

Introduced by: City Manager Griffin
 Date: December 11, 2012
 Action: Committee of the Whole
 scheduled for March 5, 2013
 Public Hearing: March 26, 2013
 Action: Postponed to April 9, 2013
 Date: April 9, 2013
 Action: Adopted
 Vote: Unanimous

Yes:	No:
Best	
Erbey	
Vanover	
Combs	
DeVries	
Hanson	
Johnson	

CITY OF PALMER, ALASKA

Ordinance No. 12-001

An Ordinance of the Palmer City Council Amending Title 4 Personnel, by Adopting the City of Palmer Personnel Regulations

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Title 4 is hereby amended to read as follows (new language is underlined and in blue and deleted language is stricken and in red):

4.05.010 Personnel regulations.

~~The city hereby adopts the attached code of personnel regulations which shall be reviewed annually.~~

~~A. The council may amend the code of personnel regulations after notice and public hearing in accordance with the following procedures:~~

- ~~1. Introduction. Upon introduction of the ordinance amending the code of personnel regulations, the council shall make available at least one copy for public inspection for 15 calendar days before adoption.~~
- ~~2. Publication. The proposed ordinance amending the code of personnel regulations shall be published by title, with a brief summary and with a notice setting out the date, time and place for public hearing on the ordinance.~~
- ~~3. Hearing. The public hearing shall follow the publication by at least five calendar days. All interested persons present shall have the opportunity to be heard. The hearing shall be only for the purpose of receiving testimony and comments concerning the ordinance.~~

- The hearing may be held separately or in connection with a regular or special meeting and may be adjourned as necessary.
4. ~~Adoption. After the hearing, the council shall consider the ordinance and may adopt it with or without amendment, or reject it. The clerk shall print and make available copies of the adopted ordinance.~~
5. ~~Effective Date. Ordinances take effect upon adoption or at a later date specified in the ordinance.~~
- B. ~~The personnel regulations shall contain an amendment table and all amendments shall be listed on the table.~~

Chapter 4.05

GENERAL PROVISIONS

4.05.005 Definitions.

As used in this chapter:

- A. "Active Pay Status" means time worked and approved personal leave.
- B. "Adverse action" means suspension without pay, involuntary demotion or discharge, expedited or otherwise, for cause.
- C. "Appointive officers" means the city manager, attorney, and the city clerk. The appointive officers serve at the will of the council.
- D. "At will employees" means an employee that is employed at the will of the City and can be dismissed at any time for any reason. All temporary, on call, seasonal employees, the Police Chief, the Fire Chief, and all Department Directors, are at will.
- E. "Certified trainer" means an employee who is certified by a state or federal agency or a recognized professional organization to provide training.
- F. "City manager" means city manager or designee, and acting city manager in the absence of the city manager.
- G. "Classified service" shall be comprised of all positions with the exception of elective and appointive officers, and at will employees.
- H. "Computation of time", means except when otherwise provided, means the time within which an act is required to be done and shall be computed by excluding the day of the act, event or default from which the designated period of time begins to run and including the last day of the period unless the last day is Sunday or a holiday, in which case it shall also be excluded.
- I. "Controlled substance" means a controlled substance in Schedules I through V of Section 812 of Title 21, United States Code.
- J. "Conviction" means a finding of guilt (including a plea of nolo contendere or no contest) or suspended imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State of Alaska criminal drug statutes.
- K. "Criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.
- L. "Demotion" means the change of an employee from a position in one class to a position in another class with a lower pay level. Involuntary demotion means a demotion required by the city, not agreed to by the employee, and occurring while the employee is not in promotional probationary status. Voluntary demotion means any demotion other than an involuntary demotion.
- M. "Employee" means any person in the employ of the city who is subject to this title.

- N. "Exempt Employee" means an employee who is exempt from the payment of overtime as determined by the Personnel Officer based on the Federal Fair Labor Standards Act.
- O. "Family" means spouse, eligible same-sex domestic partner, siblings, parents and children. In-laws are covered under the term "family."
- P. "Flex schedule" means variable work hours requiring employees to work a standard number of core hours within a specified period of time, allowing the City greater flexibility in an employee's starting and ending times.
- Q. "Leave without pay" (LWOP) is an approved temporary absence from duty in a non-pay status requested by an employee. The term does not cover a suspension or an absence for which leave has not been approved.
- R. "Light Duty" is alternative work for employees who are unable to perform some or all of their routine duties due to illness or injury. The work is physically or mentally less demanding than normal job duties. An employee must present a physician's note to be placed on light duty.
- S. "Merit anniversary date" means the month and day that the employee completes his or her probationary period. The anniversary date will be advanced by the number of calendar days that the employee's total leave without pay exceeds 30 days during any anniversary year of the employee.
- T. "Non-Exempt Employee" means an employee who is entitled to receive overtime pay under the Federal Fair Labor Standards Act.
- U. "On Call Employee" means an employee who is not guaranteed any hours each week, who does not have a set regular schedule, and one that fills in as needed.
- V. "Personnel Officer" is the Human Resources Specialist and Designated Employee Representative (DER).
- W. "Program or Project Employee" is an employee who is employed with prior written understanding that employment in that position will continue for at most the duration of a specified program or project that has an established probable date of termination.
- X. "Promotion" means a change in status of an employee from a position of one class to a position of another class having a higher maximum salary limit.
- Y. "Regular Full-Time Employee" means an employee who has completed the initial probationary period including any extensions together and who is not a seasonal or temporary employee and regularly works 30 or more hours a week.
- Z. "Regular Part-Time Employee" means an employee who is hired to work on a regular and continuing basis for less time than a full-time employee.
1. Regular part-time employees who work an average of 20 but less than 30 hours per week are eligible for pro-rated holiday and leave pay based on hours worked.
 2. Regular part-time employees who work less than an average of 20 hours per week are not eligible for holiday and leave pay.
- AA. "Seasonal employees" refers to an employee who occupies a position for less than 12 months each year where it is anticipated that the same employee may return to the position when needed.
- BB. "Standby". The Department Director in his or her discretion shall schedule employees on standby status. An employee on standby status shall meet the following criteria:
1. Comply with Palmer Municipal Code Title 4;
 2. Respond to notification for work; and
 3. Report to the job site within 30 minutes of being contacted.
- CC. "Temporary Employee" means an employee who is needed for a certain period, which may exceed twelve consecutive months.

1. All assignments exceeding 12 consecutive months shall have prior written approval of the City Manager.
 2. The rate of pay is based on the requirements listed in the job description.
 3. Temporary Employees are not eligible for city benefits and are at will employees.
- DD. "Transfer" means the movement of an employee from a classification to another having the same maximum salary.
- EE. "Treasurer" is the Finance Director.
- FF. "Volunteer firefighters" are not classified employees and serve at the will of the Fire Chief.

4.05.010 Application.

- A. This regulation shall apply to all employees in the classified service of the city, except as otherwise provided.
- B. The Director of Public Safety may, with the approval of the city manager, prepare policies for the conduct of peace officers, as defined by the Alaska Police Standards Council, as well as dispatchers and other police department related personnel ("others").
 1. To the extent such policies for the conduct of peace officers are inconsistent with the provisions of this chapter, such rules and regulations shall take precedence.
- C. Elected officials and appointive officers are not classified employees. The council may make some or all of the personnel regulations applicable to the city manager and clerk.
- D. At will employees are subject to all provisions of the personnel with the exception of sections 4.50.005 through 4.50.080.
- E. The following sections of this title shall apply to volunteer fire fighters: 4.05.010, 4.15.080(B) and (C), and chapters 4.70, 4.90, 4.100, and 4.110.

4.05.020 General purpose.

It is the general purpose of these regulations to assist in the accomplishment of the following objectives:

- A. The recruitment and retention of the best qualified persons;
- B. To provide for security of tenure for city employees subject to the need for the work performed, the appropriation of funds, and the continued effective performance and acceptable personal conduct of the employee;
- C. To provide for employees: assignments of duties and responsibilities; sound practical training, supervision and administrative direction; opportunities for promotion within the municipal service on the basis of merit; and recognition of continued good service.
- D. Duty to report. City employees have a responsibility to promptly report problems in the workplace to City management so that such problems may be investigated and remedied as necessary, without retaliation.

4.05.030 Equal opportunity employer.

- A. The city is an equal opportunity employer. The city will not unlawfully discriminate against qualified applicants or employees with respect to compensation, or in a term, condition or privilege of employment, because of the person's race, religion, color, national origin, sexual orientation, or other basis protected by law, or because of the person's age, physical or mental disability, genetic information, gender, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, gender, marital status, changes in marital status, pregnancy or parenthood.

- B. When necessary, the city will reasonably accommodate employees and applicants with disabilities if the person is otherwise qualified to safely perform all of the essential functions of the position. It is the applicants and employees responsibility to notify the personnel officer regarding requests for reasonable accommodations.

4.05.040 Personnel file.

The personnel officer shall provide for the establishment, maintenance, and custody of the following record:

- A. The personnel file is the official personnel record for an individual employee which shall be kept in the office of the personnel officer and includes, but is not limited to, employment applications, prior employment, and work performance, disciplinary actions other than oral reprimands, personnel action forms, tax withholding and benefits information.
- B. Access to Personnel Files.
1. In accordance with AS 23.10.430, an employee or a former employee may inspect and make copies of his or her own personnel file during normal office hours; provided, the employee or former employee shall pay the reasonable costs of any duplication.
 2. A personnel file may be inspected by the employee's department director in the presence of the personnel officer.
 3. Review of any personnel files shall be conducted in the presence of the personnel officer or designee. No document shall be removed from a personnel file without prior written approval from the personnel officer and notice to the employee. Any person examining a personnel file shall sign for the personnel record and the signature shall be dated.
 4. To the extent required by law, medical information regarding an employee's medical condition must be kept in a separate medical file and treated as a confidential medical record.
- C. Use of Personnel Files.
1. A personnel file shall not be used as a private dossier on an employee.
 2. The employee shall be provided a copy of documents placed in their personnel file.

4.05.050 Conflict of interest.

- A. It shall be the responsibility of each city employee to remain free from indebtedness or favors which tend to create a conflict of interests between personal and official interest, or might reasonably be interpreted as affecting the impartiality of the individual employee.
- B. If an employee is tendered or offered a gift or gratuity which would, in the eyes of the public or of public officials, be construed as an attempt to bribe, influence or to encourage special consideration with respect to municipal operation, the offer shall be reported without delay to the employee's immediate supervisor, who will in turn inform the department director. If there should be any doubt as to whether a gift or gratuity is of such significance as to create undue influence upon the employee, the matter shall be reported to the department director concerned and the city manager.
- C. If an employee shall knowingly accept any gift or gratuity that may be reasonably construed by his or her department director to have created undue influence or result in special consideration benefiting the donor or any entitled beneficiary thereof, that employee may be subject to dismissal.
- D. Any employee who has a substantial financial interest, direct or indirect, by reason of ownership of stock, in any corporation in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest in a written statement to the city clerk. Any employee who

willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance and subject to dismissal.

- E. A municipal employee may not participate in an official action in which the employee has a substantial financial interest.

Chapter 4.10

POSITION CLASSIFICATIONS

4.10.005 Job descriptions.

Job descriptions shall be established and maintained by the Human Resources Specialist for each of the job classifications.

- A. Once every 12 months, department directors will review all job descriptions for their departments to assure descriptions are accurate.
- B. A job description may be revised or a new description may be prepared by a department director at any time in order to document the establishment of a new job classification or changes in the nature and scope of job responsibilities of an existing job classification that are considered significant.
- C. New or revised job descriptions shall be reviewed and approved by the city manager or designee.
- D. Once approved, the new or revised job title must be on the current year pay plan and presented to City Council if the new or revised job description has a title or level change.

4.10.010 Classification plan for city service.

- A. The classes of positions, job titles and job descriptions shall constitute the classification plan. All positions shall be placed on the classification plan.
- B. The city manager shall establish and maintain the classification plan which shall group together under the same title those positions that are sufficiently similar in knowledge, skills, and abilities of work to warrant application of the same pay rate or levels of rates and same general selection standards. Such groupings shall be based upon the current essential functions and responsibilities of positions in the municipal service.
- C. The classification plan shall be amended or modified from time to time by the city manager.
- D. The city manager shall have the duty of assigning positions to the appropriate classes when changes in duties and responsibilities justify such action. Departmental requests for reclassification shall be submitted to the city manager for review at such times and in the required form. Changes shall become effective upon approval of the city manager. Initial request shall be made by the employee through the appropriate departmental chain of command up to the City Manager.

4.10.020 Pay plan.

- A. The pay plan table with biweekly and hourly rates for all positions shall be established by resolution of the council. The salary rates are based on full-time employment. New or revised job descriptions that have a title or level change must be added or changed on the pay plan.
- B. City employees shall be paid in accordance with the pay plan. Revised pay plans must be presented to council at the time of the revision for approval prior to the new pay plan being effective.

4.10.030 Compensation.

- A. Salary levels and pay steps within salary levels shall be established in accordance with the classification plan.
- B. The policy of the city is to provide compensation after considering that paid by other employers within the region for work comparable in duties and responsibilities to those of city employees. The city manager shall periodically review the pay plan with pay scales of other employers and recommend pay plan amendments to the council.
- C. This section does not apply to a position which is created by a grant which specifies the level of compensation for the position.

4.10.040 Pay ranges and merit increases.

The pay ranges provided for the several classes shall be applied as follows:

- A. The minimum rate for each range shall be the normal entering rate. However, the city manager may authorize initial appointment above the minimum rate:
 - 1. In recognition of recruiting difficulties at the minimum rate; or
 - 2. In the case of a candidate who possesses exceptional skills or superior training or whose experience or special achievements are such that his or her addition to the city staff at a higher rate is deemed warranted.
- B. Regular Full-time Employees.
 - 1. Upon satisfactory completion of the probationary period (as established in section 4.15.060) after initial appointment, the salary of the employee is limited to two steps in accordance with the current City of Palmer Pay Plan.
 - 2. If the probationary period has not been completed satisfactorily, the department director, with the approval of the city manager, may extend the probationary period as indicated in Section 4.15.060, or the employee shall be terminated. The employee, if retained, following satisfactory probation, may be advanced not more than two step increments in the salary level in which the employee was hired and then shall be eligible for the next advancement within the salary range on the employee's merit anniversary date.
 - 3. Uncertified Police Officers are subject to the mandated 13 Alaska Administrative Code (AAC) requirements.
- C. Regular Part-Time Employees.
 - 1. Upon satisfactory completion of the probationary period (as established in section 4.15.070) after initial appointment, the salary of the employee is limited to two steps in accordance with the current City of Palmer Pay Plan.
 - 2. If the probationary period has not been completed satisfactorily, the department director, with the approval of the city manager, may extend the probationary period as indicated in Section 4.15.070, or the employee shall be terminated. The employee, if retained, following satisfactory probation, may not be advanced more than two steps in the salary level in which the employee was hired and then shall be eligible for the next advancement after an additional 2080 hours worked.
- D. Employee performance. The performance of each employee (including temporary and continuous part-time employees) shall be reviewed as outlined in section 4.10.050.
 - 1. A department director shall submit to the personnel officer a performance appraisal to determine eligibility for an increase in salary to the next higher step within the established level.
 - 2. A step increase shall not be automatic merely upon completion of a specific period of service.

3. An increase shall be based upon performance and shall require the affirmative written recommendation of the department director supported by an attached employee performance report form and the approval of the city manager.
4. The employee may not be advanced more than two steps.
- E. By resolution the council may direct the city manager to suspend all merit increases recommended after the date of the resolution.

4.10.050 Employee Performance Appraisal (EPA).

- A. The city manager shall, in cooperation with the personnel officer, department directors, and others, develop and adopt a system of evaluating the performance of employees in the classified service.
- B. Employee Performance Appraisals are used for the following purposes, to:
 1. Provide a basis for informed decisions on such matters as promotion, work assignments, training, recognition and awards, and reduction in force;
 2. Keep employees advised of what is expected of them and how well they are meeting those expectations;
 3. Stimulate improved work performance and commitment to city goals;
 4. Provide a basis for meeting employee needs for growth and development;
 5. Enable management to make better use of its personnel resources;
 6. Foster an effective working partnership between supervisor and employee; and
 7. Determine the effectiveness of placement and promotion actions.
- C. Preparation. An employee performance appraisal shall be prepared for all full-time and regular part-time employees.
 1. Each department director, with the assistance of the personnel officer shall develop and use performance standards suited to the requirements of his or her department.
 2. Standards of performance established as a basis for personnel appraisal shall have reference to the quality and quantity of work, the manner in which service is rendered, and such characteristics as will measure the value of the employee to the classified service.
 3. Employees should be informed of such standards.
- D. Nature, Form and Frequency of Reports.
 1. The personnel officer shall prescribe the nature, form and frequency of reports, and will confer with the department director concerning the EPA prior to distribution to the employee.
 2. Department directors who desire assistance in preparation of the EPA should consult with the personnel officer prior to their review of the employee.
 3. Employee Performance Appraisals will be completed:
 - a. Prior to completion of probation, six months for regular full-time employees, or 1,040 hours worked for regular part-time employees, exclusive of overtime, from the date of hire;
 - b. For regular full-time employees one month prior to merit anniversary date for regular part-time employees when the employee has completed 2080 work hours.
- E. Review of EPA with Employee.
 1. Employee's direct supervisor shall prepare the EPA.
 2. The direct supervisor shall discuss it with the employee privately.
 3. An employee may comment on the content of the report and such written comments shall be attached to and become part of the appraisal.

- F. Distribution of EPA. Upon completion of the review, the personnel officer shall furnish the employee with a copy of the EPA. The original shall be filed in the employee's personnel file.
- G. Appraisals Are Not Grievable. The EPA shall not be the subject of a grievance.
- H. Employee's Signature Not Concurrence. The employee's signature on the appraisal does not constitute concurrence with the substance of the appraisal.
- I. Goals and objectives for each employee for the following review period shall be discussed and listed at each performance appraisal.

4.10.060 Salary adjustment on transfer, promotion and demotion.

In the event of transfers, demotions and promotions, the following principles shall apply:

- A. Transfer.
 - 1. In the case of transfer, the pay rate of the employee transferred shall remain unchanged, and the employee's merit anniversary date shall remain the same as in his or her former classification.
 - 2. Should an employee in a probationary status be transferred, the probationary period for the new position shall start on the date of transfer.
 - 3. After a regular full-time employee has successfully completed six (6) months or a regular part-time employee 1,040 hours of work, exclusive of overtime, the employee may be advanced a maximum of two steps in accordance with the adopted City of Palmer Pay Plan to the next higher pay step in the salary level in which the employee was hired. That date becomes the employee's merit anniversary date.
- B. Promotion.
 - 1. In the case of promotion, the pay rate of the employee promoted shall increase to the rate for the new level.
 - 2. There shall be a minimum raise equal to a step increase in the employee's previous level.
 - 3. On satisfactory completion of the probationary period, the employee will be moved to the next merit step and that date becomes the employee's merit anniversary date, except in the case of an employee who is promoted into a level on the longevity scale, in which case the longevity scale increases shall apply.
- C. Voluntary demotion.
 - 1. In the case of voluntary demotion, the employee shall be assigned to a lower level pay classification.
 - 2. The employee shall be classified in the lower level at the pay step that provides the hourly rate of pay consistent with the new level of work. The merit anniversary date shall be the date of the transfer.
- D. Involuntary demotion.
 - 1. In the case of involuntary demotions, the employee shall be assigned to a lower level pay classification.
 - 2. The employee shall be classified in the lower level at the pay step that provides the hourly rate of pay consistent with the new level of work. The merit anniversary date shall be the date of the transfer.

4.10.070 Temporary assignments.

- A. Temporary Assignments. Employees may be assigned temporarily to perform duties of a higher classification for purposes of training and/or demonstration of skill leading to possible promotion, or to fill vacancies, for a period of up to 14 calendar days without change of

classification for pay purposes. (Pay at Step level 1 at the level of the temporary assignment or the next Step level that is greater than the employee's current wages.)

- B. Acting City Manager or Acting City Clerk. Beginning on the fifteenth calendar day the employee shall receive a ten (10) percent increase of the acting employee's regular rate of pay while in acting status.

Chapter 4.15

EMPLOYMENT

4.15.005 General provisions.

- A. Discrimination. The city shall not refuse employment to a person, or bar a person from employment, or discriminate against a person in compensation or in a term, condition or privilege of employment because of the person's race, religion, color, or national origin, or because of the person's age, physical or mental disability, gender, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, gender, marital status, changes in marital status, pregnancy or parenthood.
- B. Minimum Age. The minimum age for city employment shall be in accordance with the minimum ages prescribed by state law.
- C. No person who seeks employment or promotion with respect to any position may directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her tests, appointment, proposed appointment, promotion or proposed promotion.
- D. A person reemployed shall be appointed to the position in accordance with the pay and benefits scale in effect at the time of the new appointment. The fact that the person was formerly employed in accordance with a higher scale shall not be considered in making the new appointment.
- E. Nepotism.
1. No person may be employed in a position by the city who is a spouse, domestic partner, or close relative of the city manager.
 2. No person may be employed in a position in a department who is a spouse, domestic partner, or close relative of the department director.
 3. In addition, no person may be employed in a direct or indirect supervisory position regarding a spouse, domestic partner, or close relative.
 4. Department directors may not be spouses, domestic partners, or close relatives of one another.
 5. "Domestic Partners" means any person with whom the employee maintains shared household and conjugal relations.
 6. "A close relative of an employee" means the employee's child, parent, in-laws and sibling, whether in full, half, or step relationship, by blood or adoption.

4.15.010 Recruitment.

- A. Each department director shall notify in writing both the city manager and the personnel officer as soon as practicable of the need to fill a vacant or a new position. The personnel officer shall coordinate with the department director and city manager to prepare the job announcement.

- B. The personnel officer shall utilize appropriate recruiting measures to obtain qualified applicants. The personnel officer will provide the following information in the job announcement: the title and salary range of the class or position, the minimum qualifications required, the final date and time when applications will be accepted, whether examinations or testing will be required, and other pertinent information and requirements. If certain categories of individuals will receive preference in filling vacant positions, those categories should be listed.
 - C. Job announcements will be published for no less than ten (10) working days, unless a shorter period is approved by the city manager. The city manager may authorize a job announcement for five (5) working days when necessary.
 - D. Subject to subsection (E) of this section, a copy of the job description will be furnished with the announcement and both are to be distributed to all city departments and the Mat-Su office of the Alaska State Employment Service.
 - E. A department director may restrict recruitment for a vacancy to current employees of the department, provided all of the following are met:
 - 1. The department director has submitted a written request to the city manager and the personnel officer requesting in-department-only recruitment;
 - 2. The number of budgeted job positions has not increased in the department; and
 - 3. The city manager and personnel officer both approve the request in writing.
- Once the preceding requirements have been met, then a copy of the job description furnished with the announcement shall be distributed to all employees in the department. The announcement will state that the position is available to current employees of the department only.
- F. This section does not apply to the recruitment of department directors and volunteers.

4.15.020 Selection.

- A. Filing Applications.
 - 1. To be considered for a position, each applicant (including current city employees) must submit a City of Palmer application to the City of Palmer, Human Resource Department, 231 W. Evergreen Avenue, Palmer, Alaska 99645.
 - 2. All applications must be submitted on or before the closing date and time specified in the announcement.
 - 3. Applications received after the closing deadline shall not be accepted for the particular position in the announcement.
- B. Minimum Qualification/Disqualification.
 - 1. The personnel officer or designee shall screen applicants by reviewing the job applications.
 - 2. The city may refuse to examine an applicant, or after examination may refuse to select an applicant or to place his or her name on an eligibility list, or may remove his or her name from an eligibility list, who:
 - a. Has failed to submit the application correctly or within the prescribed limit;
 - b. Is found to lack the minimum qualifications in the recruitment announcement or examination for the position;
 - c. Has withheld information of material fact or made a false statement of material fact in regard to his or her application;
 - d. Has used or attempted to use bribery to secure an advantage in the examination or appointment;

- e. Has directly or indirectly obtained information regarding examinations to which he or she is not entitled; or
- f. Other reasons which are not in violation of state or federal law.
- C. Examinations. An applicant will be eligible to take examinations if he or she meets the minimum qualifications/ established by the department director. These qualifications may include education, experience, and other factors as related to the ability of the applicant to perform with reasonable efficiency the essential functions of the position with or without an accommodation.
- D. Examination Contents and Procedure.
 1. All examinations required shall be practical and shall relate to the duties and responsibilities of the position for which the applicant is being examined and shall measure the relative capacity and fitness of person examined to perform the essential functions of the class of positions to which they seek to be appointed (or promoted). The examination or other tests found reasonable by the personnel officer used to determine the fitness and relative ability of the applicant may consist of one or more of the following:
 - a. Written tests;
 - b. Performance tests;
 - c. Physical tests of strength, stamina or dexterity;
 - d. Evaluation of education, training and experience as shown on the application;
 - e. Interviews designed to determine general fitness for the position;
 - f. Pre-employment health examinations;
 - g. Drug test; and
 - h. Interviews.

In addition, for police officers, additional testing requirements may be required, including, but not limited to: polygraph examination, psychological examination, fingerprinting, extensive background investigation and criminal background review.

In addition, for all other police department employees, additional testing requirements may be required, including, but not limited to: fingerprinting, extensive background investigation and criminal background review.
 2. Five (5) working days before applications for the position close, the department director will submit for the personnel officer's approval any examinations to be used to rank the applicants.
 3. The department director may require information as to education, training and experience of applicants and such other information as the department director may reasonably deem pertinent. If the department director determines a need to contact any applicant for further information, the personnel officer shall contact the applicant and all applicants similarly situated shall be extended this same opportunity. The personnel officer may require any applicant for examination to submit documented proof of the possession of any license, certificate, degree or other qualification claimed or required and may refuse credit for such qualifications in the absence of proof.
- E. Conduct of Examinations. Examinations shall be conducted at a testing site approved by the personnel officer or under the supervision of the department director. All examiners and monitors used in the conducting of examinations shall be provided with such instructions as may be required for fair and impartial administration.
- F. Interviews. When an interview panel forms a part or all of the examination for a position, the city manager or designee shall appoint an interview board. This board shall consist of at least three members:

1. The director or designee of the department having the vacancy;
 2. City of Palmer employee with the same job classification or higher as the position being filled; and
 3. The personnel officer or designee. As a general rule, all applicants selected for interview shall be interviewed and rated by the same panel. Alternate members may be used only when determined necessary by the personnel officer.
- G. Method of Ranking.
1. Vacancies will be filled by the most qualified applicant based on the criteria as established in subsection (G) (2) of this section.
 2. Five (5) working days before applications for the position close, the department director shall submit for the personnel officer's approval the interview questions and the method of ranking to be used for hiring list eligibility.
- H. Offering Positions.
1. Pre-offer procedure.
 - a. The department director shall provide the most qualified applicant(s) to the personnel officer.
 - b. If additional information is needed to document qualifications, a memo to the personnel officer shall be included.
 - c. Prior to selection of a candidate, the personnel officer is responsible for checking references for the top candidates.
 2. Conditional offers.
 - a. Before making final selection of the most qualified applicant, the department director shall notify the personnel officer of any conditions of employment in writing.
 - b. Examples of conditions include without limitation the successful completion of a background investigation or post offer medical examination, receipt of negative results of a post offer drug test, or Alaska licensing.
 - c. The personnel officer will make a conditional job offer.
 - d. When the conditions have been met and the applicant accepts the position, employment becomes effective upon written approval of the personnel officer and city manager.
 3. Positions offered. The personnel officer shall make all offers of employment, transfer or promotion, either oral or written.
 4. Employment.
 - a. All applicants must successfully pass the pre-employment drug screening prior to starting employment with the City.
 - b. All applicants must submit a copy of their driving record and a background report from the State Troopers during orientation with the personnel officer or designee.
 - c. The cost of the driving record and background report will be reimbursed during normal account payables procedures.
- I. Eligibility List.
1. The department director may include in the position announcement that not only a position opening exists but that an eligibility list may be made of top qualified applicants based on the examination. In such case, the department director may establish an eligibility list and provide a copy to the personnel officer.
 2. Within 30 days of the establishment of the eligibility list, the personnel officer shall notify all qualified applicants in writing whether their names have or have not been included on the eligibility list.

3. If a position for which an eligibility list exists becomes open for hiring, the personnel officer at the request of the department director and approval of the city manager may choose to hire from the eligibility list.
 4. Filling vacancy from eligibility list.
 - a. To fill a vacancy by selection of a candidate from an eligibility list, the department director shall submit the eligibility list to the personnel officer and city manager.
 - b. This list may be for one or more positions in the same job position and shall indicate the number and identity of positions to be filled and the title of the position to which they have been allocated and shall include other material information.
 - c. The department director shall submit the list with his or her request to interview as far in advance as possible prior to the date he or she desires the employee to begin work.
 - d. The request shall be subject to approval of both the personnel officer and city manager.
 - e. The list submitted by the department director shall include the names of all candidates included in the highest rankings, normally the top five rankings, pursuant to the examination.
 5. The period during which an eligibility list remains in effect shall be determined in writing by the department director upon the establishment of such list, but the period shall not exceed six (6) months from the close of the application period for the position. If the department director chooses and receives city manager approval to commence the recruitment and selection procedure to fill a job position for which an eligibility list exists, then the eligibility list ceases to be effective.
 6. The department director, after notifying the personnel officer in writing and receiving written approval from the personnel officer, may remove the name of an eligible candidate from the list for the following reasons:
 - a. the eligible candidate cannot be located by mail or the candidate has failed to respond within five (5) days to a notice of inquiry regarding availability for appointment;
 - b. upon written notification from the eligible candidate that he or she no longer desires consideration for a position in that class;
 - c. the eligible applicant declines position offered; or
 - d. fails to report to duty within a reasonable time not to exceed 30 days.
- J. Recruitment and Selection Records.
1. Within five (5) days of the offer being accepted by the employee or the establishment of the eligibility list, the department director shall organize in an orderly manner and deliver to the personnel officer all records and documents pertinent to the recruitment and selection.
 2. These records and documents shall include without limitation all announcements, a description of the selection procedure, all applications, all tests, all test results, all ranking sheets, all correspondence with applicants, all information regarding the methods and materials used, and all notes taken by raters.
- K. This section does not apply to the selection of department directors and volunteers.

4.15.030 Pre-employment inquiries.

The city may make pre-employment inquiries as authorized by law.

4.15.040 Promoted employee.

A promoted employee shall begin their probationary period subject to section 4.15.070. The probationary employee retains eligibility to take leave subject to chapter 4.30.

4.15.050 Probationary period.

- A. All new regular full-time and regular part-time employees are subject to the probationary requirements of this section.
- B. At any time during the probationary period, the department director or city manager may summarily discharge the probationary employee from the position, with or without cause and without right of hearing or appeal; provided, however, such discharge will be made in conjunction with prior attorney consultation.
- C. Written notice of such dismissal shall be given to the probationary employee before the action becomes effective.
- D. All new, promoted, and demoted employees shall serve a probationary period.
 - 1. Full-time employees shall serve a probationary period of six (6) months or 1,040 hours worked, exclusive of overtime.
 - a. when an employee in a probationary status is transferred to another level, the probationary period for the new level shall start on the date of the transfer.
 - b. After an employee has successfully completed six (6) months and 1,040 hours of work, exclusive of overtime, in the new level the employee may be advanced a maximum of two steps to the next higher pay step in the salary range of the class. That date becomes the employee's merit anniversary date.
 - c. The probationary period may be extended at the discretion of the department director and approval of the personnel officer.
 - 2. Part-time employees shall serve a probationary period of six (6) months and 1040 hours worked, exclusive of overtime.
 - a. After an employee has successfully completed six (6) months and 1040 hours of work, exclusive of overtime, the employee may be advanced a maximum of two steps to the next higher pay step in the salary range of class. That date becomes the employee's merit anniversary date.
 - b. The probationary period may be extended at the discretion of the department director and approval of the personnel officer.
 - 3. Uncertified Police Officer probationary period shall begin at day of hire and continue for six (6) months after the successful completion of Police Academy and field training program.
- E. A probationary employee is not entitled to section 4.50.060 before discharge, and a probationary employee is not entitled to severance pay upon discharge.
- F. During the probationary period, a probationary employee accrues leave time, and shall be eligible for holiday benefits.
 - 1. The employee may not use personal leave until they have successfully completed their probationary period including any extensions.
 - 2. The leave accrual will not be paid for an employee who leaves employment with the City of Palmer for any reason prior to successfully completing the probationary period including any extensions.

4.15.060 Residency.

- A. In accordance with the Charter, the city manager shall be a resident of the city during his or her tenure in office.

- B. All Department Directors, Fire Chief, and the Police Chief shall reside within five miles of the city limits within 180 days of hire.

4.15.070 Driver's license required.

All employees whose job description requires a valid Alaska driver's license of a specific class or with or without endorsements, including a commercial driver's license (CDL), shall obtain and maintain such driver's license.

- A. An employee, who is required to have a CDL whose operating privilege is suspended, revoked or canceled for any period, shall not operate any city vehicle for which such license or endorsement is required during the period of suspension, revocation, cancellation, loss or disqualification.
- B. An employee whose operating privilege is suspended, revoked or canceled, who loses the privilege to operate a motor vehicle in any state for any period, shall notify his or her department director or the city manager of that fact before the end of the business day following the day the employee receives notice of the suspension, revocation, cancellation, loss or disqualification. An employee whose operating privilege is suspended, revoked, or canceled from operating a motor vehicle may not operate a city vehicle or his or her own personal vehicle for city business.
- C. Violation of subsection (A) or (B) of this section constitutes cause for termination.
- D. The suspension, revocation, cancellation, loss or disqualification of the operating privilege constitutes cause for involuntary demotion to a lower job classification for which the employee is qualified without the privilege. If there is no opening available in a lower job classification for which the employee is qualified without the operating privilege, the employee may be terminated.
- E. In addition to the above, the employee may be terminated at the discretion of the city manager or may be required to:
1. Obtain a new, valid driver's license of such class or with such endorsements, including a commercial driver's license, that meets the requirements of his or her job description within 60 calendar days of the effective date of the suspension, revocation, cancellation, loss or disqualification;
 2. Obtain a reinstatement of the prior operating privileges within 60 calendar days of the suspension, revocation, cancellation, loss or disqualification; or
 3. Obtain a limited license privileges and a new valid driver's license or have the prior operating privileges reinstated such that the employee does not lack the driver's license authority meeting the requirements for his or her job description for more than 60 calendar days, consecutive or nonconsecutive.
- F. If an employee is subject to adverse action resulting from any change in license status or driving privileges, the provisions of section 4.50.040 and 4.50.050 must be followed.

4.15.080 Physical examination.

- A. After an offer of an appointment to a position, the city may require an applicant to pass a physical examination conducted by a city-approved medical provider at city expense.
- B. If the city manager or department director has reason to believe that a current employee has a physical or mental condition which substantially interferes with the employee's ability to perform the essential functions of his/her position in a safe and proficient manner, the personnel officer or department director, with the prior written approval of the personnel officer, may in writing require the employee to submit to a fitness for duty examination. If the city selects the medical or mental health professional, the city shall pay for the fitness

- for duty examination. If the employee elects to obtain a second opinion it will be at the employee's expense.
- C. If an employee suffers an injury or illness which prevents the employee from fully performing his or her essential functions of his/her job, the employee's department director may offer the employee light duty where such is approved by a medical or mental health professional has released the employee for such light duty. The personnel officer shall be notified of the light duty status.
1. Light duty may be assigned in a department other than the employee's home department with the concurrence of the receiving department director.
 2. The employee's department shall pay for all light duty pay if the employee works in a different department, at the discretion of the City Manager.
 3. If light duty is not available, the employee must remain off the job until released by a medical or mental health professional to perform the essential functions of his/her position with or without accommodation.
 4. When the employee is able to perform the essential functions of his/her position and a medical or mental health professionals written release to that effect has been received by the personnel officer, the employee shall be reassigned to the normal position in due course; provided, that
 - a. the medical release is received within 18 weeks of notice of the injury or illness; and
 - b. the position still exists and is not then filled by a regular employee who is not in a promotional probationary period.
- D. If an employee is unable to return to work due to injury or illness that prevents them from performing essential job functions due to injury or illness, the employee shall advise his or her department director in writing. The department director may request physician updates on the status of the employee.

Chapter 4.20

HOURS OF WORK, HOLIDAYS WITH PAY, AND OVERTIME

4.20.005 Hours of work.

The standard work week for city offices and departments shall be 40 hours, which shall be scheduled normally between the hours of 8 a.m. and 5 p.m. prevailing time, with one hour off for lunch, Monday through Friday, except as departmental operating needs require different schedules. Schedules shall be established by the department directors.

4.20.010 Holidays with pay.

- A. Holidays with pay shall be those recognized by the city council as official holidays and shall apply as follows:
1. Full-time employees will receive eight (8) hours of pay for holidays.
 2. Part-time employees will receive holiday pay in proportion to his or her regularly scheduled work time.
 3. Probationary employees will receive holiday pay in proportion to his or her regularly scheduled work time, not to exceed eight hours.
- B. In the event a holiday occurs on a Saturday, the holiday shall be observed on Friday prior to the holiday. If the holiday occurs on a Sunday, the holiday shall be observed on Monday following the holiday. The following days shall be recognized as holidays with pay:

1. New Year's Day – January 1;
 2. President's Day – third Monday in February;
 3. Memorial Day – last Monday in May;
 4. Independence Day – July 4;
 5. Labor Day – first Monday in September;
 6. Veteran's Day – November 11;
 7. Thanksgiving Day – fourth Thursday in November;
 8. Fourth Friday in November;
 9. Christmas Day – December 25.
- C. For employees entitled to holiday pay having other than a Monday through Friday work week, the holiday will be observed on the actual date of the holiday and the employee shall be paid for working on the holiday as follows:
1. All work on holidays shall be paid at the rate of time and one-half for the time actually worked.
 2. The employee shall be entitled the amount of holiday pay listed in section A of this section.
- D. Floating holidays. Each full-time employee shall have two floating holidays per year which may be taken with the supervisor's approval and must be taken during the calendar year. Floating holidays of any calendar year not taken by December 31 will be forfeited and shall be applied as follows:
1. Full-time employees who successfully complete the probationary period including any extensions between January 1 and June 30 accrue two floating holidays.
 2. Full-time employees who successfully complete the probationary period including any extensions between July 1 and December 31 accrue one floating holiday.
 3. A full-time employee shall not be paid for unused floating holidays upon leaving employment.
- E. Employees shall not be paid for holidays occurring while they are on approved or unapproved leave-without-pay status.
- F. All work on holidays shall be paid at the rate of time and one-half for the time actually worked, up to a maximum of eight (8) hours.

4.20.020 Overtime, holiday pay, standby, callout, and flex schedule.

- A. Exempt employees shall work the time necessary to perform their job. For purposes of pay and benefits only, exempt personnel are not subject to deductions for absences of less than a day.
- B. It is recognized that overtime duty is an occasional necessity dictated by the needs of the City. Department Directors shall use sound management judgment to schedule overtime in accordance with the needs of the City. To the extent practicable Department Directors shall anticipate overtime needs. No overtime shall be worked unless authorized by the department director or supervisor.
- C. In accordance with the Fair Labor Standards Act (FLSA), overtime pay shall apply when a non-exempt employee actually works more than 40 hours in a work week. Overtime work shall be paid at the rate of time and one-half.
- D. Police Officers are authorized to work a non-standard work schedule and shall be scheduled to work a minimum of 80 hours in a 14 day pay period. They shall receive overtime pay when they have worked in excess of the standard minimum hours for their applicable schedule.
- E. Standby pay.

1. The department director may designate one or more employees to be on standby..
 2. For each day the employee is designated to be on standby but is not called out to work, the employee will receive two hours compensation at one and half times the employee's normal hourly rate of pay.
 3. An employee on standby shall receive compensation at one and half times the employee's normal hourly rate of pay for the greater of two hours or the number of hours actually worked when notified to report to work .
- F. Call out pay.
1. Based on the needs of the City and the availability of the employee, a Department Director or designee may request an off-duty employee to report to work; and
 2. Upon arrival at work, an employee who is called out on their regular day off shall receive compensation at one and half times the employee's normal hourly rate of pay for the greater of two hours or the number of hours actually worked.
- G. Flex schedule. The Department Director, in his or her discretion, may assign employees to a flex schedule.
- H. Sections E and F shall not apply to employees designated as an on call status employee.

4.20.030 Shift differential for police officer and dispatch personnel.

- A. As an incentive to work a non-standard schedule, employees shall be paid a shift differential of:
1. Three percent (3%) for the period: 4 p.m. to 12 a.m. (1600 to 2400 hours);
 2. Six percent (6%) for the period: 12 a.m. to 8 a.m. (2400 to 0800 hours).
- B. Differential shall not be paid for the standard work day of 8 a.m. to 4 p.m.
- C. Shift differential does not apply to exempt employees.

4.20.040 Certified Public Safety trainers.

Certified Public Safety trainers shall receive 30 minutes of compensation at one and half times their standard rate of pay per shift worked while they are assigned as a trainer without the requirement to actually work longer than their scheduled shift.

Chapter 4.30

TYPES OF LEAVE

4.30.010 Personal leave – full-time employee.

- A. Personal leave shall be earned only upon completion of each full pay period.
- B. Full-time employees shall accumulate personal leave in accordance with the following schedule:
1. 7.07 hours per pay period for employees with less than two (2) years;
 2. 8.92 hours per pay period for employees with two (2) years and less than five (5) years;
 3. 9.85 hours per pay period for employees with five (5) years and less than 10 years; and
 4. 11.69 hours per pay period for employees with 10 years or more of service.
- C. Upon completion of 1,040 hours exclusive of overtime, full-time employees shall be credited with the accrual as provided in this section, retroactive to the date of hire.

4.30.020 Personal leave – part-time employee.

- A. Part-time employees shall accumulate personal leave at an equivalent ratio of hours worked.
- B. Personal leave shall be earned only upon completion of each full pay period.
- C. Part-time employees who work 20 or more hours a week will accrue personal leave at the rate of fifty percent of the full-time employee in accordance with the following schedule:
 - 1. 3.53 hours per pay period for employees with less than two (2) years;
 - 2. 4.46 hours per pay period for employees with two (2) years and less than five (5) years;
 - 3. 4.92 hours per pay period for employees with five (5) years and less than 10 years; and
 - 4. 5.84 hours per pay period for employees with 10 years or more of service.
- D. Upon completion of 1,040 hours exclusive of overtime, part-time employees shall be credited with the accrual as provided in this section, retroactive to the date of hire.

4.30.030 Personal leave – temporary and on call employees.

An employee hired for a temporary or on call position shall not accrue personal leave.

4.30.040 Leave without pay absence during probationary status.

In the event there is a leave without pay absence during the probationary status, the merit anniversary date of the employee shall be adjusted forward to account for such leave.

4.30.050 Changes in accrual rate.

Changes in the accrual rate shall take effect on the pay period immediately following eligibility for such change.

4.30.060 Maximum accrual.

Personal leave accrued, but not used, shall accumulate to a maximum of not more than 500 hours on January 1 of any calendar year.

- A. Unused leave in excess of the maximum accumulation as of December 31 of any calendar year shall be forfeited unless a written request is submitted to the personnel officer no later than December 15 of each year requesting to cash in the excess personal leave.
- B. Payment for accrued leave shall not exceed the monetary equivalent of 500 hours of such leave, plus accumulated leave since January 1 of the year in which termination occurs. While an employee is on probation, the personal leave has no cash value.
- C. The salary rate used in computing the cash payment to be the employees current rate at the time of payment.

4.30.070 Use of leave mandatory.

Each full-time employee shall take at least ten (10) days or 80 hours of personal leave each calendar year.

- A. It shall be the responsibility of the department director to ensure that each employee is given the opportunity to use this leave, scheduled in accordance with the department work load.
- B. In the event the employee does not take ten (10) days or 80 hours of leave in the calendar year, the employee will lose the unused balance of the eighty (80) hours of accrued leave.
- C. The department director may require that the employees apply for personal leave a reasonable length of time in advance of taking planned leave. The request for personal leave shall be approved or disapproved within ten (10) working days from date received.

4.30.080 Bereavement leave.

- A. Regardless of probation status, full-time employees will receive three (3) days of paid bereavement leave for the death of an employee's immediate family member (spouse, children, grandchildren, grandparents, mother, father, sister, or brother).
- B. The employee shall provide appropriate documentation of death to the personnel officer.

4.30.090 Absence without prior approval.

- A. An employee absent using unplanned personal leave shall inform his or her immediate supervisor of such absence not less than one hour before duty time is to begin.
- B. Failure to do so shall be cause for the time off to be charged as leave without pay.
- C. Extreme circumstances will be considered on a case by case basis.

4.30.100 Personal leave donations.

On a volunteer basis, an employee may contribute personal leave in an hourly dollar exchange to an employee who has encountered a long-term illness and is need of personal leave.

4.30.120 Payment in lieu of leave.

- A. Cash in lieu of accumulated personal leave may be obtained, under emergency conditions outlined in writing and approved by the City Manager and Finance Director, so long as the employee shall retain at least 80 hours of annual leave following cash payment.
- B. Cash in lieu of accumulated personal leave may be obtained, under non-emergency conditions outlined in writing and approved by the City Manager and Finance Director, up to twice per calendar year, so long as the employee shall retain at least 80 hours of annual leave following cash payment.

4.30.130 Other leave.

- A. Jury Duty leave. The city will grant an employee administrative leave for jury duty. Fees paid by the court (other than travel and subsistence allowances) will be turned in for deposit to the city's general fund.
- B. Short-Term Military leave with pay.
 - 1. A regular, full-time employee who has served with the City for six (6) months or more immediately preceding an application for military leave and who is a member of the National Guard or a reserve component of the armed forces of the United States, is entitled to a leave of absence from their duties for a period not exceeding fifteen calendar days in any calendar year.
 - 2. Such leave shall be granted without loss of time, pay, or benefits to which they are entitled.
 - 3. Employees receiving short-term military leave pay shall tender pay received from the military.
 - 4. Military leave with pay may be granted only when an employee receives bona fide orders to active or training duty for a temporary period and shall not be paid if the employee does not return to their position immediately following the expiration of the period for which they were ordered to duty.
 - 5. Military leave with pay shall not be granted to employees entering the service for extended and indefinite period of active duty.
- C. Extended Military leave without pay.

1. An employee serving the Guard or Reserve who is called to active duty for an extended tour of duty is eligible for an extended military leave of absence, which may continue up to five (5) years.
2. Upon return from active duty service, they shall return to a position in the same range as their last position at the salary step prevailing for such position without loss of seniority or employment rights.
3. If it is established that they are not physically qualified to perform the duties of their former position by reason of such service, he or she shall be reinstated in other work that they are able to perform at the nearest appropriate level of the pay of their former position.
4. Such employees shall make application for reinstatement within forty-five days of discharge or return and shall report to work within three (3) months following separation from active duty.
5. Failure to comply will terminate the extended military leave.
6. When an employee voluntarily reenlists or extends his or her period of military service, this military leave shall be deemed canceled.
7. This rule shall apply so long as it does not violate 38 U.S.C. SS 2021 – 2026 pertaining to reinstatement of City employees returning from active duty. Only to the extent necessary to comply with 38 U.S.C. SS 2021 – 2026, those provisions shall prevail over this rule.

4.30.140 Leave without pay.

- A. Leave without pay (other than that resulting from suspension without pay) cannot be granted until all personal leave has been used. Employees on approved personal leave who exhaust their leave balance will automatically be put on leave without pay.
- B. Employees may be granted leave without pay by their immediate supervisor not to exceed five (5) working days in any calendar year providing it does not impair the effectiveness of the department.
- C. Leave without pay in excess of five (5) days must be approved by the personnel officer with an accompanying report and recommendation from the department director.
- D. Health insurance to the extent provided for other employees shall continue in effect during leave without pay (including that resulting from suspension without pay) for a period not to exceed three months or 18 weeks if on approved family medical leave.
- E. Personal leave and holidays will not accumulate during leave without pay, unless the employee is on approved family medical leave.

4.30.150 Unauthorized absence.

Any absence not authorized and approved in accordance with the provisions of this title shall be without pay for the period of the absence and shall be grounds for disciplinary action.

4.30.160 Family and medical leave.

The Alaska Family Leave Act (AS 23.10.500 – 23.10.550) and the Federal Family and Medical Leave Act of 1993 (Public Law 103-3) entitle employees to periods of leave for childbirth, adoption, to care for a close relative with a serious health condition, or if the employee is unable to perform his or her duties because of a serious health condition. This section is intended to comply with the requirements of those Acts. The terms used in this section have the meanings defined in those Acts. Family and medical leave is without pay.

- A. Eligibility, Notice and Duration.

1. An employee is eligible to take Alaska family and medical leave if the employee has been employed by the city for at least 35 hours a week for at least six (6) consecutive months or for at least 17.5 hours a week for at least 12 consecutive months immediately preceding the leave. Family and medical leave is available to probationary employees who meet the above criteria. Eligibility for family and medical leave is not gender-based and is available to both male and female employees.
2. An eligible employee shall be entitled to a total of 12 work weeks of leave within a 12-month period for one or more of the following:
 - a. Pregnancy and the birth of a child of the employee and in order to care for such child;
 - b. Placement of such child with the employee for adoption or foster care;
 - c. In order to care for the spouse, child, parent of the employee, or parent-in-law, if such spouse, child, or parent or parent-in-law has a serious health condition;
 - d. Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.
3. Extended Eligibility.
 - a. An employee shall be entitled to an additional six work weeks of leave within the same 12-month period due to reasons set out in subsections (2)(a) and (2)(b) of this section.
 - b. An employee shall be entitled to an additional six work weeks of leave within the 24-month period measured backwards from the date an employee uses family and medical leave due to the reasons set out in subsections (2)(c) and (2)(d) of this section.
4. Limitations on Eligibility. An employee's eligibility for family and medical leave for birth or placement of a child of the employee expires 12 months after the birth or placement.
5. Where the need for family and medical leave is foreseeable based on an expected birth or placement of a child or for planned medical treatment, the employee shall provide the department director with not less than 30 days' notice before the date the leave is to begin. However, if 30 days' notice is not possible, the employee shall provide such notice as soon as practicable.
6. In the best interests of the city, the city manager may allow for an additional 90 days leave without pay upon a written prognosis from a physician licensed by the state of Alaska that the disability will not extend beyond this time period.
7. During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, employees must be restored to their original job or equivalent position with equivalent pay, and other employment terms.
8. Service member FMLA provides eligible employees unpaid leave for any one, or for a combination, of the following reasons:
 - a. "qualifying exigency" arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan; and/or
 - b. to care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that such injury or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating.

4.30.170 Duration of Service member FMLA.

- A. When leave is due to a "Qualifying Exigency" an eligible employee may take up to 12 workweeks of leave during any 12-month period.
- B. When leave is to care for an injured or ill service member, an eligible employee may take up to 26 workweeks of leave during a single 12-month period to care for the service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. Service member FMLA runs concurrent with other leave entitlements provided under federal, state and local law.
- C. Certification.
1. An employee requesting family and medical leave shall provide to the personnel officer certification of the circumstances on which the request is being made, to include documentation of placement or adoption proceedings, the statement of a health care provider of the employee's pregnancy, spouse's pregnancy or a serious health condition of the employee or the employee's spouse, child, or parent.
 2. Prior to returning to work, an employee who has been on family and medical leave due to his or her own serious health condition shall present a certificate from the employee's health care provider that the employee is released for duty.
- D. Definition. A covered service member is:
1. A current 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
 2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.
- E. Measuring Period. The 12-month period during which an employee is eligible for family and medical leave shall be the "rolling" 12-month period measured backward from the date an employee begins any family and medical leave.
- F. Coordination with Other Leave.
1. An employee requesting family and medical leave shall first exhaust accrued annual personal leave before utilizing leave without pay.
 2. Injury leave due to a serious health condition is considered family and medical leave because of a serious health condition that makes the employee unable to perform the functions of his or her job and shall run concurrently with family and medical leave.
- G. Health Insurance Benefit. Health insurance coverage for an employee on family and medical leave shall be maintained on the same basis as such coverage is available to an employee who is actively at work during the first 12 weeks of family and medical leave during the measuring period. An employee on extended family leave shall be eligible for such coverage only to the extent he or she pays for it, which shall be in the manner prescribed by the personnel officer.
- H. Personal leave and holidays with pay will accumulate during family and medical leave.
- I. Replacement of Employee on Family and Medical Leave. An employee on family and medical leave may be replaced by a temporary or substitute employee depending on the needs of the department and the duration of the family and medical leave. An employee shall resume his or her position upon completion of family and medical leave.

- J. In the event that the employee is unable to work upon the expiration of the family and medical leave, such employee would be terminated without prejudice, subject to the discharge procedures in sections 4.50.060 through 4.50.080.
- K. In the event of disability discharge, the city will notify the employee of his or her right to extend health plan coverage. This notice will be in accordance with COBRA, the Consolidated Omnibus Budget Reconciliation Act of 1985.

Chapter 4.40

GRIEVANCES

4.40.005 Scope of coverage – Definition.

As used in this chapter, a "grievance" means any timely filed dispute involving the following terms and conditions of employment:

- A. Wages;
- B. Overtime;
- C. Leave;
- D. Transfer; and
- E. Promotion.

4.40.010 Timely – definition.

In this chapter, timely means the grievance must be filed within 60 days of the grievable event.

4.40.020 Procedure.

- A. When an employee has a grievance, the employee shall timely present the grievance in writing to his or her immediate supervisor who shall endeavor to resolve it within five (5) working days. If the supervisor is unable to do so the supervisor shall refer it to the department director who shall have five (5) working days for the settlement of the grievance.
- B. If the employee's supervisor is a department director, then the department director shall have seven (7) working days to settle the grievance. If not resolved at the department director level, the grievance shall be reported in writing to the personnel officer.
- C. Once reported to the personnel officer or designee, the personnel officer or designee shall conduct an investigation. The decision on the findings shall be provided to the employee within 15 working days. If the grievance is not resolved at the personnel officer level, it shall be reported in writing along with the personnel officer's findings and decision to the city manager who shall conduct an investigation and hearings as may be appropriate and report his or her findings and decision to the employee within 15 working days. The decision of the city manager shall be final.
- D. In presenting grievances throughout the procedure, the aggrieved employee may have the assistance of any representatives as he or she considers desirable, at the employee's expense. Any employee of the city having a work-related complaint is required to seek resolution of the complaint by following the procedures described in this section.
- E. The intent of this procedure is to seek resolution of the complaint at the lowest level of the organization possible, to foster sound interpersonal relations between each level of the city's departments, and to be supportive of open communication between supervisors and subordinates.

- F. Once an employee has given notice of resignation or has been served with the Notice of Intent for Adverse Action according to Chapter 4.50 Disciplinary Action and Termination their grievance rights cease.

Chapter 4.50

DISCIPLINARY ACTION AND TERMINATION

4.50.005 Scope of coverage.

This chapter covers employees other than appointed officers and at will employees. Disciplinary actions are not subject to grievance procedures.

4.50.010 Suspension.

A department director or the city manager with concurrence of the personnel officer may suspend an employee with pay at any time for cause. Within five (5) working days, the person imposing the suspension shall follow the procedures set forth in section 4.50.060 or 4.50.080, respectively.

4.50.020 Involuntary demotion.

A department director or the city manager with concurrence of the personnel officer may notify an employee of intent to involuntarily demote an employee whose ability to perform required duties falls below an acceptable standard or for disciplinary purposes. The department director or city manager may notify the employee only after following the applicable procedures set forth in section 4.50.060 or 4.50.080, respectively.

4.50.030 Category 1 – Actions that may result in discipline.

- A. Reasons for disciplinary action up to and including discharge under this section include, but are not limited to the following:
1. Unsatisfactory work quality or quantity; Carelessness or inefficient performance of duties; neglect of duty or refusal to perform work assigned.
 2. Refusal or willful disobedience to comply with instructions or lawful orders given by supervisors or designee.
 3. Inappropriate conduct towards a supervisor, other employee(s), or member of the public including but not limited to: verbal or physical abuse of a supervisor, other employee(s), or member of the public, raising voice, making false or misleading statements that may damage the integrity or reputation of the supervisor or other employees; obscene or abusive language;
 4. Excessive/Habitual tardiness and/or absenteeism, unauthorized extension of break and lunch hours, and leaving work before scheduled.
 5. Horseplay;
 6. Conflict of interests as defined in city policy;
 7. Committing or condoning a violation of law, including an ordinance or city rules and regulations;
 8. Improper or unauthorized use of city owned or leased property vehicles, telephones, or credit cards. Misuse of city or government funds;
 9. Failure to maintain required professional or technical certifications for the position;

10. Uncivil or discourteous acts toward citizens or other city employees, including subordinates, coworkers and superiors;
 11. Smoking in prohibited areas including city owned vehicles;
 12. Possession of alcoholic beverages on city property during work time;
 13. Consumption of an alcoholic beverage or non-prescribed narcotics, tranquilizers, marijuana, or any illegal drugs within four hours before the employee is scheduled to report for work;
 14. Willful negligence which results in injury to personnel or damage to city or government property;
 15. Destruction, abuse, improper disposition, or unauthorized possession or removal from city premises of any property which does not belong to the employee.
 16. Failure to report to the immediate supervisor an on-the-job injury or accident involving equipment, property, or employee.
 17. Lewd or suggestive actions or behavior.
 18. Failure to use or wear required safety equipment.
 19. Other just cause.
- B. These are not to be considered all-inclusive, and nothing herein prevents the city from properly disciplining and/or terminating an employee for any other reason. An employee may be subject to dismissal if he or she repeats an offense in Category 1 or has already received disciplinary action for the same offense.
- C. Except in aggravated cases, before the department director or city manager notifies the employee, the department director or city manager will constructively counsel the employee in an effort to correct the behavior. In the event the employee does not make satisfactory progress and continuation of employment is in jeopardy, the department director or the personnel officer shall counsel the employee, and give the employee a copy of a written plan of improvement listing the requirements which the employee must meet and setting reasonable time limits in which they must be met to avoid termination. Thereafter, if the department director or the city manager believes the employee has failed to meet the requirements, the department director or city manager shall notify the employee of intent to discharge following the procedures set out in section 4.50.060 or 4.50.070.

4.50.040 Category 2 – Actions that may result in discipline.

- A. The following rules apply to city employees and are for the protection of city employees and property. Violations of these rules may result in disciplinary action including and up to termination. The following list includes but is not limited to the following prohibitions:
1. Dishonesty; including, without limitation, falsifying or making a material omission on an employment application, time record, internal investigation statements, or any other city record;
 2. Deliberate disregard of the law or any other city rules and policies.
 3. Flagrant insubordination, including willful disobedience to a lawful order.
 4. Sexual harassment as defined by city policy;
 5. Harassment and discrimination as defined by city policy;
 6. Intoxication or use of alcoholic beverages during work time or lunch breaks;
 7. Bringing firearms or other weapons to working areas (other than sworn officers);
 8. Work place violence as defined by city policy;
 9. Computer use violation as defined by city policy;
 10. Drug and alcohol use in the workplace as defined by city policy;
 11. Abuse, destruction or theft of city property;

12. Absences without proper notification to respective supervisor;
 13. Fighting (verbal threats or physical contact) on city property;
 14. Possession or use of non-prescribed narcotics, tranquilizers, marijuana, or any other illegal drugs either on city property, during work time or lunch break; or being under the influence of any of these substances during work time or lunch time;
 15. Use of prescription medication that causes impairment in judgment, coordination, and physical abilities;
 16. Failure to inform supervisor of prescribed medication where there is likelihood that such medication could affect your job performance and safety;
 17. Refusal to submit written notification from a medical or mental health professional stating employee's prescription medication will not cause impairment in judgment, coordination or physical abilities, if requested by supervisor;
 18. Driving a city-owned vehicle at any time the employee's ability to do so is impaired by the use of prescription or nonprescription drugs or intoxicating substances. Vehicle includes, but is not limited to: road grader, bobcat, front end loader, four wheeler;
 19. Making false claims of work related injury or illness;
 20. Engaging in any conduct which creates a safety, security or health hazard, to include disregard of safety rules;
 21. Falsification of city records;
 22. Negligence resulting in substantial environmental damage;
 23. Unauthorized sleeping on duty;
 24. Unauthorized use of overtime;
 25. Failure to notify the department director of any criminal conviction for a violation occurring no later than one (1) day of such conviction;
 26. Failure to notify the department director during the shift of occurrence any of the following, including but not limited to, work related personal injury, city property damage and/or injury or damage occurring to a third party.
- B. If an employee is indicted in state or federal court on a felony charge they may be placed on administrative leave without pay or benefits pending the outcome of the administrative investigation.

4.50.050 Department director procedure for imposing adverse action.

- A. Except as provided in 4.50.030, before notifying an employee of intent to impose adverse action, a department director must consult with the personnel officer and city attorney. Thereafter, the department director shall:
1. Give written notice to the employee of the charge or charges against the employee;
 2. Explain to the employee the basis, i.e., the evidence, supporting each charge; and
 3. Allow the employee a reasonable opportunity to present his or her side of the story. If the employee requires time to prepare the presentation, up to three (3) days shall be provided. Such presentation shall not be prepared on city's premises. The employee at his or her own expense may be represented by counsel.
- B. After steps in subsections (A) (1) through (3) of this section have occurred, the department director shall determine in writing:
1. Whether there are reasonable grounds to believe the charges against the employee are true; and
 2. Whether the charges support the adverse action.
- C. Only after these procedures in this subsection (A) have been completed may the department director notify the employee of intent to impose adverse action.

- D. The notice of intent to impose adverse action shall notify the employee:
 - 1. Of the department director's intent to impose a specified adverse action on the employee;
 - 2. Of the statement of cause for the action including the determination of items in subsection (A) of this section;
 - 3. That the employee has the right to a hearing before the city manager to contest the imposition of the adverse action; and
 - 4. That if the employee does not deliver a written request for the hearing to the city manager within two (2) working days after service upon the employee of the notice of intent, the adverse action shall be imposed and the employee shall have waived all right of appeal.
- E. For administrative investigation purposes only, a department director may require written statements from any employee, including the charged employee, describing or explaining the charged employee's conduct or omissions at any time. Failure by any employee to provide a complete and truthful statement may be grounds for expedited discharge.

4.50.060 Classified employee's right to a hearing on department director's intent to impose adverse action.

- A. An employee who has received a notice of intent to impose adverse action has the right to a hearing before the city manager in accordance with the provisions of this section.
- B. The employee's request for a hearing on a notice for intent to impose adverse action must be in writing, signed by the employee or counsel and delivered to the city manager within two (2) working days of receipt of written notice of the adverse action. Employee's failure to request a hearing within the time and manner provided shall be deemed a waiver of his or her appeal rights and to any appellate review to which he or she might have otherwise been entitled; and the department director's action becomes final.
- C. If the employee duly delivers his or her request for hearing, the department director's imposition of adverse action is stayed pending decision by the city manager. The city manager will hold a hearing within five (5) working days from date of receipt of the request. The city manager may extend in writing the hearing date, but no extension of more than ten (10) working days shall be granted. The city manager shall duly notify the employee of the date, time and place of the hearing.
- D. The employee, at his or her own expense, may be represented by counsel.
- E. If the employee wishes to question another employee or employees (other than the city manager), the city manager will if practical, provide for the employee's attendance for questioning at no cost to the charged employee. The employee must notify the city manager and the department director of the names of the employee(s) at least three (3) working days before the hearing or this right is waived. The city manager may determine the relevancy of evidence.
- F. The hearing shall be closed unless the charged employee has requested otherwise.
- G. The city manager may retain the services of an attorney or other person to assist in conducting the hearing and making the decision.
- H. All testimony shall be under oath. The proceedings shall be recorded. Upon written request, the employee is entitled to a recorded copy of the proceedings at no charge. The department director or representative and the city manager or representative may examine and cross examine witnesses. Exhibits may be introduced. Exhibits to be provided at the hearing by either party must be provided to the other party two (2) days prior to the hearing. The rules of evidence need not be strictly followed. Irrelevant or unduly repetitious

evidence may be excluded. The factual record is closed at the close of the hearing. The city manager may continue the hearing for good cause.

- I. The order of presentation is:
 1. Brief opening statement by the department;
 2. Brief opening statement by the employee, which is optional;
 3. Presentation of evidence by department;
 4. Presentation of evidence by employee;
 5. Rebuttal as necessary;
 6. Argument by department;
 7. Argument by employee;
 8. Rebuttal argument by department.
- J. The department director must prove by a preponderance of the evidence the factual basis upon which he or she imposed the adverse action.
- K. Within five (5) working days from the conclusion of the hearing, the city manager shall render a written decision which shall be effective immediately or according to the terms of the written decision. The city manager may not increase the severity of the adverse action, but may approve it or modify any part. A copy of the city manager's decision shall be furnished to the employee. The department director's written determination and statement of cause, all written documents considered by the city manager and his or her decision shall be filed in the employee's personnel record file.
- L. The city manager's final decision must notify the employee in writing of the provisions in subsection (M) of section 4.50.070.
- M. An employee who is dissatisfied with the city manager's decision may appeal it to the superior court in Palmer. The appeal must be filed within 30 days of employee's receipt of the decision. Employee's failure to appeal within this time constitutes a waiver of his or her appeal rights and the city manager's decision becomes final.

4.50.070 City manager procedure for imposing adverse action.

- A. Except as provided in 4.50.030, this section applies to the following employees: Executive Secretary to the City Manager and Human Resources Specialist.
- B. The city manager shall follow the procedures set forth in section 4.50.060.
- C. The city manager's final decision must notify the employee in writing of provisions of subsection (M) of section 4.50.070.
- D. An employee who is dissatisfied with the city manager's final decision may an appeal. Appeals must be filed within 30 days of employee's receipt of the final decision. Employee's failure to meet the applicable deadline constitutes a waiver of his or her appeal rights and the city manager's final decision becomes final.
- E. The appeal shall be before an independent hearing officer appointed by the city council.
- F. The hearing officer's decision shall be final.

4.50.080 Layoffs.

- A. Reasons for layoff will include without limitation the following:
 1. Shortage of funds or work;
 2. The abolition of the position or classification;
 3. Other material changes in the duties or organization; or
 4. For related reasons which are outside the employee's control or which do not reflect discredit upon the service of the employee.
- B. Layoff procedure.

1. The city manager may eliminate positions or classifications in the best interests of the city after consulting with the affected department director.
 2. The duties performed by any employee laid off may be reassigned to other employees already working.
 3. Department of public safety employees shall be laid off by department seniority within a job classification.
 4. The city manager or designee shall give written notice to the employee of the proposed layoff. The notice shall state the reason for the layoff and the employee shall receive two (2) weeks' severance pay.
 5. The employee's final pay check shall be tendered within three business days of the last day of employment and if mailed, shall be mailed certified return receipt.
- C. Eligibility for reinstatement.
1. An employee who has been laid off and who is not disqualified under subsection (C) (4) or (5) will be given preference for reinstatement for any position becomes vacant provided that the employee meets the minimum entry-level qualifications.
 2. If more than one employee has been laid off reinstatement preference will be given in order of departmental seniority for the Department of Public Safety and in order of qualifications elsewhere.
 3. Acceptance of an appointment to any position, other than a temporary or part-time position, constitutes satisfaction of an employee's reinstatement rights.
 4. A layoff of more than one year shall terminate the employee's entitlement to preferential reinstatement rights.
 5. Once the employee has been reinstated into a position, the employee will have 90 days to adequately perform the duties of the new position. If, in the judgment of the department director, the employee fails within 90 days to adequately perform the duties of the new position, the employee will be terminated without further reinstatement rights.

4.50.090 Resignation.

- A. To resign in good standing an employee shall give at least two (2) weeks' notice to enable the city to make proper provision for filling the position. The requirements may be waived by a department director where adequate provision can be made in a shorter period of time. All resignations shall be made in writing and presented to the department director. Failure to provide required notice shall result in a final appraisal stating the employee did not leave in good standing.
- B. Upon receipt of two (2) weeks' notice the department director may elect to pay two weeks' severance pay in lieu of employee's service.

4.50.100 Retirement.

The city participates in the Alaska Public Employees Retirement System (PERS), subject to the provisions of our PERS agreement.

4.50.110 COBRA notice.

- A. Upon termination, the city or designee shall notify the employee of his or her right to extend the health plan coverage. This notice will be in accordance with COBRA, the Consolidated Omnibus Budget Reconciliation Act of 1985. Under COBRA, if an employee terminates employment with the City of Palmer; the employee is entitled to continue participating in the City's group health plan for as prescribed period of time, usually 18 months. (In certain

- circumstances, such as an employee's divorce or death, the length of coverage period may be longer for qualified dependents.) COBRA coverage is not extended to employees terminated for gross misconduct.
- B. The Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, provides an employee who is on military leave of absence will retain their health insurance coverage for the first 31 days of uniformed service. Employees on military leave of absence which extend beyond the 31 days will be eligible for COBRA benefits for up to 24 months.
- C. If a former employee chooses to continue group benefits under COBRA, he/she must pay the total applicable premium plus a two (2) percent administrative fee. Coverage will cease if the former employee fails to make premium payments as scheduled, becomes covered by another group plan that does not exclude pre-existing conditions or become eligible for Medicare.

Chapter 4.60

EXPENSES RELATED TO CITY BUSINESS

4.60.005 Training.

- A. Each department director shall develop and conduct such practical training programs as are suited to the special requirements of the department. The city manager shall institute and provide for the conduct of training programs which are needed for efficient management of two or more departments. Training programs shall particularly emphasize employee safety, OSHA compliance, sexual harassment, and workplace violence.
- B. Each department director may offer employees the opportunity to attend off-site training, conferences or seminars, at the city's expense, subject to appropriation.
- C. An employee who terminates his or her employment within 12 (twelve) months of date of training shall reimburse the City for the cost associated with the training.
1. Reimbursement shall be pro-rated – i.e., training cost is \$1200 and the employee leaves six months after training, the employee is required to reimburse the City \$600.
 2. The city manager may waive the reimbursement requirement on a case by case basis based on good cause related to hardship circumstances.

4.60.010 Official travel.

- A. Travel time will be compensated as required under the Fair Labor Standards Act;
- B. Days on travel status not directly related to pre-approved travel and/or training shall be charged to personal leave.

4.60.020 Travel approval.

All city employees must have all travel approved in accordance with sections 4.60.030 and 4.60.040. Expenses incurred for city travel not in compliance with this regulation will not be paid or reimbursed.

4.60.030 Travel approval procedures.

- A. A travel authorization form shall be completed by the traveler immediately upon determining travel is required.

- B. The traveler shall submit the completed travel authorization form and any additional written justification to the appropriate department director.
- C. A copy of the approved travel authorization form including any written justification shall be forwarded to the Department of Administration by the department director.

4.60.040 Travel expenses.

Employees shall be reimbursed for the following actual and necessary expenses, described in 4.60.050 through 4.60.120, incurred while on official city business, provided the travel was properly authorized.

4.60.050 Air travel costs.

The city will pay for all costs of the employee's air transportation that are directly related to travel on official business. The most economical and direct route possible shall be utilized. No reimbursement shall be allowed for more than the lowest coach class fare unless:

- A. Lowest coach class fare was not available;
- B. The department director finds that travel by the lowest coach class fare is not in the best interest of the city and authorizes other accommodations;
- C. An employee may, at his or her own expense, purchase an upgraded seat. The cost difference for the upgrade shall be paid by the employee immediately upon purchase of the ticket.

4.60.060 Private vehicle costs.

The following shall apply:

- A. If a city vehicle is not available, the city will reimburse travelers for use of their privately owned vehicle at the currently approved rate not to exceed the cost of coach class airfare;
- B. If two or more employees travel in the same private vehicle, the reimbursement shall not exceed the cost that would have been incurred had they all traveled by air. Only the owner of the vehicle may claim reimbursement for mileage;
- C. Mileage shall not be paid for home-to-work, work-to-home travel.

4.60.070 City vehicle.

The city will reimburse the cost of fuel, based on receipts, actually incurred by the employee. Reimbursement for mileage will not be allowed.

4.60.080 Lodging costs.

The city will pay lodging costs (room and tax) only at a single occupancy rate, unless two city employees share a double room and then a double occupancy rate will be paid. Government rates shall be requested and used whenever possible.

4.60.090 Per diem and day travel allowance.

- A. In-state travel over 12 hours.
 - 1. A per diem rate of \$70.00 shall be allowed for employees who are away from home for over 12 hours on city business.
 - 2. The \$70.00 rate includes \$15.00 for breakfast, \$20.00 for lunch and \$35.00 for dinner.
- B. Out of state travel over 12 hours.
 - 1. A per diem rate equal to the current IRS rate shall be allowed for employees who are away from home for over 12 hours on city business.
 - 2. The rate shall include the current amount for breakfast, lunch, and dinner.

- C. Day travel allowance.
 - 1. Employees who travel on city business for a time period of less than 12 hours are entitled to an allowance of one meal.
 - 2. The meal allowance is based on the current rate for breakfast, lunch, or dinner.
 - 3. This is a taxable allowance and therefore, will be an addition to the employee's wages on the payroll following the travel.
- D. A deduction to per diem will be made for meals paid for separately by the city and meals paid for by others. This includes meals paid in advance and/or included in registration fees and business meals reimbursed to the traveler or reimbursed to another city traveler as a business meal. Meals provided by airlines do not impact per diem entitlement. Continental breakfasts which are provided do not impact per diem entitlement.
- E. The Internal Revenue Service requires that per diem be prorated for partial days of travel, which will occur on departure or arrival from the city. The following is the departure and arrival proration:
 - a. The actual departure and arrival of the aircraft will be used to determine the times.
 - b. If traveling by private vehicle, the times are based on the actual departure and arrival time from the point of origin.

<u>Departure Time</u>	<u>In-state Allowance</u>	<u>Out of State Allowance</u>
<u>12:01 a.m. to 10:00 a.m.</u>	<u>\$15.00</u>	<u>Current IRS Rate</u>
<u>10:01 a.m. to 3:00 p.m.</u>	<u>\$20.00</u>	<u>Current IRS Rate</u>
<u>3:01 p.m. to midnight</u>	<u>\$35.00</u>	<u>Current IRS Rate</u>

<u>Arrival Time</u>	<u>In-state Allowance</u>	<u>Out of State Allowance</u>
<u>12:01 a.m. to 10:00 a.m.</u>	<u>\$15.00</u>	<u>Current IRS Rate</u>
<u>10:01 a.m. to 3:00 p.m.</u>	<u>\$20.00</u>	<u>Current IRS Rate</u>
<u>3:01 p.m. to midnight</u>	<u>\$35.00</u>	<u>Current IRS Rate</u>

4.60.100 Car rental costs.

- A. The city will reimburse car rental costs only if car rental was approved on the travel authorization form, and then only for the days/mileage necessary to conduct official business.
- B. In unusual circumstances, reimbursement for car rental without pre-authorization may be authorized by the department director if there is valid justification.
- C. Car rental expenses without pre-authorization become the responsibility of the traveler unless authorized by the department director.

4.60.110 Registration fees.

The city may make advance payment or reimbursement for education/training fees. Fees for entertainment are at the employee's expense.

4.60.120 Other expenses related to city business.

- A. The city will reimburse taxi, telephone calls, mileage for use of personal vehicles, and other official expenses when shown to be directly related to official business.

- B. A request to be reimbursed for expenses incurred while conducting city business shall be made within 30 days of the date the expenses were incurred.

4.60.130 Travel advance.

The city may make travel advance payments when requested.

4.60.140 Travel expense report.

Travelers shall submit a travel expense report, including all receipts, within ten (10) days after all travel has been completed. If this provision is not met, the finance director shall initiate a payroll deduction for expenses due to the city.

4.60.150 Credit card receipts.

Credit card receipts shall be accompanied by itemized cash register receipts.

Chapter 4.70

COMPUTER USE, SOCIAL MEDIA USE, AND FACEBOOK STANDARD POLICY

4.70.005 Computer use policy.

The city shall institute a city-wide computer use policy. All employees are required to read and sign the computer use policy.

4.70.010 Social Media Use policy.

A. Purpose.

1. To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, City departments may consider using social media tools to reach a broader audience. The City encourages the use of social media to further the goals of the City and the missions of its departments, where appropriate.
2. The City has an overriding interest and expectation in deciding what is "spoken" on behalf of the City on social media sites. This policy establishes guidelines for the use of social media.

B. General.

1. All City social media sites posted by departments will be subject to approval by the City Manager.
2. The City's website will remain the City's primary and predominant internet presence.
 - a. The best, most appropriate City uses of social media tools fall generally into two categories:
 - i. As channels for disseminating time-sensitive information as quickly as possible (example: emergency information).
 - ii. As marketing/promotional channels which increase the City's ability to broadcast its message to the widest possible audience.
 - b. Wherever possible, content posted to City social media sites will also be available on the City's website.
 - c. Wherever possible, content posted to City social media sites should contain links directing users back to the City's official website for in-depth information, forms, documents or online services necessary to conduct business with the City.

3. As is the case for City's website, departmental public staff will be responsible for the content and upkeep of any social media sites their department may create.
4. All City social media sites shall comply with all appropriate City policies and standards.
5. City social media sites are subject to the Alaska Public Records Act and Palmer Municipal Code 2.90.
 - a. Any content maintained in a social media format that is related to City business, including a list of subscribers and posted communication, is a public record.
 - b. The Department maintaining the site is responsible for responding completely and accurately to any public records request for public records on social media.
 - c. Content related to City business shall be maintained in an accessible format and so that it can be produced in response to a request (see the City Facebook policy).
 - d. Wherever possible, such sites shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure.
 - e. Users shall be notified that public disclosure requests must be directed to the assigned departmental employee.
6. City records retention schedules apply to social media formats and social media content. Unless otherwise addressed in a specific social media standards document, the Department maintaining a site shall preserve records required to be maintained pursuant to a relevant records retention schedule for the required retention period on a City server in a format that preserves the integrity of the original record and is easily accessible.
7. Users and visitors to social media sites shall be notified that the intended purpose of the site is to serve as a mechanism for communication between City departments and members of the public. City social media site articles and comments containing any of the following forms of content shall not be allowed:
 - a. Comments not topically related to the particular social medium article being commented upon;
 - b. Comments in support of or opposition to political campaigns or ballot measures;
 - c. Profane language or content;
 - d. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
 - e. Sexual content or links to sexual content;
 - f. Solicitations of commerce;
 - g. Conduct or encouragement of illegal activity;
 - h. Information that may tend to compromise the safety or security of the public or public systems; or
 - i. Content that violates a legal ownership interest of any other party.
- C. The City reserves the right to restrict or remove any content that is deemed in violation of this social media policy or any applicable law.
- D. The City will approach the use of social media tools as consistently as possible.
- E. All new social media tools proposed for City use will be approved by the City Manager.
- F. Administration of City of Palmer social media sites.
 1. The Information Technology Committee will maintain a list of all City of Palmer social media sites, including login and password information. Assigned department employees will inform the Committee of any new social media sites or administrative changes to existing sites.
 2. The City must be able to immediately edit or remove content from social media sites.

- G. For each social media tool approved for use by the City the following documentation will be developed and adopted:
1. Operational and use guidelines
 2. Standards and processes for managing accounts on social media sites
 3. City and departmental branding standards
 4. Enterprise-wide design standards
 5. Standards for the administration of social media sites

4.70.020 Facebook standard policy.

A. Purpose.

1. Facebook is a social networking site. Businesses and governments have joined individuals in using Facebook to promote activities, programs, projects and events. This standard is designed for City departments looking to drive traffic to the City's website and to inform more people about City activities. These standards should be used in conjunction with the City's social media use policy. As Facebook changes these standards may be updated as needed.

B. Establishing a page.

1. When a department determines it has a business need for a Facebook account, it will submit a request to the City Manager via the Information Technology Committee. Once approved, the Information Technology Committee will create the boilerplate business page for the department. Applications are not to be added to a city Facebook site without approval by the Committee. All City provided branding images must meet City branding standards.

C. Content.

1. Type of 'pages'
 - a. The City will create 'pages' in Facebook not 'groups.' Facebook 'pages' offer distinct advantages including greater visibility, customization and measurability.
 - b. For 'type' description, choose 'government.'
2. Boilerplate
 - a. The Information Technology Committee will standardize and provide the Facebook page's image, consisting of a picture and the City's logo.
 - b. Departments will include a mission introduction on the Wall Page and send users first to the Wall to connect them to the freshest content. Boilerplate policy text regarding public disclosure and comments will be created using the Facebook Markup Language (FBML) static page application. A City boilerplate sentence should follow the department/program description:
 - i. (Insert department) is a department of the City of Palmer, www.cityofpalmer.org. This site is intended to serve as a mechanism for communication between the public and [department] on the listed topics. Any comments submitted to this page and its list of fans are public records subject to disclosure pursuant to the Public Records Act and Palmer Municipal Code 2.90. Public records requests must be directed to the (insert department) public disclosure officer.
3. If comments are turned on, the Wall page should include a link to a Comment Policy tab with the following disclaimer:
Comments posted to this page will be monitored. The City reserves the right to remove inappropriate comments including those that have obscene language or sexual content, threaten or defame any person or organization, violate the legal ownership interest of

another party, support or oppose political candidates or ballot propositions, promote illegal activity, promote commercial services or products or are not topically related to the particular posting.

4. Link to the City.
 - a. A link to www.cityofpalmer.org will be included on the Info page.
 - b. City department and project pages should be page favorites of other City Facebook pages.
 5. Page naming
 - a. Page name should be descriptive of the department.
 - b. Departments will choose carefully with consideration for abbreviations, slang iterations, etc.
 - c. The Information Technology Committee will approve proposed names.
 6. Page administrators
 - a. A successful page requires "babysitting." The designated department employee responsible for monitoring the Facebook page. Posts should be approved by the employee or a designated alternate.
 - b. The designated employee is responsible for making sure content is not stale. Departments will designate a back-up administrator in the employee's absence.
 7. Comments and Discussion Boards
 - a. Comments to the Wall generally will be turned off but may be allowed on a case-by-case basis with request from the department and approval from the City Manager.
 - b. Discussion Boards should be turned off.
 8. Style
 - a. City Facebook pages will be based on a template that includes consistent City branding. The Information Technology Committee will provide departments with the template.
 - b. Departments will use proper grammar and standard AP style, avoiding jargon and abbreviations. Facebook is more casual than most other communication tools but still represents the City at all times.
 9. Applications
 - a. There are thousands of Facebook applications. Common applications can allow users to stream video and music, post photos, and view and subscribe to Rich Site Summary (RSS) feeds. While some may be useful to the page's mission, they can cause clutter and security risks.
 - b. An application should not be used unless it serves a business purpose, adds to the user experience, comes from a trusted source and is approved by the Information Technology Committee.
 - c. An application may be removed at any time if there is significant reason to think it is causing a security breach or spreading viruses.
- D. Archive
1. Each Facebook page will be set up in conjunction with an Information Technology Committee designated City e-mail account.
 2. Content that cannot be retrieved from Facebook via the Application Programming Interface (API) and needs to be retained as a record must be printed and maintained according to the City records retention policy.

Chapter 4.80

PERSONNEL INQUIRIES AND REQUESTS

4.80.005 Official letters of reference.

- A. Official letters of reference for current and former City employees or volunteer may only be written by a Department director.
- B. The letter must be consistent with the last three employee appraisals.
- C. Prior to the issuance of such of reference, the Human Resources Specialist shall review and approve the contents of the letter.

4.80.020 Personal letters of reference.

This chapter does not prohibit the issuance of personal letters of reference by an employee of the City. However:

- A. All personal letters of reference must specify that the letter is a personal reference, and
- B. The letter shall not be presented on any City department letterhead.

Chapter 4.90

SEXUAL HARASSMENT POLICY

4.90.005 Sexual harassment violates the law.

- A. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, age or national origin. Sexual harassment is included among the prohibitions.
- B. According to the United States Equal Employment Opportunity Commission (EEOC), sexual harassment consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex-based nature when (1) submission to that conduct is made either explicitly or implicitly a term or a condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of that conduct; or (3) that conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.
- C. It also is unlawful to retaliate or take reprisals in any way against an employee who has articulated a good faith concern about sexual harassment or discrimination against him or her or against another individual.
- D. Examples of conduct that would be considered sexual harassment or constitute retaliation are presented in section 4.90.010. These examples are provided to illustrate the kind of conduct proscribed by this article. This list is not exhaustive.
- E. Sexual harassment is unlawful, and the prohibited conduct exposes not only the city, but also the individuals involved in that conduct, to significant liability under the law. Accordingly, the city is committed to enforcing this policy regarding sexual harassment at all levels within the city. Employees should treat other employees with respect and dignity in a manner that does not offend the sensibilities of a coworker in a manner prohibited by law.

4.90.010 Statement of prohibited conduct.

The city considers the following conduct to be illustrative of some of the conduct that violates the city's sexual harassment code:

- A. Physical assaults of a sexual nature, such as:
1. An employee convicted of sexual assault, molestation, or an attempt to commit any such assaults will be discharged.
 2. Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body.
- B. Unwanted sexual advances, propositions or other sexual comments, such as:
1. Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct is unwelcome in his or her presence,
 2. Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward, and
 3. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of the employee's sex.
- C. Sexual or discriminatory displays or publications anywhere in the city's workplace by city employees (except as may be done in the ordinary course of work), such as:
1. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic, or bringing into the city's work environment or possessing any such material to read, display or view at work. A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or customarily accepted for the accomplishment of routine work in and around the workplace and who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body;
 2. Reading publicly or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic, and
 3. Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semiprivate lockers and changing rooms).
- D. Retaliation for sexual harassment complaints, such as:
1. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with any employee because that employee has complained about or resisted harassment, discrimination or retaliation, and
 2. Intentionally lying about, falsely denying, exerting pressure, or otherwise attempting to cover up conduct such as that described in any item above.
- E. Other acts, such as:
1. The illustrations stated above are not to be construed as an all-inclusive list of prohibited acts under this article,
 2. Sexual harassment is unlawful and hurts other employees. Moreover, each incident of harassment contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. An employee who engages in sexual harassment will be made to bear the full responsibility for that unlawful act.

4.90.020 Schedule of penalties for misconduct.

The following schedule of penalties applies to all violations of this article. When progressive discipline is provided for, each instance of conduct violating the policy moves the offending employee through the steps of disciplinary action. In other words, it is not necessary for an employee to repeat the same precise conduct in order to move up the scale of discipline. A written record of each action taken pursuant to this article will be placed in the offending employee's and alleged victim's personnel files. The record will reflect the conduct or alleged conduct; the nature, scope and findings of the investigation; and the warning given or other discipline imposed.

- A. Physical Assault of a Sexual Nature.
 1. An employee convicted of sexual assault, molestation, or an attempt to commit any such assaults will be discharged.
 2. An employee's intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body, will result in discipline at least as stringent as set forth in subsection (B) of this section, but may result in more stringent discipline up to and including dismissal for a first proven offense depending upon the severity of the misconduct.
- B. Other Acts of Harassment by an Employee. An employee's commission of acts of sexual harassment other than assault will result in non-disciplinary oral counseling on the alleged first offense; written warning, suspension or discharge on the first proven offense, depending on the nature or severity of the misconduct; and suspension or discharge on the second proven offense, depending on the nature or severity of the misconduct.
- C. Retaliation. Alleged retaliation against a sexual harassment complainant will result in non-disciplinary oral counseling. Any form of proven retaliation will result in suspension or discharge on the first proven offense, depending on the nature and severity of the retaliatory acts, and discharge on the second proven offense.
- D. Supervisors. A supervisor's commission of acts of sexual harassment (other than assault) with respect to any other employee under that person's supervision will result in non-disciplinary oral counseling on the alleged first offense; final warning or discharge for the first proven offense, depending on the nature and severity of the misconduct; and discharge for any subsequent offense.

4.90.030 Procedures for making, investigating, and resolving sexual harassment and retaliation complaints.

- A. Complaints.
 1. An employee may make a sexual harassment complaint to the employee's supervisor, department director or to the personnel officer. The purpose of having several persons to whom complaints may be made is to avoid a situation in which an employee is faced with complaining to the person, or a close associate of the person, who would be the subject of the complaint.
 2. Complaints of acts of sexual harassment or retaliation that are in violation of this sexual harassment article will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated. Anyone who has observed sexual harassment or retaliation should report it to the employee's supervisor, department director or to the personnel officer. A complaint need not be limited to someone who was the target of harassment or retaliation.

3. Only those who have an immediate need to know, including the investigative officer(s) and/or designee, the personnel officer, the city manager, the city attorney, the alleged target of harassment or retaliation, the alleged harassers or retaliators, and any witnesses, may find out the identity of the complainant. All parties contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect, and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint, or who has provided evidence in connection with a complaint is a separate actionable offense as provided in the schedule of penalties.
 4. Upon receipt of a complaint, a supervisor and a department director shall immediately notify the personnel officer; provided, however, if a complaint is against the personnel officer, a supervisor and a department director shall immediately notify the city attorney.
 5. The personnel officer shall investigate the complaint and may appoint investigative officers to assist with the investigation. If the personnel officer is the subject of the complaint, the city attorney shall investigate the complaint and may appoint investigative officers to assist with the investigation.
- B. Investigations.
1. Each investigative officer will receive thorough training about sexual harassment and the procedures under this article and will have the responsibility for investigating complaints.
 2. When a complaint is made, the personnel officer will have the duty of immediately bringing the complaint to the confidential attention of the city manager.
 3. All complaints will be investigated expeditiously by the personnel officer (or city attorney) and that person will produce a written report which, together with the investigation file, will be shown to the complainant on request within a reasonable time. The investigative officer is empowered to recommend remedial measures based on the results of the investigation, and the personnel officer will promptly consider and act on that recommendation.
- C. Cooperation.
1. An effective sexual harassment policy requires the support and example of city personnel in positions of authority.
 2. City agents or employees who engage in sexual harassment or retaliation or who fail to cooperate with city-sponsored investigations of sexual harassment or retaliation may be severely sanctioned by suspension or discharge.
 3. By the same token, officials who refuse to implement remedial measures, obstruct the remedial efforts of other city employees, and/or retaliate against sexual harassment complainants or witnesses may be immediately sanctioned by suspension or discharge.

4.90.040 Imposition of remedial action.

For handling sexual harassment matters that involve employees (to include "volunteers"), the personnel officer shall have the powers of a department director and shall follow the procedures set out for a department director to impose adverse action as stated in section 4.50.060. The employee subject to a sexual harassment claim shall have the rights set forth in section 4.50.060 and 4.50.070. For handling sexual harassment matters that involve customers and third parties of the city, the personnel officer may make recommendations to the city manager, who shall then act to resolve the complaint.

4.90.050 Procedures and rules for education and training.

- A. Education and training for employees at each level of the workforce are critical to the success of the city's sexual harassment policy. The following documents will help the city meet its goals in this area:
1. A letter to all employees describing the city's policy against sexual harassment from the city manager in addition to a copy of the city's personnel manual which includes this article which constitutes the city's policy on sexual harassment.
 2. The city manager's letter will be conspicuously posted along with the Alaska Human Rights Commission's poster on sexual harassment throughout the workplace and in each department – on each city bulletin board, in all central gathering areas, and in every locker room.
 3. The letter and poster must be clearly legible and displayed continuously.
 4. The city manager's letter will indicate that copies of the city's sexual harassment policy are available at no cost to an employee and how they can be obtained.
- B. Education and training include the following components:
- A. As part of general orientation, each recently hired employee will be given a copy of the letter from the city manager and requested to read and sign a receipt for the city's policy statement on sexual harassment included in the personnel regulation so that they are on notice of the standards of behavior expected.
 - B. When the personnel are significantly altered and distributed to the employees, each employee will be given a copy of the letter from the city manager and requested to read and sign a receipt for the city's policy statement on sexual harassment included in the personnel regulation so that they are on notice of the standards of behavior expected.
- C. All employees will participate on city time in annual seminars that teach strategies for resisting and preventing sexual harassment. At least one (1) hour in length, these seminars will be conducted by one or more experienced sexual harassment educators.
- D. All supervisory personnel will participate in an annual, two-hour training session on sexual discrimination. At least one and one-half (1.5) hours will be devoted to education about workplace sexual harassment, including training as to what types of remarks, behavior and pictures will be and will not be tolerated in the city's workplace.

Chapter 4.100

HARASSMENT AND DISCRIMINATION POLICY

4.100.005 Harassment and discrimination policy.

The City of Palmer believes in and is committed to a trusting, safe work environment free from harassment and discrimination. Any act of harassment or discrimination is unacceptable.

4.100.010 Harassment.

- A. Harassment:
1. Is the conduct or actions, based on race, religion, sex, national origin, age, disability, military membership or veteran status, sexual orientation, gender identity, physical characteristics, marital/domestic status, family status, pregnancy, political affiliation, medical/criminal record, psychiatric treatment, occupation, citizenship status, personal appearance, status in receipt of public assistance and is severe or pervasive enough to create a hostile, abusive, or intimidating work environment for a reasonable person.

2. Is engaging in a course of comments or conduct that is known or ought reasonably to be known as unwelcome.
3. Can make one feel uncomfortable, embarrassed, offended, or intimidated.
- B. This behavior could range from posting offensive pictures, verbal taunts to physical assault.
- C. This behavior could happen once or many times over a period of time.

4.100.020 Discrimination.

Discrimination:

- A. Refers to practices or attitudes that have, whether by design or impact, the effect of limiting an individual's or a group's rights.
- B. It is intolerant behavior towards individuals or groups.
- C. The intolerant behavior may be direct (e.g. denying people access to jobs/promotions based on their color, nationality, dress, etc.) or systematic (e.g. denying someone a job because culturally-biased testing).
- D. May come from an individual or through systems and attitudes within the City.
- E. Is any policy or action taken related to recruiting, hiring, promotion, pay or training practices that result in an unfair disadvantage to either an individual or group of individuals who are considered part of a protected class.

4.100.030 Prohibited conduct.

The conduct prohibited by this policy, whether verbal, physical, or visual, includes any discriminatory employment action and any unwelcome conduct that negatively affects someone. Prohibited conduct includes but is not limited to:

- A. Joking,
- B. Making repeated references to a person's protected status,
- C. Using epithets or slurs,
- D. Stereotyping,
- E. Engaging in intimidating acts,
- F. Circulation/posting of written or graphic materials that show hostility or favoritism toward individuals because of their protected status, or display of offensive symbols, pictures, cartoons, or posters.

4.100.040 Retaliation.

The City of Palmer forbids any director, manager, supervisor, or employee from treating any other employee or applicant adversely for reporting discrimination or harassment, for assisting another employee or applicant in making a report, for cooperating in a discrimination or harassment investigation, or for filing a grievance. All employees who experience or witness any conduct they believe to be retaliatory should immediately notify their supervisor, director, or the personnel officer.

4.100.050 Employee responsibility.

- A. All city employees will help assure that our workplace is free from prohibited discrimination, harassment, or retaliation.
- B. All employees are expected to avoid any behavior or conduct that could reasonably be interpreted as prohibited discrimination, harassment, or retaliation; no employees are exempt from the requirements of this policy.
- C. Every employee is expected to report any person in the workplace who is aware of conduct inconsistent with this policy or who receives a report of conduct inconsistent with this policy.

- D. Every employee shall immediately report it to their direct supervisor or in the event it is their supervisor, or their supervisor does not act on the report, then they are to report it to the Personnel Officer.

4.100.060 Employer responsibility.

The city will investigate all reports promptly. All reports will be taken seriously. If it is determined that the policy was violated then appropriate corrective measures will be taken. During the investigation and in imposing discipline, if necessary, the City will attempt to preserve confidentiality.

4.100.070 Imposition of remedial action.

For handling harassment and discrimination matters, the department director, personnel officer or designee shall follow the procedures set out section 4.50.060 and 4.50.080. The employee subject to a harassment and discrimination claim shall have the rights set forth in section 4.50.060 and 4.50.080. For handling harassment and discrimination matters that involve customers and third parties of the city, the personnel officer may make recommendations to the city manager, who shall then act to resolve the complaint.

4.100.080 Procedures and rules for education and training.

Education and training for employees at each level of the workforce are critical to the success of the city's harassment and discrimination policy. Education and training include the following components:

- A. As part of general orientation, each recently hired employee will be given the city's policy on harassment and discrimination so that they are on notice of the standards of behavior expected. Upon receipt, the employee will sign an acknowledgment that they have received and will abide by the policies.
- B. When the personnel regulations are significantly altered and distributed to the employees, each employee will be given a copy of the personnel regulations and sign a receipt for the city's policy statement on harassment and discrimination so that they are on notice of the standards of behavior expected.
- C. At least annually, each employee shall complete training on the acts that constitute harassment and discrimination, the city's serious commitment to eliminating harassment and discrimination in the workplace, the discipline for engaging in harassment, and the procedures for reporting incidents of harassment and discrimination. The training may consist of presentations, webinars, computer training, or related materials distributed to the employee.

Chapter 4.110

DRUG FREE WORKPLACE POLICY

4.110.005 Purpose and goal.

The City of Palmer is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. It is recognized that alcohol abuse and drug use pose a significant threat to our goals. The City of Palmer has 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.

4.110.010 Applicability.

Any individual who conducts business for the city, applies for a position or conducts business on the city's property is covered by the drug free workplace policy. The policy includes, but is not limited to all employees, contractors, volunteers, interns, and applicants.

4.110.020 Drug free workplace.

- A. The City prohibits the unlawful manufacture, distribution, dispensing, possession, or use by an employee of a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812), and as further defined by policy at 21 C.F.R. 1308.11 – 1308.15 is prohibited in any workplace of the City.
- B. All employees will abide by the terms of this policy as a condition of their employment and will notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five working days after the conviction. Within two business days of receiving the notice of conviction, the City will take appropriate personnel action against the employee as prescribed by this title, up to and including termination.
- C. The City must provide a statement to notify employees of this policy and to establish a drug-free awareness program to inform employees about: the dangers of drug abuse in the workplace; the City's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- D. Each employee will be provided a copy of this policy.

4.110.030 Employer responsibility.

The following steps will be taken to provide a drug free workplace.

- A. The City will publish a statement notifying employees that the violation of such prohibition will subject them to appropriate disciplinary action.
- B. The City will establish a drug free awareness program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. The City's policy of maintaining a drug free workplace;
 - 3. The availability of drug counseling and rehabilitation programs;
 - 4. The penalties that the City may impose for drug abuse violations occurring in the workplace.
- C. As a condition of employment, each employee shall abide by the terms of the City's drug free workplace policy.
- D. The City will take disciplinary action up to and including termination against an employee who violates this title.
- E. Violations of this title which are also violations of federal or state law may be referred to the appropriate agencies. In such situations, cases may proceed concurrently at the City and in the criminal justice system.
- F. As a condition of employment, each employee shall notify the human resources office in writing of any conviction for a violation of a criminal drug statute no later than two business days after such conviction.
 - 1. Within five calendar days after the City learns of a conviction, the City shall initiate personnel action as prescribed in subsection D.

4.110.040 Employee alcohol and controlled substances testing.

- A. The City will at a minimum provide for the establishment of alcohol and controlled substances testing programs as required by law; the imposition of penalties on employees when tests exceed allowable levels; compliance with reporting and record keeping requirements; dissemination to affected employees of educational materials explaining the legal requirements, this policy; and provide for appropriate staff and supervisor training.
- B. All employees subject to laws mandating alcohol and controlled substances testing will comply with such laws and this policy as a condition of their employment.

Chapter 4.120**Alcohol and Controlled Substance Definitions and Testing****4.120.005 Definitions.**

For purposes of this title, the following definitions apply:

- A. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- B. "Alcohol use" means the drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.
- C. "Alcohol concentration" (or content) is the alcohol in a volume of breath or blood.
- D. "Commerce" means:
 - 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. Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subsection 1 of this definition.
- E. "Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
 - 1. Has 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
 - 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 (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under Hazardous Materials Regulations. (49 CFR part 172, subpart F).
- F. "Confirmation (or confirmatory) drug test" means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or metabolite.
- G. "Confirmation (or confirmatory) validity test" means a second test performed on a urine specimen to further support a validity test result.
- H. "Confirmed drug test" means a confirmation test result received by a Medical Review Officer (MRO) from a laboratory.
- I. "Consortium/Third party administrator (C/TPA)" means a service agent that provides or coordinates one or more drug and/or alcohol testing services to the City. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as

- a single entity, the City's drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of this part.
- J. "Controlled Substance" means including, but not limited to marijuana, cocaine, opiates, amphetamines and phencyclidine.
- K. "Designated employer representative (DER)" is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from their duties and to make required decisions in the testing and appraisal processes.
- L. "Disabling damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.
1. Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
 2. Exclusions.
 - a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - b. Tire disablement without other damage even if no spare tire is available.
 - c. Headlight or taillight damage.
 - d. Damage to turn signals, horn, or windshield wipers which make them inoperative.
- M. "Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, part time, seasonal, temporary, on call drivers, leased drivers and independent owner-operator contractors.
- N. "Licensed medical practitioner" means a person who is licensed, certified, or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
- O. "Medical Review Officer (MRO)" is a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by the City's drug testing program and evaluating medical explanations for certain drug test results.
- P. "Positive rate for random drug testing" means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals).
- Q. "Refuse to submit (to an alcohol or controlled substances test)" means that an employee:
1. Fails to appear for any test (except a pre-employment test) within two hours of having been directed to do so by the City;
 2. Fails to remain at the testing site until the testing process is complete;
 3. Fails to provide a urine specimen for any drug test required by this title;
 4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
 5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 6. Fails or declines to take a second test the employer or collector has directed the employee to take;
 7. Fails to undergo a medical examination or evaluation, as directed by the Medical Review Officer (MRO) as part of the verification process, or as directed by the Designated employer representative (DER). In the case of a pre-employment drug test, the

- employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
8. Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
 9. Is reported by the Medical Review Officer (MRO) as having a verified adulterated or substituted test result.
- R. "Screening test (or initial test)" means;
1. In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
 2. In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath, saliva, or blood specimen.
- S. "Stand-down" means the practice of temporarily removing an employee from the performance of his or her job duties based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.
- T. "Substance Abuse Professional" means a licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC)) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc., and Affiliates/Master Addictions Counselor (NBCC) with knowledge about and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
- U. "Violation rate" for random alcohol testing means the number of 0.02 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals).

4.120.020 Prohibitions.

- A. An employee shall not:
1. Report for duty or remain on duty having an alcohol concentration of 0.02 or greater;
 2. Report for duty within four hours of using alcohol or controlled substances;
 3. Use alcohol or controlled substance while on-duty, including during breaks or meals;
 4. Possess alcohol or controlled substances while on duty, including during breaks or meals;
 5. Use alcohol for eight hours following an accident, or until the employee undergoes a post-accident alcohol or controlled substance test, whichever occurs first;
 6. Refuse to take an alcohol or controlled substance test when ordered by the City;
 7. Report for duty or remain on duty using any drug or substance, identified in 21 CFR 1308.11 Schedule I;
 8. Report for duty or remain on duty using any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR 1308 except when the use is a licensed medical practitioner, as defined in this chapter, who is familiar with the employee's medical history and has advised the employee that the substance will not adversely affect the employee's ability to safely perform their work functions;
 9. Report for duty, remain on duty or perform, if the employee tests positive or has adulterated or substituted a test specimen for controlled substances. No employer

having knowledge that an employee has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the employee to perform their work functions;

- B. A supervisor or city official having actual knowledge that an employee has used a controlled substance shall not permit the employee to perform or continue to perform his or her duties.
- C. An employee shall report any type of therapeutic drug use prescribed by his or her doctor to their supervisor.
- D. If an employee engages in the conduct listed in this chapter, the employee is subject to disciplinary action as set forth in this title.

4.120.030 Pre-employment testing.

- A. For the purposes of pre-employment testing only, an employee includes applicants and current employees selected for employment.
 - 1. After acceptance of a position, the employee shall undergo testing for controlled substances prior to reporting for duty.
 - 2. An employee shall not perform his or her job duties unless the employee has received a controlled substances test result from the Medical Review Officer (MRO) or Consortium/Third party administrator (C/TPA) indicating a verified negative test.
- B. The applicable designated employer representative (DER) will obtain information on the employee's alcohol tests with a concentration result of 0.02 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, which are maintained by the employee's previous employers. An employee shall not perform his or her job duties for more than 14 days without obtaining the information.
- C. An employee shall not perform his or her job duties if the City obtains information showing an alcohol test with a concentration of 0.02 or greater, or a verified positive controlled substances test results, or refusal to be tested, unless the applicable designated employer representative (DER) obtains information on the employee's subsequent Substance Abuse Professional evaluation and associated successful return to duty testing.

4.120.040 Reasonable suspicion testing - alcohol.

The City shall require an employee to submit to an alcohol test when the City believes the employee has violated the prohibitions of this title concerning alcohol. The City's determination that reasonable suspicion exists to require the employee to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

4.120.050 Reasonable suspicion testing – controlled substances.

The City shall require an employee to submit to a controlled substances test when the City has reasonable suspicion to believe that the employee has violated the prohibitions of this title concerning controlled substances. The City's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

4.120.060 Required observations.

The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or City official who is trained in accordance with this title. The alcohol or controlled substances test shall performed by a third party.

4.120.070 Required observations – alcohol – timeframe.

Alcohol testing is authorized only if the observations required by this title are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance.

4.120.075 Test not administered following reasonable suspicion determination – alcohol.

- A. If an alcohol test required by this title is not administered within two hours following the reasonable suspicion determination, the City shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered.
- B. If the alcohol test required by this title is not administered within eight hours following the reasonable suspicion determination, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
- C. The report(s) shall be forwarded to the applicable Designated employer representative (DER).

4.120.080 Reporting to work or remaining on duty while impaired prohibited.

Notwithstanding the absence of a reasonable suspicion alcohol test under this title, no employee shall report for duty or remain on duty while the employee 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 employee to perform or continue to perform his or her duties, until:

- A. An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
- B. Twenty four hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions concerning the use of alcohol.

4.120.090 Action based on employee behavior prohibited.

Except as provided in this title, the City shall not take any action against an employee based solely on the employee's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.

4.120.100 Written record required.

A written record shall be made of the observations leading to an alcohol or controlled substance reasonable suspicion test, and signed by the supervisor or City official who made the observation, within 24 hours of the observed behavior or before the results of the controlled substance tests are released, whichever is earlier.

4.120.110 Post-accident testing.

As soon as practicable following a motor vehicle accident involving a city vehicle, the City shall test the employee for alcohol and controlled substances if:

- A. The accident involved the loss of human life; or
- B. A citation is issued under state or local law for a moving traffic violation arising from the accident; or
- C. The accident involved:
 - 1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - 2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

4.120.120 Alcohol test not administered following an accident.

- A. If an alcohol test is not administered within two hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
- B. If an alcohol test is not administered within eight hours following the accident, the City shall cease attempts to administer an alcohol test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
- C. Records shall be submitted to the Federal Motor Carrier Safety Administration (FMCSA) upon request.

4.120.130 Controlled substance test not administered following an accident.

- A. If a controlled substance test is not administered within 32 hours following the accident, the City shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered.
- B. Records shall be submitted to the Federal Motor Carrier Safety Administration (FMCSA) upon request.

4.120.140 Employee availability for testing.

An employee who is subject to post-accident testing shall remain readily available for such testing, or may be deemed by the City to have refused to submit to testing. 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.

4.120.150 Test results – alcohol.

The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this chapter, provided such tests conform to the applicable federal, state or local alcohol testing requirements, and that the results of the tests are obtained by the City.

4.120.160 Test results – controlled substances.

The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this chapter, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the City.

4.12.170 Exceptions.

This chapter does not apply to an occurrence:

- A. Involving only boarding or alighting from a stationary motor vehicle; or
- B. Involving only the loading or unloading of cargo.

4.120.190 City notification obligations.

The Designated employer representative (DER) will:

- A. Notify an applicant who has accepted a position with the City of the results of a pre-employment controlled substance test conducted under this part, if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application;
- B. Notify an employee of the results of random (in the case of an employee with a commercial driver's license) reasonable suspicion and post-accident tests for controlled substances conducted under this chapter if the test results are verified positive;
- C. Contact the employee with the results of the tests. The employee may request to meet with the Medical Review Officer to discuss the results.

4.120.200 Testing procedures.

The City shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in this title.

- A. Alcohol
 - 1. Tests will be conducted under the guidance of a Breath Alcohol Technician selected by the City.
 - 2. The site(s) will afford privacy to the individual being tested. If the result of an initial test is an alcohol concentration of less than 0.02, no further testing is required and the results are transmitted to the DER in a confidential manner.
 - 3. If the result of an initial test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed within twenty minutes. The results of an initial test and the confirmation test are printed on the breath alcohol test forms, signed by both the Breath Alcohol Technician and the driver, and transmitted to the applicable Designated employer representative (DER) in a confidential manner.
- B. Controlled Substances
 - 1. The City requires testing for marijuana, cocaine, opiates, amphetamines and phencyclidine. Tests for these substances will be conducted under the guidance of the Medical Review Officer selected by the City at one or more designated collection sites. Collection of urine samples will allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen. It is a violation of federal law and this policy to adulterate or dilute a specimen during the collection procedure.
 - 2. Test results are given to the Medical Review Officer for analyzing and reporting to the applicable DER.

4.120.210 Employee refusal to submit to a required alcohol or controlled substance test.

- A. No employee shall refuse to submit to a pre-employment controlled substance test, a post-accident required alcohol or controlled substance test, a random alcohol or controlled

substance test, a reasonable suspicion alcohol or controlled substance test, a return to duty alcohol or controlled substance test, follow-up alcohol or controlled substance test.

- B. The City shall not permit an employee who refuses to submit to such tests to perform or continue to perform his or her duties. The driver will be immediately removed from duty and such refusal will be treated as a positive test.
- C. Failure to provide adequate breath for testing when required without a valid medical explanation, failure to remain available for post-accident testing, failure to provide adequate urine for testing without a valid medical explanation, engaging in conduct that obstructs the testing process, or failure to sign the alcohol testing form constitutes a refusal to submit to testing.

4.120.220 Positive test.

When an employee has engaged in prohibited conduct, the employee will be subject to discipline up to and including termination.

4.120.230 Access to test results.

An employee is entitled, upon written request, to obtain copies of records pertaining to the employee's alcohol or controlled substances test results.

4.120.240 Records retention.

- A. The human resources office shall maintain records of alcohol misuse and controlled substances use prevention programs.
- B. The records shall be maintained in a secure location with controlled access.
- C. The records shall be retained according to the City's adopted retention schedule.

4.120.250 Training for supervisors.

The City shall ensure that all persons designated to supervise will receive at least 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use. This training will be used by the supervisors to determine whether reasonable suspicion exists to require an employee to undergo testing. The training shall include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances recurrent training is not required.

4.120.260 Employee admission of alcohol and controlled substances use.

Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy, provided that:

- A. The admission is in writing and in compliance with the City's voluntary self-identification program;
- B. The employee does not self-identify in order to avoid testing under the requirements of the program;
- C. The employee makes the admission of alcohol misuse or controlled substances use prior to performing his or her duties; and
- D. The employee does not perform his or her duties until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

4.120.270 Self-identification program.

- A. The City will not take adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of this program and PMC 4.120.270;
- B. The City will allow the employee ten (10) working days to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem and provide proof to the DER and supervisor of having undergone assessment screening. The proof must contain the treatment recommendations of the Substance Abuse Professional.
- C. The City will permit the employee to duty only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
- D. The City will ensure that the employee:
 - 1. undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - 2. undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
 - 3. At least monthly, the employee will furnish the DER and supervisor with proof of their continuing participation in the recommended treatment program until completed.

4.120.280 Reoccurrences of alcohol or controlled substance misuse.

Reoccurrences of alcohol or controlled substance misuse will be subject to disciplinary action up to and including the termination of employment.

Chapter 4.130**DRUG FREE WORKPLACE POLICY APPLICABILITY FOR COMMERCIAL DRIVERS****4.130.010 Purpose and goal.**

The City of Palmer is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. It is recognized that alcohol abuse and drug use pose a significant threat to City goals. The City of Palmer has 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.

4.130.020 Drug free workplace.

- A. The City prohibits the unlawful manufacture, distribution, dispensing, possession, or use by an employee of a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812), and as further defined by policy at 21 C.F.R. 1308.11 – 1308.15 is prohibited in any workplace of the City.
- B. All employees will abide by the terms of this policy as a condition of their employment and will notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five working days after the conviction. Within two business days of receiving the notice of conviction, the City will take appropriate personnel action against the employee as prescribed by this title, up to and including termination.

- C. The City must provide a statement to notify employees of this policy and to establish a drug-free awareness program to inform employees about: the dangers of drug abuse in the workplace; the City's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- D. Each employee will be provided a copy of this chapter.

4.130.030 Employer responsibility.

The following steps will be taken to provide a drug free workplace.

- A. The City will publish a statement notifying employees that the violation of such prohibition will subject them to appropriate disciplinary action.
- B. The City will establish a drug free awareness program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. The City's policy of maintaining a drug free workplace;
 - 3. The availability of drug counseling and rehabilitation programs;
 - 4. The penalties that the City may impose for drug abuse violations occurring in the workplace.
- C. As a condition of employment, each employee shall abide by the terms of the City's drug free workplace policy.
- D. The City will take disciplinary action up to and including termination against an employee who violates this title.
- E. Violations of this title which are also violations of federal or state law may be referred to the appropriate agencies. In such situations, cases may proceed concurrently at the City and in the criminal justice system.
- F. As a condition of employment, each employee shall notify the human resources office in writing of any conviction for a violation of a criminal drug statute no later than two business days after such conviction.
 - 1. Within five calendar days after the City learns of a conviction, the City shall initiate personnel action as prescribed in subsection D.

4.130.040 Employee alcohol and controlled substances testing.

- A. The City will at a minimum provide for the establishment of alcohol and controlled substances testing programs as required by law; the imposition of penalties on employees when tests exceed allowable levels; compliance with reporting and record keeping requirements; dissemination to affected employees of educational materials explaining the legal requirements, this policy; and provide for appropriate staff and supervisor training.
- B. All employees subject to laws mandating alcohol and controlled substances testing will comply with such laws and this policy as a condition of their employment.

4.130.050 Definitions.

For purposes of this chapter, the following definitions apply:

- A. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- B. "Alcohol use" means the drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.
- C. "Alcohol concentration" (or content) is the alcohol in a volume of breath or blood.
- D. "Commerce" means:

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. Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subsection 1 of this definition.
- E. "Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
1. Has 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
 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 (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under Hazardous Materials Regulations. (49 CFR part 172, subpart F).
- F. "Confirmation (or confirmatory) drug test" means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or metabolite.
- G. "Confirmation (or confirmatory) validity test" means a second test performed on a urine specimen to further support a validity test result.
- H. "Confirmed drug test" means a confirmation test result received by a Medical Review Officer (MRO) from a laboratory.
- I. "Consortium/Third party administrator (C/TPA)" means a service agent that provides or coordinates one or more drug and/or alcohol testing services to the City. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the City's drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of this part.
- J. "Controlled Substance" means including, but not limited to marijuana, cocaine, opiates, amphetamines and phencyclidine.
- K. "Designated employer representative (DER)" is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from their duties and to make required decisions in the testing and appraisal processes.
- L. "Disabling damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.
1. Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
 2. Exclusions.
 - a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - b. Tire disablement without other damage even if no spare tire is available.
 - c. Headlight or taillight damage.
 - d. Damage to turn signals, horn, or windshield wipers which make them inoperative.
- M. "DOT Agency means an agency (or "operating administration")" of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing. 49 CFR part 382 in accordance with part 40 is applicable to the City.

- N. "Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, part time, seasonal, temporary, on call drivers, leased drivers and independent owner-operator contractors.
- O. "Licensed medical practitioner" means a person who is licensed, certified, or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
- P. "Medical Review Officer (MRO)" is a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by the City's drug testing program and evaluating medical explanations for certain drug test results.
- Q. "Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- R. "Positive rate for random drug testing" means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals).
- S. "Refuse to submit (to an alcohol or controlled substances test)" means that a driver:
1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City consistent with applicable DOT agency regulations, after being directed to do so by the City. This includes the failure of an employee to appear for a test when called by a C/TPA;
 2. Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;
 3. Fails to provide a urine specimen for any drug test required by this policy or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
 4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
 5. Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 6. Fail or declines to take a second test the employer or collector has directed the driver to take;
 7. Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
 8. Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
 9. Is reported by the MRO as having a verified adulterated or substituted test result.
- T. "Safety-Sensitive Function" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
 2. All time inspecting equipment as required by DOT regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
 3. All time spent 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 as sleeper berth is defined by DOT regulations.
 5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded.
 6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled CMV.
- U. "Screening test (or initial test)" means:
1. In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
 2. In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath, saliva, or blood specimen.
- V. "Stand-down" means the practice of temporarily removing an employee from the performance of his or her job duties based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.
- W. "Substance Abuse Professional" means a licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC)) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc., and Affiliates/Master Addictions Counselor (NBCC) with knowledge about and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
- X. "Violation rate" for random alcohol testing means the number of 0.02 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals).

4.130.060 Applicability.

This policy applies to all City employees who are required to hold a commercial driver's license as a function of their City employment.

4.130.070 Prohibitions

- A. A driver shall not:
1. Report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
 2. Use alcohol while performing safety-sensitive functions.
 3. Perform safety-sensitive functions within four hours after using alcohol. The City, having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.
 4. Use alcohol on the job, including during breaks or meals;

5. Possess alcohol on the job, including during breaks or meals;
 6. Use alcohol for eight hours following an accident, or until the driver undergoes a required post-accident alcohol test, whichever occurs first;
 7. Refuse to submit to a pre-employment controlled substance test required under DOT, post-accident alcohol or controlled substances test required under DOT, a random alcohol or controlled substances test required under DOT, a reasonable suspicion alcohol or controlled substances test required under DOT, or a follow-up alcohol or controlled substances test required under DOT. The City shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.
 8. Report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any drug or substance, identified in 21 CFR 1308.11 Schedule I.
 9. Report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR 1308 except when the use is a licensed medical practitioner, as defined in this policy, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle;
 10. Report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.
- B. An employer having knowledge that a driver has an alcohol concentration of 0.04 or greater shall not permit the driver to perform or continue to perform safety-sensitive functions.
 - C. An employer having actual knowledge that a driver is using alcohol while performing safety-sensitive function shall not permit the driver to perform or continue to perform safety-sensitive functions.
 - D. A supervisor or city official having actual knowledge that a driver has used a controlled substance shall not permit the driver to perform or continue to perform a safety-sensitive function.
 - E. The City shall require a driver to inform the employer of any therapeutic drug use.
 - F. If an employee engages in the conduct described above, the employee is considered to have engaged in prohibited conduct, is immediately disqualified from performing a safety-sensitive function, including operating a commercial motor vehicle, and is subject to disciplinary action as set forth in this title.

4.130.080 Requirement for notice.

Before performing each alcohol or controlled substances test under this title, the City shall notify a driver that the alcohol or controlled substances test is required by DOT. The City shall not falsely represent that a test is administered under DOT.

4.130.090 Required tests.

- A. Pre-Employment Testing.
 1. For the purposes of pre-employment testing only, an employee includes applicants and current employees selected for employment in such a position or an employee who has been out of the random pool for a period of 90 days or longer.

- a. Prior to the first time a driver performs safety-sensitive functions for the City, the driver shall undergo testing for controlled substances as a condition prior to being used.
 - b. No driver will be allowed to perform safety-sensitive functions unless the employee has received a controlled substances test result from the Medical Review Officer (MRO) or Consortium/Third Party Administrator (C/TPA) indicating a verified negative test results for that driver.
2. The applicable Designated Employer Representative (DER) will obtain, pursuant to a driver's consent, information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, which are maintained by the employee's previous employers.
 - a. This information must be obtained and reviewed by the applicable DER no later than 14 calendar days after the first time a driver performs safety-sensitive functions for the City, if it is not feasible to obtain the information prior to the driver performing safety-sensitive functions.
 - b. A driver will not be allowed to perform safety-sensitive functions more than 14 days without obtaining the information.
 3. A driver will not be allowed to perform safety-sensitive functions if the City obtains information showing an alcohol test with a concentration of 0.04 or greater, or a verified positive controlled substances test results, or refusal to be tested, unless the applicable DER obtains information on the driver's subsequent Substance Abuse Professional evaluation and associated successful return to duty testing.
- B. Reasonable Suspicion Testing.
1. The City shall require a driver to submit to an alcohol test when the City believes the driver has violated the prohibitions of this policy concerning alcohol.
 - a. The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.
 2. The City shall require a driver to submit to a controlled substances test when the City has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning controlled substances.
 - a. The City's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.
 - b. The observations may include indications of the chronic and withdrawal effects of controlled substances.
 3. The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or City official who is trained in accordance with this policy. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
 4. Alcohol testing is authorized by this section only if the observations required by this title are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance.

- a. A driver may be directed by the employer to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- 5. Tests not administered.
 - a. If an alcohol test required by this title is not administered within two hours following the reasonable suspicion determination, the City shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered.
 - b. If the alcohol test required by this policy is not administered within eight hours following the reasonable suspicion determination, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
 - c. The report(s) shall be forwarded to the applicable DER.
- C. Notwithstanding the absence of a reasonable suspicion alcohol test under this policy, 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 that there is reasonable suspicion to believe that the driver has violated the prohibitions concerning the use of alcohol.
- D. Except as provided in this title, the City shall not take any action against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.
- E. A written record shall be made of the observations leading to an alcohol or controlled substance reasonable suspicion test, and signed by the supervisor or City official who made the observation, within 24 hours of the observed behavior or before the results of the controlled substance tests are released, whichever is earlier.

4.130.100 Post-accident testing.

- A. Post-accident testing – alcohol. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the City shall test, for alcohol for each surviving driver:
 - 1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - 2. Who receives a citation within eight hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- B. Post-accident testing – controlled substances. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the City shall test for controlled substances for each of its surviving drivers:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
2. Who receives a citation within 32 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a. Bodily injury to any person who, as a result of the injury immediately receives medical treatment away from the scene of the accident; or
 - b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- C. The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

Table

<u>Type of accident involved</u>	<u>Citation issued to the CMV driver</u>	<u>Test must be performed by employer</u>
i. <u>Human fatality</u>	<u>YES NO</u>	<u>YES YES</u>
ii. <u>Bodily injury with immediate medical treatment away from the scene</u>	<u>YES NO</u>	<u>YES NO</u>
iii. <u>Disabling damage to any motor vehicle requiring tow away</u>	<u>YES NO</u>	<u>YES NO</u>

- D. Tests not administered – alcohol.
 1. If an alcohol test is not administered within two hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
 2. If an alcohol test is not administered within eight hours following the accident, the City shall cease attempts to administer an alcohol test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
 3. Records shall be submitted to FMCSA upon request.
- E. Tests not administered – controlled substance.
 1. If a controlled substance test is not administered within 32 hours following the accident, the City shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered.
 2. Records shall be submitted to the FMCSA upon request.
- F. A driver who is subject to post-accident testing shall remain readily available for such testing, or may be deemed by the City to have refused to submit to testing. 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.
- G. The City shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.
 1. The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable federal,

- state or local alcohol testing requirements, and that the results of the tests are obtained by the City.
2. The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the City.
- H. Exception. This section does not apply to an occurrence:
1. Involving only boarding or alighting from a stationary motor vehicle; or
 2. Involving only the loading or unloading of cargo; or
 3. In the course of the operation of a passenger car or a multipurpose passenger vehicle by the City unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked.

4.130.110 Random testing.

- A. Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- B. The random testing of drivers will be unannounced, spread reasonably throughout the year, and will be conducted to assure that all drivers have an equal chance of being tested.
- C. The drivers to be tested will be randomly selected using a scientifically valid method.
- D. The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
- E. The minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions or such other rate as may be set annually by the Federal Motor Carrier Safety Administration.
 1. The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
 2. Each driver selected for random alcohol and controlled substances testing under the selection process used shall have an equal chance of being tested each time selections are made.
 3. Each driver selected for testing shall be tested during the selection period.
 4. The City shall ensure that random alcohol and controlled substances tests conducted under this part are unannounced.
 5. The City shall ensure that the dates for administering random alcohol and controlled substances tests conducted under this part are spread reasonably throughout the calendar year.
 6. The City shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.
 7. A driver shall only be tested for alcohol while the driver is performing a safety-sensitive function, just before the driver is to perform a safety-sensitive function, or just after the driver has ceased performing such function.

4.130.120 Substance abuse professionals.

- A. The City will provide to each employee including an applicant or new employee who violates a DOT drug and alcohol policy a listing of Substance Abuse Professional's (SAP) readily available to the employee with names, addresses, and phone numbers.
- B. The City is not required to provide a Substance Abuse Professional's (SAP) evaluation or any subsequent recommended education or treatment for an employee who has violated a DOT drug and/or alcohol policy.
- C. Payment for Substance Abuse Professional's (SAP) evaluations is the responsibility of the employee. The employee must undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 or, if the prohibited conduct involved a controlled substance, a return-to-duty controlled substance test with a result indicating a verified negative result for controlled substance use.

4.130.130 Follow-up testing.

For each employee who has committed a DOT drug or alcohol policy violation and who seeks to resume employment with safety sensitive functions, the City must establish a written follow-up testing plan.

- A. The plan is established once the City has determined that the employee has successfully complied with a Substance Abuse Professional's (SAP's) recommendation for education and/or treatment. The Substance Abuse Professional's (SAP) must provide a copy of the written plan to the DER.
- B. Following a determination by a Substance Abuse Professional that an employee is in need of assistance in resolving problems associated with alcohol misuse or use of controlled substances, the employee is subject to unannounced follow-up alcohol /or controlled substance testing.
- C. The number and frequency of the tests will be determined by the Substance Abuse Professional, but will at a minimum consist of at least six unannounced follow-up tests in the first twelve months of safety-sensitive duty following the employee's return to safety-sensitive functions.
- D. The employer shall establish the specific dates for testing. The unannounced follow-up testing may continue for up to five years.

4.130.140 City notification obligations.

- A. The DER will:
 - 1. Notify a driver of the results of a pre-employment controlled substance test conducted under this title, if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application;
 - 2. Notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this title if the test results are verified positive;
 - 3. Make reasonable efforts to contact and request each driver who submitted a specimen under the City's program, regardless of the driver's employment status;
 - 4. Contact and discuss the results of the controlled substances test with a Medical Review Officer when the Medical Review Officer has been unable to contact the driver;
 - 5. Immediately notify the Medical Review Officer that the driver has been notified to contact the Medical Review Officer within 72 hours;
 - 6. Request alcohol and controlled substances information from previous employers;

7. Ensure that each driver receives an educational material that explains the requirements of this title with respect to meeting these requirements. Drivers will acknowledge in writing receipt of such information;
 8. Include detailed discussion of the following in the materials to be made available to drivers:
 - a. The identity of the person designated by the City to answer driver questions about the materials;
 - b. The categories of drivers who are subject to this title;
 - c. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this policy;
 - d. Specific information concerning driver conduct that is prohibited by this policy
 9. Supply written notice to representatives of employee organizations of the availability of information.
 10. Provide the circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under this title;
 11. Provide the procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by this policy;
 12. Provide the requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy;
 13. Provide an explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the consequences;
 14. Provide the consequences for drivers found to have violated policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under this policy;
 15. Provide the consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;
 16. Provide information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.
- B. The human resources office shall ensure that each driver signs a statement certifying that he or she has received a copy of these materials described in this section. The human resources office will maintain the original of the signed certificate and provide a copy of the certificate to the driver.

4.130.150 Testing procedures.

The City shall ensure all alcohol or controlled substances testing conducted under this title complies with the procedures set forth in DOT regulations 49 CFR Part 40.

A. Alcohol.

1. Tests will be conducted under the guidance of a Breath Alcohol Technician selected by the City and in accordance with DOT regulations at one or more designated testing sites.

2. The site(s) will afford privacy to the individual being tested. If the result of an initial test is an alcohol concentration of less than 0.02, no further testing is required and the results are transmitted to the DER in a confidential manner.
 3. If the result of an initial test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed within twenty minutes. The results of an initial test and the confirmation test are printed on the breath alcohol test forms, signed by both the Breath Alcohol Technician and the driver, and transmitted to the applicable DER in a confidential manner.
 4. A driver tested who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle, nor shall the driver perform or continue to 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.
- B. Controlled Substances.
1. DOT regulations require testing for marijuana, cocaine, opiates, amphetamines and phencyclidine. Tests for these substances will be conducted under the guidance of the Medical Review Officer selected by the City and in accordance with DOT regulations at one or more designated collection sites. Collection of urine samples will allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen. It is a violation of federal law and this policy to adulterate or dilute a specimen during the collection procedure.
 2. Test results are given to the Medical Review Officer for analyzing and reporting to the applicable DER.

4.130.160 Employee refusal to submit to a required alcohol or controlled substance test.

- A. A driver shall not refuse to submit to a pre-employment controlled substance test, a post-accident required alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, a return to duty alcohol or controlled substance test, follow-up alcohol or controlled substance test.
- B. The City shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. The driver will be immediately removed from duty and such refusal will be treated as a positive test.
- C. Failure to provide adequate breath for testing when required without a valid medical explanation, failure to remain available for post-accident testing, failure to provide adequate urine for testing without a valid medical explanation, engaging in conduct that obstructs the testing process, or failure to sign the alcohol testing form constitutes a refusal to submit to testing.

4.130.170 Positive test.

When a driver has engaged in prohibited conduct, the employee will be dismissed for cause or provided a last chance agreement at the sole discretion of the City.

4.130.180 Access to test results.

A driver is entitled, upon written request, to obtain copies of records pertaining to the employee's alcohol or controlled substances test results.

4.130.190 Records retention.

The human resources office shall maintain records of alcohol misuse and controlled substances use prevention programs. The records shall be maintained in a secure location with controlled access:

- A. Five Year Record Retention
 1. Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater;
 2. Records of driver verified positive controlled substance test results;
 3. Documentation of refusals to take required alcohol and/or controlled substance tests;
 4. Driver evaluations and referrals;
 5. Calibration documentation;
 6. Records related to the administration of the alcohol and controlled substances testing programs, and
 7. A copy of each annual calendar year summary required by DOT regulations.
- B. Two Year Record Retention. Records related to the alcohol and controlled substances collection process.
- C. One Year Record Retention. Records of any negative and canceled controlled substance test results and alcohol tests results with a concentration of less than 0.02.
- D. Indefinite Record Retention. Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the City while the individual performs the functions which require the training and for two years after ceasing to perform those functions.
- E. Types of Records. The following specific types of records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of DOT regulations. If the record is required to be prepared, it must be maintained.
 1. Records related to the collection process.
 - a. Collection logbooks, if used;
 - b. Documents relating to the random selection process;
 - c. Calibration documentation for evidential breath testing devices;
 - d. Documentation of breath alcohol technician training;
 - e. Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;
 - f. Documents generated in connection with decisions on post-accident tests;
 - g. Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing; and
 - h. A copy of each annual calendar year summary as required by DOT regulations.
 2. Records related to a driver's test results.
 - a. The City's copy of the alcohol test form, including the results of the test;
 - b. The City's copy of the controlled substances test chain of custody and control form;
 - c. Documents sent by the MRO to the City, including those required by DOT regulations;
 - d. Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part;
 - e. Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered; and
 - f. Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that the employer must obtain in connection with the exception contained in policy and must obtain as required by policy.

- g. Records related to other violations.
 - h. Records related to evaluations:
 - i. Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance; and
 - j. Records concerning a driver's compliance with recommendations of the substance abuse professional.
3. Records related to education and training.
- a. Materials on alcohol misuse and controlled substance use awareness, including a copy of the City's policy on alcohol misuse and controlled substance use;
 - b. Documentation of compliance with the requirements of DOT regulations, including the driver's signed receipt of education materials;
 - c. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol or controlled substances testing based on reasonable suspicion;
 - d. Documentation of training for breath alcohol technicians as required; and
 - e. Certification that any training conducted complies with the DOT requirements for such training.
4. Administrative records related to alcohol and controlled substances testing.
- a. Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, consortia, and third party service providers;
 - b. Names and positions of officials and their role in the City's alcohol and controlled substances testing program(s);
 - c. Semi-annual laboratory statistical summaries of urinalysis required by DOT and
 - d. The City's alcohol and controlled substances testing policy and procedures.
- F. Location of Records.
- 1. All records required shall be maintained as required with DOT regulation and shall be made available for inspection at the City's principal place of business within two business days after a request has been made by an authorized representative of the Federal Motor Carrier Safety Administration.
 - 2. The human resources offices will be responsible for maintaining the additional records.

4.130.200 Training for supervisors.

- A. The City shall ensure that all persons designated to supervise drivers will receive at least 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use.
- B. This training will be used by the supervisors to determine whether reasonable suspicion exists to require employee driver to undergo testing.
- C. The training shall include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances recurrent training is not required.

4.130.210 Employee admission of alcohol and controlled substances use.

- A. Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy, provided that:
 - 1. The admission is in writing and in compliance with the City's voluntary self-identification program;
 - 2. The driver does not self-identify in order to avoid testing under the requirements of the program;

3. The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
 4. The driver does not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
- B. Self-identification Program.
1. The City will not take adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of this program and paragraph(A) of this section;
 2. The City will allow the employee ten (10) working days to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem and provide proof to the DER and supervisor of having undergone assessment screening. The proof must contain the treatment recommendations of the Substance Abuse Professional.
 3. The City will permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
 4. The City will ensure that:
 - a. Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - b. Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and
 - c. At least monthly, the employee will furnish the DER and supervisor with proof of their continuing participation in the recommended treatment program until completed.
 5. Reoccurrences of alcohol misuse or controlled substance use will be subject to disciplinary action up to and including the termination of employment.

Chapter 4.140

WHISTLE BLOWERS PROTECTION POLICY

4.140.005 Whistle blowers protection policy.

The State of Alaska provides protection to Whistleblowers pursuant to AS 39.90.100 — 39.90.150.

Chapter 4.150

LEGAL REPRESENTATION

4.150.005 Definitions.

The words and phrases used in this chapter shall have the following meanings:

- A. "Official" means any person who is serving or has served as an officer, as defined by the Charter, in this title, and any person who is serving or has served as an appointed member of any city board, commission or committee.
- B. "Employee" means any person who is or has been employed by the city.

4.150.010 Legal representation.

- A. The city shall provide to an official or employee, subject to the conditions and requirements of this chapter, legal representation as may be reasonably necessary to defend a claim or lawsuit filed against the official or employee resulting from any conduct, act or omission performed or omitted on behalf of the city in their capacity as a city official or employee.
- B. Except as may be provided in any applicable policy of municipal insurance, such legal representation shall be provided by the city attorney or by an attorney designated by the council.

4.150.020 Exclusions.

- A. The obligations assumed under this chapter by the city shall not apply to:
 - 1. Any dishonest, fraudulent, criminal, willful, wanton or malicious act of any official or employee;
 - 2. Any act of an official or employee which is not performed on behalf of the city;
 - 3. Any act which is outside the scope of an official's or employee's service or employment with the city; or
 - 4. Any lawsuit brought by or on behalf of the city.
- B. The provisions of subsection (A) of this section shall have no force or effect with respect to any accident, occurrence or circumstance for which the city or the official or employee is insured against loss or damages under the terms of any valid city insurance policy.

4.150.030 Determination of exclusion.

The determination of whether an official or employee is entitled to a defense by the city under the terms of this chapter shall be made by the city attorney or, if the city attorney is unable to do so, by an attorney designated by the council. There shall be no appeal from such determination, except to the superior court by means of an action for declaratory judgment.

4.150.040 Representation and payment of claims – conditions.

The provisions of this chapter shall be applicable provided that the following conditions are met:

- A. In the event of any incident, transaction or course of conduct that could result in a claim for damage, or the commencement of a suit, the official or employee involved shall notify his or her department director in writing, identifying all information known to the official or employee involved, including, without limitation, the date, time, place and circumstances surrounding the incident or conduct, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses;
- B. If an official or employee receives a demand, notice or summons or other process relating to any such incident or conduct he or she shall deliver it to his or her department director who shall forward it to the city attorney and city manager. The employee or official shall cooperate with the city attorney or attorney designated by the council, and shall, if requested, assist in making settlements of any suits and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the city because of any damage or claim of loss arising from such incident or course of conduct;

- C. The official or employee shall, when requested by the city attorney or attorney designated by the council, attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining attendance of witnesses; and
- D. The official or employee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense, other than for first aid to others at the time of any incident, transaction or course of conduct giving rise to any such claim, loss or damage.

4.150.050 Effect of compliance with conditions.

If legal representation of an official or employee is undertaken by the city attorney, and all of the conditions of representation are met, and subsequently a judgment is entered against the official or employee, or a settlement made, the city will pay such judgment or settlement (less punitive damages and amounts relating thereto); provided, that the city may, at its discretion, appeal such judgment.

4.150.060 Failure to comply with conditions.

In the event that any official or employee fails or refuses to comply with any of the conditions of PMC 4.150.040, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and have no force or effect with respect to any such claim or litigation.

4.150.070 Reimbursement of incurred expenses.

If the city attorney determines that an official or employee does not come within the provisions of this chapter, and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the city will pay any judgment (less punitive damages and amounts relating thereto) rendered against the official or employee and reasonable attorney's fees incurred in defending against the claim. The city will not pay any attorney's fees incurred in obtaining the determination that such claim is covered by the provisions of this chapter.

4.150.080 Conflict with provisions of insurance policies.


Nothing contained in this chapter shall be construed to modify or amend any provision of any policy of insurance where any city official or employee thereof is a named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this section shall be deemed to limit or restrict any employee's or official's right to full coverage pursuant to this chapter. It is the intent of this chapter and section to provide complete coverage (excluding punitive damages) outside and beyond insurance policies which may be in effect, while not compromising the terms and conditions of such policies by any conflicting provision contained in this chapter.

4.150.090 Pending claims.

The provisions of this section shall apply to any pending claim or lawsuit against an official or employee, or any such claim or lawsuit hereafter filed, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

Section 4. Effective Date. Ordinance No. 12-001 shall take effect upon adoption by the City of Palmer City Council.

Passed and approved this ninth day of April, 2013.


DeLena Goodywin Johnson, Mayor


Janette M. Bower, MMC, City Clerk