weeks of FMLA leave. If there are changes in the city's contribution levels while the employee is on leave, those changes will take place as if the employee were still on the job.

Failure to Return to Work after FMLA

Under certain circumstances, if the employee does not return to work at the end of the FMLA leave for at least 30 calendar days, the city may require the employee to repay the portion of the monthly cost paid by the city for group health plan benefits. The city may also require the employee to repay any amounts the city paid on the employee's behalf to maintain benefits other than group health plan benefits.



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If an employee does not return to work following 12 weeks of FMLA leave, the employee may be subject to COBRA continuation of group health benefits.

If the employee fails to pay the city a portion of the premiums for which he or she is responsible during the FMLA leave and the employee fails to return to work, coverage may end. Loss of coverage for failure to pay premiums is not a qualifying event for purposes of continuation coverage under COBRA.

If the employee does not return from the FMLA leave and coverage ended sometime during the FMLA leave due to lack of payment, there is no COBRA election available. For COBRA to apply, the employee must have been covered on the day before the qualifying event. In this situation, the qualifying event would occur at the time the employee did not return from the leave.

Activities Prohibited During FMLA

While on leave, an employee may not engage in activities (including employment) which have the same or similar requirements and essential functions of an employee's current position.

While on leave, an employee may not engage in any activity that conflicts with the best interests of the city. Such conduct will result in disciplinary action up to and including termination of employment.

Seniority

Seniority does not accrue during any period of unpaid FMLA except as allowed when the leave is covered by worker's compensation. However, seniority accrued prior to commencement of FMLA leave will not be lost.

Use of Paid Leave

FMLA leave shall be unpaid, except that an employee may use applicable accrued paid leave during the FMLA leave period in accordance with appropriate city leave policies.

An employee shall elect, prior to or immediately upon commencement of the FMLA leave, whether to use accrued paid leave during the leave.

Upon electing to use accrued paid leave, the employee shall designate the type and amount of paid leave to be used during the FMLA leave period.

If the employee elects to use accrued paid leave, the designated amount of accrued paid leave shall be used continuously from the commencement through the duration of the FMLA leave period. Accrued paid leave shall not be used intermittently with unpaid leave during the FMLA leave period.

If the employee elects not to use accrued paid leave, the employee shall not use accrued paid leave for the duration of the FMLA leave period.

Any paid disability leave benefits available to an employee for a covered reason will run concurrently with FMLA.

Additional Leave

Employees who cannot return from an approved FMLA leave at the end of the approved leave period may request an extension (up to the maximum of 12 weeks allowed under FMLA). If the 12 FMLA weeks have already been used, the employee can request to go on a medical leave of absence or discretionary leave of absence without pay. If approved, before unpaid leave begins the employee must use any accrued annual leave, compensatory time, or other paid leave that remains. If the leave is approved and unpaid, the employee will be required to pay the full cost of all group insurance, as provided under COBRA, in order to continue coverage.

If the unpaid leave of absence is not approved or the employee fails to request additional leave, the employee will be considered to have voluntarily resigned. If circumstances beyond the employee's control prevented the employee from requesting additional leave, a retroactive leave request may be allowed, subject to the approval of the City Administrator.



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FMLA -- QUALIFIED EXIGENCY AND MILITARY CAREGIVER LEAVE

Qualified Exigency: Eligible employees (described above) whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service.

The qualifying exigency must be one of the following: (1) short-notice deployment, (2) military events and activities, (3) child care and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, and (8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

Military Caregiver Leave: An employee eligible for FMLA leave (described above) who is the spouse, son, daughter, or parent, or next of kin of a covered servicemember may take up to 26 weeks in a single 12-month period to care for that servicemember.

The family member must be a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

Amount of Leave – Qualified Exigency

An eligible employee can take up to 12 weeks of leave for a qualified exigency.

Amount of Leave – Military Caregiver

An eligible employee taking military caregiver leave is entitled to 26 workweeks of leave during a single 12-month period. The single 12-month period begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date.

Leave taken for any FMLA reason counts towards the 26 week entitlement. If an employee does not take all of 26 workweeks of leave entitlement to care for a covered servicemember during this single 12-month period, the remaining part of the 26 workweeks of leave entitlement to care for the covered servicemember is forfeited.

Certification of Qualifying Exigency for Military Family Leave

The city will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave

Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave

The city will require certification for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Servicemember

All other provisions of the FMLA policy, including use of paid leave, employee status and benefits during leave, the procedure for requesting leave, benefits during leave and reinstatement, are outlined above in the FMLA policy.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Caring. Caring for a covered family member includes psychological as well as physical care. It also includes acquiring care and sharing care duties.



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Child. An eligible child is defined as a person under 18 years of age (or a person incapable of self-care because of a physical or mental disability) who is a biological, adopted, foster, or step child, a ward of the employee, or a person with whom the employee is charged with a parent's rights, duties and responsibilities.

Spouse. Legally married spouse. Does not include domestic partners or common-law spouses.

Parent. An eligible parent includes a biological parent or a person who was charged with parental rights, duties and responsibilities over the employee when the employee was under the age of 18; "parent" doesn't include in-laws.

Serious Health Condition. An illness, injury, impairment, or physical or mental condition that involves one of the following:

- Hospital Care: Any period of incapacity or treatment connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility;
- Pregnancy: Any period of incapacity due to pregnancy, prenatal medical care or child birth;
- Absence Plus Treatment: A period of incapacity of more than three consecutive calendar days that also involves continuing treatment by or under the supervision of a health care provider;
- Chronic Conditions Requiring Treatments. An incapacity from a chronic condition which requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity;
- Permanent/Long-term Conditions Requiring Supervision;
- Multiple Treatments: Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider.

Incapacity. Inability to work, attend school, or perform other regular daily activities.

Son or Daughter of a Covered Servicemember. The covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.

Parent of a Covered Servicemember. A covered servicemember's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents "in law."

Next of Kin of a Covered Servicemember. The nearest blood relative, other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin. For example, if a covered servicemember has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered servicemember's next of kin. Alternatively, where a covered servicemember has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered servicemember's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered servicemember pursuant to § 825.122(j).

Covered Active Duty.

Covered active duty for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.

Covered active duty for members of the reserve components of the Armed Forces (members of the U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation as defined in section 101(a)(13)(B) of title 10, United States Code. (a) In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country.

Covered Servicemember.

- A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Serious Injury or Illness.

- In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered servicemember, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.
- Outpatient status, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

5.8 Pregnancy and Parenting Leave

In addition to city employees, this policy applies to firefighters.

An employee must work for the city for at least 12 consecutive months immediately preceding the request and average at least 20 hours or more per week during those 12 months to be eligible.

POLICY

In accordance with Minnesota statute, the City of Apple Valley will provide an unpaid leave of absence to an employee who is a biological or adoptive parent in conjunction with the birth or adoption of a child. Leave may also be used by a female employee for prenatal care or incapacity due to pregnancy, childbirth, or related health conditions.

Commencement of Leave

The leave shall begin at a time requested by the employee. The leave may begin not more than 12 months after the birth or adoption; except that, in the case where the child must remain in the hospital longer than the mother, the leave may not begin more than 12 months after the child leaves the hospital.



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Duration of Leave

The length of the leave shall be determined by the employee, but unless agreed to by the city, the leave shall not exceed 12 weeks; except that, an eligible full-time employee may take up to six months of leave under this section.

Use of Paid Leave

Parental leave shall be unpaid, except that an employee may use applicable accrued paid leave during the parental leave period in accordance with appropriate city leave policies.

An employee shall elect, prior to or immediately upon commencement of the parental leave, whether to use accrued paid leave during the leave.

Upon electing to use accrued paid leave, the employee shall designate the type and amount of paid leave to be used during the parental leave period.

If the employee elects to use accrued paid leave, the designated amount of accrued paid leave shall be used continuously from the commencement through the duration of the parental leave period. Accrued paid leave shall not be used intermittently with unpaid leave during the parental leave period.

If the employee elects not to use accrued paid leave, the employee shall not use accrued paid leave for the duration of the parental leave period.

Coordination with FMLA

If an eligible employee has any Family and Medical Leave (FMLA) leave allotment remaining at the time parental leave commences, the leaves will run concurrently until the FMLA leave eligibility is exhausted. In no instance shall the combination of FMLA and parental leave exceed six months.

Benefits

No city-provided benefits shall accrue during an unpaid parental leave. However, a covered employee shall be allowed to continue group health plan coverage at the employee's own expense. In situations where leave is designated as Family Medical Leave, the FMLA policy and the continuation of the city's contribution toward an employee's group health plan coverage shall apply.

Arrangements for payment of the employee's portion of premiums must be made by the employee through the city.

Return to Work

Upon return to work, the employee shall be returned to the same position held by the employee at the commencement of the parental leave, or one with comparable duties, number of hours, and pay. The employee will receive the same benefits and seniority the employee had before the parental leave.

If an employee does not return to active employment at the conclusion of the approved parental leave, the city shall consider it a voluntary resignation on the part of the employee.

PROCEDURES

The employee must notify his or her supervisor, in writing, as to the nature and anticipated length of the leave requested. The employee must provide reasonable advance notice of the leave request.

Adoptive Parents

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



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5.9 Medical Leave

This policy does not apply to elected officials.

POLICY

In order to give employees who need extended leave for reasons of illness or injury a reasonable time to recuperate and recover, the City of Apple Valley may provide an extended leave period for employees who have a serious health condition because of illness or injury.

An eligible employee must first use any available allotment of Family Medical Leave before an extended medical leave of absence will be granted.

An employee may be granted a leave of absence for medical reasons. The length of leave provided shall be determined on a case-by-case basis, considering what is reasonable depending on the individual facts and circumstances, and whether the leave would cause the city an undue hardship.

Paid Leave and Benefits

An employee shall use available accrued paid leave during the leave of absence for medical reasons.

During any full calendar month in which the employee is unpaid, the employee will be responsible for the total cost of the premiums on any group insurance coverage the employee or the employee's family is receiving through the city during this extended leave period, unless otherwise provided by law.

Employees will not accrue annual leave during any period of unpaid medical leave.

Reporting

While on leave, the employee must keep his or her supervisor reasonably informed regarding the status of the employee's medical condition and intent to return to work. The employee may be required to provide satisfactory medical evidence substantiating the need for continued leave.

End of Leave

If prior to the end of the approved leave period, it is determined by medical authority that there is not a reasonable expectation that the employee will be able to return to the his or her job because of inability to perform the job either with or without reasonable accommodation, approval of a medical leave of absence may be withdrawn and the employee separated from employment.

The city will grant the employee reinstatement to his or her job or job with similar duties and responsibilities at the end of the leave period unless the position has been eliminated or there are other circumstances that exist that would make reinstatement unreasonable, if the employee can continue to perform the job with or without reasonable accommodation.

If at the end of the approved leave period, the employee is still not able to return to his or her job because of inability to perform the job, either with or without reasonable accommodation, the employee shall be separated from employment.

PROCEDURES

An eligible employee will notify his or her immediate supervisor, in writing, as to the nature and anticipated length of the leave requested. A 30-day written notice is required if the leave is foreseeable. If a 30-day notice is not possible, as much notice as practicable must be given.

The employee may be required to provide satisfactory medical evidence substantiating the need for leave under this policy. It is the responsibility of the employee to obtain such information from his or her health provider and to provide the information to the city.



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5.10 Bone Marrow Donation Leave

In addition to city employees, this policy applies to firefighters.

An employee must work an average of 20 or more hours per week to be eligible.

POLICY

The City of Apple Valley will provide paid leaves of absence to an employee who seeks to undergo a medical procedure to donate bone marrow in accordance with Minnesota law.

The combined length of leaves for the purpose of undergoing a medical procedure to donate bone marrow shall be determined by the employee, but shall not exceed 40 work hours, unless agreed to by the city.

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

PROCEDURES

When an employee seeks to undergo a medical procedure to donate bone marrow, the employee will notify his/her immediate supervisor, in writing, as to the nature and anticipated length of the leave requested. The employee will provide reasonable advance notice of the leave request.

The city may require verification by a physician of the purpose and length of each leave requested by the employee to donate bone marrow.

If applicable, Family and Medical Leave will be applied concurrently during a bone marrow donation leave of absence.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Eligible Employee. An employee or firefighter of the City of Apple Valley who works an average of 20 or more hours per week.

5.11 Organ Donation Leave

In addition to city employees, this policy applies to firefighters.

An employee must work an average of 20 or more hours per week to be eligible.

POLICY

In accordance with Minnesota law, the City of Apple Valley will provide paid leaves of absence to an eligible public employee who seeks to undergo a medical procedure to donate an organ or partial organ to another person.

The combined length of leaves for the purpose of undergoing a medical procedure for organ donation shall be determined by the employee, but shall not exceed 40 work hours for each donation, unless agreed to by the city.

The city may require verification by a physician of the purpose and length of each leave requested by the employee for organ donation. If there is a medical determination that the employee does not qualify as an organ donor, any paid leave of absence granted to the employee prior to that medical determination is not forfeited.

PROCEDURES

When an employee seeks to undergo a medical procedure to donate an organ or partial organ to another person, the employee will notify his/her immediate supervisor, in writing, as to the nature and anticipated length of the leave requested. The employee will provide reasonable advance notice of the leave request.



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The city may require verification by a physician of the purpose and length of each leave requested by the employee for organ donation.

If applicable, Family and Medical Leave will be applied concurrently during an organ donation leave of absence.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Eligible Employee. An employee or firefighter of the City of Apple Valley who works an average of 20 or more hours per week.

5.12 School Conference and Activities Leave

In addition to city employees, this policy applies to firefighters.

An employee must work an average of 20 or more hours per week to be eligible.

POLICY

In accordance with Minnesota law, the City of Apple Valley will provide eligible employees with unpaid leaves of absence to attend school conferences or school-related activities related to the employee's child, if the conferences or school-related activities cannot be scheduled during non-work hours.

If the employee's child receives child care services or attends a prekindergarten regular or special education program, the employee may use school conference and activities leave time to attend a conference or activity related to the employee's child, or to observe and monitor the services or program, provided the conference, activity, or observation cannot be scheduled during non-work hours.

When the school conference and activities leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the city.

The combined length of school conference and activities leaves shall be determined by the employee, but shall not exceed 16 hours during any 12-month period.

School conference and activities leave shall be unpaid, except that an employee may use available accrued paid leave hours during the leave period in accordance with appropriate city leave policies.

PROCEDURES

When an employee wishes to use school conference and activities leave, the employee will notify his or her immediate supervisor, in writing, as to the nature and anticipated length of the leave requested. The employee must provide as much advance notice of the leave as is reasonably possible.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Eligible employee. An employee of the City of Apple Valley who works on average at least one-half the full-time equivalent position in the employee's job classification.

Child. A child of the employee, including a foster child.

Child care services. The care of a child by someone other than a parent, stepparent, legal guardian, eligible relative caregiver, or the spouses of any of the foregoing in or outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

5.13 Voting Leave

In addition to city employees, this policy applies to firefighters.

Minnesota law provides that every employee who is eligible to vote in an election has the right to be absent from work for the purpose of voting.

POLICY

The City of Apple Valley will provide an eligible employee with leave of absence from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence.

PROCEDURES

A city employee who will be absent from work for the purpose of voting in an election must give his/her immediate supervisor reasonable notice of the employee's intent to be absent.

The city shall not impose any penalty or deduction from salary or wages because of the absence.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Eligible employee. An employee of the City of Apple Valley who is eligible to vote in an election.

Election. A regularly scheduled state primary or general election, an election to fill a vacancy in the office of United States senator or United States representative, or an election to fill a vacancy in the office of state senator or state representative.

5.14 Election Judge Service Leave

In addition to city employees, this policy applies to firefighters.

Minnesota law provides that an individual who is selected to serve as an election judge may be absent from a place of work for the purpose of serving as an election judge without penalty.

POLICY

The City of Apple Valley will not penalize an eligible employee who is absent from work for the purpose of serving as an election judge.

The city will reduce the salary or wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from work.

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

PROCEDURES

An eligible employee must give his or her immediate supervisor 20 days written notice of the request to be absent from work for the purpose of serving as an election judge.

The written request to be absent from work must be accompanied by a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve.



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5.15 Court Appearances

POLICY

Employees will be paid their regular wage when required to testify in court for city-related business.

Payment will be reduced by the amount of any compensation received for court appearances (e.g., subpoena fees) arising out of or in connection with city employment, minus mileage reimbursement.

5.16 Jury Duty Leave

In addition to city employees, this policy applies to firefighters.

The City of Apple Valley encourages employees to serve on jury duty. Minnesota law provides employees with time away from work for jury duty.

POLICY

The city shall provide employees with leave for jury duty in compliance with Minnesota law.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible, or will use accrued paid leave hours to make up the difference.

Full-Time Employees

Full-time employees will be granted an amount of compensation equal to the difference between the employee's regular base pay and per diem compensation received for jury duty.

Compensation shall not include reimbursement for expenses incurred as a result of jury duty.

Part-Time and Casual Employees and Firefighters

The city will provide part-time and casual employees and firefighters with approved unpaid leave for jury duty.

PROCEDURES

The employee called to jury duty shall give notice of the need for leave and provide a copy of the jury duty summons to his or her supervisor as soon as practicable.

A full-time employee shall provide the Payroll Coordinator copies of any per diem payments the employee receives while on jury duty. The employee will be responsible for ensuring that a report of time spent on jury duty and pay form is completed by the clerk of court so the city will be able to determine the amount of compensation due for the period involved.

5.17 Military Leave

In addition to city employees, this policy applies to firefighters.

POLICY

State and federal laws provide employment-related protections and benefits to employees who are called to perform uniformed service, whether in the reserves or on active duty. The city will provide leave and re-employment to employees who engage in military service, in accordance with federal and state law.

Leave of Absence

The city will provide military leave to employees for up to five cumulative years of active duty service, plus such additional time in each case as the employee may be required to serve pursuant to law.



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An employee who will be absent from work for military duty must give his/her immediate supervisor reasonable notice of the nature and anticipated length of the leave.

The employee shall provide a copy of the employee's military order verification (including the employee's name, dates for activation, and purpose type of activation) or applicable drill schedule to his/her immediate supervisor. The supervisor shall provide a copy of the documentation to Human Resources.

Temporary Appointments

The city may fill a military vacancy by temporary appointment while an employee is absent on military leave.

Employer Paid Leave

The city will provide an employee with paid leave for up to 15 days of military service in a calendar year for qualified periods of military leave.

The 15 days of paid leave applies to qualifying periods of military leave of more than 15 consecutive days, as well as situations where a service member takes military leave at various times throughout the year totaling up to or in excess of 15 days.

For purposes of the 15 days of paid leave, a "day" is the same as a "shift" of work.

The city shall provide an employee with at least 8 hours of rest plus sufficient travel time to the duty station in advance of the time the employee is required to report to military duty.

Unpaid Leave

After the initial 15 days of paid leave to engage in military service, the remainder of applicable military leave shall be unpaid, except that an employee may elect to use applicable accrued paid leave hours during the leave period in accordance with appropriate city policies.

Insurance Coverage

Eligibility for continuation of insurance coverage for employees on military leave beyond 15 days will follow the same procedures as for any employee on a leave of absence.

Pension

A Public Employees Retirement Association (PERA) member on military leave for less than five years has the option to purchase service credit for time missed due to military leave. If the employee elects to purchase such service credit, the city will provide the employer contribution amount.

Re-Employment

Following completion of active military service, the employee shall upon request be promptly re-employed in accordance with federal and state law.

Reinstatement is based on the duration of military service. An employee returning from military service may apply for re-employment verbally or in writing.

Employees returning from military service must follow these guidelines based on calendar days of service:

- Up to 30 days of service: Employee must report to work for the next regularly scheduled shift on the day after release from the military ("release from the military" includes time necessary for safe travel home from the military duty location and eight hours of rest).
- From 31 to 180 days of service: Employee must apply for reemployment within 14 days after release.
- More than 180 days of service: Employee must apply for reemployment within 90 days after release.



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Timely reporting and application for re-employment may also depend on the length of the leave and whether the returning employee has been injured or incurred an illness while in the uniformed service.

An employee requesting re-employment following military leave for a period of more than 31 days must provide documentation establishing:

- The timeliness of his or her application for reemployment; and
- That the five year cumulative service limitation was not exceeded; and
- That the employee's military separation was not disqualifying.

Upon re-employment, the employee will receive the same seniority, annual leave accrual, and other benefits as if the employee had not been on leave. Annual leave will accrue from the time the person enters active military service until the date of reinstatement.

An employee re-employed following active duty military service shall not be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

If an employee does not meet the conditions for re-employment and timely return to active employment at the conclusion of active military service leave, the city shall consider it a voluntary resignation on the part of the employee.

Re-Employment of Disabled Veteran

A veterans who is hospitalized or convalescing because of a disability incurred or aggravated by military service has an extended period, up to two years or more from the date of completion of service, to apply for reemployment or return to work.

The city will make reasonable efforts to accommodate a veteran who has a disability that was incurred in, or was aggravated during, his or her service so he or she can perform the job that would have been held if the employee had not been on military leave.

5.18 Military Service Member Family Leave

In addition to city employees, this policy applies to firefighters.

In accordance with Minnesota law, the City of Apple Valley will not discriminate against the family of a service member and will provide unpaid leave for certain events relating to the military service of the family member.

POLICY

Leave for Events Relating to the Military Service of a Family Member

The City of Apple Valley will not discharge or take adverse employment action against any employee because of the membership of that employee's spouse, parent, or child in the military forces of the United States, of this state, or any other state.

The City of Apple Valley will not discharge, take adverse employment action against, or otherwise prevent an employee from attending the following kinds of events relating to the military service of the employee's spouse, parent, or child and to which the employee is invited or otherwise called upon to attend by proper military authorities:

- (1) departure or return ceremonies for deploying or returning military personnel or units;
- (2) family training or readiness events sponsored or conducted by the military; and
- (3) events held as part of official military reintegration programs.



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The City of Apple Valley will provide an eligible employee with a reasonable amount of unpaid leave for the purposes listed above in items (1) through (3). The leave shall not exceed two consecutive days or six days in a calendar year.

Leave for Immediate Family Members of Military Personnel Injured or Killed in Active Service

The City of Apple Valley will grant up to 10 working days of leave to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service.

Use of Available Paid Leave

Leave under this policy shall be unpaid, except that an employee may use applicable accrued paid leave during the leave period in accordance with appropriate city leave policies.

PROCEDURES

An eligible city employee must give his/her immediate supervisor reasonable notice of the nature and anticipated length of the leave when requesting time off.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Immediate family member. Parent, child, grandparent, sibling, or spouse of the employee.

5.19 Victim or Witness Leave

POLICY

The city will allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, or is the spouse or immediate family member of such victim, reasonable time off from work to attend criminal proceedings related to the victim's case.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Immediate family. Parent, spouse, child, or sibling of the employee.

5.20 Discretionary Leave of Absence Without Pay

This policy does not apply to part-time or casual employees or elected officials.

POLICY

A full-time employee may request, and the city may grant a leave of absence without pay. The reason for granting or denying a request for a leave of absence without pay shall be at the sole discretion of the city.

A discretionary leave of absence without pay shall not exceed six months. If an employee does not return to active employment at the conclusion of the approved leave without pay, the city shall consider it a voluntary resignation on the part of the employee. Upon return to work, the employee shall be returned to a similar position held by the employee at the time of the leave.

No annual leave shall accrue during a discretionary leave of absence without pay. However, the employee shall be eligible to continue group insurance at the employee's own expense.

Discretionary leave of absence without pay shall require the advance approval of the City Administrator, or designee.



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The city may cancel a discretionary leave of absence without pay at any time at any time for any reason upon written notice to the employee.

5.21 Administrative Leave

In addition to all city employees, this policy applies to firefighters.

This policy does not apply to elected officials.

POLICY

An employee may be placed on an administrative leave at the discretion of the city, with or without notice, in any situation the city deems to warrant removing the employee from the worksite. The leave may be paid or unpaid, depending on the circumstances, as determined by the City Administrator or designee. The leave and paid or unpaid status of the leave may be reviewed and amended upon the employee's reinstatement to active duty.

5.22 Medical Certification of Absence Due to Illness or Injury

In addition to all city employees, this policy applies to firefighters.

This policy does not apply to elected officials.

POLICY

Good attendance is an essential job function for all city employees. If unplanned absences due to illness or injury are excessive or suggest abuse, a medical certification may be required.

The medical certification must state the nature and duration of the illness or injury and verify that the employee is unable to perform the duties and responsibilities of his/her position.

Leave may be denied for any employee required to provide a doctor's statement until such a statement is provided.

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

Return to Work Following Absence Due to Illness or Injury

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

Any work restrictions must be stated clearly on a return-to-work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision.

5.23 Public Office Meeting Leave

The City of Apple Valley supports employees who serve in public office. Minnesota law provides employees with time away from work for public office meetings.

In addition to city employees, this policy applies to firefighters.



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POLICY

The city shall provide employees with time off from regular work to attend meetings required by reason of the public office.

As agreed between the city and the employee, the leave shall be:

1. Unpaid; or
2. Made up with other hours worked; or
3. Paid through use of the employee's available paid leave hours.

If the employee takes time off without pay, the city will make a reasonable effort to allow the employee to make up the time with other hours when the employee is available.

There shall be no penalty or retaliation against an employee for absences necessitated by reason of the employee's public office.

PROCEDURES

A written agreement regarding an employee's time off to serve public office will be developed by the appropriate supervisor and the employee. This agreement will be submitted to the department head for final approval and a copy provided to Human Resources. The written agreement should outline expectations and procedures for the employee requesting time off to attend meetings necessitated by reason of the employee's public office, as well as a description of how normal operations of the city will be maintained during that employee's absences.

This agreement should address the following:

- A schedule/calendar of expected time away from scheduled work hours to attend regular meetings of the employee's public office;
- Expectations for providing reasonable advance notice of absences;
- Contingency response to cover employee's absence to attend "emergency" meetings and a definition of what constitutes and "emergency" meeting;
- Description whether time off will be taken with use of available paid leave hours, without pay, or made up with other hours worked that are agreeable to the employee and the supervisor; and
- A periodic review process to ensure that the agreement is meeting the needs of the employee and the city.

5.24 Leave of Absence for Legislator or Full-Time Elected City/County Office

In addition to city employees, this policy applies to firefighters.

POLICY

Leave of Absence

In accordance with Minnesota statute, the city will provide an employee, who serves as a legislator or is elected to a full-time city or county office in Minnesota, with a leave of absence from employment when on the business of the office.



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Use of Paid Leave Hours

The leave shall be unpaid, except that the employee may elect to use available paid leave hours. If the employee elects to use accrued paid leave hours, the designated amount of accrued paid leave shall be used continuously from the commencement through the duration of the leave period. Accrued paid leave shall not be used intermittently with unpaid leave during the leave period.

Insurance Coverage

Eligibility for continuation of insurance coverage for employees on leave under this section will follow the same procedures as for any employee on a leave of absence.

Temporary Appointments

When an employee is absent with leave under this section, the city may fill the vacancy by temporary appointment while an employee is absent.

Reinstatement

Upon the completion of the last legislative day in each calendar year, or, in the case of an elected city or county official, on the completion of the final day of the term to which the official was elected, the employee shall be reinstated in the public position held at the time of entry into the legislature or taking city or county office, or be placed in a position of like seniority, status, and pay if it is available at the same salary which would have been received if the leave had not been taken, upon the following conditions:

1. That the position has not been abolished or that its term, if limited, has not expired;
2. That the legislator makes a written application for reinstatement to the appointing authority within 30 days after the last legislative day in a calendar year or, in the case of an elected city or county official, within 30 days after the expiration of the elected term; and
3. That the request for reinstatement is made not later than ten years after the granting of the leave.

Upon reinstatement, the employee shall have the same rights with respect to accrued and future seniority status, paid leave, insurance benefits, and other benefits as if actually employed during the time of the leave.

No officer or employee reinstated shall be removed or discharged within one year after reinstatement except for cause and after notice and hearing, but this does not extend a term of service limited by law.

Exceptions

The rights and privileges granted by this section do not apply if the elected office is constitutionally or legally incompatible with the public employment or the elected person chooses to take leave as provided by other law.

6: WORKPLACE SAFETY AND HEALTH

6.1 A Workplace Accident and Injury Reduction (AWAIR) Policy

In addition to all city employees, this policy applies to firefighters, volunteers, and such "non-employees" as contract employees whose work is directed by the city. For the purpose of the administration of this program, there will be no difference between city employees and any "non-employees" as described above.

Contractors (electricians, plumbers, etc.) and visitors will also be required to comply with appropriate portions of this program. This requirement will be communicated to contractors and visitors by the appropriate department representative.

The safety of our employees is the first consideration in the operation of the city. Accidents and injuries are not only costly to the city and the individual workers but often disastrous to the future of his or her family. It is our policy that everything within reason will be done to maintain a safe and healthy workplace for all employees. Each employee has a place in our accident prevention program and is expected to cooperate fully in all measures taken in loss prevention.

POLICY

It is the policy of the City of Apple Valley (the city) to provide our employees with a work place free of recognized safety and health hazards in an effort to conserve our human, physical and financial resources. The health and well-being of all personnel is important.

This policy is intended to serve as an overview of the Safety and Health Program. It outlines the philosophy by which the city will develop, implement and maintain all other safety programs which concern more specific topics.

I. Goals/Objectives of the Safety and Health Program (*ref. 182.653, subd. 8*)

General. The ultimate goal of the safety and health program is to prevent and reduce employee injuries and illnesses through the administration of an effective safety and health program.

Elements of this program are:

- Maintenance of safe and healthful working conditions.
- Ensuring employee adherence to proper operating practices and procedures designed to prevent injuries and illness.
- Observing and applying federal, state, and local safety regulations.
- Each employee is properly trained and instructed on job procedures prior to job assignments.
- Providing safety training for all employees as a means of communicating policy and usable knowledge.
- Conducting periodic safety and fire inspections to identify potential hazards in the work place.
- Conducting accident/incident investigations to determine the cause of accidents and the actions necessary to prevent future reoccurrences.

Specific goals and objectives. Quantifiable goals and objectives are identified to measure our progress to the above stated goals. As a rule, these goals and objectives are measurable and attainable. They are provided in the Annual Safety and Health Workplan.

Responsibility for goal and objective setting. Goals and objectives are established by the Safety Program Coordinator, safety committees and each department as needed.

Time frame. The Safety and Health efforts of the city will be an ongoing effort and will be updated and reviewed annually or as often as necessary.

II. Management, supervisory, and employee involvement (*ref. 182.653, subd. 8(1)*)

General. This section describes how managers, supervisors, and employees are responsible for implementing the Safety and Health Program and how continued participation of management will be established measured and maintained.

Safety Program Steering Committee. The Safety Program Steering Committee (SPSC) is responsible for assisting the Safety Coordinator and the Human Resources Department in developing the overall direction of the Safety and Health Program, including discussion of policies, procedures and facility or equipment upgrades needed to comply with state and federal law. The SPSC may assist with development of the annual work plan, selection of the outside safety consultant, planning of emergency drills, and will assist the Safety Coordinator with enforcement issues within the departments.

Safety Coordinator. The Safety Coordinator is appointed by the City Administrator. The Safety Coordinator chairs the Safety Program Steering Committee (SPSC) and/or delegates this function as appropriate. The Safety Coordinator works with the advice of the SPSC and reports to the City Administrator. The coordinator acts as a liaison between the city and its outside safety consultant. The coordinator helps in drafting, scheduling and implementing the annual Safety and Health Program.

Department Heads and Supervisors. The primary responsibility for providing an accident and hazard free place of employment rests with the department heads and supervisors. To carry out the Safety and Health Program, they must enforce the maintenance of safe working conditions and encourage the observance of safe habits. They must see to it that safe work methods and procedures are followed, and they must provide for the necessary safety training of supervisors and employees.

Department heads and supervisors are expected to lead the way toward establishing and maintaining safe work methods and practices. They promote safety among their employees by their attitude and by the example they show. Department heads and supervisors shall be responsible for training their employees in safe work procedures, reporting and investigating all accidents and near accidents promptly, detecting and correcting unsafe working conditions and acts, and encouraging safety suggestions and discussions among their employees.

In addition, department heads and supervisors shall promptly complete required reports for the Safety and Health Program and required forms for work place injuries. Department heads and supervisors shall obtain and maintain an inventory of hazardous substances and up-to-date MSDS sheets as required by the Right To Know Program. Department heads and supervisors are responsible for ensuring that hazardous substances, harmful physical agents (noise, heat/cold stress, ionizing/non-ionizing radiation) and infectious agents are identified within their areas of responsibility and information to aid in preventing injury or illness is readily available to employees.

City Wide Safety Committee. The City Wide Safety Committee is responsible for assisting the City of Apple Valley in identifying, implementing, maintaining and promoting the Safety and Health Program, directed toward the prevention of injury and illness on the job. It also assists the city in its efforts to comply with federal and state regulations and city policies. The committee is accountable to the Safety Program Steering Committee and to the employees it represents.

The committee fulfills its responsibilities as outlined above by performing the following types of activities as applicable:

- Review statistics and data on injuries, illnesses, and exposures.
- Review reports of allegedly hazardous conditions and safety suggestions.
- Conduct safety inspections.
- Assist with the development and review of programs, procedures, hazard evaluations, etc.
- Recommend, conduct, and /or participate in training sessions.
- Promote the Safety and Health Program.

The City Wide Safety Committee shall, with the approval of the City Administrator and in cooperation with the AFSCME Labor-Management Safety Committee, plan, document and recommend city-wide safety training and education programs for all departments and divisions.

The Central Maintenance Facility AFSCME Labor-Management Safety Committee. The Central Maintenance Facility AFSCME Labor-Management Safety Committee is comprised of representatives from management and AFSCME. Members are appointed by the respective leadership of the groups represented.

Employees. All city employees are required to become familiar with the provisions of this safety manual and with the safety regulations and requirements in effect within their department or division. Employees shall guard their own safety and that of their co-workers. Employees are responsible for the prompt reporting of all personal injuries and all accidents occurring within the course of their employment. They are responsible for reporting all unsafe vehicles, equipment, tools or working conditions to their immediate supervisor.



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Employees are also responsible for reporting unsafe acts such as equipment abuse, careless operation, or horseplay on the job. A supervisor shall not assign unsafe vehicles, equipment or tools.

Employees appointed to the city Wide Safety Committee and/or Central Maintenance Facility AFSCME Labor-Management Safety Committee shall assist in promoting the programs and recommendations of these committees.

III. Hazard Identification and Control (*ref. 182.653, subd. 8(2)*)

General. This section describes the methods used to identify, analyze, and control new or existing hazards, conditions, and operations.

When feasible, we will eliminate or reduce the exposure to hazards by applying engineering controls. When engineering controls are infeasible or fail to completely control the hazards, administrative controls will be used to minimize employees' exposures. When these types of controls fail, appropriate Personal Protective Equipment will be issued and employees will be required to wear it.

Safety Inspections. The city will conduct safety surveys of work sites on a periodic basis to determine potential hazards which may be encountered in the normal course of duty. Inspections may be conducted by the safety committees, insurance representatives, outside consultants, or other appropriate, concerned parties.

Results of the inspections are to be provided to the department heads or supervisors and Safety Program Coordinator who will forward the results and recommendations to the appropriate staff. The department heads and or supervisors will be responsible for taking corrective action. The Safety Program Coordinator will be copied on all such reports.

Periodic Sampling. Periodic environmental sampling may be conducted when it is believed employees may be exposed to new hazards or hazardous materials in concentrations which may be above recognized OSHA standards. Results of the sampling will be available to employees within 15 days of the results of the monitoring.

Job Safety Analysis (JSA). Safe work practices will, when applicable, be developed through the use of the Job Safety Analysis (JSA). Each major job element will be reviewed for its potential to cause injury and recommendations for hazard controls will be developed.

Implementation of safety procedures developed through the JSA will be communicated to employees through a variety of means including training sessions, safety meetings, or one-on-one communication.

Employee Hazard Reporting and Safety Suggestions. Any employee who feels that there is an unsafe condition existing in any part of the operation, or has a suggestion to enhance employee safety and health must immediately report it to their supervisor or the Safety Program Coordinator. Hazard Report/Safety Suggestion forms are available for employees on the Intranet or from their supervisor or the Safety Program Coordinator. The master copy of this form is provided in the Forms and Supporting Documentation Section of the Safety and Health program.

It will be the responsibility of the Safety Program Coordinator or the department supervisor to follow up on the hazard report or suggestion at the earliest feasible opportunity. All submissions will receive an appropriate degree of evaluation, and in all cases, the Safety Program Coordinator, the department head or the supervisor will communicate their findings to the employee who made the report.

When appropriate, written documentation of the employee report or suggestion, and the corrective action taken (if any) will be maintained in the designated section of this binder.

Employees who report hazards to the city management will not be discriminated or retaliated against in any manner.

Personal Protective Equipment. Personal Protective Equipment (PPE) will be selected on the basis of the hazard in which the employee will be working and the effectiveness of the protective equipment to reduce or minimize employee exposures to the hazard. The city will use a PPE Assessment Form to aid in selection. Employees are issued specific equipment as necessary for their personal protection while on the job. PPE equipment identified for use can be found in the PPE Selection.

It is the responsibility of each employee to maintain their protective equipment in good condition. If there is a problem with their equipment they are required to report it to their supervisor.

Monitoring Work Place Injuries and Illness/OSHA 300 Records. All work place injuries and illnesses will be monitored by the Safety Program Coordinator.

IV. Training and Communication (*ref. 182.653, subd. 8(3)*)

General. This section describes how this program will be communicated to applicable employees, and how they will be trained in the required skills, procedures, etc. See Safety Training Matrix.

Timing of training. Employees will receive training when:

- They are initially assigned to an area, task, or activity to which this program applies.
- When changes in hazards, operations, materials, etc. make retraining appropriate.
- When employees' performance or other observation indicate a need for retraining.
- Refresher training will be provided annually.

Responsibilities. The department heads and supervisors are responsible for ensuring that all appropriate employees receive the required training on a timely basis. At least annually, the Safety Program Coordinator and the safety committees will review the training program to ensure its adequacy and identify opportunities for improvement.

In all cases, training will be conducted by a suitably qualified person.

Records. All employee training will be adequately documented. Training records will include:

- The names and job titles of all attendees.
- The name of the person conducting the training.
- The date, location and time of the session(s).
- A brief description or outline of the material discussed.

Training records will be maintained in the department with copies to the Human Resources Department. All records of training will be maintained for a minimum of three years beyond the training date.

Bulletin boards. Bulletin boards are provided to keep employees informed of safety related issues, performance, etc. This information is also available on the Intranet.

V. Injury Reporting/Investigation and Return to Work (*ref. 182.653, subd. 8(4)*)

General. This section describes how work place accidents/incidents will be investigated, how corrective actions will be implemented, and the policies relating to returning injured employees to meaningful work at the earliest possible time.

Identification of cause and correction. The city's philosophy of accident analysis is that accidents never "just happen", rather they are caused by a series of actions or steps or failures. If these steps can be identified, they can be controlled or eliminated. The primary purpose of the investigation is to determine the root causes of the accident, and eliminate the causative factors.

Process and responsibilities. Supervisor's investigations will begin with prompt reporting of the accident by the employee to the supervisor. It will be the responsibility of the supervisor to coordinate any necessary emergency medical care. The supervisor will direct the employee to seek treatment at the medical facility designated by the city whenever possible.

Basic information to be collected at the scene of the accident should be filled out by the supervisor on the Supervisor's Report of Accident or Injury. These forms are printable from the electronic version of this program or available from the Safety Program Coordinator, who will assist the supervisor as needed and may conduct further investigations as necessary. The accident investigation is to be initiated as soon as feasible following the accident, but always within 24 hours of the initial report.



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When applicable the supervisor and department head will provide results of the investigation and recommendations for corrective actions to the area supervisor (for items pertaining to conditions) and/or the Safety Program Coordinator (for items pertaining to behaviors). The department heads and supervisors are responsible for taking corrective action.

Return to work. All work-related illnesses and injuries must be reported to the supervisor prior to seeking medical treatment (except in cases of medical emergencies such as life-threatening cases). If any work is to be missed as a result of the injury, the employee must report this to the supervisor as soon as possible (but always within 24 hours, or the beginning of the scheduled work shift, whichever is sooner).

If the employee seeks medical attention, he/she must provide a "workability report" or equivalent, from the medical provider, outlining the employee's restrictions, if any. Upon receipt of the workability report, the supervisor and/or the Safety Program Coordinator will meet with the injured employee to attempt to identify potential work assignments which can be performed within the employee's restrictions. Providing these assignments will be based on operational needs and the city cannot guarantee such assignments will be available.

The employee is expected to monitor his/her own work and ensure that he/she is working within restrictions at all times. The city reserves the right to require the employee to acknowledge in writing that he/she understands the contents of the workability report and his/her restrictions, and that it is the employee's responsibility to monitor his/her own work to ensure that all such restrictions are complied with.

VI. Safety Rules and Enforcement (ref. 182.653, subd.8(5))

General. This section describes how safe work practices and rules will be enforced.

Disciplinary policy. Employees found to be in violation of this policy will be subject to disciplinary action, up to and including termination.

Formal safety rules are communicated to employees through means such as the Safety and Health Program, Intranet, bulletin boards, safety meetings, training, performance reviews, etc.

PROCEDURES

This program will be reviewed, at minimum annually, by the Safety Program Coordinator or designee. The purpose of this review is to ensure its ongoing adequacy, effectiveness, and accuracy, as well as to identify any opportunities for improvement. This will include a review of all policies, programs, procedures, training records, and other available written materials which pertain to the program. When appropriate, the review shall also include changes in available control technology. All such reviews (whether changes were made or not) will be documented on the review page of the Safety and Health Manual.

6.2 Workplace Violence Prevention

In addition to all city employees, this policy applies to firefighters and volunteers. This policy specifically applies to covered individuals who have a valid permit to carry a pistol. This policy does not apply to sworn police officers performing in the line of duty.

The City of Apple Valley is committed to creating and maintaining a workplace free from threats and acts of violence for all employees and visitors. It is the responsibility of every employee to treat others with respect and dignity and to promote a safe and healthy workplace free from threats and acts of violence.

POLICY

The City of Apple Valley does not tolerate any type of workplace violence committed by or against employees and visitors. Employees are prohibited from making threats or engaging in violent activities.

Violence

Acts of violence include, but are not limited to:

- Use of physical force and/or threat of physical force;
- Causing physical injury to oneself or another person;
- Written or verbal communications, which are of a threatening, intimidating or coercive nature;
- Vandalism or intentional destruction of city property or the property of another person;
- Committing acts motivated by, or related to, discrimination and harassment;
- Deliberate or careless conduct endangering the safety of another person;
- Possessing, carrying, or using a firearm and ammunition, or other dangerous weapons as defined while working on city property, working in any location on behalf of the city, driving on city business, riding as a passenger on city business, performing emergency or on-call work after hours on behalf of the city, attending training or conferences on behalf of the city, except where such possession or use is specifically required as part of the employee's job duties.

An exception to this policy is that city employees may carry and possess firearms only in city-owned parking areas if they have obtained the appropriate permit(s). Therefore, if a city employee must drive his or her personal vehicle on city business, and the vehicle contains the employee's firearm, he or she must either: 1) check the firearm with the Police Department during the workday and retrieve it after work, or 2) ensure the firearm is enclosed in a case or container designed for that purpose, is unloaded, and is secured in an area of the personal vehicle where it will not be visible to the public when the employee is conducting city business (example: a cased firearm in a locked trunk). If the employee checks the firearm with the Police Department, the firearm must be presented unloaded, safety on, in a case or container designed for that purpose.

Acts of violence on city property or facilities, or while on city business, will not be tolerated or ignored. Employees found to be in violation of this policy will be subject to disciplinary action up to and including termination of employment. Any unlawful act of violence committed by employees or members of the public while on city property or while using city facilities or property, will be prosecuted as appropriate. The city intends to use reasonable legal, managerial, administrative, and disciplinary procedures to secure the workplace from violence and to reasonably protect employees and members of the public.

The city reserves the right to search and inspect city property.

The employee's supervisor or department head shall have the authority to approve whether it is necessary for an employee to carry any tools or instruments on their person to properly perform the duties of their job and whether certain tools will be provided by the city to complete work-related tasks.

Commitments and Responsibilities

All employees are responsible for:

- Refraining from acts of violence;
- Promoting safe workplace practices, including this policy;
- Promptly reporting to department heads, supervisors and/or Human Resources any dangerous, harassing, threatening or violent situations that occur in the workplace;
- Refraining from any type of retaliation against a person for having made a complaint or report of violence in the workplace, or participating in an investigation of violence in the workplace.



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PROCEDURES

Reporting

All employees shall be responsible for promptly reporting incidents of violence in the workplace or potentially dangerous situations to their department head, supervisor and/or Human Resources and where appropriate to law enforcement authorities. A department head or supervisor receiving a report of an incident from an employee should promptly notify Human Resources of the report.

Reporting Orders for Protection

All employees shall notify their department head, supervisor and/or Human Resources when an order for protection has been obtained naming city premises, and are encouraged, but not required, to make such notification when an order for protection is obtained which does not name city premises as a protected area.

Retaliation

Retaliation against a person for having made a complaint or report of violence in the workplace, or participating in or assisting in an investigation of violence in the workplace is prohibited. Any person who believes that he or she has been subject to such retaliation/harassment should promptly bring it to the attention of his or her department head, supervisor and/or Human Resources.

Confidentiality

Consistent with the necessity of prevention and investigation of violence in the workplace, personal information obtained in the course of an investigation under this policy shall be considered confidential and not subject to public disclosure except as may be necessary as part of the disciplinary process or as otherwise provided by law.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Dangerous weapon. A dangerous weapon is any instrument capable of producing bodily harm, and the use of which manifests intent to harm or intimidate another person or that warrants alarm for the safety of another person. This includes city tools, instruments, or other implements which if used improperly and/or for anything other than their intended use could result in bodily harm, intent to harm, intimidate another person or threaten the safety of the employee and/or another person.

6.3 City Driving

In addition to all city employees, this policy applies to firefighters and volunteers.

POLICY

The City of Apple Valley expects all employees who are required to drive as part of their job to drive safely while on city business and to maintain a good driving record. An employee driving on city business, whether in a city-owned or personal vehicle, shall obey all applicable traffic laws.

Driver's License

No employee may operate a vehicle for city business without a valid state-issued driver's license.

An employee, who drives a vehicle on city business, is required to notify their immediate supervisor on the first work day after any temporary, pending, or permanent loss, suspension, revocation, restriction, and/or other action is taken which would affect the employee's ability to maintain licensure. The employee is also required to keep their supervisor informed of any changes thereafter.



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Driving Data Examination

The city may examine driving data for all employees whose position requires a valid driver's license to determine compliance with this policy for public safety and reduction of exposure to liability.

Driving data will not be accessed until the employee has provided written informed consent for the city to access the data. Failure to provide consent will create a presumption that the employee's license to drive has been suspended or terminated and the employee may be subject to discipline.

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

6.4 Use of Cell Phones and Other Communication Devices by Casual Employees

This policy applies only to casual employees.

The safety of employees and the general public is a primary consideration in the operation of the city. The City of Apple Valley will implement programs that provide employees with a work place free of recognized safety and health hazards in an effort to conserve our human, physical and financial resources.

POLICY

Casual employees are not permitted to use cellular phones or any other mobile communication technology devices while operating a city motor vehicle or any other piece of city equipment including, but not limited to: lawnmowers, tractors, and tool cats; performing work tasks within the street, boulevard, or road right of way; or carrying out or assisting with job assignments.

Casual employees are not permitted to use cellular phones, or any other mobile communication technology devices while a passenger in a city motor vehicle or on or in any other apparatus.

Personal mobile communication technology devices must be turned off and stowed during work hours. Devices may be used during approved rest breaks.

The city may issue city-owned communication devices such as radios to certain staff members.

If it becomes necessary in an emergency or work related situation to use such communication devices while operating city vehicles or equipment, the vehicle and/or equipment must be brought to a complete stop in a safe manner and in a safe location and placed in "park".

Casual employees are to refrain from doing any other activities while driving or operating equipment that may lead to being inattentive to their primary responsibility including the operation of a motor vehicle and/or equipment safely and with full attention given to the operation.

Violation of this policy will result in disciplinary action, up to and including termination of employment.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Mobile communication technology devices. Examples include: cellular phones, smart phones, and other devices.

Use. Includes dialing, talking, texting, reading, listening, and handling.

6.5 Drug Free Workplace

In addition to all city employees, this policy applies to firefighters, volunteers, contractors, applicants, and visitors.



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The City of Apple Valley is committed to protecting the safety, health and well-being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment. The city encourages employees to voluntarily seek help with drug and alcohol problems.

POLICY

The drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the organization. Therefore, this policy applies during all working hours, whenever conducting city business or representing the city.

Prohibited Behavior

Employees are prohibited from engaging in any of the following conduct:

1. Bringing or storing (including in a desk, locker, automobile, or other repository) illegal drugs or drug paraphernalia on the City of Apple Valley's premises or property, including the City of Apple Valley's owned or leased vehicles, in vehicles used for the City of Apple Valley purposes, or a customer's premises.
2. During work hours, while on the City of Apple Valley's premises or wherever the City of Apple Valley's work is being performed, including during any breaks, having possession of, being under the influence of, testing positive for, or otherwise having in one's system, illegal drugs or alcohol.
 - a. This does not include the limited sampling of alcoholic beverages on city premises for training purposes by Liquor Operations employees under the direction of the Liquor Operations Director
3. Using, possessing, consuming, transporting, distributing or attempting to distribute, manufacturing, selling or offering for sale, trading, or dispensing illegal drugs or intoxicants.
4. Illegal or unauthorized use, or intentional misuse and/or abuse of prescription drugs.

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor) to avoid unsafe workplace practices.

5. Being convicted of or entering a plea of guilty relative to any criminal drug or alcohol offense which would affect an employee's ability to perform the duties of his or her position. All employees must notify the City of Apple Valley in writing of any criminal drug or alcohol conviction no later than five (5) calendar days after such conviction. Upon receipt of this writing, the City of Apple Valley will determine what, if any, discipline is appropriate given the nature and severity of the offense.
6. Failing to notify a supervisor before going to work if an employee believes that he or she is under the influence of drugs or alcohol.
7. Refusing to cooperate with the terms of this policy in any way.

Employees who engage in any of the prohibited conduct listed above are in violation of this policy and are subject to discipline, up to and including termination. Referral for criminal prosecution may occur where appropriate.

In the case of an applicant who violates this policy, the offer of employment can be withdrawn.

Assistance



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The City of Apple Valley recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

The employee is responsible for the cost of any recommended treatment.

Confidentiality

All information received by the organization through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to use of alcohol or other drugs.

In addition, employees are encouraged to:

- Be concerned about working in a safe environment.
- Support fellow workers in seeking help.
- Use the Employee Assistance Program.
- Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

- Inform employees of the drug-free workplace policy.
- Observe employee performance.
- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Counsel employees as to expected performance improvement.
- Refer employees to the Employee Assistance Program.
- Clearly state consequences of policy violations.

6.6 Drug and/or Alcohol Testing Policy Job Applicants for Sworn Police Officer Positions.

This policy applies to a person who applies for a sworn police officer position with the City of Apple Valley and who has received a job offer made contingent on the person passing drug and/or alcohol testing.



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PURPOSE

The purpose of this policy is to provide written guidelines in compliance with applicable Minnesota Statutes for requesting or requiring job applicants for sworn police officer positions to undergo drug and/or alcohol testing. The city prohibits the possession, consumption, sale, transfer or “being under the influence” of alcohol or illegal drugs during work hours.

DEFINITIONS

For purposes of this drug and/or alcohol testing section, the following terms shall have the meanings ascribed to them:

Commissioner. The Commissioner of Minnesota’s Department of Health.

Confirmatory Test and Confirmatory Retest. A drug or alcohol test that uses a method of analysis approved by the commissioner as being reliable for providing specific data as to the drugs, alcohol, or their metabolites detected in an initial screening test.

Drug. A controlled substance as defined in M.S. § 152.01, subd. 4.

Drug and Alcohol Testing. Analysis of a body component sample approved by the Commissioner, including blood, breath, and urine, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

Drug Paraphernalia. Shall be defined as set forth in Minnesota Statutes.

Employer. The city acting through the City Administrator, designee of the City Administrator, or City Council.

Initial Screening Test. A drug and/or alcohol test which uses a method of analysis approved by the Commissioner as being capable of providing data as to the general classes of drugs, alcohol, or their metabolites.

Job Applicant. A person who applies for a sworn police officer position with the Police Department and includes a person who has received a job offer made contingent on the person passing drug and/or alcohol testing.

Positive Test Result. A finding by a laboratory licensed by the State of Minnesota under Minnesota Statutes of the presence of alcohol, drugs or their metabolites in a sample tested in levels at or above the threshold detection levels set by the Commissioner.

Reasonable Suspicion. A basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety Sensitive Position. A job in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person. All sworn police officers occupy safety-sensitive positions.

Under The Influence. Having the presence of a drug or alcohol at or above the level of a positive test result.

Valid Medical Reason. 1) Written prescription, or an oral prescription reduced to writing, which satisfies the requisites of M.S. § 152.11, and names the employee as the person for whose use it is intended; 2) The drug was prescribed, administered and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in M.S. § 152.12; 3) The drug was used in accordance with terms of the prescription; and 4) Over-the-counter medication was used in accordance with terms of the product’s directions.

Working Days. For purposes of this section to be defined as Monday through Friday.

POLICY

Persons Subject To Testing

All job applicants, as defined by this section, who have received a contingent offer of employment, are subject to testing under this section.



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Refusal To Undergo Testing

A job applicant has a right to refuse to undergo drug and/or alcohol testing. If a job applicant refuses to undergo drug and/or alcohol testing required by the employer, no such test shall be given.

Consequences of Refusal

If a job applicant refuses to undergo drug or alcohol testing, the applicant shall be deemed to have withdrawn application for employment.

Procedure for Testing

- (1) *Notification form.* At the time the employer requests a job applicant to undergo drug or alcohol testing, the employer shall provide the individual with a form on which to:
 - (a) Acknowledge the individual has seen a copy of the employer's drug and alcohol testing policy; and
 - (b) Indicate any over-the-counter or prescription medications the individual is currently taking or has recently taken, and any other information relevant to the reliability of, or explanation for, a positive test result; and
 - (c) Indicate consent to undergo the drug and alcohol testing.
- (2) *Test sample.* The test sample shall be obtained in a private setting and the procedures for taking the sample shall ensure privacy to employees to the extent practicable, consistent with preventing tampering with the sample, and shall conform with applicable rules of the commissioner. All test samples shall be obtained by or under the direct supervision of a health care professional at a medical facility of the employer's selection.
- (3) *Identification of samples.* Each blood or urine sample shall be sealed in a suitable container free of any contamination that could affect test results, and be properly identified with the individual that provided the sample pursuant to the identification procedures of the testing facility.
- (4) *Chain of custody.* The testing facility shall maintain a written record of the chain of custody of the sample and ensure proper handling as required by the commissioner.
- (5) *Laboratory.* All drug and alcohol testing shall use the services of a testing laboratory licensed by the commissioner or qualifying under the transitional laboratory requirements set forth in Minnesota Statute, however, no test shall be conducted by a testing laboratory owned and operated by the City of Apple Valley.
- (6) *Methods of analysis.* The testing laboratory shall use methods of analysis and procedures to assure reliable drug and alcohol testing results, including standards for initial screening tests and confirmatory tests.
- (7) *Retention of storage.* Retention and storage procedures shall comply with the rules adopted by the Commissioner, and all samples that produced a positive test result, except breath samples from an initial screening test, shall be retained and properly stored by the testing facility for at least six months.
- (8) *Test result.* The testing laboratory is required to prepare a written report indicating the drugs, alcohol, or their metabolites tested for, the types of tests conducted and whether the test produced negative or positive test results. The testing laboratory shall disclose that report to the employer within three working days after obtaining a negative result on the initial screening test or, if the initial test was positive, within three working days after a confirmatory test.
- (9) *Notice of test results.* Within three working days after receiving the test result from the testing laboratory, the employer shall inform, in writing, a job applicant who has undergone drug or alcohol testing of:
 - (a) A negative test result on an initial screening test or of a negative or positive test result on a confirmatory test;
 - (b) The right to request and receive from the employer a copy of the test result report;



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- (c) The right to submit information to the employer within five working days after notice of a positive test result to explain that result; and
- (d) The right to submit a written notice to the employer within five working days after notice of a positive test result, that the employee intends to obtain a confirmatory retest of the original sample at the employee's own expense at the original laboratory or another licensed testing laboratory. If a confirmatory retest is conducted in accordance with the rules adopted by the commissioner, and by a licensed laboratory, and the confirmatory retest does not result in a positive test result, the city shall reimburse the employee the actual cost of the confirmatory retest in an amount not to exceed one hundred dollars \$100.
- (e) A job applicant who has received a job offer contingent on the applicant passing drug and alcohol testing, and for whom a positive test result on an initial test was obtained, has a right not to have the job offer withdrawn unless the initial test has been verified by a confirmatory test.

Employer actions.

Where there has been a positive test result in a confirmatory test of a job applicant, the employer will withdraw the contingent offer of employment.

Data privacy

All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the person's employment status.

The employer will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another employer or to a third party individual, governmental agency, or private organization except in the following situations:

- (a) Written consent for the release of data by the tested person;
- (b) Pursuant to court order;
- (c) For use in an arbitration proceeding pursuant to a collective bargaining agreement;
- (d) For use in an administrative hearing pursuant to Minnesota Statutes;
- (e) For use in a judicial proceeding;
- (f) Disclosure to a federal agency as required by federal law;
- (g) Disclosure to a substance abuse facility.

6.7 DOT Drug and Alcohol Testing Policy

PURPOSE

The purpose of this policy is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. This policy implements the requirements of the Federal Omnibus Transportation Employee Testing Act and the U.S. Department of Transportation Regulations, 49 C.F.R. Part 382.

This policy is in addition to and separate from the city's Drug Free Workplace Policy, which implements the federal Drug Free Workplace Act of 1988.

SCOPE

This policy applies to all employees whose job duties include operating city vehicles that:



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1. Have a gross vehicle weight rating of 26,001 pounds or more; or
2. Have a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
3. Are designed to carry 16 or more passengers including the driver; or
4. Are of any size and are used in the transportation of materials where the vehicle is required to be placarded under the Hazardous Materials Regulations 49 CFR part 172, subpart F (regardless of weight).

All applicants, including current employees, applying for a position where duties include operating the vehicles described above, will be required to take a drug test if a job offered is made. The job is contingent upon a negative drug test report.

POLICY

Prohibited Activities

The following alcohol and controlled substance-related activities are prohibited:

Under the Influence of Alcohol While on Duty. Reporting for duty, or remaining on duty, to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.02, but less than 0.04, will be removed from duty for twenty-four hours, escorted home and placed on annual leave for hours missed from work.

Using Alcohol. Using alcohol while performing safety-sensitive functions.

Alcohol possession. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol in any quantity.

Pre-duty use. Using alcohol within four hours of performing a safety sensitive function. If an employee has had alcohol within four hours they are to notify his/her supervisor before performing any safety sensitive functions.

Drinking Alcohol within 8 Hours Following an Accident (or prior to being tested). When required to take a post-accident alcohol test, using alcohol within eight hours following the accident, or prior to undergoing a post-accident alcohol test, whichever comes first.

Refusal to test. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion or follow-up testing requirements.

Under the Influence of Drugs While on Duty. Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses any controlled substance, except when instructed by a physician who has advised the driver that the substance does not adversely affect the drivers' ability to safely operate a commercial motor vehicle. The driver must inform his/her supervisor of any therapeutic drug use.

Reporting for Duty after Testing Positive. Reporting for duty, remaining on duty or performing a safety-sensitive function, if the driver tests positive for controlled substance.

Tests required

There are six instances when a driver may be tested. Pre-employment, post-accident, random, reasonable suspicion, return-to-work, and follow-up.

Pre-employment testing.

After a conditional offer of employment, but prior to the first time a driver performs safety-sensitive functions, the driver must submit to testing for controlled substances. Any job offer, reassignment, or transfer to drive a commercial motor vehicle will be contingent upon:

1. A verified negative controlled substance test result, and



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2. The applicant's written agreement authorizing former employers to release to the city all information on the applicant's alcohol tests with a concentration result of 0.04 or greater, positive controlled substance test results, refusals to be tested, other violations of the testing regulations, and completion of return to duty requirements within the preceding two years.

The city also retains the right not to hire a driver who has a positive test result and who has not participated and completed a counseling or rehabilitation program as directed by the driver's substance abuse professional.

Post-accident testing.

As soon as practical following an accident involving a commercial motor vehicle, each driver will be tested for alcohol and controlled substances when the following occurs:

- The accident involved a fatality, or
- The driver receives a citation for a moving traffic violation from the accident and an injury is treated away from the accident scene, or
- The driver receives a citation for a moving traffic violation from the accident and a vehicle is required to be towed from the accident scene.

Alcohol Testing. An alcohol test must be administered within 2 hours of the occurrence of the accident. If two hours have elapsed from the time of the accident and the driver has not submitted to an alcohol test, the supervisor will prepare a record stating the reason a test was not promptly administered and submit it to the Human Resources Manager.

If an alcohol test required by this section is not administered within two hours following the accident, the city will continue to make attempts to perform an alcohol test within 8 hours of the time of the accident. If eight hours have elapsed and the driver has not submitted to an alcohol test, the supervisor will cease attempts to administer the test and prepare the record described above.

The driver must not consume any liquid containing alcohol for up to 8 hours following an accident or until the employee has tested, whichever occurs first. (See Consequences for Refusal to Test).

A driver who is subject to post-accident testing shall remain readily available for such testing for the time periods described above, or the driver may be deemed by the city to have refused to submit to testing.

Drug Testing. The driver must provide a urine sample for a drug test within 32 hours of the occurrence of the accident. If thirty-two hours have elapsed and the driver has not submitted to a controlled substance test, the supervisor will cease attempts to administer the test and will prepare a record stating the reason a test was not promptly administered and submit it to the Human Resources Manager.

The city may accept the results of a blood or breath test in place of an alcohol test and urine test for the use of controlled substances if:

1. Such tests are conducted by the Federal, State and/or local officials having independent authority for the test, and
2. The tests conform to applicable Federal, State, or local requirements, and
3. The test results can be obtained by the city.

Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

Reasonable suspicion testing.



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A supervisor must require a driver to submit to an alcohol or controlled substance test when there is reasonable suspicion to believe the driver violated the alcohol or controlled substance prohibitions. Reasonable suspicion is defined as the belief that the driver has violated the alcohol or controlled substance prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. A written record will be made of the observations leading to an alcohol or controlled substance test, and signed by the supervisor who made the observations, within twenty-four hours. The record will be submitted to the Human Resources Manager.

Alcohol testing is authorized only if the observations are made during, just before, or just after the period of the workday the driver is required to be in compliance. If a reasonable suspicion alcohol test is not administered within two hours following the observations, the supervisor will prepare a record stating the reasons the alcohol test was not administered promptly and submit it to the Human Resources Manager. If the alcohol test is not administered within eight hours, the supervisor will cease attempts to administer the test, and will prepare the record described previously.

The required observations for alcohol and/or controlled substance reasonable suspicion testing shall be made by a supervisor or an employee of the city who is trained in accordance with federal law. The person who makes the determination or who observes or assists with making the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

Even if no test is taken, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the city permit the driver to perform or continue to perform safety-sensitive functions, until:

1. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
2. Twenty-four hours have elapsed following the determination there is reasonable suspicion to believe that the driver has violated the prohibitions of this policy and federal law concerning the use of alcohol.

Except as provided in (4)(e)2 herein, the city shall not take any action under this policy against a driver based solely on the driver's behavior and appearance with respect to alcohol use, in the absence of an alcohol test. This does not prohibit the city with authority independent of federal law from taking any action otherwise consistent with law.

Random testing.

Method of selection of drivers to be tested. The selection of drivers for random alcohol and controlled substance testing shall be made by a scientifically valid method, such as a random number table of a computer-based random number generator that is matched with drivers' social security numbers, payroll identification numbers, and other comparable identifying numbers. Under the selection process used, each driver shall have an equal chance of being tested each time selections are made.

Alcohol testing will be administered at a number equal to or greater than ten percent (10%) of the average number of driver positions. Controlled substance testing will be performed at a number equal to or greater than fifty percent (50%) of the average number of drivers unless changed by the FHWA administrator. For controlled substance testing, the city shall randomly select a sufficient number of drivers

Drivers may be selected for more than one test per year.

Tests will be unannounced and spread reasonably throughout the calendar year.

Drivers selected for random tests will proceed immediately to the testing site upon notification of being selected.

In the event a driver who is selected for a random test is on vacation or an extended medical absence, they will be tested when they return, or an alternately selected driver may be tested in their place if necessary.

Return-to-duty testing.

The city shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by federal law or this policy concerning alcohol or controlled substances, the driver shall undergo a return-to-duty test with a result indicating an alcohol concentration of less than 0.02, or verified negative results for controlled substance use. See (J) (3) of this section.

Follow-up testing.

Following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a substance abuse professional.

Follow-up alcohol testing shall be conducted only while the driver is performing safety-sensitive functions, just before or just after performing such safety-sensitive functions or while the driver is in a state of readiness to perform safety-sensitive functions.

Specimen collection procedures for controlled substance testing

(1) Split specimen procedure for controlled substance testing.

- (a) This policy adopts and specifically incorporates by reference 49 CFR 40 *Procedures for Transportation Workplace Drug and Alcohol Testing Programs*.
- (b) The driver shall urinate into a specimen bottle that is capable of holding at least 60 ml.
- (c) The collection-site person shall pour the urine into two specimen bottles. Thirty ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.
- (d) If the driver is unable to provide the appropriate quantity of urine, the collection-site person shall instruct the driver to drink not more than 24 ounces of fluids and, after a period of no more than two hours, again attempt to provide a complete sample. If the driver is still unable to provide a complete sample, the testing shall be discontinued and the city notified. The MRO shall refer the driver for a medical evaluation to determine if the driver's inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the city may elect to not have the referral made and revoke the employment offer.
- (e) Both bottles shall be shipped in a single shipping container, together with copies 1, 2, and the split specimen copy of the chain of custody form, to the laboratory.
- (f) If the test result of the primary specimen is positive, the driver may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within 72 hours of the driver having been notified of a verified positive test result.
- (g) When the MRO informs the laboratory in writing that the driver has requested a test of the split specimen, the laboratory shall forward the sealed split specimen bottle and necessary documents, to a different DHHS-approved laboratory.
- (h) The result of the test of the split specimen is transmitted by the second laboratory to the MRO.
- (i) If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the DOT, the city, and the driver.

(2) Reporting and review of results for controlled substance testing.

- (a) *Confirmation retest.* The MRO shall notify each driver who has a confirmed positive test that the driver has 72 hours in which to request a test of the split specimen if the test is verified as positive. The driver is responsible for all costs associated with the confirmatory retest unless results are negative, in which case the city shall bear the cost up to \$100. If the driver requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO, in writing, shall direct the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report cancellation and the reasons for it to the DOT, the city, and the driver.
- (b) *Driver's failure to contact MRO within 72 hours.* If the driver has not contacted the MRO within 72 hours, the driver may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the driver from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the driver's failure to contact the MRO within 72 hours, the MRO shall direct the analysis of the split specimen, as applicable, be performed.
- (c) *MRO unable to contact driver.* If, after making reasonable efforts and documenting these efforts, the MRO is unable to reach the driver directly, the MRO must contact the designated city contact person, who shall direct the driver to contact the MRO. If the city contact person is unable to contact the driver, the driver may be placed on suspension.
- (d) *MRO may verify positive test.* The MRO may verify to the city a positive test without having communicated directly with the driver about the test results under the following circumstances:
 - 1. The driver expressly declines the opportunity to discuss the test results;
 - 2. The driver has not contacted the MRO within five days of being instructed to do so by the city.

Alcohol testing

The FWA alcohol test rules require breath testing administered by a breath alcohol technician (BAT) using an evidential breath testing device (EBT). Two breath tests are required to determine if a person has a prohibited alcohol concentration. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted pursuant to 40 CFR 40.65. If the driver attempts and fails to provide an adequate amount of breath, the city will direct the driver to obtain written evaluation from a licensed physician to determine if the driver's inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the designated city contact person.

Data privacy

All alcohol/controlled substances test results and required records shall be released only with the written permission of the individual except as provided by regulation or law including 49 CFR 382.405 and M.S. Chapter 13.

Consequences for drivers engaging in prohibited conduct

- (1) *Removal from safety-sensitive functions.* Except as provided in federal law, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by federal law or division (C) of this section or an alcohol or controlled substance rule of another department of transportation agency.
- (2) *Prohibition of safety-sensitive functions.* The city shall not permit any driver to perform safety-sensitive functions; including driving a commercial motor vehicle, if the city has determined that the driver has violated federal law or this policy. If the driver has an alcohol concentration of .02 to .04, however, the driver shall not perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test. Action required by the regulations as the result of a positive drug test (such as removal from performing a safety-sensitive function) is not stayed pending the result of the test of the split specimen.

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- (3) *Refusal to submit.* If the driver refuses to undergo required testing under federal regulations, no test shall be given, and the City Administrator or designee shall recommend to the City Council that the driver be discharged from employment on grounds of insubordination. In the case of a job applicant applying to drive for the city who refuses, no such test shall be given, and the job applicant shall be deemed to have withdrawn the application for employment.
- (4) *Pre-employment tests.* The city will not withdraw an offer of employment or promotion to a driver position made contingent on the job applicant passing drug and alcohol testing based on a positive test result from an initial screening test that has not been verified by a confirmatory test. Where there has been a positive test result in a confirmatory test and in any confirmatory retest (controlled substance only), the city will withdraw the contingent offer of employment or promotion to a driver position.
- (5) *Other tests.* The city will not discharge, discipline, discriminate against, or request or require rehabilitation of a driver solely on the basis of a positive test result from a screening test that has not been verified by a confirmatory test. Where there has been a positive test result in a confirmatory test and in any confirmatory retest (controlled substances only), the city may do the following:
 - (a) *First positive test result.* The city will follow the procedures contained in 34.37(H)(10)(a).
 - (b) *Second positive test result.* The city shall follow the procedures contained in 34.37(H)(10)(b).
 - (c) *Suspensions and transfers.* Notwithstanding any other provisions herein, the city may temporarily suspend the tested driver with pay or transfer that driver to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest (controlled substances only), provided the city believes that it is reasonably necessary to protect the health or safety of the driver, co-employees, or the public.
 - (d) *Other misconduct.* Nothing in this policy limits the right of the city to discipline or discharge a driver on grounds other than a positive test result in a confirmatory test arising from the same or other incident, including, but not limited to a conviction of any criminal drug statute for a violation occurring in the workplace.

Criminal penalties

In addition to state statutes or city ordinances, criminal penalties shall be as prescribed by 49 USC 521(b)(2), which provides that an employee who knowingly and willfully violates the Omnibus Transportation Employee Testing Act while operating a commercial motor vehicle by activities that have led or could have led to death or serious injury is subject to the statutory criminal sanctions.

Referral, evaluation and treatment.

- (1) *Resource advisory.* Each driver who engages in conduct prohibited by federal law and this policy shall be advised by the city of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.
- (2) *Evaluation by a substance abuse professional.* Each driver who engages in conduct prohibited by federal law and this policy shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance use.
- (3) *Return-to-duty testing and assistance.*
 - (a) Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by a federal law or this policy, the driver shall undergo a return-to-duty alcohol test with the result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved a controlled substance.



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- (b) In addition, each driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use:
1. Shall be evaluated by a substance abuse professional to determine that the driver has properly followed any rehabilitation program prescribed under federal law and this policy; and
 2. Shall be subject to unannounced follow-up alcohol and controlled substance testing administered by the city following the driver's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and consist of at least six tests in the first 12 months following the driver's return to duty. The city may direct the driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the substance abuse professional determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular driver. Any such testing shall be performed in accordance with requirements of 49 CFR 40. Follow-up testing shall not exceed 60 months from the date of the driver's return-to-duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.
- (4) *Evaluation and rehabilitation.* Evaluation will be provided by the city's employee assistance program and paid for by the city. Any recommended participation in a counseling or rehabilitation program will be at the driver's own expense or pursuant to coverage under an employee's benefit plan.
- (5) *Conflict of interest of substance abuse professional.* The city shall ensure that a substance abuse professional who determines that a driver requires assistance in resolving problems with alcohol misuse or controlled substance use does not refer the driver to an organization in which the substance abuse professional has a financial interest. This subsection does not prohibit referring a driver for assistance provided through a public agency, the city or a person under contract to provide treatment for alcohol or controlled substance problems on behalf of the city, the sole source of therapeutically appropriate treatment under the driver's health insurance program, or the sole source of therapeutically appropriate treatment reasonably accessible to the driver.
- (6) *Inapplicability of section.* The requirements of this section with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a pre-employment alcohol or controlled substance test or who have a pre-employment alcohol test with a result indicating an alcohol concentration of 0.04 or greater or a controlled substance test with a verified positive test result.

Appeals procedure

Disciplinary actions taken pursuant to this section implementing the Federal Omnibus Transportation Employee Testing Act and related regulations, may be appealed through procedures described in the collective bargaining agreement or employees not governed by a collective bargaining agreement may appeal pursuant to 34.29 of the city's personnel chapter.

Record retention

- (1) 49 CFR 382 is expressly incorporated by reference and the city shall comply with the record keeping and retention requirements contained therein.
- (2) This section implementing the Federal Omnibus Transportation Employee Testing Act is based upon final Federal regulations at the time of the adoption of this section. Any revisions in the federal rules shall take precedence over this section to the extent that the policy has not incorporated the revised rules.

Contacts

The city designated employer representative (DER) is Melissa Haas, Human Resources, 952-953-2548. This person is designated to receive communications and test results from service agents and is authorized to take immediate actions to remove employees from safety-sensitive functions and to make required decisions in the testing and evaluation processes. This person is also responsible for coordinating the implementation, direction and administration of the Drug and Alcohol Testing policy. All questions concerning this policy should be directed to the contact person.



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Information regarding the collection services, testing laboratory, Medical Review Officer, and testing consortium is on file and available by contacting Human Resources.

Good Faith Effort

The City of Apple Valley will make a continuing good faith effort to maintain a drug free workplace through the implementation of the City of Apple Valley policy implementing the Federal Omnibus Transportation Employee Testing Act and Related Regulations.

General Summary; Policy Modification

This policy implementing the Federal Omnibus Transportation Employee Testing Act is based upon Federal regulations at the time of the adoption of this policy. This policy is intended to be a general summary of the law. Any revisions in the federal rules will take precedent over this policy. The city retains the right to modify this policy to conform to changes in regulation or law, or to make changes in the service providers to best suit the needs of the city. Where this policy conflicts, federal rules will prevail.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Accident.

- (1) Except as provided in subsection (2) of this definition, an occurrence involving a commercial motor vehicle operating on a public road which results in:
 - (a) A fatality;
 - (b) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;
 - (c) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
- (2) The term accident does not include:
 - (a) An occurrence involving only boarding and alighting from a stationary motor vehicle;
 - (b) An occurrence involving only the loading or unloading of cargo; or
 - (c) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3 of this title) by a motor carrier and is not transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 77.823 of this title.

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

Alcohol Concentration (Or Content). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy and federal regulations.

Alcohol Use. The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Appointing Authority. The City Administrator or other city officer to whom the Administrator has delegated authority to appoint or supervise personnel.

BAT (Breath Alcohol Technician). An individual who instructs and assists individuals in alcohol testing process and operates an EBT.



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Chain of Custody. Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, these procedures shall require that an appropriate drug testing custody form be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory chain of custody form(s) account(s) for the sample or sample aliquots within the laboratory.

City or City of Apple Valley. The City of Apple Valley, Minnesota, acting through its City Administrator or designee of the City Administrator.

Commerce. Both of the following:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a state and a place outside of such state, including a place outside of the United States; and
- (2) Any trade, traffic and transportation in the United States which affects any trade, traffic and transportation described in subsection (1) of this definition.

Commercial Motor Vehicle. A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (1) Has a gross combination rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (2) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the hazardous materials regulations set forth under 49 CFR 172, subpart F.
- (5) A commercial motor vehicle does not include a fire truck or other emergency fire equipment.

Confirmation Test. For alcohol testing it means a second test, following a screening test with a result of .02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing it means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique in chemical principle from that of the screen test in order to insure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

Confirmatory Report. For controlled substances it means a third analytical procedure to reconfirm the presence of a specific drug or metabolite. If the test result of the primary specimen is positive the driver may request that the MRO direct the split specimen be tested in any different DHHS-certified laboratory for presence of the drug(s).

Consortium. An entity, including a group or association of employers or contractors, that provides alcohol or controlled substance testing as required by federal regulations, or other U.S. Department of Transportation alcohol or controlled substances testing rules, and that acts on behalf of the employers.

Controlled Substance. Has the meaning assigned by 21 USC 802 and includes all substances listed on Schedules 1-5 as they may be revised from time to time (21 CFR 1308).

DHHS. The department of health and human services or any designee of the secretary of the department of health and human services.

DOT Agency. An agency (operating administration) of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing in accordance with 49 CFR 40.



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Driver. Any person who operates or maintains a commercial motor vehicle. This includes, but is not limited to: full-time, regularly-employed drivers; part-time and temporary drivers; leased drivers and independent owner/operator contractors who are either directly employed by or under lease to the employer or who operate a commercial motor vehicle at the direction of or with the consent of the employer. For the purposes of pre-employment/pre-duty testing only, the term DRIVER includes a person applying to the city for employment to drive a commercial motor vehicle.

Drug. Any substance (other than alcohol) that is a controlled substance as defined in 49 CFR 382 and 49 CFR 40.

EBT (Evidential Breath Testing Device). An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices.

Employer. The City of Apple Valley, Minnesota, acting through its City Administrator or a designee of the City Administrator.

FHWA. The Federal Highway Administration.

MRO. Medical review officer. A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a driver's confirmed positive test result together with driver's medical history and any other relevant biomedical information.

Performing (A Safety-Sensitive Function). A driver is considered to be performing a safety-sensitive function during any period in which the driver is actually performing, ready to perform, or immediately available to perform, or in a state of readiness to perform any safety-sensitive function while on duty.

Reasonable Suspicion. Means that the city believes the appearance, behavior, speech or body odors of a driver are indicative of the use of a controlled substance or alcohol based on the observation of at least one supervisor or official who has received training in the identification of behaviors indicative of drug and alcohol use.

Refuse To Submit (To An Alcohol Or A Controlled Substances Test). A driver: (1) Fails to provide adequate breath for testing without a valid medical explanation after the driver has received notice of the requirement for breath testing in accordance with the provisions of this policy and federal regulation; or (2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after the driver has received notice of the requirement for urine testing in accordance with the provisions of this policy and federal regulation; or (3) Engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Function. Any of the following: (1) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched or in a state of readiness to drive and/or maintain a commercial motor vehicle, unless the driver has been relieved from duty by the city; (2) All time inspecting equipment as required by federal regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All driving time which shall mean all time at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth, which shall mean a berth conforming to the requirements of federal regulations; (5) All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded; (6) All time spent performing the driver requirements of the federal statutes related to accidents; (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

Screening Test (Also Known As Initial Test). In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

State Of Readiness. A driver who is on call, ready to be dispatched, to perform safety-sensitive functions while on duty.

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



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Supervisor. The person designated by the city to perform supervisory functions over the city's drivers.

Violation Rate. The number of drivers found during random tests given pursuant to this policy and federal regulations to have an alcohol concentration of 0.04 or greater, plus the number of drivers who refuse a random test required by this policy and federal regulations, divided by the total reported number of drivers in the industry given random alcohol tests pursuant to this policy and federal regulations, plus the total reported number of drivers in the industry who refuse a random test required by this policy and federal regulations.

6.8 Tobacco Use

In addition to all city employees, this policy applies to firefighters, volunteers, contractors, applicants, and visitors.

The purpose of the tobacco use policy is to protect non-users from the nuisance and toxic effects of smoke pollution; encourage users to reduce use of tobacco products while working for the city, in accordance with sound public health practice and medical evidence; and to present a clean and professional appearance to employees, visitors, and the public.

POLICY

Use of tobacco in any form is prohibited:

- (1) In any building or vehicle owned or leased by the city;
- (2) While conducting city business; and
- (3) In a personal vehicle while transporting another individual on city business.

Tobacco may be used during regular break times in designated areas away from public view. Users of tobacco products must dispose of the remains in the proper containers.

The regulations in this section relating to the use of tobacco product shall apply fully and to the same extent to the use of electronic delivery devices and nicotine and lobelia delivery products.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Tobacco. Any lighted or unlighted product including cigarettes, cigars, pipes, and chewing tobacco.

Electronic Delivery Device. Any product, containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. The term *electronic delivery device* excludes any product that has been approved or certified by the United States Food and Drug Administration as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Nicotine and Lobelia Delivery Product. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such product, that is not tobacco or an electronic delivery device.

6.9 LIFE Rewards

This policy does not apply to part-time or casual employees or elected officials.

The L.I.F.E. (Lifestyles to Improve Fitness and Eating) Rewards Program is designed to promote employee fitness and health, as well as provide an incentive to improve overall health and wellness, thus leading to a more productive and safe work environment for all.



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POLICY

The City of Apple Valley recognizes the importance of employee fitness and health as it relates to the overall work and life satisfaction of the employee and the overall impact on the city's health insurance programs.

The city supports the L.I.F.E. Rewards Program, but it is entirely dependent on administrative review and approval annually. No provisions of this policy, or its administration, shall be subject to review under the Employment Complaint Resolution policy.

This program will be reviewed as deemed appropriate by the City Administrator.

PROCEDURES

The Human Resources Manager will oversee the development and administration of the L.I.F.E. Rewards program and will determine the effective dates and specific program requirements.

The program is voluntary and employees may choose to participate at any time during the program duration. The program will generally be based on a system of earning points for participation in healthy activities as outlined on the L.I.F.E. tracking card. Program credit will be awarded with proof of participation and/or on the honor system. Program credit is not transferable. If program credit is not redeemed, it will be forfeited. There is no program credit carryover.

By meeting the program requirements, eligible program participants will earn paid leave time which must be used by December 31 of the following year in which it was earned. The maximum amount to be earned is 8 hours. The L.I.F.E. paid leave or any portion thereof cannot be used to calculate overtime in a workweek. Non-exempt employees may take L.I.F.E. paid leave in hourly increments. Exempt employees must take the time in eight hour increments. There are no carryovers or cash compensation for unused L.I.F.E. paid leave. Use of L.I.F.E. paid leave is subject to supervisory pre-approval.

In addition to paid leave, the program may offer health promotion incentives such as exercise clothing and accessories. These items are considered "de minimus" compensation to employees and not subject to income tax.

Fraudulent reporting of program credit is a violation of the program and will subject the participant to disciplinary action up to and including termination of employment.

6.10 Apple Core Training (ACT) Center

This policy does not apply to casual employees.

The City of Apple Valley promotes physical activity which supports healthy lifestyles for employees.

POLICY

The city has established the free on-campus Apple Core Training (ACT) Center fitness room for use by eligible employees.

The ACT Center is located in the lower level of the Municipal Center and is open 24 hours daily. In limited instances, parts of the ACT Center may be reserved for training or fitness classes.

The ACT Center includes shower and locker room facilities and features cardio and weight equipment, free weights, kettle bells, resistance bands, open mat space, fitness balls, classes, and more.

PROCEDURES

An eligible employee must complete the ACT Center Waiver of Liability form in order to be granted access to the facilities. The completed form should be returned to Human Resources.

ACT Center Rules

- Eligible employees must be age 18 or older to use the ACT Center.

- Visitors are not permitted.
- Instructors must be authorized by Human Resources and accompanied by a staff member.
- Use personal headphones to listen to television.
- Leave street shoes outside.
- Use equipment wet wipes to wipe down equipment after each use.
- Use equipment only after instruction in proper use.
- Limit time on equipment if others are waiting for the same equipment.
- Lockers are for temporary use only. Remove personal items and locks after each use.
- Remove soap/shampoo/towels from the shower area after each use.
- Turn off lights, TV, and other equipment/devices if you are the last to leave.

7: COMMUNICATIONS AND INFORMATION TECHNOLOGY

7.1 Media Requests

In addition to all city employees, this policy applies to firefighters, volunteers, and contractors.

All city employees have a responsibility to help communicate accurate and timely information to the public in a professional manner.

POLICY

Requests for private data or information outside of the scope of an individual's job duties should be routed to the appropriate department or to the data practices authority.

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

With the exception of routine events and basic information that is readily available to the public, all requests for interviews or information from the media are to be routed through the City Administrator. No city employee is authorized to speak on behalf of the city without prior authorization from the City Administrator or designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and web sites. When responding to media requests, employees should follow these steps:

If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the City Administrator. An appropriate response would be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and submit your request to the appropriate person, who will get back to you as soon as he/she can." Then ask the media representative's name, questions, deadline, and contact information.

All news releases concerning city personnel will be the responsibility of the City Administrator.

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

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

7.2 Personal Communications and Use of Social Media

In addition to all city employees, this policy applies to firefighters, volunteers, and contractors.

It is important for city employees to remember that the personal communications of employees may reflect on the city. The City of Apple Valley respects employees and agents’ rights to post and maintain personal web sites, blogs and social media pages and to use and enjoy social media on their own personal devices during non-work hours. The city requires employees to act in a prudent manner with regard to web site and internet postings that reference the City of Apple Valley, its personnel, its operation, or its property.

POLICY

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

- Employees and agents and others affiliated with the city may not use a city brand, logo, or other city identifiers on their personal sites, nor post information that purports to be the position of the city without prior authorization.
- Remember that what you write or post is public, and will be so for a long time. It may also be spread to large audiences. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos that you would not want your boss or other employees to read, or that you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation that would not be permissible in the workplace is not permissible between co-workers online, even if it is done after hours, from home and on home computers.
- The City of Apple Valley expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements photographs, video, or audio that could reasonably be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone’s reputation or posts that could contribute to a hostile work environment on the basis of sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local commission.
- City employees and agents shall not identify themselves as city employees when responding to or commenting on blogs with personal opinions or views.
- City resources, working time, or official city positions shall not be used for personal profit or business interests, or to participate in personal political activity.

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- Personal social media account name or email names shall not appear to be tied to the city (e.g., "AppleValleyCop"), without prior approval by the City Administrator.
- Occasional access to personal social media web sites during work hours is permitted, but employees and agents must adhere to the guidelines outlined in the city's Information Technology policy, Respectful Workplace policy, and any other applicable city policy.
- There may be times when personal use of social media (even if it is off-duty or using the employee's own equipment) may spill over into the workplace and become the basis for employee coaching or discipline. Examples of situations where this might occur include, but are not limited to:
 - Friendships, dating, or romance between co-workers
 - Cyber-bullying, stalking, or harassment
 - Release of confidential or private data (if there are questions about what constitute confidential or private data, contact the City Clerk)
 - Unlawful activities
 - Misuse of city-owned social media
 - Inappropriate use of the city's name, logo or the employee's position or title
 - Using city-owned equipment or city-time for extensive personal social media use

Each situation will be evaluated on a case-by-case basis because the laws in this area are complex. If you have any questions about what types of activities might result in discipline, please discuss the type of usage with your supervisor or Human Resources.

7.3 Use of City Social Media Assets

In addition to all city employees, this policy applies to firefighters, volunteers, and contractors.

This policy applies to any existing or proposed social media web sites sponsored, established, registered or authorized by the City of Apple Valley. This policy also covers the private use of the city's social media accounts by all city representatives, including its employees and agents, council members, appointed board or commission members and all public safety volunteers to the extent it affects the city. Questions regarding the scope of this policy should be directed to the Assistant City Administrator.

Social networking in government serves two primary functions: to communicate and deliver messages directly to citizens and to encourage citizen involvement, interaction, and feedback. Information which is distributed via social networking must be accurate, consistent, and timely and meet the information needs of the city's customers. Since social media is used for social networking, this policy seeks to ensure proper use of the City of Apple Valley's social media sites by its representatives.

The City of Apple Valley wishes to establish a positive and informative social media presence. City representatives have the responsibility to use the city's social media resources in an efficient, effective, ethical and lawful manner pursuant to all existing city and departmental policies. This policy also provides guidelines and standards for city representatives regarding the use of social media for communication with residents, colleagues and all other followers.

POLICY

The City of Apple Valley will determine, at its discretion, how its web-based social media resources will be designed, implemented, and managed as part of its overall communication and information sharing strategy. City social media sites may be modified or removed by the city at any time and without notice, as described in this policy.



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City social media accounts are considered a city asset and administrator access to these accounts must be securely administered in accordance with the city's Information Technology policy. The city reserves the right to shut down any of its social media sites or accounts for any reason without notice.

All social media web sites created and utilized during the course and scope of an employee's performance of his/her job duties will be identified as belonging to the City of Apple Valley.

Rules of Use

City employees and agents with administrator access are responsible for managing social media web sites. Facilities or departments wishing to have a new social media presence must initially submit a request to the Assistant City Administrator in order to ensure social media accounts are kept to a sustainable number and policies are followed. All approved sites will be clearly marked as the City of Apple Valley site and will be linked with the official city web site (www.ci.apple-valley.mn.us). No one may establish social media accounts or web sites on behalf of the city unless authorized in accordance with this policy.

Administration of all social media web sites must comply with applicable laws, regulations, and policies as well as proper business etiquette.

City social media accounts accessed and utilized during the course and scope of an employee's performance of his/her job duties may not be used for private or personal purposes or for the purpose of expressing private or personal views on personal, political or policy issues or to express personal views or concerns pertaining to city employment relations matters.

No social media web site may be used by the city or any city employee or agent to disclose private or confidential information. No social media web site should be used to disclose sensitive information. If there is any question as to whether information is private, confidential or sensitive, contact the City Clerk.

When using social media sites as a representative of the city, employees and agents will act in a professional manner. Examples include but are not limited to:

- Adhere to all city personnel and computer use policies
- Use only appropriate language

Be aware that content will not only reflect on the writer but also on the City of Apple Valley as a whole, including elected officials and other city employees and agents. Make sure information is accurate and free of grammatical errors.

- Do not provide private or confidential information, including names, or use such material as part of any content added to a site.
- Do not negatively comment on community partners or their services, or use such material as part of any content added to a site.
- Do not provide information related to pending decisions that would compromise negotiations.
- Be aware that all content added to a site is subject to open records/right to know laws and discovery in legal cases.
- Always keep in mind the appropriateness of content.
- Comply with any existing code of ethical behavior established by the city.

Where moderation of comments is an available option, comments from the public will be moderated by city staff with administrative rights, before posting. Where moderation prior to posting is not an option, sites will be regularly monitored by city staff.

City of Apple Valley staff with administrative rights will not edit any posted comments. However, comments posted may be removed or hidden if they are abusive, obscene, defamatory, in violation of the copyright, trademark right or other intellectual property right of any third party, or otherwise inappropriate or incorrect. The following are examples of content that may be removed by city staff before or shortly after being published:

- Potentially libelous comments
- Obscene or racist comments
- Personal attacks, insults, or threatening language
- Plagiarized material
- Private, personal information published without consent
- Comments totally unrelated to the topic of the forum
- Commercial promotions or spam
- Hyperlinks

City Property and Data

All social media communications or messages composed, sent, or received on city equipment in an official capacity are the property of the city. The City of Apple Valley also maintains the sole property rights to any image, video, or audio captured while a city employee is representing the city in any capacity. Content of social media is subject to the Minnesota Government Data Practices Act. This law classifies certain information as available to the public upon request.

The city retains the right to monitor employee's social media use on city equipment and will exercise its right as necessary. Users should have no expectation of privacy.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Social Media. Internet and mobile-based applications, web sites and functions, other than email, for sharing and discussing information, where users can post photos, video, comments and links to other information to create content on any imaginable topic. This may be referred to as "user-generated content" or "consumer-generated media." Social media includes, but is not limited to:

- Social networking sites such as Facebook, LinkedIn, Twitter, and online dating services/mobile apps
- Blogs
- Social news sites such as Reddit and BuzzFeed
- Video and photo sharing sites such as YouTube, Instagram, SnapChat, and Flickr
- Wikis, or shared encyclopedias such as Wikipedia
- An ever-emerging list of new web-based platforms generally regarded as social media or having many of the same functions as those listed above

Employees and agents. All city representatives, including its employees and other agents of the city, such as contractors or elected officials.



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7.4 Information Technology

In addition to city employees, this policy applies to firefighters, volunteers and contractors, who have access to or use the City of Apple Valley Information Technology (IT) systems on and/or off city property.

POLICY

It is the City of Apple Valley's policy to establish standards for appropriate Information Technology (IT) usage and protect the city's IT systems from business interruption, unauthorized or inappropriate access, and maintain security.

IT systems include, but are not limited to, city-owned computers, email, internet, printers, software, telephone, voicemail, mobile communications devices, and others.

Discipline

Employees engaging in such activity that violates the terms of this policy may be subject to disciplinary action, up to and including termination of employment.

Auditing

The City of Apple Valley reserves the right to monitor and audit use of its IT systems at any time without user's consent.

Reporting

Users should notify their immediate supervisor, department head, the IT Manager, the Human Resources Manager, or the City Administrator upon learning of violations of this policy.

Expectation of Privacy

As a government agency, the city is subject to public disclosure laws. All files and documents, including e-mail messages and Internet logs, are owned by the city and may be subject to requests under public records law. Users should have no expectation of privacy.

Access

All users must be authorized to use city IT systems through the user's department head and IT.

Hardware and Software Acquisition for City Owned IT Systems

The IT Manager must approve all hardware and software prior to acquisition to ensure consistency with the design and architecture of the city's IT network. Users are prohibited from downloading, installing, or acquiring hardware and software, including product demonstrations, without prior approval from the IT Manager. Software applications not required for official city business are strictly prohibited. The IT Manager may allow exceptions for users to install apps on mobile communications devices.

Installation, Downloads, and Configuration

No user will be allowed to manipulate hardware and software standard configurations. The IT department, or designee, must always be contacted for hardware and software support.

Users are not allowed to change the computer setup or configuration files. Customization of city-owned software such as wallpaper, screen savers, icons, toolbars and colors, may be allowed for personal preference inasmuch as it doesn't interfere with normal computer operations or with other users' settings. Users are prohibited from downloading or installing any software through the Internet, e-mail, and/or vendor demonstrations without prior approval from the IT department.

Licensing

To ensure license compliancy, all software must be purchased by and licensed to the city.



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Development: Any software programs (e.g., custom designed Microsoft Access databases), developed for use by the city becomes the property of the city. Software programs may not be sold or distributed without prior approval.

Home: City-owned software may not be installed on non-city owned equipment unless there is prior approval of department head and IT Manager.

Copyright Laws: City users are required to abide by software and documentation copyright laws and licensing agreements. If there is any question about the legality of the software and documentation, it should be directed to the IT Manager. At no time should any user make copies of city-owned software and documentation. To prove legal ownership of software, the city must have the original media and manuals stored on city property. The IT Manager may periodically check for software that may be in violation of the above policy.

Data Management and Protection

Under the provisions of the Minnesota Data Practices Act, all data classified as city data, regardless of where it is stored, is considered to be owned by the city. This data is subject to the Minnesota Data Practices Act and its use and dissemination is consistent with the data classification under the Minnesota Data Practices Act. This data is also subject to review and investigation at the discretion of the City Administrator, Human Resources, department heads, IT Manager, and/or law enforcement. The City Clerk should be contacted with questions regarding the classification of public and private data.

Data Ownership: All information developed or introduced to a city technology system by a user in conjunction with employment with the city is the property of the city.

Data Storage: All city data must be saved to a network drive on a city server.

Users are responsible for deleting outdated files that are no longer needed for the compliancy of the City Records Retention Schedule; this includes data files and e-mail messages. The City Clerk should be contacted with questions regarding the City Records Retention Schedule. Users should not store city data on privately-owned mobile communications devices. Any city data created or modified on a mobile communications device should be transferred onto a city server.

Data Back-up: The IT department backs up all data stored on the file servers. Workstation hard drives or any other devices are not backed up.

Portable files: To facilitate off-site work, users may copy appropriate files, including word processing, spreadsheets, and presentation graphic files to and from removable media, such as flash drives, CDs, or to mobile communication devices. No other files or information may be copied to or from the city computers. A current copy of the portable file(s) must be maintained on the city server.

File and File Folder Password Protection: Because the city is responsible for ensuring access to its data, the city requires the ability to access city files or data that may be only accessible through a password created by an employee. If any software product that the city has purchased has the option to allow users to have individual files password protected, the password must always be shared with the appropriate management personnel. If the city has purchased access to a service on-line that includes granting of user rights, appropriate administrator login credentials must be shared with appropriate management personnel.

Portable Information Systems

Portable laptop computers, tablets, digital cameras, projectors, and other city-owned portable equipment may be used for city business within or outside of city facilities. When users check out portable equipment they are expected to provide appropriate protection against theft, accidental breakage, environmental damage and other risks. Desktop computers and attached devices are not to be removed from city buildings. The user is responsible for the backup of or loss of any data stored on the standalone or portable computer. IT staff is available to assist in the development of procedures for disaster recovery of portable units. Documents stored or accessed from portable information systems containing sensitive or private data must be password protected or otherwise secured on the equipment in accordance with IT approved practices.

Further policies for city-owned or privately-owned mobile communications devices are found in the Wireless Communications Device and Phone Policy.

Non-City Owned Equipment

Use of non-city owned mobile communications devices may be utilized only to the extent that these devices are not connected to the city's internal network, systems, or computers, except for special purposes pre-approved and arranged by the IT department on a temporary basis. For further details, see the Wireless Communications Device and Phone Policy.

Electronic Mail (e-mail)

The city e-mail system is a tool to be used for matters directly related to the business activities of the city and as a means to provide services that are efficient, accurate, timely, complete, legal and appropriate, subject to Section XVIII Personal Use. E-mail messages are subject to regulation under the Minnesota Data Practices Act. The content of the message determines whether a message is public or non-public/private. E-mail is intended as a medium of communication, not for information storage; therefore, e-mail should not be used for the permanent storage or maintenance of official city records or other city information.

Inappropriate use of the city e-mail system includes, but is not limited to the transmission, access or receipt of:

- Non-business audio, video or image files (including streaming audio and video, MP3, Jpg, Tif, Gif, Mpg, AVI, etc.);
- Software programs or executables;
- Chain letters;
- Offensive, sexually explicit or pornographic material;
- Intolerance, hate, violence, or tasteless material;
- Copyrighted material or large data files not directly related to City of Apple Valley business.

The use of e-mail for these purposes is strictly prohibited. If a user receives an unsolicited e-mail that falls within these prohibited categories, the user must immediately delete it. If the activity continues, the user must notify the IT Manager and their supervisor.

The city retains the right to monitor, track and restrict all e-mail activity. Software may be employed to reduce the delivery of junk e-mail, including e-mails that contain profanity, sexually explicit or adult content material, or material which otherwise may be deemed inappropriate or non-business oriented.

Internet

The internet is available to users for research, education, and communications directly related to the mission, goals/objectives, or work tasks of the city, subject to Section XVIII Personal Use. Access to the internet will be determined by department management. Use of the internet through city computers is a privilege, not a right, which may be revoked at any time for inappropriate and/or abusive conduct. Users of the internet should minimize unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource. Users are responsible for adhering to city standards when browsing the Internet. Failure to adhere puts the city and the individual at risk for legal or financial liabilities, potential embarrassment and other consequences.

Inappropriate use of the city's internet services includes, but is not limited to the transmission, access or receipt of:

- Offensive, sexually explicit or pornographic material;
- Intolerance, hate, violence, or tasteless content;
- Games or gambling;



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- Non-business related chat or instant messaging;
- Unauthorized downloads, proxies, or peer-to-peer networking.

The use of the internet for these purposes is strictly prohibited. The city retains the right to monitor, track and restrict all internet activity.

Intranet

The City of Apple Valley's intranet is an internal web site for use exclusively by employees. The site is accessible by employees within city premises for business-related purposes to foster communication, enhance customer service and information-flow. Access to and within the intranet shall be determined by department management. Intranet usage is governed by the same guidelines as internet use.

Prohibited Use

Use of city IT systems, including but not limited to internet, intranet, and e-mail, is strictly prohibited at all times for the following:

- Illegal, criminal, or unethical activities;
- Profit or commercial activities;
- Gambling, wagering, or selling chances;
- Transmitting, accessing or receiving threatening, pornographic, obscene or harassing material;
- Transmitting, accessing or receiving chain letters;
- Fund-raising or charitable solicitations, except for city approved activities;
- Transmitting, accessing or receiving software programs or executables, non-business audio, video or image files, copyrighted material, or large data files not directly related to city business;
- Political or religious promotion;
- Access resulting in unauthorized expense to the city;
- Activities that interfere with or disrupt network users, services or equipment, including mass distribution of messages, intentional distribution of viruses, or seeking unauthorized access to other computers or systems;
- Any other public office or employment which is incompatible with city employment responsibilities, as determined by the City Administrator.

Personal Use

The City of Apple Valley offers users the privilege of limited personal use of its technology. Recognizing that users will benefit from practice using technology, personal use is allowed using the following guidelines listed below:

- IT systems may be used for occasional, incidental personal use as long as it does not interfere with the normal duties of the employee.
- Only city employees are to use the computers and computer related peripherals.
- No personal files or data are to be stored on the city file servers.
- Users must not use IT systems for items listed above in Prohibited Use.



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E-mail: E-mail may be used for incidental personal correspondence, as long as it does not interfere with the normal duties of the employee and the above guidelines are followed. Using e-mail to participate in any kind of non-business related list-serve or broadcast mailing is prohibited. Users shall have no expectation of delivery or receipt of non-business related e-mail.

Internet: Internet access may be used for occasional, incidental personal use as long as it does not interfere with the normal duties of the employee and the above guidelines are followed.

Desk Telephones: Desk telephones may be used for personal use as long as it does not interfere with the normal duties of the employee and the above guidelines are followed. Personal long distance toll calls are prohibited on city-owned phones.

Cellular Telephones: Policies for city-owned or personal mobile communications devices are found in Appendix 2: Wireless Communications Device and Phone Policy.

Copiers, Printers, Fax Machines: Users are granted limited, incidental use of photocopiers, printers, and fax machines as long as it does not interfere with the normal duties of the employee and the above guidelines are followed.

Computer and Network Logins and Passwords

All users must use and maintain unique IT-issued login IDs for computer and network-related access. Login IDs are not to be shared with others, and corresponding passwords must remain confidential. Multi-user or generic login IDs are permissible only in special circumstances approved and maintained by IT. Users are prohibited from saving their password credentials with the computer or device such that the city's network accounts are accessed through an automated login unless the device itself is password protected or otherwise secured by an IT-approved security method. The city must conform to adopted security practices, including password requirements, as governed by LOGIS and/or state and federal government guidelines. All users are required to follow password requirements as defined in Appendix 1, Network Password Requirements.

Appropriate network access shall be assigned by the IT department to each user login ID, and users may only log into computers and equipment with their assigned login ID. User login ID passwords are not to be shared with anyone, and will be forced to change periodically. New passwords should not be easily guessed. Anyone forgetting their password, or suspecting that their password's security has been compromised, must contact the IT department to be issued a new one, which will then be changed immediately.

Physical Security

City users are expected to provide reasonable security to their computer workstations and related IT equipment. This includes ensuring that passwords are not written down in accessible places, removable media must be kept in a secured area, and that confidential data is not displayed in such a manner that unauthorized personnel can access it.

Users may not move IT equipment outside of its assigned area without prior approval from the IT department. Portable equipment must be reserved and checked out only to city users. Users are expected to provide appropriate protection against theft, breakage, environmental damage, and other risks.

Users are required to log off computer workstations when absent for an extended time, such as end of day. Users may, however, "lock" their workstation instead when absent for a short period of time, such as during a meeting or over lunch.

Security policies for city-owned or personal mobile communications devices are found in Appendix 2: Wireless Communications Device and Phone Policy.

Virus Protection

All computer workstations, laptops, and servers must be protected from viruses using up-to-date antivirus software. Users may not alter their system's configuration or take other steps to defeat virus protection devices or systems. All files on removable media must be scanned for viruses prior to installation onto or access from city computer equipment. Any files suspected or known to contain viruses must be immediately reported to the IT department for proper handling.

Remote Network Access

Remote access is defined as the ability to connect to a computer or network from a distance, such as from home, hotel, conference, Internet kiosk, etc. Remote access into the city's network may be granted upon meeting the following conditions:

- Business-related purpose approved by requesting department head and IT Manager.
- Use of industry standard encryption and/or city supported VPN (Virtual Private Network) technology.
- Authentication and access control will be maintained by the IT department. Valid network login and passwords are required.
- While remotely connected, nobody but the authorized user may have access to the computer making the connection.
- Remote computer must comply with current anti-virus and security parameters as specified by the IT department.
- Additional policies for remote network access by city-owned or personal mobile communications devices are found in the Wireless Communications Device and Phone Policy.

All remote users are subject to the rules and regulations set forth in this entire policy for all network users. Users should follow proper data practices protocols as directed by the Minnesota State Statutes. Storing of business related information on a home computer creates an extension of the city's network; thus anything stored on that computer, might be subject to public data requests.

Wireless Access

Unauthorized wireless access into the city's computer network is strictly prohibited. Users may not attempt to scan, connect to, or install any wireless computing device on city equipment or property.

Wireless access must be authorized and configured by the city's IT department. Any authorized wireless access must utilize standards-based encryption, and conform to adopted security practices as governed by LOGIS and/or state and federal government guidelines. The city offers limited authorized use of wireless access for both employees, as necessary, and non-employees (guests) as a convenience. Access to this wireless network by guests is governed by a separate use policy presented upon connection or upon request for login credentials. All users of the city's wireless network must comply with this usage policy, however access is not guaranteed.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Configuration. The way a system is set up or the assortment of components that make up the system. Configuration can refer to either hardware or software or the combination of both.

Downloads. To copy data, usually an entire file, from a main source to a computer device, such as from the internet or online service to a computer.

Electronic Mail (e-mail). A network application that allows users to exchange messages over communications networks with someone else.

File Server. An enhanced computer with network operating software that is used for file storage, application functionality, and managing network resources.

Information Technology Systems. Includes, but not limited to, computers, printers, software, e-mail, Internet, telephone, voice mail, and others.

Internet. A global network connecting millions of computers.



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Intranet. Network base access accessible only within an organization. An intranet's web sites look and act just like any other web site, but firewall security restricts unauthorized access.

Installation. The process of connecting and configuring hardware or software.

Local Area Network (LAN). A computer network.

Licensing. Legal compliancy of assets.

Mobile Communications Devices. Mobile devices that have the ability to communicate with the Internet, city networks, or other communications systems including laptop computers, tablets, cell phones, and smart phones.

Peripherals. A computer device, internal or external, such as a CD-ROM drive, printer, mouse, that is not part of the essential computer.

Software. System software includes the operating system and all utilities that enable the computer to function. Application software includes programs that do real work for users (e.g., word processors, spreadsheets, and database management systems).

Portable Equipment. Hardware that is small, lightweight, and non-stationary (e.g., laptop computers, hand-held computers, tablets, projectors, digital cameras).

Users. Regular, part-time, and temporary employees, vendors, consultants, volunteers, elected officials, interns and other.

VoIP. Voice over Internet Protocol, a category of hardware and software that enables people to use the Internet as the transmission medium for telephone calls by sending voice data in packets.

7.5 Wireless Communication Devices and Phones

This policy applies to all City of Apple Valley mobile communication device users, including city employees, firefighters, volunteers and contractors.

This policy covers city-issued communication devices and use of privately-owned personal mobile communication devices for city business.

This policy does not apply to wireless devices physically connected to buildings, vehicles, or other infrastructure that serve as part of the city's network infrastructure, including the Supervisory Control and Data Acquisition (SCADA) System, that are not assigned to individuals.

POLICY

Customer expectations for prompt resolution of questions or service concerns often require the use of wireless communications devices including cellular or smartphones by city officials. Efficient participation in meetings or work from multiple locations may require the use of wireless network access devices by employees or elected officials (hereafter referred to as mobile communications device users).

The purpose of this policy is to outline the reasons for 1) providing a city-issued phone; 2) allowing access to a city network through a privately-owned mobile communications device; and 3) providing a stipend for use of personal cellular phone/ smartphone or mobile device.

Mobile communications device users who: 1) must remain accessible due to the nature of their job duties; 2) must be available for emergency response or consultation; 3) have job duties that require receiving work communications remotely; or 4) require wireless network access for city duties may be eligible for a city-issued device or participation in one of the city's offered stipends defined in this policy.

Section 1: General Provisions for City-Issued and Personal Devices Used for City Business

The city retains the right to monitor and enforce network security through a mobile device management system. The mobile device management system may require installation of an app or other software on the mobile communications device. In the event that a communications device is damaged, lost, or stolen, the mobile communications device user is responsible for notifying their immediate supervisor and the IT Division as soon as possible. If a stipend is involved, the mobile communications device user is responsible for notifying the HR Division as soon as possible. In the event of a reported damaged, lost, or theft of a device or upon replacement of a device or when an employee is no longer employed by the city, the IT Division reserves the right to remotely remove all city data and/or city information such as contacts, tasks, or applications. The city is not responsible for any lost personal data.

Mobile communications device users shall maintain a password, PIN code protected, photo-password, biometric, or other IT-approved security access protocol on any city-owned or personally-owned smartphone or mobile device. Mobile communications device users are responsible for ensuring the proper elimination of city data, including city network passwords and photos from personal devices before disposal.

A mobile communications device user's use of the device is subject to data practices and data retention requirements under Minnesota law. The mobile communications device user is responsible to upload or transfer any data obtained in the conduct of city business from the device to the appropriate storage medium for the data within the city's network.

The Prohibited Use section of the city's Information Technology Policy applies to use of city-owned wireless devices. The Prohibited Use section of the city's Information Technology Policy also applies to use of personal devices for city business or when a mobile communications device user would be reasonably expected to be conducting city business.

The City of Apple Valley has no expectation for non-exempt employees to check or respond to emails or messages during non-work hours. A non-exempt employee shall not be authorized to incur hours worked or overtime for using email or logging into the city's network outside their normally scheduled work hours, unless explicitly requested by the employee's supervisor.

The city discourages use of cell phones (city-issued or personal) while operating a motor vehicle. Mobile communications device users are encouraged to place and answer calls prior to engaging a motor vehicle, or during a break from operation of the motor vehicle. In some jurisdictions, laws may prohibit the use of cell phones while operating a motor vehicle. It is the city's expectation that mobile communications device users will abide by all applicable laws.

Mobile communications device users using city-owned devices or connecting personal devices to the city's non-public networks shall sign the relevant waiver forms prior to obtaining network access credentials for the device. In order to receive an access key for a non-public network, the city may require the mobile communications device user to provide an e-mail address associated with the device.

Section 2: City-Provided Smartphone/Cellular Phones and Mobile Data Devices

The city may provide and maintain mobile data devices for mobile communications device users requiring mobile access to data. The city may provide and maintain smartphones/cellular phones and/or mobile data devices for certain eligible employees, if approved by their department head and approved by the City Administrator. In general, the following criteria will be used to determine eligibility.

- The position requires the ability to respond to business requests on a regular basis.
- The position requires the employee to frequently work off-site during business hours or on an on-call basis.
- Position job duties require immediate or emergency response during regular business hours and after business hours.
- Position job duties require frequent access of wireless networks outside of the office environment



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City-issued communication devices are for dedicated business use. Incidental personal calls or texts on city-issued devices will be acceptable. Frequent personal use that interferes with an employee's job functions is prohibited. Personal use may be considered excessive if it causes the city to increase its allotted minutes or payment plan for that department. Frequent personal use, regardless of time of use, may result in reimbursement to the city of any cost associated with personal use.

The service and city-owned equipment should be procured through appropriate available government procurement practices.

Work-related applications may be purchased for a city-owned device with prior approval by the department director. Applications that negatively interact with the city-owned device or with the city's network are prohibited on city-owned devices.

All devices remain city property and shall be returned to the city upon termination of employment, upon end of term of office, or if the device is no longer necessary for work-related purposes.

The purchase of city-owned devices must be done either through the IT Division or in consultation with the IT Division to ensure the device is currently supported by the IT Division.

Cellphone, smartphone and other mobile data devices are purchased, installed, maintained and owned by the City of Apple Valley to facilitate business communications. The contents of communications either made or stored are accessible at all times by city management. These systems shall be treated like other shared filing systems.

All electronic communications on city-owned devices are city records. The contents may be obtained and disclosed without your permission. **Therefore, the user should not assume that messages are either private or confidential.**

Section 3: Personal Mobile Data and Smartphone Devices Allowance

If approved by their department head and approved by the City Administrator, a stipend may be provided for privately-owned personal mobile data devices (including smartphones) that are purchased by the mobile communications device user and used for city business. Business necessity includes meeting customer or client service expectations in a timely fashion; need for immediate communication with department staff or others where employee job requirements take the employee outside of primary work area; need for access to data or phone communications on properties where wired access is not available; or job duties support 24x7 business infrastructures and require immediate response(s) to urgent communication needs.

Availability

An employee receiving a stipend for a smartphone device must make the phone number available to his or her supervisor, the IT Division, and emergency contacts and Emergency Operations Plan (EOP) call list if the employee is a designated EOP contact.

Licensing

Each data device syncing with city communications systems requires a Client Access License to be procured by the city.

Repair and Maintenance

Mobile communications device users receiving a stipend for a communications device are personally responsible for ensuring the device is in good working order. The IT Division is not responsible for upkeep, support or replacement of personal devices that are used for city business. IT support will be limited to instructions for the mobile communications device user on how to sync email, schedules, and tasks (if available), and use of city-supplied security products (if available). The city assumes no liability for any direct or indirect damages arising from the user's use of personal data device.



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Connecting a personal device to the city’s network opens the city’s network to security vulnerabilities. Mobile communications device users connecting a personal device to the city’s network are responsible for taking appropriate steps to keep their device operating systems current and updated and to protect their connected devices from virus, malware, and security threats. The city reserves the right to deny connection to the network for any personal devices the IT Manager deems to be a significant security risk to the city’s network or resources. If an application on a personal device is found to negatively interact with the city’s network, the city may prohibit connection of that device to the city’s network until the application is removed.

Stipends

Stipends will be on a tiered basis based on each department’s determination of appropriate need for the employee with the device:

Tier	Description	Monthly Amount
Tier #1	Limited Use Need (Voice and Text Only)	\$20
Tier #2	Wi-Fi Data Need Only	\$30
Tier #3	Voice, Text, and Data Need	\$50

An employee must submit a Request for Stipend form to his or her supervisor to approve the payment of a stipend. Department directors will determine if a city-owned device or stipend will be provided for an employee. All payments are subject to the approval of the City Administrator and may be eliminated if job duties change such that the above criteria are no longer met. Departments should review employee needs for communications devices annually.

Compliance with Internal Revenue Service (IRS) Regulations

Stipend payments by the city are considered a taxable benefit and will be included as taxable income to the recipient.

Work-Related Applications

Work-related applications may be purchased by the city and used on a personally-owned device with prior approval by the department head or City Administrator.

Interference with Job Duties

Department heads may prohibit employees from carrying their own personal devices during working hours if it interferes with the performance of their job duties.

Section 4: Responsibility

An employee who is found to be in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

7.6 City Web Site

The City of Apple Valley provides a web site as a convenient way for the public to access information about the city and the services it provides.

In addition to all city employees, this policy applies to firefighters, volunteers, contractors, and city web site users.

POLICY

Disclaimer / Accuracy

The City of Apple Valley will make reasonable efforts to ensure the accuracy of the information provided in the web site. However, neither the city, nor any department, officer, or employee of the city warrants the accuracy, reliability or timeliness of any information published by this system, nor endorses any content, viewpoints, products, or services linked from the system, and shall not be held liable for any losses caused by reliance on the accuracy, reliability or timeliness of such information. Portions of such information may be incorrect or not current. Any person or entity that relies on any information obtained from the system does so at his/her own risk. Due to the possibility of unauthorized access to the site, data transmission errors, changes to source material made since the last update to the site, or other human or mechanical errors, the information contained on the web site should not be deemed reliable for legal purposes. In addition, changes may have been made since the last modification of the web site. Web site visitors should contact the city to verify the accuracy of the information.

External Links

Some links are external to the city's web site. The city cannot attest to the accuracy of information provided by linked sites. Linking to a web site does not constitute an endorsement by the city, or its employees, of the sponsors of the site or the products presented on the site. It is the policy of the City of Apple Valley to limit these external links to other government web sites; to entities under contract with the city to provide data to the public; and to entities co-hosting community celebrations. The City of Apple Valley is not responsible for the content, quality, accuracy, or completeness of any offsite materials referenced by or linked through the city's web site.

In addition, the city reserves the right, at any time and without notice, to:

- Deny a link that does not meet the criteria set forth in this policy;
- Deny or discontinue an external link at any time;
- Revise this policy without prior notice when the city considers such revision to be in its best interests.

Online Calendar

The City of Apple Valley provides an online calendar of city events as a convenient way for the public to access information about City of Apple Valley meetings; Parks and Recreation activities, programs, and classes; and other city sponsored special events. The calendar may link to external web sites in an effort to provide additional information about some events. The provision of these links should not be construed as an endorsement or sponsorship of these external web sites. The City of Apple Valley is not responsible for the content, quality, accuracy, or completeness of any offsite materials.

Online calendar content may include:

- Programs and events the city produces.
- Programs and events in which the city has invested time, money, or manpower.
- City-sponsored events.
- Events that have a citywide impact on parking, transportation, or city facility use.

Content is subject to the discretion of city staff.

Photos and Graphics

Photos taken at public events in a public area, official city events or official photos of city employees may be published on city web sites. Photos taken from other sources (Internet, newspapers, books, etc.) require written permission of the organization, before publication or may be taken from in the public domain if classified as free to modify, share and use commercially.



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The city's official logo is to be used only by the city, for official purposes.

Information Collection

The city does not collect personal information about visitors to its web site unless a visitor chooses to provide it. The city collects limited non-personal identifying information that browsers make available automatically whenever the web site is visited. This information includes the internet address of personal computers or network, the date, time, and page visited on our site, type of browser and operating system, and the referring page (the last webpage visited before clicking on a link to our site). The city uses the aggregated information from all of its visitors to measure server performance, analyze user traffic patterns and improve the content of its site. The city sometimes tracks the keywords that are entered into its search engine to measure interest in specific topics, but does not track which terms a particular user enters.

Some of the city's online services require visitors to register for an account. The city may ask a visitor for some personal information in order to create an account (typically name, email address and a password for the account) and the city will use that information to provide the service. For certain services, such as online payment services, the city may request credit card or other payment information which may be stored temporarily in encrypted form on secure servers.

E-Mail and Information Volunteered to the City

Information volunteered by visitors through filling out the optional online 'Contact Us' or other reporting forms may be shared with City of Apple Valley employees and contractors for the purpose of addressing the issues presented in the form. These forms are received as web-generated email and should be responded to promptly, using email whenever possible. E-mail sent to a general city e-mail account that is addressed to a member(s) of the City Council or staff within the header or e-mail message may be viewed by city staff responsible for receiving and distributing mail to the general e-mail account. Submitted online forms and e-mail correspondence to and from the City of Apple Valley is data subject to the Minnesota Data Practices Act and may be disclosed to third parties if public.

8: EXPENDITURES AND REIMBURSEMENTS

8.1 Travel and Expense Reimbursement

In addition to all city employees, this policy applies to firefighters, volunteers, contractors, and applicants for employment.

These policies and procedures shall govern the payment and reimbursement by the City of Apple Valley for local travel, outside travel, and other expenses incurred in connection with city business by any authorized Agent of the city.

POLICY

Public Purpose

Travel and expenses reimbursed by the city must facilitate city business in the serving of a reasonable public purpose, as described in the Public Purpose Expenditure Policy.

Budget

For budget purposes, each department shall be responsible for requesting adequate funds to cover all travel and expense requests anticipated in the upcoming year.

Expense Reimbursement

The city shall pay expenses conforming to the Public Purpose Expenditure Policy and directly incurred by an authorized Agent attending to city business. Expenses incurred by an Agent, which have not been properly processed or approved or are not in accordance with these policies, may not be reimbursed.



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Travel From Home

The city shall not pay or reimburse an individual for expenses incurred for travel between an Agent's place of residence and city-owned or leased work locations.

Out-of-Pocket Expenses

The payment of such expenses by the city is to reimburse an individual for out-of-pocket expenses, when such expenses are incurred while attending to authorized city business or for a reasonable public purpose as described in the Public Purpose Expenditure Policy.

Receipts

Receipts shall be required to obtain reimbursement. However, in the case of mileage reimbursement, or in the event it is not practical to obtain a receipt (e.g., parking meters), the Agent must certify the claimed amount as accurate. No specific expense, other than mileage reimbursement, in excess of \$10.00 shall be reimbursable without an itemized receipt, except for subsistence allowance amounts in accordance with this policy.

National, Regional, or State Conference Attendance

An Agent may be authorized to attend appropriate national, regional, or state conferences for the purposes of professional growth.

All individual requests to attend a national, regional, or state conference shall be made in advance through the appropriate department head, to the City Administrator, and shall be accompanied by adequate information to determine whether attendance is appropriate. The City Administrator retains the final authority to approve or deny a request to attend a conference.

Conduct

While attending to city business away from the normal work site, an Agent shall abide by all city codes, personnel policies and procedures, and departmental rules or operational standards.

Non-Receipt Items

All expense reimbursement claims where a receipt is not available shall be processed within forty-five (45) days of the event, or the Agent may not be reimbursed for such non-receipt items.

PROCEDURES AND POLICY DETAILS

Local Travel

A. Mileage Reimbursement

- a. Mileage reimbursement, at the standard rate for business determined by the Internal Revenue Service (IRS) in effect on the date of the travel, will be reimbursed to Agents using a private vehicle in the performance of city business. Travel shall be by city-owned vehicle, when practical.
- b. Agents receiving a monthly vehicle allowance shall not receive mileage reimbursement for city-related travel within the Metro Area.
- c. Elected officials shall not receive mileage reimbursement for city-related travel within the Metro Area, except when such mileage is related to:
 - i. Functions sponsored by the Association of Metropolitan Municipalities (Metro Cities), League of Minnesota Cities, Metropolitan Council, or any other committee, board, or commission to which the elected official has been appointed by the City Council; or
 - ii. Regularly scheduled functions of the Apple Valley Chamber of Commerce; or

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- iii. Meetings and events identified on the City Council's adopted Calendar of Upcoming Events.
- B. Parking/Toll Expense. Actual expenses incurred for parking and toll expenses will be reimbursed.
- C. Taxi/Transit/Ride Service Fares. Actual expenses incurred for taxi/transit/ride service fares will be reimbursed. Local travel by taxi/transit/ride service shall be eligible for reimbursement only when a private or city-owned vehicle is not available and the employee believes that the most efficient and cost effective means of travel is a taxi/transit/ride service.
- D. Lodging Expenses. Actual lodging expenses will be reimbursed by the city when, in the opinion of the Mayor and City Administrator, a special condition exists that justifies local overnight accommodations. Notification of all exceptions shall be provided to the City Council and approval authorized by the Mayor and City Administrator.
- E. Rental Vehicles. Actual expenses incurred for a rental vehicle will be reimbursed by the city when, in the opinion of the City Administrator, a special condition exists that justifies the rental of a vehicle for the purpose of attending to city business. As the city's insurance policies extends to rental vehicles, rental insurance should not be taken out by the Agent.
- F. Subsistence Allowance. A daily subsistence allowance will not be provided for travel within the Metro area. However, if in the opinion of the City Administrator a special condition exists, a daily subsistence allowance may be authorized in the Metro Area.

Outside Travel

- A. Expenses. The city shall reimburse an Agent for expenses incurred, in accordance with the procedures outlined the Local Travel section of this policy, if the expenses were incurred in the performance of city duties during authorized Outside Travel.
- B. Travel. The mode of transportation for Outside Travel shall be subject to the following guidelines and/or restrictions. The mode of transportation is subject to department head approval. When practical, Agents traveling to the same event are encouraged to share transportation.
 - a. Outside Travel within a 200-mile radius of the city shall generally be by a city vehicle or by a private vehicle. Travel by private vehicle shall be reimbursed at the current mileage reimbursement rate.
 - b. Outside Travel within a 201 to 400-mile radius of the city may either be by air, by city vehicle, or private vehicle. Travel by private vehicle shall be reimbursed at the current mileage reimbursement rate. If an Agent prefers to travel by private vehicle, reimbursement shall be in accordance with the current mileage reimbursement rate, or on the basis of what the airline fare would have been, whichever is less.
 - c. Outside Travel beyond a 400-mile radius of the city shall generally be by air. If an Agent prefers to travel by private vehicle, reimbursement shall be in accordance with the current mileage reimbursement rate, or on the basis of what the airline fare would have been, whichever is less.
 - d. If a private vehicle is used for transportation at a travel destination, reimbursement shall be at the current mileage reimbursement rate.
 - e. If a city vehicle is used for transportation at a travel destination, vehicle operation expenses incurred while traveling in a city vehicle shall be reimbursed.
- C. Air Travel: Actual airline fares for authorized Outside Travel will be reimbursed with accompanying documentation. Airline travel shall be by economy/tourist/coach or equivalent class accommodations. If such accommodations are not available, upgraded tickets may be purchased. Approval by the department head must be obtained prior to the purchase of the upgraded tickets. Authorized Agents shall attempt to purchase discounted air tickets.



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- D. Private Vehicle: When outside travel is by private vehicle, in lieu of air travel, due to individual preference; the outside travel request shall include airline fare cost comparison documentation. Mileage reimbursement shall be determined based on the lesser of the air travel or the mileage at the current reimbursement rate.
- E. Airport Bus/Shuttle/Ride Service Fares. Actual fares for bus, shuttle, and ride service shall be reimbursed. Receipts for such fares shall be obtained, if practical.
- F. Vehicle Rental. Actual expenses for vehicle rental shall be reimbursed in accordance with the procedures described in the Local Travel section of this policy. As the city's insurance policies extends to rental vehicles, rental insurance should not be taken out by the employee.
- G. Lodging Expenses. Actual lodging expenses will be reimbursed as follows:
 - a. Lodging expenses shall be reimbursed at the rate for single accommodations only. Costs related to family members shall not be reimbursed by the city.
 - b. For conferences and conventions, lodging reservations should be made as far in advance as reasonably possible. Reservations at, or as convenient to the conference headquarters as possible, are permissible even if such accommodations are more expensive.
 - c. Lodging expenses for the evening preceding and following a meeting or convention may be reimbursed at the discretion of the City Administrator.
- H. Subsistence Allowance.
 - a. An Agent of the city will be paid a subsistence allowance of up to \$51.00 per day, or will be reimbursed for actual expenses incurred, when engaged in Outside Travel requiring an overnight stay. A partial allowance may also be authorized. The choice of subsistence allowance or actual expense reimbursement shall be at the discretion of the City Administrator or designee, subject to the authorization procedures outlined in the Method of Payment section of this policy.
 - b. In the event of travel to certain metropolitan areas of the country, the daily subsistence allowance shall be \$100.00 per day. This shall include travel to Washington, D.C. and New York, New York, and may include additional cities as determined by the Mayor and City Administrator. Notification of such cities shall be provided to the City Council and approval authorized by the Mayor and City Administrator.
 - c. For travel to destinations requiring an overnight stay, the full subsistence allowance may be provided for one day for traveling to the activity and one day for returning from the activity, if authorized in advance by the City Administrator.
 - d. When authorized Outside Travel is made by private vehicle, in lieu of air travel, the subsistence allowance shall be paid only for the period required if the trip had been made by air.

Other Expenses

- A. Telephone Calls. An Agent of the city shall be reimbursed for telephone calls placed in the performance of city activities. Agents of the city are encouraged to make telephone calls for a city purpose during Outside Travel from a city-issued cell phone or a phone that can provide an itemized record if possible. Personal telephone calls are not reimbursable and shall be deducted from any lodging bills.
- B. Registration Fees. The city will pay the base registration and other fees that are part of a conference or convention registration package, excluding fees related to family members.
- C. Meal Expenses.
 - a. Actual meal expenses incurred during authorized Outside Travel shall be reimbursed if the Agent is not receiving a daily subsistence allowance.

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- b. Actual meal expenses incurred within the Metro Area shall be reimbursed when attending a conference, convention, or meeting if the Agent is prevented from being at the normal mealtime location. The event must serve or facilitate the serving of a public purpose, as described in the Public Purpose Expenditure Policy.
 - c. Reimbursable meal expenses shall include tax and reasonable gratuities, but shall not include the cost of alcoholic beverages.
 - d. Actual meal expense reimbursements for the meal of an Agent shall not exceed the following:
 - Breakfast: \$10.00
 - Lunch: \$15.00
 - Dinner: \$26.00
 - e. If an Agent believes it is appropriate to the occasion in the serving of a public purpose as described in the Public Purpose Expenditure Policy, the Agent may be reimbursed for the reasonable actual meal expense of a person who is not an Agent of the city.
 - f. Meal expenses while an Agent is within the city and conducting routine work within the normal duties of the job will not be reimbursed.
- D. Recruitment Expenses. Job applicants invited to Apple Valley for an interview may be reimbursed for expenses at the discretion of the City Administrator, or designee, in accordance with this policy under the following conditions:
- a. The reimbursement of expenses must be approved in advance by the City Administrator. If reimbursement of expenses is approved for a job applicant, the City Administrator reserves the right to determine items for which the applicant may be reimbursed.
 - b. Reimbursement of expenses for a job applicant may not exceed the provisions of this policy.
 - c. The city shall pay moving expenses only as authorized by the City Council.

Method of Payment and Reimbursement

- A. Advance Authorization. An Agent requesting Outside Travel shall complete a Travel/Training Request (TTR) form and submit it to the City Administrator or designee for authorization as far in advance of the departure date as practical. The request may be approved at the discretion of the City Administrator or designee if authorized within the adopted budget; otherwise, City Council approval shall be required. The TTR form shall also be used for authorization of registration fees for conferences, conventions, and seminars that occur in the Metro Area.
- B. Direct Payment.
 - a. Direct payments to common carriers or travel agencies, for air fare and to conference or convention sponsors for registration fees, should be arranged whenever possible.
 - b. Payments for expenses made by directly on an Agent's city purchasing card, rather than reimbursed to the Agent, shall be in compliance with the provisions and procedures of this policy and the Public Purpose Expenditure Policy.
- C. Reimbursement of Expenses.
 - a. All expenses as identified in accordance with this policy, except those paid directly by the city, shall be paid by the Agent who shall then claim reimbursement on an Expense Reimbursement Form (ERF). The mileage allowance and subsistence allowance are included as reimbursable expenses even though they may not represent actual expenses paid. Only one (1) ERF shall be submitted, inclusive of all expenses

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for each Outside Travel event. The ERF shall be submitted within forty-five (45) days of completion of travel.

- b. An advance payment for reimbursable expenses may be requested for Outside Travel via the TTR form. Only one advance per Agent may be in effect at one time.
- c. ERF Approvals. Prior to a payment being processed by the Finance Department, an ERF that includes Outside Travel expenses shall be signed by the requesting Agent, and must receive approval from the appropriate department head and City Administrator, or designee. An ERF including only Local Travel expenses shall be signed by the requesting Agent and must receive approval from the appropriate department head. An ERF request from a department head must be approved by the City Administrator, or designee.

Compliance with Internal Revenue Service (IRS) Regulations

Certain travel and expense payments and reimbursement amounts made by the city are considered a taxable benefit and will be included as taxable income to the Agent in accordance with Internal Revenue Service (IRS) regulations.

Elected Official Out-of-State Travel Guidelines

The City of Apple Valley recognizes that its elected officials may at times receive value from traveling out of the state for workshops, conferences, events, and other assignments which serve a public purpose.

A. General Guidelines

- a. The event, workshop, conference, or assignment must be approved in advance by the City Council at an open meeting and must include an estimate of the cost of travel. In evaluating the out of-state travel, the City Council will consider the following:
 - 1) Whether the elected official will be receiving training on issues relevant to the city or to his or her role as the Mayor or as a Council member.
 - 2) Whether the elected official will be meeting and networking with other elected officials from around the country to exchange ideas on topics of relevance to the city or on the official roles of local elected officials.
 - 3) Whether the elected official will be viewing a facility or function that is similar in nature to one that is currently operating at, or under consideration by the city, where the purpose for the trip is to study the facility or function to bring back ideas for the consideration of the full City Council.
 - 4) Whether the elected official has been specifically assigned by the City Council to visit another city for the purpose of establishing a goodwill relationship such as a "sister-city" relationship.
 - 5) Whether the elected official has been specifically assigned by the City Council to testify on behalf of the city at the United States Congress or to otherwise meet with federal officials on behalf of the city.
 - 6) Whether the city has sufficient funding available in the budget to pay the cost of the trip.
- b. No reimbursements will be made for attendance at events sponsored by or affiliated with political parties.
- c. The elected official will give an oral written report on the results of the trip at a subsequent City Council meeting.
- d. The City Council may limit the number of Council members who can attend the same event.



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- e. The city will pay or reimburse for transportation, lodging, meals, registration, and incidental costs using the same procedures, limitations and guidelines outlined in the city's policy for Outside Travel by an authorized Agent.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Agent. Any city employee, or member of the City Council, city commission, city committee, city volunteer, or other individual authorized by the city.

City. The City of Apple Valley, Minnesota.

Local Travel. Travel in the performance of city business within the Metro Area.

Outside Travel. Travel in the performance of city business beyond the Metro Area. The number of days allowed for purposes of reimbursement shall be limited to the number of days scheduled for the meeting or conference with the addition of one day preceding and one day following, if reasonably required for travel requiring an overnight stay. Additional time shall be at the expense of the Agent.

Metro Area. The Minnesota counties of Anoka, Carver, Scott, Dakota, Hennepin, Ramsey and Washington.

8.2 Public Purpose Expenditures

In addition to all city employees, this policy applies to firefighters, volunteers, and contractors.

These policies and procedures shall govern the purchases by Agents of the City of Apple Valley. Every City of Apple Valley expenditure must be validly based upon its stated purpose. The following items are deemed to meet the City Council definition of public purpose expenditures.

POLICY

Procedures and Policy Details

Costs associated with meals and refreshments are allowed at the following events:

- A. A city business meeting in which the character of the meeting would involve predominately participants who are not City of Apple Valley employees.
- B. Breakfast/lunch/dinner meeting with participants who are not Apple Valley city employees for official city business when it is the only practical time to meet.
- C. Non-routine, official meetings of the City Council, committees, or subgroups. (Coffee, water, and soft drinks may be provided at routine official meetings of the City Council, committees, or subgroups.)
- D. A conference, workshop, seminar, or meeting which the City Administrator or department head has authorized the Agent to attend.
- E. Department-sponsored meetings, conferences, or workshops where the majority of invited participants are not City of Apple Valley employees.
- F. Events related to city promotion activities, city revenue and development activities, meetings of professional associations, and meetings with representatives of other units of government.
 - a. If an Agent believes it is appropriate to the occasion in the serving of a public purpose, costs may include the reasonable actual meal expense of a person who is not an Agent of the city.



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- G. Meetings consisting primarily of city employees when the refreshment and/or meals are an integral part of the event and are necessary to sustain the flow of the meeting and to retain the captive audience, and if the meeting is one of the following:
- a. Division or department-wide quarterly employee meetings;
 - b. Non-routine management team or employee organizational development and training meetings;
 - c. Official meetings of the City Council, council committees, advisory boards/commissions, and task forces, when they are of a non-routine basis or when special events are held,;
 - d. During performance of election-related duties on Election Day, and at election judge training sessions prior to election day;
 - e. During emergency situations as required.

Costs associated with the Employee Recognition Program are allowed as follows:

- A. The Apple Valley City Council acknowledges and appreciates the hard work and service performed by the employees of the City of Apple Valley through an Employee Recognition Program. The City Council determines the benefit of attracting, retaining, and motivating employees through an Employee Recognition Program which supports employee job satisfaction and positively impacts cooperation and productivity. The result is to provide excellent public and customer service to better serve the interests of the citizens of the community.
- B. Costs associated with the Employee Service Recognition Program.
 - a. Service recognition awards and retirement celebrations are provided in accordance with the Employee Recognition Policy.
 - b. The City Council annually hosts an Employee Recognition Event, including a meal and program at which employees reaching various milestones are recognized by the City Council and fellow employees. The event also recognizes department and city accomplishments throughout the year, as well as other individual accomplishments.
 - c. Assorted beverages, such as coffee and tea, may be provided to employees at city facilities during the workday to recognize employees' daily service and support job satisfaction, retention, and motivation.
- C. The cost of elements of the Employee Recognition Program will be included as a separate line item in the city budget.

Costs associated with the Volunteer Engagement Program are allowed as follows:

- A. The Apple Valley City Council recognizes the value of facilitating citizen volunteerism to make the community stronger and more vibrant. Volunteering helps citizens become more familiar and engaged with city programs, services and issues; enriches city programs and services through involvement and participation; leads to active partnerships between city staff and community members; provides opportunities for residents to contribute to city government; and conserves city resources.
- B. Costs associated with volunteer recruitment, placement, management, retention, and recognition are permitted.
- C. The cost of elements of the Volunteer Engagement Program will be included as a separate line item in the city budget.

Costs associated with the Employee Wellness Program and Employee Safety Program are allowed as follows:

- A. The City Council recognizes the importance of employee wellness, health, and safe working habits/procedures as they relate to the overall work and life satisfaction of the employee and the overall impact on the city's health insurance and risk management program. As such, the City Council supports the Employee Wellness Program and Employee Safety Program.



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- B. The cost of elements of the Employee Wellness and Safety Programs will be included as separate line items in the city budget.

Costs associated with special events are allowed as follows:

- A. Events such as Night to Unite, Holiday Tree Lighting, Facility Open Houses, Fire Prevention Week, Fire Awards Event, Annual Clean-Up Day Event, Home and Garden Expo, and others that involve or invite participation by the general public.
- B. Expenditures for meals and participation fees are allowed. Representative staff members, as designated by the City Administrator, may participate in events that directly benefit the marketing of the city.

Costs associated with employee training are allowed as follows:

- A. Reasonable registration, tuition, meals, and travel expenses for conferences, seminars, workshops, and approved city employment-related course work, in accordance with the City of Apple Valley Personnel Policies and the City of Apple Valley Travel and Expense Reimbursement Policy.

Costs associated with memberships and dues are allowed as follows:

- B. Participation in the local Chamber of Commerce is allowed. Minnesota Statutes § 469.191 permits a home rule or statutory city to "appropriate not more than \$50,000 annually out of the general revenue fund of the jurisdiction to be paid to any incorporated development society or organization of this state for promoting, advertising, improving, or developing the economic and agricultural resources of the city."
- A. Other reasonable civic memberships and professional dues are allowed as approved by the City Administrator and department heads consistent with the approved city budget.

Costs associated with the provision of clothing and other sundry items are allowed as follows:

- A. Employees may receive or provide t-shirts and other sundry items of nominal value when these items are made available to the general public, or if these items are determined by the City Administrator to be important to the successful involvement of employees in special city-sponsored or city-supported events (e.g., Water Conservation Public Education Effort, Night to Unite, etc.).
- B. Employees may be supplied with uniforms, clothing, boots, and other gear necessary for the performance of their jobs.

Conclusion

The Apple Valley City Council has determined that the above expenditures are valid expenditures which serve a public purpose.

DEFINITIONS

When used in this section, the following terms shall have these meanings ascribed to them, unless otherwise noted.

Agent. Any city employee, or member of the City Council, city commission, city committee, city volunteer, or other individual authorized by the city.