

SOUTH METRO FIRE DEPARTMENT

PERSONNEL POLICY



Adopted November 1, 2006
Amended by Res. 07-11, September 5, 2007
Amended by Res. 07-20, December 12, 2007
Amended by Res. 09-02, January 21, 2009
Amended, March 17, 2010
Amended, June 16, 2011
Amended, October 10, 2014

TABLE OF CONTENTS

- 1.0 Purpose, Scope and Operation**
 - 1.1 Purpose
 - 1.2 Scope
 - 1.3 Operation
 - 1.4 Public Employment Labor Relations Act

- 2.0 Definitions**

- 3.0 General Provisions**

- 4.0 Employment**
 - 4.1 Recruitment & Selection
 - 4.2 Probationary Period
 - 4.3 Performance Review
 - 4.4 Employee Records and Data Privacy
 - 4.5 Indemnification of Department Employees

- 5.0 Responsibilities of Employees**
 - 5.1 Working Hours
 - 5.2 Employee Appearance and Identification
 - 5.3 Code of Ethics
 - 5.4 Personal Use of Department Property
 - 5.5 Confidentiality
 - 5.6 Notice of Convictions of Driving Violations
 - 5.7 Vehicle Use

- 6.0 Compensation**
 - 6.1 Pay Plan Administration and Employee Retention
 - 6.2 Time Sheets
 - 6.3 Overtime
 - 6.4 Travel Expenses

- 7.0 Time Off**
 - 7.1 Holiday Leave
 - 7.2 Vacation Leave
 - 7.3 Sick Leave
 - 7.4 Worker's Compensation
 - 7.5 Military Leave
 - 7.6 Jury or Witness Duty
 - 7.7 Bone Marrow Leave
 - 7.8 Voting Leave
 - 7.9 Unpaid Leave of Absence
 - 7.10 School Activity Leave
 - 7.11 Severe Weather Conditions

- 8.0 Leave/Changing Department Employment**
 - 8.1 Lay-Off
 - 8.2 Reassignment
 - 8.3 Discharge
 - 8.4 Resignation
 - 8.5 Retirement
 - 8.6 Severance

- 8.7 Termination Procedures/Exit Interview
- 8.8 Reference Checks/Recommendations

9.0 Employee Discipline

- 9.1 Discipline
- 9.2 Causes for Dismissal

10.0 Employee Procedures

- 10.1 Employee Complaint Policy

11.0 Political Activities

12.0 Appendices

- 12.1 Tuition Reimbursement
- 12.2 Rescinded
- 12.3 Non-Discrimination
- 12.4 Safety and Health
- 12.5 Drug and Alcohol Testing
- 12.6 A) Family Leave Medical Act and Parenting Leave
B) Maternity/Pregnancy/Nursing Mother Leave Provisions
C) Military Leave Provisions
- 12.7 Outside Employment
- 12.8 Performance Evaluations
- 12.9 Response Time
- 12.10 Rescinded
- 12.11 Sexual Harassment and Inappropriate Conduct
- 12.12 Smoke Free Workplace
- 12.13 Computer Use
- 12.14 Workplace Violence Prevention
- 12.15 Rescinded
- 12.16 Light Duty
- 12.17 Motor Vehicle
- 12.18 Confidentiality/Data Practices

SECTION 1.0 PURPOSE, SCOPE AND OPERATION

1.1 PURPOSE

The purpose and intent of this policy is to establish and maintain a uniform and equitable system for personnel administration for the South Metro Fire Department (hereinafter referred to as the “Department”). It is the policy of the Department that:

- 1.1 (1) Tenure of Department employment shall be subject to proper conduct, satisfactory performance of work, and the availability of funds.
- 1.1 (2) This policy does not guarantee that employment will continue for any specified period of time or end under certain conditions. The terms of this Personnel Policy should not be construed as an employment contract between the Department and its employees.
- 1.1 (3) The Department reserves the right to change the Personnel Policy unilaterally without consent of the employees, however, notice of any meeting at which changes to the Personnel Policy will be considered will be posted on the bulletin board of the Principal Executive Office of the Department.

1.2 SCOPE

This Personnel Policy shall apply to all existing and future positions and employment with the Department, except as waived by any employment contract. This Policy does not apply to persons engaged under contract to supply expert professional, technical, or other service.

1.3 OPERATION

The Department reserves the right to operate and manage its affairs in all respects in accordance with existing and future laws and regulations. The provisions of this Personnel Policy shall apply to all employees including organized personnel who work under labor agreements with the Department. In the event of a conflict between the terms of a labor agreement and this policy, the following order of precedence shall apply:

- (a) All applicable state and federal laws.
 - (b) Labor agreements.
 - (c) South Metro Fire Department Personnel Policy.
- 1.3 (1) Amendment. The South Metro Fire Department Board (herein after referred to as the “Board”) may amend this Personnel Policy by resolution.
 - 1.3 (2) Administration. The rules and regulations outlined in this Personnel Policy are administered by the South Metro Fire Department Fire Chief (herein after referred to as “Fire Chief” or “Chief”) who is directly accountable to the Board. The Fire Chief is directed to develop and provide the necessary forms, procedures, and instructions for the implementation of this Personnel Policy.
 - 1.3 (3) Severability. If any provision of this Personnel Policy is held invalid by judicial or legislative action, the invalid provision of this Policy may be severed and the remainder of this Personnel Policy will not be affected.
 - 1.3 (4) Department Rules. In accordance with this Policy, the Fire Chief may establish rules of procedure that do not conflict with this policy to cover unique circumstances.
 - 1.3 (5) Appendices. All Appendices are incorporated and made part of this Policy whether or not they are

referenced in the Sections herein
(Amended by Res. 07-11, §1.3 (5))

1.4 PUBLIC EMPLOYMENT LABOR RELATIONS ACT

The Public Employment Labor Relations Act, as amended and codified in Minnesota Statutes Sections 179A.01 through 179A.30, is adopted by reference and made a part of this article as if fully set forth herein.

SECTION 2.0 DEFINITIONS

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

- 2.1 (1) **ACCRUAL PERIOD:** The period during which benefits accumulate. Benefits are not officially accrued “on record” until the day of payroll.
- 2.1 (2) **ADMINISTRATIVE PERSONNEL/DEPARTMENT HEAD:** The Fire Chief.
- 2.1 (3) **ANNIVERSARY DATE:** An employee’s anniversary date of employment shall be based on the first date of consecutive employment. Employees who are hired directly from the existing South St. Paul and West St. Paul fire departments shall be given credit for their employment history with the South St. Paul or West St. Paul fire departments for all benefit accrual purposes.
- 2.1 (4) **BENEFITS:** Privileges granted to an employee including but not limited to vacation leave, holiday leave, sick leave, and other benefits approved by the Board except as limited according to Section Seven. An employee shall be given service credit, for purposes of benefit accruals, for each hour he or she works, including time compensated for holidays, sick leave and vacation.
- 2.1 (5) **THE BOARD:** The representatives appointed by the West St. Paul and South St. Paul City Councils to serve as the governing body of the Department.
- 2.1 (6) **CALENDAR YEAR:** A twelve-month period beginning January 1 and ending December 31.
- 2.1 (7) **CATASTROPHIC SICK LEAVE:** The absence of an employee due to the employee’s own catastrophic illness or injury, or due to the necessity to care for an immediate family member who has suffered a catastrophic illness or injury.
- 2.1 (8) **DEPARTMENT:** The South Metro Fire Department as the employer, the Board, and its agents.
- 2.1 (9) **DEMOTION:** The movement of an employee to either a position having a lower pay grade or to a lower ranking position.
- 2.1 (10) **EXEMPT EMPLOYEE:** An employee, as defined, who is exempted from the overtime compensation provisions of the Fair Labor Standards Act.
- 2.1 (11) **FISCAL YEAR:** January 1 through December 31, inclusive.
- 2.1 (12) **HUMAN RESOURCES DIRECTOR:** The person appointed by the Fire Chief as the individual responsible for personnel or his or her designee.
- 2.1 (13) **IMMEDIATE FAMILY:** Employee’s spouse, child, father, mother, and individual(s) who stood in loco parentis to the employee as a child, brother, sister, grandmother, grandfather, and spouse’s child, mother, father, individual(s) who stood in loco parentis to the spouse as a child, brother, sister, grandmother or grandfather.

- 2.1 (14) **JOINT POWERS AGREEMENT:** The Agreement entered into on October 25, 2005, between the City of West St. Paul and the City of South St. Paul for purposes of providing fire protection and medical response services under an agreement authorized by Minnesota Statutes Section 471.59.
- 2.1 (15) **LAY-OFF:** A temporary and/or permanent separation of an employee from employment due to budgetary reasons, reduced workload, discontinuance of a position, organizational change, or any other management reason.
- 2.1 (16) **NON-EXEMPT EMPLOYEE:** An employee, as defined, who is subject to the minimum wage and overtime compensation provisions of the Fair Labor Standards Act.
- 2.1 (17) **OUTSIDE EMPLOYMENT:** Employment of any kind engaged in by a Department employee for which compensation is received from a source other than the Department. See Appendix 7.
- 2.1 (18) **POSITION DESCRIPTION:** The written description of a position containing a title, a position summary, a written list of essential and other duties and responsibilities, essential knowledge, skills and abilities, minimum requirements and qualifications deemed necessary and/or desirable for satisfactory performance, job activity and sensory requirements.
- 2.1 (19) **PRINCIPAL EXECUTIVE OFFICE:** The Principal Executive Office shall be the office of the Fire Chief, pursuant to the Bylaws of the South Metro Fire Department.
- 2.1 (20) **PROBATIONARY EMPLOYEE:** An employee who has not yet completed the probationary period. During such period, the employee, except those claiming veterans or disabled veterans' status as provided by the Veteran's Preference Act, may be separated from fire service without recourse to appeal.
- 2.1 (21) **PROBATIONARY PERIOD:** A trial period considered as an integral part of the induction process during which a new employee is required to demonstrate his or her fitness and ability for the position prior to receiving regular appointment.
- 2.1 (22) **PROMOTION:** A change of an employee from one position to another position with more responsible duties and a higher salary range.
- 2.1 (23) **REGULAR FULL-TIME EMPLOYEE:** An individual who is employed in a position that is regularly scheduled for a minimum of a forty (40) hour work week for fifty-two (52) weeks in a calendar year or as defined in an applicable labor agreement.
- 2.1 (24) **REGULAR PART-TIME EMPLOYEE:** An employee who serves in a position for an average of no less than sixteen (16) hours a week but less than forty (40) hours a week for a nonspecific duration.
- 2.1 (25) **RETIREMENT:** Separation from Department employment when the employee is eligible based on age and/or service requirements for an annuity from the Public Employees Retirement Association.
- 2.1 (26) **TEMPORARY EMPLOYEE:** An employee who has been appointed to a full-time or part-time position for a limited duration and is compensated on an hourly basis.
- 2.1 (27) **TERMINATION:** A complete separation from Department employment resulting from discharge, resignation, retirement or death.
- 2.1 (28) **TRANSFER:** The movement of an employee from one classification, department or unit to another.
- 2.1 (29) **TREASURER:** The individual identified as the Treasurer under the Joint Powers Agreement.
- 2.1 (30) **VETERAN:** A person defined as a veteran under Minnesota Statutes Section 197.447.

(Amended by Res. 07-11, §2.1 (7), 2.1 (17))

SECTION 3.0 GENERAL PROVISIONS

3.1 POWERS AND DUTIES OF THE FIRE CHIEF ON PERSONNEL MATTERS

The Fire Chief shall perform the duties and exercise powers concerning personnel matters set forth in this policy. The Chief shall promulgate such rules and regulations and perform such other activities or practices with reference to personnel administration as may be necessary and desirable.

3.2 CHANGES

The Chief shall prepare and recommend to the Board such changes in this policy as may be necessary or desirable.

SECTION 4.0 EMPLOYMENT

Procedures for recruitment, interviewing, and selection of personnel shall be under the direction and authority of the Fire Chief in compliance with appropriate statutes, rules, and regulations.

4.1 RECRUITMENT AND SELECTION

Appointments shall be made by the Fire Chief on the basis of qualifications for the vacant position, regardless of race, color, creed, religion, national origin, marital status, disability, status with regard to public assistance, political affiliation, sex, age, or sexual orientation. See also Appendix 3.

Qualifications shall be determined by education, experience, and ability based on written, oral, or other job-relevant examinations evaluating the candidate's ability. The Fire Chief will establish and maintain a job description for each position which shall include a job title, Fair Labor Standards Act (FLSA) status, example of duties, minimum qualifications, and desirable knowledge and skills.

- 4.1 (1) Posting. All vacancies for regular full-time or part-time positions shall be posted internally if practical. Vacancies may also be advertised in at least one newspaper of general circulation within the Cities of South St. Paul and West St. Paul. The notice shall specify title and salary range of the position, the manner of making applications, the closing date for accepting applications, job-relevant minimum requirements, and other pertinent information.
- 4.1 (2) In the event that circumstances make such posting and advertising impossible before actually filling the vacancy, the Department reserves the right to fill the vacancy. The Fire Chief may select a candidate for a vacancy who meets the requirements listed in the class specifications and who the Fire Chief deems most qualified to perform the duties of the position. The exact circumstances that could cause this exception to be exercised will be determined on a case by case basis.

It is the desire of the Department to fill vacancies in the fire service by promotion or transfer of regular full-time and regular part-time employees insofar as practical in the opinion of the Fire Chief. An employee must possess the qualifications necessary for the position to which they seek promotion or transfer. In case of equal qualification, consideration may be given to total length of service with the Department.

- 4.1 (3) Application. Application forms will be provided by the Department. The form will solicit information regarding education, employment history, references, and other information as requested by the Fire Chief.
- 4.1 (4) Physical Examination. Upon a conditional offer of employment, all prospective regular full-time or part-time fire-fighting personnel and other applicants for other positions may be required to have a physical examination. Such examination shall be at the Department's expense and shall be given by a licensed, qualified doctor who will be designated by the Department. Such examination will be given to determine if

the prospective employee is physically able to perform the duties of the specific position for which he or she is being considered. Present employees who apply for and are offered a new position as fire fighting personnel or other positions within the Department may be required to take the physical examination if the physical requirements of the new position differ from those of the previous position. Information given by the applicant related to their health history as well as information provided to the examining physician must be accurate and complete in order for the applicant to qualify for employment. The purpose of this exam is to determine whether the applicant can perform the basic job duties of the relevant position.

- 4.1 (5) Psychological Examinations. Upon a conditional offer of employment, all prospective regular full-time or part-time fire fighting personnel will, and other applicants for other positions may, be required to have a psychological evaluation. As with physical examinations, the examination will be conducted at Department expense and administered by a Department-designated qualified examiner. Such an examination may be given to determine if the prospective employee is psychologically able to perform the duties of the specific position for which he or she is being considered. Present employees who apply for and are offered a new position within the Department may also be required to take a psychological exam.
- 4.1 (6) Criminal History Background. The Department is authorized to do a criminal history and driving record background investigation on all applicants for employment. The Police Department of either the city of West St. Paul or the city of South St. Paul may not perform a background investigation unless the applicant authorizes the police department in writing to perform the investigation and release the information to the Fire Chief and other Department staff on a need-to-know basis. If the Department denies an applicant a position with the Department solely or in part because of the applicant's prior conviction of a crime, subject to the exceptions listed in Minnesota Statutes Section 364.09, the Fire Chief shall notify the applicant in writing of the following:
- (a) The grounds and reasons for the denial or disqualification;
 - (b) The opportunity to request reconsideration of the Department's decision and to provide the Department competent evidence of rehabilitation and present fitness for the position within five (5) days of the notice of denial;
 - (c) If a current employee, the applicable complaint procedure as set forth in Section Eight;
 - (d) The earliest date the person may reapply for employment with the Department; and
 - (e) That competent evidence of rehabilitation presented will be considered upon reapplication.

4.2 PROBATIONARY PERIOD

All newly hired, rehired, transferred, and promoted full-time and part-time employees shall serve a one-year probationary period.

- 4.2 (1) Completion. Four weeks prior to the expiration of the probationary period, the Human Resources Director shall notify the Fire Chief in writing whether or not the services of the employee have been satisfactory and whether or not the employee's employment is recommended to continue. The completion of a probationary period does not guarantee continued employment.

If an employee's performance is found to be marginal during the probationary period, the Fire Chief may agree to an extension of up to an additional six-month period to permit further potentially satisfactory development.

- 4.2 (2) Probationary Termination. The Fire Chief may terminate a probationary employee at any time for any reason during the probationary period. The employee shall not have the right to appeal unless he or she is a veteran, in which case the procedures prescribed in Minnesota Statutes Section 197.46 shall be followed.

4.2 (3) Benefits During Probationary Period. New employees shall earn benefits, sick leave, and vacation leave from the start of their employment but may not use vacation leave until the completion of the first six (6) months of employment. The use of vacation leave does not change the probationary status of the employee.

4.3 PERFORMANCE REVIEW

A performance review system shall be established for the purpose of having the Fire Chief or his or her designee annually appraise the performance of the Department's employees using the prescribed form for this purpose. The quality of performance rendered by the employee in the past will receive due consideration in such personnel matters as promotions, transfers, demotions, terminations, and salary adjustments. The employee shall be able to review performance review ratings, but such ratings will not be available to unauthorized persons. An employee shall be reviewed at least once per year following the completion of the probationary period. Performance review forms shall be retained as part of the employee's personnel file. See also Appendix 8.

4.4 EMPLOYEE RECORDS AND DATA PRIVACY

It is the policy of the Department to maintain a personnel file for each employee in accordance with Minnesota Statutes Chapter 13, Minnesota Government Data Practices.

4.4 (1) Right of Access. The Department shall follow the provisions of Minnesota Statutes, Chapter 13, Government Data Practices. Employee personnel files are open for inspection and review during office hours under the timelines in Minnesota Statutes Section 13.04, subdivision 3. After being shown the data, the personnel file need not be disclosed to the employee for six months thereafter unless a dispute or action pursuant to State Statute is pending or additional data on the individual has been collected or created. Public data on individuals is data, which, by statute, shall be accessible to the public, and includes but is not limited to the employee's name, actual gross salary, salary range, actual gross pension, job title, job description, education and training background, previous work experience, date of first and last employment, and the existence and status of any complaints or charges against the employee. All other personnel data is private data which is not accessible to the public but which is accessible to the subject employee, the employee's authorized representative, the Human Resources Director, the Human Resources Director's designees, the Fire Chief, and the Fire Chief's designees.

4.4 (2) Minnesota Government Data Practices Act. Employees are covered under Minnesota Statutes, Chapter 13 governing data privacy. However, employees do not have a reasonable expectation of privacy beyond what is provided in the Minnesota Data Practices Act. Lockers, Department vehicles, desks, and filing cabinets are considered public areas and are not considered private areas. The Department reserves the right to inspect lockers and all other public areas and to monitor work areas provided the Department has a business interest in doing so.

4.5 INDEMNIFICATION OF DEPARTMENT EMPLOYEES

The Department shall defend and indemnify any of its employees for damages, including punitive damages, claimed or levied against the employee as a result of their performance of the duties of their position within the Department, and the Department shall defend or indemnify any of its employees for any other circumstances as the Board deems appropriate, provided that the employee was acting in the performance of the duties of the position and was not guilty of malfeasance in office, willful neglect of duty, or bad faith.

SECTION 5.0 RESPONSIBILITIES OF EMPLOYEES

5.1 WORKING HOURS.

The normal working week for non-exempt, full-time employees shall be forty (40) hours over a seven (7) day period except where otherwise defined by an applicable labor agreement. A workweek shall begin on Monday at 12:01 a.m. and end on the following Sunday at 12:00 a.m. (midnight). The Fire Chief may unilaterally modify the work week for any or all positions or classes of positions. All daily, weekly, and monthly work schedules or shifts will be established and exceptions made by the Human Resources Director with the approval of the Fire Chief.

Part-time employees shall work the number of hours per week designated for their positions. Temporary employees shall not have a guaranteed minimum number of hours to be worked.

5.2 EMPLOYEE APPEARANCE/IDENTIFICATION

5.2(1) General Personal Appearance. Working for the South Metro Fire Department is public employment and as such the personal appearance of Department employees is constantly subject either directly or indirectly to public scrutiny. Employees should always be aware of personal hygiene and proper personal appearance. The employee's supervisor will discuss the subject of personal appearance with the employee if he or she does not feel that it reflects the favorable image of the Department.

5.2(2) Uniformed Employees. All uniformed employees shall be required to comply with the Department's uniform policy in the Operational Guidelines Manual. If an employee wears a uniform while off-duty, the uniform must be maintained in a neat and clean appearance. No employee shall consume alcohol while in uniform.

5.2(3) Non-Uniformed Employees. Non-uniformed employees are expected to report to work in dress that fits the type of work he or she performs and at the same time promotes a professional image. While the Department generally leaves choice of dress to the discretion of the individual, it should be kept in mind that an employee's dress should always be appropriate for the public service environment and favorably reflect the Department's image.

5.2 (4) Identification Card. All employees, while on Department business, are required to have in their possession a Department-approved picture identification card, which card shall be displayed immediately to any person requesting the identification of the employee. The Department will furnish such card to the employee at no cost to the employee.

5.2(5) Improper Use of Uniforms, Credentials or Badges. Employees shall not permit the use of their uniform, credentials, or badges to unauthorized persons. Employees shall not use their uniform, credentials, or badges except in the course of their duties for authorized purposes.

(Amended by Res. 07-11, §5.2)

5.3 CODE OF ETHICS

5.3 (1) Falsification of Records. No person shall knowingly make any false statement, certificate, mark, rating, or report in regard to any text, certificate, or appointment held or made under the Department personnel system, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the duties of any employee.

5.3 (2) Rendering of Consideration. No person seeking employment to or promotion in the fire service shall directly or indirectly give, render, or pay any money, service, or other valuable consideration to any person, or on account of or in connection with his or her test, appointment or promotion, or proposed appointment or promotion, unless it is a general fee for all applicants to take an employment eligibility test.

5.3 (3) Discrimination. No person shall be employed, promoted, demoted, or discharged by the Department or in any way favored or discriminated against because of race, color, creed, religion, national origin, marital status, disability, status with regard to public assistance, political affiliation, sex, age, or sexual orientation, or because of the exercise of the rights under provisions of the Public Employment Labor Relations Act.

- 5.3 (4) Conflict of Interest. All employees shall avoid involvement with conflicting outside business interests. When an employee believes the potential for a conflict of interest exists, it is the employee's duty to avoid the situation. A conflict of interest shall be deemed to exist when a review of the situation by the Fire Chief determines any one of the following conditions to be present:
- (a) The use for private gain or advantage of Department time, facilities, equipment, or supplies or badge, uniform, or prestige or influence of Department office or employment.
 - (b) The performance of an act in other than the employee's official capacity which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by the employee.
 - (c) Any work outside his or her Department employment which interferes or may interfere with his or her duties with the Department. All regular full-time employees should consider their job with the Department their primary employment and avoid using their Department position for personal gain from other employment or self-employment.
 - (d) Performing any work involving privileged information, not available to the public, which the employee has access to because of their employment with the Department.
- 5.3 (5) Gifts. No employee shall receive or accept any money or other thing of value from anyone other than the Department for the performance of an act which the employee would be required or expected to perform in the regular course of Department employment or as part of his or her duties as an employee.

5.4 PERSONAL USE OF DEPARTMENT PROPERTY

Employees shall not use Department equipment, vehicles, facilities, or materials for personal purposes, including political activities, except as allowed by established Department policy. No personal business of any kind shall be permitted during business hours.

- 5.4 (1) Personal Telephone Calls. Personal phone calls made or received during work hours shall be limited to those calls absolutely necessary and shall be completed as quickly as possible. Long distance personal calls shall be avoided but if necessary may be made on a calling card, billed to an employee's home phone number, or made by calling collect. If these options are not available, the employee shall log the date, time, and length of the call, submit the information to the Treasurer, and reimburse the Department for the cost of the call.
- 5.4 (2) Personal Cellular Phone Calls. If the Department purchases a cellular telephone for an employee to be used for official Department business and to increase the employee's availability in the event of an emergency, the employee is encouraged to keep the phone on during non-working hours. The phone may be used for limited personal calls as long as the airtime used does not exceed the monthly-allotted airtime included under the provider's monthly plan. If the allotted time is exceeded or personal calls are made resulting in extra cost to the Department, the employee shall submit information to the Treasurer to reimburse the Department for these additional costs for all personal calls resulting in charges exceeding the standard monthly plan cost.
- 5.4 (3) Personal Use of Internet and E-Mails. All electronic communications and all communications and information transmitted by, received from, or stored in the Department's systems are the property of the Department. The Department's software and business equipment are to be used for job-related purposes only. Employees using this equipment for personal purposes do so at their own risk. The Department will share no responsibility for any wrongdoing, such as incidents of slander, harassment, defamation, copyright or trademark violations, or any civil or criminal actions that occur or are alleged to have occurred through the personal or unauthorized use of the Department's electronic communications. All employees should be aware that the Department has the capability of monitoring each employee's use of the Internet and e-mail

and may do so without the consent of the employee. Any illegal activity that is discovered may be reported to the appropriate authority and may subject the employee to discipline, up to and including termination. See also Appendix 13.

- 5.4 (4) Copy Machine. Employees may make personal photocopies on Department machines at a cost, however this practice is not encouraged. Personal photocopying shall be done after scheduled, paid hours so as not to interfere with Department business.
- 5.4 (5) Fax Machine. Employees may send and receive local faxes provided that the faxes do not interfere with Department business. An effort shall be made to send and receive all personal faxes after normal business hours.
- 5.4 (6) Postage Machine. Employees are not permitted to use the postage machine for personal business.
- 5.4 (7) Department Letterhead. Under no circumstances are employees permitted to use Department letterhead for personal business. It is possible that the use of such letterhead could be viewed as an official position of the Department.
- 5.4 (8) Keys and Security. The security of Department buildings, equipment, and files is of great importance and efforts must be made to protect the property from theft.

Keys for Department buildings and vehicles are issued only to employees with an absolute need for such keys. The keys are not to be shared with anyone outside the organization and are considered to be the responsibility of the employee to whom they are issued. Lost keys must be reported immediately to the employee's immediate supervisor.

- 5.4 (9) Safes or Files. Employees who are entrusted with safes or confidential files are required to make sure that these items are secure at the end of the day.

5.5 CONFIDENTIALITY

It is the policy of the Department that the release of all written documentation maintained by the Department shall be in accordance with Minnesota Statutes Section 13, Minnesota Government Data Practices.
(Amended by Res. 07-11, §5.5)

5.6 NOTIFICATION OF CITATIONS AND CONVICTIONS FOR DRIVING VIOLATIONS

All employees who operate a motor vehicle even occasionally as part of their work assignment or duties are required to notify the Department of a citation or conviction for any traffic violation except parking violations, as well as any changes in status to their driver's license, regardless of what type of vehicle was being driven at the time of the violation, whether publicly or privately owned. Notification procedures shall be as follows:

- 5.6 (1) Notification of Citation and Disposition. The notification of a citation for a moving violation must be made in writing to the Fire Chief within 30 days of receipt of the citation. The notice shall contain the employee's name, driver's license number, date of violation, nature of violation, type of vehicle, location of offense and the employee's signature. The employee shall notify the Fire Chief of the disposition of the citation within 7 days after it has been resolved.
- 5.6 (2) Notification of Change in Status to Driver's License. All employees shall notify the Fire Chief of a notice of suspension, revocation, cancellation, lost privilege or disqualification to operate a vehicle within 24 hours after the employees receive such notice.

(Amended by Res. 07-11, §5.6)

5.7 VEHICLE USE

Department vehicles are only to be used by Department personnel on official Department business for the purpose of service to the public. Vehicle usage shall be regulated by the Motor Vehicle Policy, Appendix 17.
(Amended by Res. 07-11, §5.7)

SECTION 6.0 COMPENSATION

6.1 PAY PLAN ADMINISTRATION AND EMPLOYEE RETENTION

Employees of the Department shall be compensated according to the compensation schedule established separately by the Board. Any wage or salary so established is the total remuneration for employment, but shall not be considered as reimbursement for official travel or other expenses which may be allowed for the conduct of official business.

6.1 (1) Beginning Salary Rate. The beginning rate for a new employee normally will be the minimum rate in the established grade for his or her classification. A pay rate above the minimum rate may be authorized to:

- (a) Meet difficult recruiting problems or to obtain a person with marked superior qualifications; or
- (b) Correct salary inequities or give credit for prior service.

The Fire Chief may authorize a salary rate within the specified pay range and vacation and sick leave schedule placement for any employee.

6.1 (2) Temporary Duties. Employees obliged to fill in for a vacancy in a higher-paying position for over thirty (30) days may be advanced, at the recommendation of the department head, for a retroactive increase to the entry wage of the higher-paying position, or to a four (4) percent increase from their present wage, whichever is more. Such increase shall expire when the vacancy in the higher paying position is filled.

6.2 TIME SHEETS

Time sheets must be submitted each pay period. Time sheets must be signed by the Employee, approved by the Shift Captain, and turned in to the Fire Chief, or his or her designee. The timesheets of employees reporting directly to the Fire Chief must be approved by the Fire Chief.

(Amended by Res. 07-11, §6.2)

6.3 OVERTIME

For all non-exempt employees as defined by the Fair Labor Standards Act (FLSA), forty (40) hours shall constitute a normal working week and all hours worked in excess of forty (40) hours per week shall be referred to as "overtime." As defined in Section 5.1, a workweek shall begin on Monday at 12:01 a.m. and end on Sunday at 12:00 a.m. (midnight). In emergencies or when workload requires, a Department employee may be required to work overtime. All overtime worked must have prior authorization by the appropriate supervisor. Approved paid leave time shall be added in computing forty (40) hours for overtime purposes.

Non-exempt employees who work more than forty (40) hours per workweek, shall be compensated by cash payment which will be calculated at one and one-half (1½) times the employee's regular hourly rate of pay for such hours worked in excess of forty (40) hours.

(Amended by Res. 07-11, §6.3)

6.4 TRAVEL EXPENSES

Employees shall be reimbursed for expenses incurred while conducting business for the Department. Travel at Department expense shall be regulated by the following procedures:

6.4 (1) All employees must have prior approval from their supervisor before incurring any costs at the Department's expense. The employee must provide his or her supervisor with an estimate of expenses prior to traveling.

6.4 (2) Travel expenses may be reimbursed for employees who received prior authorization from their supervisor before traveling.

6.4 (3) Advance payment of anticipated travel expenses may only be made when the travel expenses are much greater than a person could normally expect to cover on his or her own. Advances can be avoided by prior payment with Department funds for items such as registrations, tickets, motel rooms, etc. In some cases, organizations may be willing to bill the Department directly for these expenses. All claimed travel expenses must be clearly documented.

6.4 (4) Expenses that are reimbursable include:

- (a) Hotel rooms for single occupancy;
- (b) Meals (not to exceed \$35.00 per day). No reimbursement shall be paid for alcoholic beverages;
- (c) Automobile mileage;
- (d) Travel by commercial carrier at current commercial carrier rates or automobile rates, whichever is less. If the automobile option is chosen, one day of travel time prior to the conference or event and one day of travel time following the conference or event will be considered working hours. The number of hours compensated for each day of travel shall not exceed a normal shift for the employee;
- (e) Registration fees for workshops, seminars, conferences and employee education and training; and
- (f) Fees and expenses for meetings of professional organizations.

6.4 (5) Whenever a reduced registration or lodging rate or reduced cost can be obtained by early registration, the registration or reservation forms should be processed promptly in order for a Department check to be written and sent out.

6.4 (6) Any travel for which reimbursement is expected must be directly related to Department business or a meeting being attended. Any travel taken as a convenience to the employee will not be reimbursed.

6.4 (7) Expenses will be reimbursed subject to the availability of funds in the current year's budget. If an employee anticipates that his or her travel expenses will exceed the budget, prior approval must be received from the Fire Chief or his or her designee to incur the expense. Expenses incurred in excess of the budgeted amount without prior approval may result in the employee absorbing the cost.

6.4 (8) Travel time and mileage shall be calculated from the time the employee leaves his or her home until the time the employee arrives at their destination.

SECTION 7.0 TIME OFF

7.1 HOLIDAY LEAVE

- 7.1 (1) Eligibility for Regular Full-Time Employees. All regular full-time employees, including probationary employees, shall be eligible for paid holidays.
- 7.1 (2) Eligibility for Regular Part-Time Employees. Regular part-time employees who are regularly scheduled to work an average of no less than sixteen (16) hours per week on a year- round basis shall be eligible for paid holidays on a pro-rated basis for actual hours regularly scheduled to work.
- 7.1 (3) Eligibility for Temporary Employees. Temporary full-time, part-time, and seasonal employees are not eligible for paid holidays.
- 7.1 (4) Holidays. The following calendar days, and such other days as the Board may fix, are paid holidays, unless specified otherwise in a labor agreement between the Board and an exclusive representative:

New Years Day	January 1
Martin Luther King Day	3rd Monday in January
President’s Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran’s Day	November 11
Thanksgiving Day	4th Thursday in November
Friday after Thanksgiving	Day after Thanksgiving
Christmas Day	December 25

If any such date falls on a Saturday, the preceding day shall be observed as a holiday. If any such date falls on a Sunday, the following day shall be observed as a holiday. In addition to the above legal holidays, one floating holiday shall be granted in the current year.

- 7.1 (5) The Department’s building shall be closed for business on the above-mentioned holidays, but employees may be scheduled by their supervisor to work on these holidays when the nature of their duties or other conditions requires it. Except exempt employees or those employees covered under a labor agreement, an employee who is scheduled on a holiday shall be compensated in a cash payment which will be calculated at a rate of one and one-half (1 ½) times the employee’s regular rate of pay.

(Amended by Res. 07-11, §7.1 (1) – 7.1 (5))

7.2 VACATION LEAVE

- 7.2 (1) Eligibility for Regular Full-Time Employees. For regular full-time employees, the appropriate maximum total annual amount of paid vacation leave shall be credited to an employee’s vacation leave account on January 1st of each calendar year for use during the ensuing calendar year.
- 7.2 (2) Eligibility for Regular Part-Time Employees. Regular part-time employees who are regularly scheduled to work an average of no less than sixteen (16) hours per week on a year-round basis shall be credited for paid vacation leave on a pro-rated basis.
- 7.2 (3) Eligibility for Temporary Employees. Temporary full-time, part-time, and seasonal employees are not eligible for paid vacation leave.
- 7.2 (4) New Employees. New employees shall earn paid vacation leave from the start of their employment but may not use paid vacation leave until the completion of the first six (6) months of their employment.

7.2 (5) Schedule. Unless otherwise specified in a labor agreement between the Department and an exclusive representative, employees shall earn paid vacation leave as follows:

	Monthly <u>Accrual</u> (hours)	Maximum Total Annual Amount Employee is <u>Eligible to Earn (hours)</u>
Monthly Accrual during Years 0-4	6.67	80.04
Monthly Accrual during Years 5-9	10.00	120.00
Monthly Accrual during Year 10	10.67	128.04
Monthly Accrual during Year 11	11.33	135.96
Monthly Accrual during Year 12	12.00	144.00
Monthly Accrual during Years 13-14	12.67	152.04
Monthly Accrual during Years 15-19	13.33	159.96
Monthly Accrual Year 20 or more	16.67	200.04

7.2 (6) Accrual. Vacation leave is accrued on an hourly basis, based on the employee's length of continuous and uninterrupted employment.

7.2 (7) Carry-Over. An employee may carry-over vacation leave up to a maximum of the annual amount of paid vacation leave for which he or she is entitled. Each employee's compliance with this maximum will be reduced to the maximum annual amount on December 31 of each year. Any accrued vacation in excess of the maximum annual amount shall be forfeited effective December 31 of each year. .

7.2 (8) Past Department Employment. Anyone hired by the Department who has been a regular full-time employee of this Department or the West St. Paul or South St. Paul Fire Departments within the 12 months prior to their date of hire with the Department may receive credit for their previous employment with the Department or the West St. Paul or South St. Paul Fire Departments when computing length of service for paid vacation leave purposes upon successful completion of the probationary period for their current position.

7.2 (9) Scheduling. Vacation leave shall be scheduled to accommodate the work schedule of the Department provided that no regular employee will be denied the right to take yearly paid vacation leave equal to the number of vacation hours accrued by the employee in the previous calendar year. No employee who is on paid vacation leave will be allowed to work his or her regular job while on vacation.

7.2 (10) Waiving of Vacation Leave. Vacation leave is granted for the purpose of employee recreation and no employee shall be permitted to waive such vacation leave for the purpose of receiving double pay. Emergency and non-emergency call-backs are an exception to this provision.

7.2 (11) Reports. Vacation leave pay shall not be granted unless a report has been made and recorded on corresponding time sheets.

7.2(12) Conversion of Vacation Leave When Increasing or Decreasing Hourly Shifts. When an employee changes shifts such that there is an increase or decrease in the annual hours, the balance of the employee's vacation leave hours shall be converted at the time of the change in shifts by multiplying the current remaining balance of vacation leave hours by the total annual hours of the new shift divided by the total annual hours of the former shift.

(Amended by Res. 07-11, §7.2 (1) – 7.2 (5),7.2 (7))

(Amended by Res. 07-20, §7.2(1), 7.2(2), 7.2(6), 7.2(7), 7.2(12))

7.3 SICK LEAVE

- 7.3 (1) Eligibility for Regular Full-Time Employees. For regular full-time employees, ninety six (96) hours of sick leave shall be credited to an employee's sick leave account on January 1st of each calendar year for use during the ensuing calendar year.
- 7.3 (2) Eligibility for Regular Part-Time Employees. Regular part-time employees shall be credited a pro-rated amount of sick leave based on their actual hours regularly scheduled to work.
- 7.3 (3) Eligibility for Temporary Employees. Temporary full-time, part-time, and seasonal employees are not eligible for paid sick leave.
- 7.3 (4) New Employees. New employees shall be credited a pro-rated amount of sick leave as of their hire date.
- 7.3(5) Accrual. Sick leave is accrued at a rate of eight (8) hours per month.
- 7.3 (6) Reasons for Leave. Sick leave may be used by an employee scheduled to be at work when the employee is unable to perform work duties due to illness, disability, the necessity for medical, dental, or chiropractic care, childbirth, pregnancy disability, illness, or injury to the employee, the employee's spouse, the employee's parent(s) (or an individual(s) who stood in loco parentis to the employee when the employee was a child) for whom they have primary health care responsibility, or to the employee's child as provided for in Minnesota Statutes, Section 181.9413, or exposure to contagious disease where such exposure may endanger the health of others with whom the employee would come in contact with in the course of performing his or her work duties.

Attending outpatient services and dental appointments for a spouse, parent(s) (or individual(s) who stood in loco parentis to the employee when the employee was a child) for whom they have primary health care responsibility, or minor, dependent children, may be charged to sick leave if approved by the Human Resources Director. Such time is not to exceed four (4) hours per appointment. Nothing in this section shall limit the employee's right to use sick leave for absences due to the illness or injury of the employee's child as provided for in Minnesota Statutes Sections 181.941 and 181.9413.

Additional paid time off may be taken for up to three (3) days for the death of an employee's spouse, child, father, mother, individual(s) who stood in loco parentis to the employee as a child, brother, sister, grandmother, grandfather, and spouse's child, mother, father, individual(s) who stood in loco parentis to the spouse as a child, brother, sister, grandmother or grandfather. Employees shall be granted leave for up to three (3) days for this purpose as often as necessary.

- 7.3 (7) Notice of Leave. To be eligible for sick leave with pay an employee shall:
- (a) Report the reason for his or her absence to his or her supervisor one and one-half (1 ½) hours before the start of the shift on the first working day of absence.
 - (b) In the case of non-emergency and preventative medical appointments it shall be the employee's responsibility to give at least three (3) days notice.
 - (c) Keep the Human Resources Director informed of his or her condition. If the absence is for three (3) or more consecutive days, the employee shall submit a medical certificate to his or her supervisor attesting to the employee's ability to return to work prior to their return to work. The Human Resources Director may request an employee to provide a medical certificate for any amount of absence requested under this section if there is a reasonable suspicion the employee may be abusing the sick leave policy. No employee shall be allowed to return to work until he or she complies with this subdivision. No employee may count time spent requesting or obtaining a medical certificate as time spent working for compensation purposes.

- (d) Complete a request for family and medical leave per the Family and Medical Leave Act (“FMLA”) Policy if applicable.

7.3 (8) Penalty. Using or claiming sick leave for a purpose not authorized by this section may be cause for disciplinary action.

7.3(9) Unused Sick Leave. The disposition of unused sick leave shall be resolved on a year-to-year basis through the following process:

- (a) On December 31st of each calendar year, all sick leave hours remaining in the employee’s sick leave account from the current calendar year shall be assigned to a “catastrophic sick leave bank.” Banked catastrophic sick leave may be accumulated from year to year up to a maximum accrual of 1,440 hours. Any accrued catastrophic sick leave in excess of 1,440 hours shall be forfeited effective December 31st of each year. There shall be no compensation for unused hours in the catastrophic sick leave bank. Banked catastrophic leave shall be available only after the exhaustion of the current year’s sick leave complement. Catastrophic sick leave may be used for the following purposes, or those deemed similar by the Human Resources Director:
 - 1. Serious, debilitating illness, impairment, or physical/mental condition that involves any period of incapacity or treatment in connection with overnight stay in a hospital, hospice, or residential medical facility.
 - 2. Continuing treatment for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity.
 - 3. Major, non-elective surgery. While elective surgery does not typically qualify as a catastrophic illness or injury, complications that result in a serious health consequences may qualify as a catastrophic illness or injury.
 - 4. While most leave associated with pregnancy is covered by sick leave, complications that result serious health consequences may qualify as catastrophic illness or injury.
 - 5. Any absence to receive multiple treatments (including any recovery period) by, or referral by, a licensed health care provider for a condition that likely would result in incapacity (e.g. chemotherapy, physical therapy, dialysis, etc.).
 - 6. Terminal illness.
 - 7. Exhaustion of annual sick leave due to the employee’s own illness or injury or due to the necessity to care for an immediate family member’s illness or injury.
- (b) In addition to the assignment of sick leave hours remaining from the current calendar year pursuant to 7.3(9)(a) above, also on Dec. 31st of each year, one-half (½) of the sick leave hours remaining in the employee’s sick leave account from the current calendar year shall be compensated by payment into the employee’s post-retirement health insurance plan.
- (c) As of the operational date of the South Metro Fire Department, employees of South St. Paul and West St. Paul may carry over a maximum of 1,440 hours of accumulated sick leave from their service with their previous departments. The carry over accumulated sick leave shall only be assigned to the catastrophic sick leave bank.

7.3 (10) Transfer of Sick Leave. Employees may transfer their sick leave credits from one employee to another under the following conditions:

- (a) A full-time employee is eligible to receive transfers of sick leave from other employees one time per twelve (12) month period upon approval by the Human Resources Director. The Human Resources Director may limit the total number of hours that may be transferred.
- (b) An employee may voluntarily donate to another employee one month of the recipient's sick leave accrual per twelve (12) month period upon approval by the Human Resources Director.
- (c) Donations must be on an hour-for-hour basis. For every one (1) hour of sick leave donated by the donor, the recipient will be credited with one (1) hour of sick leave. The pay levels of the employees shall not affect the transaction.
- (d) Sick leave transfers can be made only after an employee is forced to be absent from work for more than five (5) scheduled working days due to a reason that is covered under Section 7.3.
- (e) Before a transfer will be approved, the applicant must have used all of his or her paid leave, , including sick leave, catastrophic sick leave and vacation leave.
- (f) Donors and eligible employees shall use the applicable forms for sick leave donation requests. The Human Resources Director shall request donations on behalf of the employee. Employees shall not independently solicit donations of sick leave from other employees.
- (g) Once donated time has been transferred to the eligible employee, neither the donor nor the eligible employee may revoke the transaction. Remaining donations will be prorated and returned at the request of the donor.
- (h) Donation of sick leave will not be allowed once an employee is judged to be disabled by a major medical condition and will not be returning to work. Employees receiving Workers' Compensation benefits from a Department-related injury or illness are not eligible to receive donations.
- (i) Once transferred, such benefits may be used in accordance with the applicable sick leave and FMLA provisions within the Personnel Policy.
- (j) No provisions of this policy, or its administration, shall be subject to review under the grievance or arbitration provisions of any collective bargaining agreement.
- (k) Nothing in this policy will be construed to limit or extend the maximum allowable absence under the FMLA.
- (l) This section does not allow the transfer of credits from the catastrophic sick leave back from one employee to another.

7.3(11) Conversion of Sick Leave When Increasing or Decreasing Hourly Shifts. When an employee changes shifts such that there is an increase or decrease in the annual hours, the balance of the employee's sick leave hours shall be converted at the time of the change in shifts by multiplying the current remaining balance of sick leave hours by the total annual hours of the new shift divided by the total annual hours of the former shift.

(Amended by Res. 07-11, §7.3 (1) – 7.3 (6), 7.3 (7)(c), 7.3 (9), 7.3 (10), 7.3 (10)(e), 7.3 (10)(l))

(Amended by Res. 07-20, §7.3(7)(a), 7.3(11))

7.4 WORKERS' COMPENSATION

Employees, as defined by the Minnesota Workers' Compensation Act, are covered by workers' compensation insurance. See also Appendix 16 for light duty assignments.

Employees and supervisors shall follow the following procedures with regard to workers' compensation:

- 7.4 (1) The employee shall report any injury to his or her immediate supervisor as soon as possible and receive medical attention if the injury is serious. All injuries, no matter how insignificant, shall be reported to the employee's supervisor.
- 7.4 (2) The supervisor shall complete the supervisor's report of accident and submit the report to the Payroll Clerk as soon as possible to avoid any delays in processing the claim. The Payroll Clerk shall complete a first report of injury, establish a file, and submit a copy of all information to the Department's workers' compensation carrier.
- 7.4 (3) Any information, medical bills, or requests for reimbursement shall be submitted to the payroll clerk to be made a part of the employee's workers' compensation claim file and to be submitted to the Department's workers' compensation carrier.
- 7.4 (4) Workers' compensation checks for an employee injured on duty shall be submitted to the Treasurer by the Department's workers' compensation carrier. The Treasurer will make a copy of the check to be placed into the employee's workers' compensation file. At the employee's request, the Treasurer will compute the difference between the workers' compensation check and the employee's regular pay. At the employee's request, the difference in pay will be paid to the employee out of his or her accumulated vacation or sick leave. A Department accounts payable check and a payroll check will be sent to the employee.
- 7.4 (5) It is the employee's responsibility to keep his or her supervisor and the Department informed about his or her medical condition and return to work date.
- 7.4 (6) Employees injured during the performance of their duties for the Department and thereby rendered unable to work for the Department, will be paid the difference between the employee's regular pay and the Worker's Compensation insurance payments for a period not to exceed ninety (90) calendar days per injury not charged to the employee's vacation, sick leave or other accumulated benefits. No employee can receive more than the employee's gross pay as a result of any Department pay supplement to Worker's Compensation benefits. Following exhaustion of leave pursuant to this Section, an employee that remains injured and is not released to return to work may utilize accrued sick leave, catastrophic sick leave and accrued vacation, in that order.
- 7.4 (7) The first three (3) days of lost time (including the day of the injury if the employee missed part of the day) are not covered. Payment begins with the fourth (4th) day. However, if ten (10) consecutive calendar days pass and the employee has still not returned to work, payment is retroactive to the first day of lost time. Employees can use available vacation leave or sick leave for the first three (3) days of lost time. An employee injured on the job and covered by workers' compensation insurance shall be paid for the remainder of the day in which the injury occurred using sick leave or vacation leave at his or her discretion.
- 7.4 (8) The Department's workers' compensation carrier has fourteen (14) days to start paying weekly benefits or deny the claim. If an employee has not received benefits or a denial notice two (2) weeks after the injury, he or she should contact the Payroll Clerk.
- 7.4 (9) Benefits will not be paid for self-inflicted injuries or others as determined by the Department's workers' compensation insurance carrier.
- 7.4 (10) When an employee has missed work due to an occupational injury or illness, the Department may require a fitness for duty report prior to the employee's return to work. If the employee must be absent from work due to medical appointments related to injuries sustained on the job, the employee is responsible for time absent from work.

7.4 (11) If the workers' compensation leave qualifies as FMLA leave, the provisions of the FMLA policy shall apply. FMLA leave will run concurrently with the paid leave and the amount of FMLA leave will not be increased by the use of paid sick leave, vacation leave, or workers' compensation. See also Appendix 6.
(Amended by Res. 07-11, §7.4, 7.4 (6))

7.5 MILITARY LEAVE

The Department complies fully with all the rights and obligations as outlined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) and any applicable Minnesota Statutes.

7.6 JURY OR WITNESS DUTY

Any employee called upon to serve as a juror in a state, county, municipal, district, or federal court shall be granted a leave of absence by the Department for that purpose and for those days the employee is required to be in court. When an employee performs jury duty, is subpoenaed as a witness in court or voluntarily serves as a witness in a case in which the Department is a party, the employee shall submit his or her payment for such jury or witness services to the Department and will be compensated his or her regular pay less any jury duty pay received. Benefits will accrue as if he or she had been performing services for the employer during the period of absence for jury or witness duty. The employee can retain any monies received by the employee for his or her out-of-pocket costs.

7.7 BONE MARROW LEAVE

As required by Minnesota Statutes Section 181.945, any regular full-time or part-time employee may request a paid leave of absence to undergo a medical procedure to donate bone marrow. The combined length of bone marrow donation leaves may not exceed forty (40) hours per calendar year. Verification by a physician as to the purpose and length of each leave requested by the employee for bone marrow donation will be required at least twenty-one (21) calendar days prior to the start of the leave if possible. The employee will not be required to use paid vacation or sick leave for purposes of donating bone marrow for periods under forty (40) hours per calendar year.

7.8 VOTING LEAVE

As required by Minnesota Statutes Section 204C.04, every employee who is eligible to vote in an election can be absent from work for the purpose of voting during the morning of the day of that election without penalty or deduction from salary or wages because of the absence. Supervisors have the ability to limit how many employees leave at one time to ensure adequate staffing levels.

7.9 UNPAID LEAVE OF ABSENCE.

The Fire Chief may grant any regular employee an unpaid leave of absence for a period not to exceed ninety (90) days, except that the Chief may extend such leave to a maximum period of one (1) year if the employee is disabled or where extraordinary circumstances, in the Chief's judgment, warrant such extension. No vacation leave, holiday leave, or sick leave benefits shall accrue during an unpaid leave of absence. All other types of available leaves shall be exhausted prior to the granting of an unpaid leave of absence. If there is a determination that the leave of absence is not warranted, the Department may cancel a leave of absence at any time upon written notice to the employee.

The cost of benefits (including but not limited to health, life, A.D. & D., and disability insurance premiums) shall be paid by the employee during an unpaid leave of absence of more than forty (40) working hours. The employee shall be liable for these costs for the period beginning with the sixth work day of leave without pay. Monthly premiums shall be pro-rated for periods of leave without pay encompassing partial calendar months.
(Amended by Res. 07-11, § 7.9)

7.10 SCHOOL ACTIVITY LEAVE

As required by Minnesota Statutes Section 181.9412, a regular full-time or part-time employee may be granted up to sixteen (16) hours of unpaid leave per calendar year to attend school conferences or classroom activities for his or her children if these activities cannot be scheduled during non-working hours. Such leave includes conferences and activities for grades kindergarten through twelfth grade, special education programs, child care, pre-school, or other early childhood programs. If the employee chooses, he or she may use accrued vacation leave to attend school events.

When the leave cannot be scheduled during non-working hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice (at least forty-eight (48) hours if possible) of the leave and make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the Department.

7.11 SEVERE WEATHER CONDITIONS

When severe weather conditions, as determined by the Fire Chief, prohibit an employee from reporting for or completing the employee's normal work shift, a non-exempt employee shall be paid only for those hours actually worked. A non-exempt employee who is absent due to weather conditions may charge those absent hours to accrued vacation leave or earned compensatory time. If employees remain on the premises after office hours due to severe weather conditions, they shall not be entitled to overtime compensation unless they remain to work because they are required by the Department to assist during an emergency situation and the hours worked per week exceed forty.

SECTION 8.0 LEAVING/CHANGING DEPARTMENT EMPLOYMENT

8.1 LAY-OFF

The Department may lay off a full-time employee whenever such action is necessary due to budgetary reasons, reduced workload, discontinuance of a position, organizational change, or for any other management reason. Full-time and part-time employees who are laid off from employment shall be provided with a minimum of sixty (60) days advance notice of such lay-off if possible. Temporary employees may be separated from employment without advance notice.

Where a lay off is necessary, an employee's seniority within his or her classification may be considered in determining which employee(s) will be laid off.

8.2 REASSIGNMENT

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

8.3 DISCHARGE

The Department may dismiss any employee for just cause, including the reasons and process outlined in Section 10. Employees who are involuntarily terminated will be paid through their termination date and shall follow all severance and termination procedures as outlined in this section.

8.4 RESIGNATION

Any employee wishing to leave the fire service in good standing, except for mandatory retirement under Section 9.5, shall file with the Fire Chief, at least fourteen (14) calendar days before leaving, a written resignation stating the effective date of the resignation and the reason for leaving. Failure to comply with this procedure may be considered cause for denying future employment with the Department and denying termination leave benefits. Unauthorized absence from work for a period of three (3) or more consecutive working days may be considered as a resignation.

(Amended by Res. 07-11, § 8.4)

8.5 RETIREMENT

Every firefighter employed by the Department shall automatically be retired upon reaching the age of sixty-five (65) years. No other Department employee shall be required to retire at any specific age.

If the Fire Chief finds that the interests of the Department will be served by allowing a firefighter to remain in the employ of the Department after reaching sixty-five (65) years of age because his or her services are especially needed or his or her replacement would be especially difficult, the Chief may recommend to the Board, no later than sixty (60) days before the employee's retirement date, that the employee be retained after his or her sixty-fifth (65th) birthday. Unless the Board disapproves such retention within three (3) weeks after receipt of the recommendation of the Fire Chief, the Fire Chief may continue the employment of such person for one (1) year. Any such employee may be retained for successive one (1) year periods upon the annual recommendation of the Fire Chief and approval of the Board.

8.6 SEVERANCE

8.6(1) Upon receiving notice that an employee is terminating his or her employment for any reason, the Treasurer shall compute all pay due the employee. A check for this amount shall be issued to the employee subject to the deductions required by City, State, and Federal statutes. Subject to Minnesota Statutes Section 181.13, the final check will not be released to the terminated employee until he or she has:

- (a) Turned in his or her Department keys and identification card;
- (b) Returned any other Department property that is in his or her possession; and
- (c) Completed any other requirements as defined by the Fire Chief.

8.6(2) Vacation Leave – Unused Balance. Any employee leaving the fire service in good standing who has completed the probationary period, and after giving proper notice of such termination of employment, shall be compensated for paid vacation leave accrued and unused as of the date of separation. An employee that leaves employment during his or her probationary period shall not be paid cash for vacation accrued. Employees shall not be allowed to go on terminal vacation leave, defined as utilizing accumulated paid vacation leave at any time in the last five (5) working days of employment, except in the case of disability.

8.6(3) Vacation Leave – Excess Use. An employee who ends employment with the Department who has used vacation leave in excess of the accrual rate, shall reimburse the Department for such excess vacation leave used. The reimbursement shall be deducted from the employee's final check that is provided in Section 8.6(1). If sufficient funds are not available in the final check, then the employee shall be required to reimburse the Department within three (3) days of the last day of employment.

8.6(4) Sick Leave – Unused Balance. An employee leaving the Department in good standing after giving proper notice of such termination of employment and who has an unused sick leave balance in the current calendar year, as measured at an accrual rate of eight (8) hours per month, shall be compensated one-half (½) of the remaining sick leave hours by payment into the employee's post-retirement health insurance plan.

8.6(5) Sick Leave – Excess Use. An employee who ends employment with the Department who has used sick leave in excess of the accrual rate stated above, shall reimburse the Department for such excess sick leave used. The reimbursement shall be deducted from the employee's final check that is provided in Section 8.6(1). If sufficient funds are not available in the final check, then the employee shall be required to reimburse the Department within three (3) days of the last day of employment.

(Amended by Res. 07-11, §8.6)

(Amended by Res. 07-20, §8.6(2), 8.6(3), 8.6(4), 8.6(5))

8.7 TERMINATION PROCEDURES/EXIT INTERVIEW

- 8.7 (1) The Human Resources Director shall complete a personnel action form and forward it to the Fire Chief along with the employee's original letter of resignation. In the event the termination is a discharge or layoff, a copy of the notice to the employee should be attached in place of the resignation letter.
- 8.7 (2) Full-time employees shall meet with the Human Resources Director or his or her designee for the purpose of conducting an exit meeting and interview.
- 8.7 (3) Full-time employees shall meet with the Treasurer to discuss insurance continuation, PERA refunds, deferred compensation withdrawals, and the return of Department property including uniforms and keys. Requests for a PERA refund may not be submitted until the last day of termination. Deferred compensation withdrawal decisions must be made within sixty (60) days of leaving employment.

8.8 REFERENCE CHECKS/RECOMMENDATIONS

The Department provides reference information on former employees within the scope of the Minnesota Government Data Practices Act.

If an employee would like to authorize someone to have access to private data about them, the employee must send the Department a written and signed authorization to release private data. The authorization should detail the name of the person or agency authorized to review the material and the specific information that the former employee authorizes the Department to release.

SECTION 9.0 EMPLOYEE DISCIPLINE

9.1 DISCIPLINE

Department employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including observance of work rules adopted by the Board. It is the policy of the Department to administer disciplinary penalties without discrimination. The Department will discipline, suspend, demote and/or dismiss employees for just cause only. However, the level and order of discipline shall be at the discretion of the Fire Chief or his or her designee based upon the nature of the infraction. The following are deemed appropriate forms of discipline:

- 9.1 (1) Documented Oral Reprimand. Documentation of oral reprimands will be attached to the regular performance evaluation and will be placed in an employee's personnel file.
- 9.1 (2) Written Reprimand. A written reprimand shall state that the employee is being warned for misconduct, describe the misconduct, describe past action taken by the Fire Chief or his or her designee to correct the problem, urge prompt correction or improvement by the employee, include timetables and goals for improvement when appropriate, and outline future penalties should the misconduct continue. The employee shall be given a copy of the reprimand and sign the original acknowledging that he or she has received the reprimand. The signature of the employee does not mean that he or she agrees with the reprimand. The reprimand shall be placed in the employee's personnel file.
- 9.1 (3) Suspension Without Pay. Prior to the suspension or as soon thereafter as possible, the employee shall be given a notice of suspension which shall notify the employee in writing of the reason for the suspension, the length of the suspension, and include a written statement outlining further disciplinary action should the misconduct continue. A copy of the notice of suspension shall be placed in the employee's personnel file.

The Fire Chief shall not impose a disciplinary suspension for periods of greater than thirty (30) days for any single offense. For example, for employees who regularly work a forty (40) hour work week, the suspension shall not exceed thirty (30) calendar days. For employees who work twenty-four (24) hour shifts or similar shifts, the suspension shall not exceed ten (10) shift days.

An employee may be placed on an investigatory suspension or placed on an involuntary leave of absence pending an investigation of an allegation involving that employee prior to the imposition of discipline. The leave may be with or without pay, depending on a number of factors, including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents shall be removed from the employee's personnel file and the employee shall receive any compensation and benefits due had the suspension not taken place.

- 9.1 (4) Demotion. An employee may be demoted for just cause including inefficient or ineffective performance. The employee shall be notified in writing of the action and the reasons for the demotion. A copy of the notice shall be placed in the employee's personnel file. No demotion shall be made as a disciplinary action unless the employee to be demoted is eligible for employment in a lower class.
- 9.1 (5) Withholding a Salary Increase or Decreasing an Employee's Pay. The employee shall be notified in writing of the action and the reasons for it. A copy of the notice shall be placed in the employee's personnel file.
- 9.1 (6) Dismissal. The Fire Chief may dismiss any employee for any of the reasons listed below or for any other just cause.
- 9.1 (7) Appeals and Hearing. Appeals of any disciplinary action including dismissal are governed by the Employee Complaint Procedure in Section 10.1.

9.2 CAUSES FOR DISMISSAL

Just cause may include, but is not be limited to, evidence of any of the following:

- 9.2 (1) Conduct or performance on the job which fails to adequately satisfy the duties and responsibilities of the position or classification held by the employee.
- 9.2 (2) Incompetence, inefficiency or negligence in the performance of duties.
- 9.2 (3) Conduct or performance on the job that fails to produce the quality or quantity of work the position or classification requires.
- 9.2 (4) Conduct or performance on the job that is insubordinate, such as a refusal to follow appropriate written or oral procedures, instructions, or directives.
- 9.2 (5) Habitual or excessive tardiness or absenteeism in reporting for scheduled working hours.
- 9.2 (6) Absence from a scheduled work assignment during working hours without permission from an authorized supervisory employee.
- 9.2 (7) Failure to follow known policies and rules of the Department, including the chain of command for reporting concerns and complaints.
- 9.2 (8) Chronic physical or mental incapacity to perform the work of the position.
- 9.2 (9) On-duty use of abusive conduct or language toward the public, municipal officers, superiors or fellow

employees. See also Appendix 11.

- 9.2 (10) Sexual, racial, religious, or ethnic harassment of any Department employee.
- 9.2 (11) A mental or physical disability that prevents an employee from performing his or her job or attending work Regularly, or when such medical conditions preclude an employee from returning to work within a reasonable period of time, or place the employee or co-workers in danger, or where a reasonable accommodation for the disability is not possible.
- 9.2 (12) Conviction of a felony, gross misdemeanor, or misdemeanor involving Department property, on-duty misconduct or off-duty misconduct wherein the employee falsely represented himself or herself as being on-duty or representing the Department in an official capacity.
- 9.2 (13) Taking any fee, valuable gift, or other valuable thing in the course of his or her work or in connection with it from any source for his or her personal use.
- 9.2 (14) Conduct in the fire service that brings discredit upon the fire service.
- 9.2 (15) Deliberately filing or making a false or improper report or statement.
- 9.2 (16) Proven dishonesty in the performance of duties.
- 9.2 (17) Possession, consumption, sale, transfer, or “being under the influence” of alcohol, illegal drugs, or prescribed medication during hours of employment. See also Appendix 5.
- 9.2 (18) Unauthorized possession of Department property or the property of others at any time while on duty.
- 9.2 (19) Stealing, misappropriation, or conversion of Department property or the property of Department employees.
- 9.2 (20) Carelessness and/or negligence in the handling and control of Department property.
- 9.2 (21) Inducing or attempting to induce an employee of the Department to commit an unlawful act or to act in violation of any law.
- 9.2 (22) Violations of the provisions of the Personnel Policy or local, state or federal laws as they relate to the position of public employment held, or other performance, behavior, or conduct the Department deems inappropriate for employees of the Department.
- 9.2 (23) Holding any other employment which interferes with the employee’s duties as a Department employee. See also Appendix 7.
- 9.2 (24) Falsifying his or her employment application, time record, or any other Department document, purposefully omitting any information from any Department document, or any other dishonesty.
- 9.2 (25) Unauthorized use of Department vehicles, equipment or long distance phone calls, or unauthorized removal of any Department property for personal use unless authorized by the Fire Chief.
- 9.2 (26) Failure to participate in counseling when found possessing or using drugs (unless medically prescribed) or other controlled substances or alcohol.
- 9.2 (27) Fighting, threatening, or attempting to cause or causing bodily injury to another person or engaging in disorderly conduct on the Department premises or while performing Department business anywhere. See also Appendix 14.

SECTION 10.0 EMPLOYEE PROCEDURES

10.1 EMPLOYEE COMPLAINT POLICY

All employees have a right to be heard relative to concerns or complaints pertaining to employment. All employees shall follow the procedure for addressing employee complaints and concerns outlined in this Section, and must follow the appropriate chain of command.

10.1 (1) Procedure. The following steps shall be utilized to facilitate an orderly process for allowing an employee's concerns to be heard.

(a) Step One: Immediate Supervisor: The employee shall discuss the concern with the employee's immediate supervisor in an attempt to resolve the concern within ten (10) working days of the occurrence of the incident or concern. If the employee is not satisfied with the results, then;

1. If the concern is related to personnel or safety issues, the employee may file a written complaint with the Fire Chief, pursuant to Step Two; or
2. If the concern is related to any other issue, the employee may discuss the concern with the Fire Chief. If the Fire Chief denies the request, then the employee may file a written complaint with the Fire Chief, pursuant to Step Two.

(b) Step Two: Fire Chief: In filing a complaint with the Fire Chief, the employee shall reduce the concern to writing and forward the written complaint to the Fire Chief within five (5) working days of meeting with his or her immediate supervisor. Upon receipt of the written complaint, the Fire Chief shall meet with the employee within five (5) working days to hear and consider the employee's complaint and shall issue a written response to the employee within ten (10) working days after meeting with the employee. If an investigation requires additional time, the Fire Chief may take a reasonable amount of time past the ten (10) working days to provide a written response to the employee. The Fire Chief shall take steps to investigate the employee's complaint and take necessary actions, such as:

1. Take action appropriate to the authority of the Fire Chief to resolve the Employee's complaint, or;
2. Inform the complainant it is the conclusion of the Fire Chief that the complaint provides no basis for Department action.

The resolution of all complaints is completed with this step in all matters other than discharge.

(c) Step Three: This step applies only to the discharge of an employee from employment. If the employee's complaint is not resolved within five (5) working days after receiving a response from the Fire Chief, and the subject matter of the concern specifically relates to the appeal of a discharge from employment, such complaint may be appealed to The Board of the Fire Department. Any appeal to the Board shall be in writing and must be received by the Board within ten (10) calendar days after the issuance of the Fire Chief's Step Two answer. The Board or its designee shall meet with the aggrieved employee to hear the complaint and shall give the employee the Board's Step Three answer in writing within ten (10) calendar days after the Step Three meeting. The decision of the Board shall be final.

(Amended by Res. 07-11, § 10.0)

SECTION 11.0 POLITICAL ACTIVITIES

No employee shall, directly or indirectly, during the hours of employment, engage in any political activity. No employee shall, directly or indirectly, during working hours, solicit or receive funds for political purposes, or use official authority or influence to compel any other employee to apply for membership in or become a member of any political organization, to pay or promise to pay any political assessment, subscription or contribution, or to take part in any political activity.

- 11.1 Resignation. If an employee is elected or appointed to an elective municipal office or commission in the City of West St. Paul or the City of South St. Paul, the employee shall resign from any paid position held with the Department prior to assuming office. The Fire Chief shall have the final determination if any elected or appointed office shall require the employee to resign.
(Amended by Res. 07-11, § 11.1)
- 11.2 Nothing in this subdivision shall be construed to prevent any employee from becoming or continuing to be a member of a political club or organization or group attending a political meeting or from enjoying entire freedom from all interference in casting his or her vote. If any political activity interferes with the efficient performance of the employee's duties, the employee may be disciplined.

SOUTH METRO FIRE DEPARTMENT
PERSONNEL POLICY APPENDICES

- APPENDIX 1. TUITION REIMBURSEMENT
- APPENDIX 2. RESCINDED (Res. 07-11)
- APPENDIX 3. NON-DISCRIMINATION, EQUAL OPPORTUNITY, AND AFFIRMATIVE ACTION
- APPENDIX 4. SAFETY AND HEALTH
- APPENDIX 5. DRUG AND ALCOHOL TESTING POLICY
- APPENDIX 6A. FAMILY AND MEDICAL LEAVE ACT (FMLA) AND PARENTING LEAVE
- APPENDIX 6B. MATERNITY/PREGNANCY/NURSING MOTHER LEAVE PROVISIONS
- APPENDIX 6C. MILITARY LEAVE PROVISIONS
- APPENDIX 7. OUTSIDE EMPLOYMENT
- APPENDIX 8. PERFORMANCE EVALUATIONS
- APPENDIX 9. RESPONSE TIME
- APPENDIX 10. RESCINDED (Res. 07-11)
- APPENDIX 11. SEXUAL HARASSMENT AND INAPPROPRIATE CONDUCT POLICY
- APPENDIX 12. SMOKE FREE WORKPLACE
- APPENDIX 13. COMPUTER USE POLICY
- APPENDIX 14. WORKPLACE VIOLENCE PREVENTION
- APPENDIX 15. RESCINDED (Res. 07-11)
- APPENDIX 16. LIGHT DUTY POLICY
- APPENDIX 17. MOTOR VEHICLE POLICY
- APPENDIX 18. CONFIDENTIALITY / DATA PRACTICES POLICY

APPENDIX 1. TUITION REIMBURSEMENT

The South Metro Fire Department will allow employees to receive tuition reimbursement for relevant educational expenses when it can afford to do so. Whether tuition reimbursement will be granted for any particular course is in the Fire Chief's sole discretion. The Fire Chief will inform all employees who submit timely Applications for Education and Training Reimbursement whether the coursework they are proposing to take may be reimbursed by the Department upon successful completion by August first of the fiscal year in which they are seeking to take the course(s).

Eligibility. To be eligible for education reimbursement, the following criteria must be met:

- (1) The individual must be a full-time or regular part-time employee who has been employed by the Department for at least one (1) continuous year.
- (2) The employee must complete and submit the requisite Application for Education and Training Reimbursement form and the Education and Training Reimbursement Request form.
- (3) The employee must receive prior written approval from the Fire Chief.
- (4) Course work must relate to the employee's present position in one (1) or more of the following ways:
 - (a) Improving skills or knowledge required for their present position;
 - (b) Preparing the employee for significant changes occurring in their career field;
 - (c) Preparing the employee for changes in duties due to a change in position;
 - (d) Preparing the employee for the assumption of new and different duties as a result of a recent promotional application or transfer; or
 - (e) General betterment of the employee's job.
- (5) Course work must be done as part of a program directed toward earning a degree or certificate.
- (6) Because education and training reimbursement requests must be made prior to the yearly adoption of the Department's budget in July, all Applications for Education and Training Reimbursement must be made no later than May first of the year prior to the fiscal year in which the course will be taken. For example, if an employee wanted to take an approved course beginning September 2006, the Application for Education and Training Reimbursement must be submitted for consideration no later than May 1, 2005. Similarly if an employee wanted to take a course beginning in April of 2007, the Application for Education and Training Reimbursement must be submitted for consideration no later than May 1, 2006. However, if education and training funds are available, the Fire Chief may make an exception to the above-listed Application submission timeframe requirements and may provide Education and Training Reimbursement at his or her discretion as funds allow.
- (7) Extent of Tuition Reimbursement by the Department. In the event the course is taken at the direction of the Fire Chief, the entire cost of the course will be paid by the Department. If enrollment in a course is initiated by the individual employee with the approval of the Fire Chief, the Department will pay 75% of the tuition costs. No employee shall be reimbursed for educational expenses exceeding more than two thousand dollars (\$2,000.00) in any one (1) calendar year. A sum of \$8.00 per credit will be allowed for books and miscellaneous fees upon presentation of the proper receipts.

Any employee who resigns or whose employment is otherwise terminated for any reason other than retirement within two (2) years after completion of a course for which tuition has been paid by the

Department must reimburse the Department as follows:

- (a) For fifty (50) percent of the cost paid by the Department for the course if the employee leaves Department employment within zero (0) to one (1) years after completion of the course; or
 - (b) For twenty-five (25) percent of the cost paid by the Department for the course if the employee leaves Department employment within one (1) to two (2) years after completion of the course.
- (8) Reimbursement Procedure. Upon successful completion of the course previously approved by the Fire Chief, the employee must submit the Education and Training Reimbursement Request form to the Fire Chief, accompanied by written proof of both the cost of the course paid by the employee and successful completion of the course. An employee is not eligible for any reimbursement if their employment is terminated for any reason prior to completion of the course.

APPENDIX 2. (Rescinded by Res. 07-11)

APPENDIX 3. NON-DISCRIMINATION, EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

This is to affirm the Department's policy of providing Equal Opportunity to all employees and applicants for employment in accordance with all applicable Equal Employment Opportunity/Affirmative Action laws and directives as well as regulations of Federal, State and Local governing bodies or agencies thereof, including Minnesota Statutes Chapter 363A, the Minnesota Human Rights Act.

The Department will not discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national original, sex, sexual orientation, disability, age, marital status, membership or activity in a local commission, or status with regard to public assistance.

The Department will take Affirmative Action to ensure that all employment practices are free of such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training.

The Department will evaluate the performance of its management and supervisory personnel on the basis of their involvement in achieving these Affirmative Action objectives as well as other established criteria. Any employee of the Department who does not comply with the Equal Employment Opportunity Policies and Procedures as set forth in this statement and the Department's Affirmative Action Plan will be subject to disciplinary action.

The Department has appointed the Fire Chief, or his or her designee, to manage the Equal Opportunity Program. His or her responsibilities will include monitoring all equal employment opportunity activities and reporting on the effectiveness of this Affirmative Action Program as required by federal, state, and local agencies.

The Fire Chief will receive and review reports on the progress of the program. If any employee or applicant for employment believes he or she has been discriminated against, he or she should contact the Human Resources Director.

APPENDIX 4. SAFETY AND HEALTH

Any employee routinely exposed to hazardous substances or harmful physical agents as defined in the Minnesota Employee Right To Know Act of 1983 shall be trained before being assigned or reassigned work exposing him or her to such substances or agents and shall be given training annually thereafter. Training shall include an explanation of how and where information about hazards is stored in the work place, how the hazards are labeled, and where to obtain specific information. The Fire Chief shall provide for such training and for compliance with the Minnesota Right to Know Act of 1983, including the establishment of specific policies to ensure compliance with the State law and regulations. Any employee acting in good faith has the right to refuse to work under conditions which the employee believes present an imminent danger of death or serious physical harm to the employees.

APPENDIX 5. DRUG AND ALCOHOL TESTING POLICY

- (1) This Policy shall conform to the requirements of the laws set forth in Minnesota Statutes Chapter 181 and the Federal Drug Free Workplace Act of 1988. The terms defined in this Policy shall have the meanings given to them by Minnesota and federal law.
- (2) **EMPLOYEE REQUIREMENTS.**
 - (a) No employee will consume or be under the influence of any drug or alcohol while the employee is on duty or possess, sell, or transfer drugs or alcohol while the employee is working or on the Department's premises except to the extent authorized by a valid medical prescription.
 - (b) An employee will notify the Department in writing of any criminal drug conviction no later than five (5) days after such conviction. The Department will notify the appropriate federal agency of such conviction within ten (10) days of receiving notice from the employee.
- (3) **PERSONS SUBJECT TO TESTING.**
 - (a) No person will be tested for drugs or alcohol under this Policy without the person's consent. The Department will request or require an individual to undergo drug or alcohol testing only under the circumstances described in this Policy.
 - (b) Job applicants may be required to undergo drug and alcohol testing after a job offer has been conditionally made and before commencing employment in the position.
- (4) **CIRCUMSTANCES FOR DRUG OR ALCOHOL TESTING.**
 - (a) **Reasonable Suspicion Testing.** The Department may request or require an employee to undergo drug and alcohol testing if the Department has a reasonable suspicion that the employee:
 - (1) Is under the influence of drugs or alcohol;
 - (2) Has violated the Department's written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while the employee is working or while the employee is on the Department's premises or operating the Department's equipment;
 - (3) Has sustained a personal injury, as that term is defined in Minnesota Statutes Section 176.011, subd. 16, or has caused another employee to sustain a personal injury; or
 - (4) Has caused a work related accident or was operating or helping to operate machinery, equipment or vehicles involved in a work related accident.
- (5) **OTHER TESTING.** The Department will permit an employee who has requested a drug and alcohol test to undergo testing in accordance with the procedures established by this Policy at the employee's expense.
- (6) **REFUSAL TO UNDERGO DRUG OR ALCOHOL TESTING.**
 - (a) **Job Applicants.** If a job applicant refuses to undergo drug or alcohol testing requested or required by the Department, no such test will be given, and the job applicant will be deemed to have withdrawn the application for employment.
 - (b) **Employees.** If any employee refuses to undergo drug or alcohol testing requested or required by

the Department, no such test will be given, but the Department may discipline the employee. Such discipline may include discharge on grounds of insubordination.

- (c) Refusal on Religious Grounds. No employee or job applicant who refuses to undergo drug or alcohol testing of a blood sample upon religious grounds will be deemed to have refused unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample.
- (7) PROCEDURE FOR TESTING. The procedure for testing shall conform with Minnesota and federal law.
- (8) NOTICE OF TEST RESULTS. Within three (3) working days after receipt of the test result report from the testing laboratory, the Department will inform an employee or job applicant who has undergone drug or alcohol testing in writing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test. The Department will also inform an employee or job applicant of the following rights pursuant to Minnesota Statutes Section 181.953.
 - (a) The right to request and receive from the Department a copy of the test result report.
 - (b) The right to request within five (5) working days after notice of a positive test result a confirmatory retest of the original sample at the employee's expense or a confirmatory retest at another laboratory at the employee's expense.
 - (c) The right to submit information to the Department within three (3) working days after a notice of a positive test result to explain that result.
 - (d) The right of an employee for whom a positive test result on a confirmatory test was the first such result on a drug or alcohol test requested by the Department not to be discharged unless the Department has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program.
 - (1) Participation in a counseling or rehabilitation program will be at the employee's own expense or pursuant to coverage under an employee's benefit plan.
 - (2) The Department may determine which type of program is more appropriate for the employee after consultation with a certified chemical-use counselor or a physician trained in the diagnosis and treatment of chemical dependency.
 - (3) The employee may be discharged if he or she has either refused to participate in the counseling or rehabilitation program, or has failed to successfully complete the program. Withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program will be considered evidence that the employee failed to successfully complete the program.
 - (e) The right not to be disciplined if the outcome of the confirmatory or confirmatory retest is negative.
 - (f) The right not to be discharged, disciplined, discriminated against, or required to be rehabilitated on the basis of medical history information revealed to the Department concerning the reliability of, or explanation for, a positive test result unless the employee or job applicant was under an affirmative duty to provide the information before, upon, or after hire.
 - (g) The right to access the information in their personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process including conclusions drawn from and actions taken based on the reports or other acquired information.

- (h) The right of an employee or a job applicant who has received a job offer made contingent on the applicant passing drug and alcohol testing to not have the offer withdrawn based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
- (9) ACTION AFTER TEST. The Department will not discharge, discipline, discriminate against, or request or require rehabilitation of an Employee solely on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test. Where there has been a positive test result in a confirmatory test and in any confirmatory retest, the Department may do the following:

- (a) First Positive Test Result. If a professional assessment deems treatment warranted, give the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate. The Department through its Employee Assistance Program may determine which type of program is more appropriate after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation in a counseling or rehabilitation program will be at the employee's own expense or pursuant to coverage under and employee's own benefit plan.

When undergoing treatment and evaluation, employees may use accumulated paid leave. If the employee either refuses to participate in the counseling or rehabilitation program or fails to successfully complete the program as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program, the Department may discharge the employee.

- (b) Completion of Rehabilitation. Upon successful completion of rehabilitation, the employee shall be returned to his or her regular duty assignment. Employee reassignment during treatment shall be based on each individual's circumstances. If follow up care is prescribed after treatment, it may be a condition of employment.
- (c) Suspension and Transfers. The Department may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the Department believes that it is reasonably necessary to protect the health or safety of the employee, co-workers, or the public.
- (d) Data Privacy. The Department will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another Department or to a third party group or individual, governmental agency, or private organization without the written consent of the employee tested, unless required by law or court order.

APPENDIX 6A: FAMILY AND MEDICAL LEAVE ACT POLICY

(1) PURPOSE

The Family and Medical Leave Act (FMLA) entitle eligible employees to take unpaid, job-protected leave for specified family and medical reasons.

(2) POLICY

In accordance with the Federal Department of Labor's Family and Medical Leave Act (FMLA), the South Metro Fire Department (SMFD) will grant job-protected, unpaid family and medical leave to eligible employees for up to 12 workweeks per a 12-month period for any one or more of the following reasons:

- (a) The birth of a child, care for such child, or the placement of a child with the employee for adoption or foster care (leave) this reason must be taken within the 12-month period following the child's birth or placement with the employee); or
- (b) To care for an immediate family member (spouse, child, or parent) if such immediate family member has a serious health condition; or
- (c) The employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his/her position.
- (d) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" **or**
- (e) Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemembers spouse, son, daughter, parent, or next of kin (military caregiver leave).

Employees may choose to use accrued paid leave concurrently to cover some or all of the FMLA leave period.

(3) ELIGIBILITY

An Eligible employee is one who:

- (a) Has been employed by SMFD for at least 12 months and,
- (b) Has worked a minimum of 1,250 hours within the previous 12 months preceding leave.
 - (i) The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service.

(4) DEFINITIONS

- (a) **12-MONTH PERIOD:** A 12-month period beginning with the first day that the employee is absent from work on FMLA leave.
- (b) **SPOUSE:** A husband or wife. If both spouses work for the SMFD their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent (does not include in-law).
- (c) **PARENT:** The employee's biological parent or an individual who stood in loco parentis to the

employee when the employee was a child. (Does not include Parents "in-law").

- (d) CHILD: A child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, step-child, legal ward, or a child of a person standing in place of a parent.
- (e) HEALTH CARE PROVIDER: Includes physicians, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, clinical social workers authorized to practice under state law, physician's assistants if under supervision of doctor; or any health care provider recognized by the SMFD or accepted by the group health plan of the SMFD.
- (f) SERIOUS HEALTH CONDITION: An illness, injury, impairment, or a physical or mental condition that involves:
 - (g) Inpatient care (i.e. overnight stay) in a hospital, hospice, or residential medical care facility, or subsequent treatment in connection with the inpatient care; or
 - (h) Continuing treatment by a health care provider that involves:
 - (i) A period of incapacity of more than three consecutive calendar days and
 - (j) Any subsequent treatment or period of incapacity relating to the same condition is also covered if it involves treatment two or more times by a health care provider; or
 - (k) One treatment session by a physician that results in a regimen of continuing treatment by a health care provider.
 - (l) Chronic serious health condition requiring periodic visits for treatment by a health care provider or someone under supervision of provider; or continues over an extended period of time (includes recurring episodes of a single underlying condition) or may cause episodic rather than a continuing period of incapacity.
 - (m) Permanent or long-term condition must be under the continuing supervision of, but not necessarily receiving treatment by, a health care provider.
 - (n) Multiple treatments by or under orders of, or on referral by, a health care provider, for a condition that would likely result in a period of incapacity of more than three days in the absence of medical intervention.

(5) LEAVE

INTERMITTENT OR REDUCED LEAVE. An employee may take leave intermittently or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary." For a regular full-time employee the family and medical leave entitlement shall be calculated on the average hours worked by the employee as stated in the SMFD Code or relevant labor agreements.

- (a) "Medically necessary" means that there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.
- (b) The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.

- (c) **PRIOR APPROVAL.** An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the fire chief approval.
- (d) **PART-TIME LEAVE ENTITLEMENT.** For regular part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro-rated basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave should be used for calculating the employee's normal work week.
- (e) **LENGTH OF LEAVE.** Family and Medical Leave shall be taken simultaneously with the Minnesota Parenting Leave. The maximum length of leave shall be 12 workweeks in any 12-month period. The entitlement to FMLA leave for the birth or placement of a child expires 12 months after the birth or placement of the child.
- (f) **SUBSTITUTION OF PAID SICK LEAVE AND VACATION LEAVE.** Employees will be required to substitute paid sick leave, catastrophic leave in accordance with policy, vacation or paid workers compensation for FMLA. FMLA will run concurrently with the paid leave and the amount of FMLA leave will not be increased by the use of paid sick, vacation or workers compensation.
- (g) **NOTICE REQUIREMENT.** An employee is required to give 30 days' notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form should be completed by the employee and returned to the fire chief. The employee will need to state qualifying reasons for the needed leave. If reasons are not stated by the employee, leave may be denied.
 - (i) In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave comes known, followed by a completed "Request for Family/Medical Leave" form.
 - (ii) If an employee fails to give 30 days' notice for a foreseeable leave, the leave will be denied until 30 days after the employee provides notice.
 - (iii) Once management has acquired knowledge that the leave is being taken for a FMLA required reason, management will promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is preliminarily designated (until finalized by supporting documents) and will be counted as FMLA leave. This notice requirement may be satisfied by verbal notice and follow up may be a written notice. If possible, FMLA designation will be made before the leave begins,
 - (iv) If information supporting FMLA designation is received after leave has begun, FMLA leave may be designated from the date of the qualifying event. In the situation where the employee has returned to work, FMLA designation may occur retroactively within two business days of the employee's return to work.
- (h) **MEDICAL CERTIFICATION.** For leaves taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form and return the certification to the fire chief. Medical certification must be provided by the employee within 15 days after requested, or as soon as is reasonably possible.
 - (i) The SMFD may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work. All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.
- (6) **EFFECT ON BENEFITS** An employee granted a leave under this policy will continue to be covered under SMFD's group health insurance plan, life insurance plan, and dental insurance plan under the same conditions

as coverage would have been provided if they had been continuously employed during the leave period. The following provisions shall apply:

- (a) Employee contributions will be required either through payroll deduction or by direct payment to SMFD. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
 - (b) If an employee's contribution is more than 30 days late, the SMFD may terminate the employee's insurance coverage.
 - (c) If SMFD pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the Employer for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
 - (d) If the employee fails to return from unpaid family and medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), SMFD may seek reimbursement from the employee for the portion of the premiums paid by the SMFD on behalf of that employee (also known as the employer contribution) during the period of leave.
 - (e) The employee will not lose any benefits accrued before the leave.
 - (f) The employee will not accrue benefits during unpaid leave.
- (7) **JOB PROTECTION.** An employee returning from FMLA will be placed in the same position (or an equivalent position with equivalent pay, benefits, and working conditions) as the employee would have been in at that time had he/she not taken the leave. The employee may be required to receive an evaluation from the patients MD prior to return and the employer reserve the right to send the employee to the department MD.
- (g) Upon returning from the leave, the employee will be restored to the same position that he/she held before the leave or an equivalent position, unless during the leave the position was changed in such a way as would have affected the particular employee had he or she not been on leave (e.g., a layoff or general reduction in hours).
 - (h) SMFD may require an employee who is on leave to confirm that he or she intends to return to work at the end of the leave.
- (8) **PROCEDURES**
- (i) The SMFD reserves the right to review or rescind this policy in its discretion, subject, of course, to legal requirements.
 - (j) This policy is not intended to conflict with the SMFD'S current Personnel Code. The Personnel Code will continue to apply in situations, which are not addressed by the FMLA.
- (9) **FAMILY AND MEDICAL LEAVE FORMS TO BE SUBMITTED BY THE EMPLOYEE**
- (k) Request for Family and Medical Leave.
 - (l) Physician or Practitioner Certification - Serious Health Condition
 - (m) Fitness for Duty to Return Form Leave (Obtain from Physician).

APPENDIX 6B: MATERNITY/PREGNANCY/NURSING MOTHERS LEAVE PROVISIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT.

(1) PURPOSE

The maternity/pregnancy leave provisions of the Family and Medical Leave Act entitle eligible employees of covered employers to take FMLA leave due to pregnancy, childbirth, or a related medical condition.

Pregnancy leave may be taken if the woman cannot work because of prenatal care, pregnancy, childbirth or related health conditions.

(2) PREGNANCY ACCOMMODATIONS AT WORK.

Required pregnancy accommodations at work:

- (a) More frequent restroom, food and water breaks;
- (b) Seating;
- (c) Limits on lifting more than 20 pounds.

(3) OTHER ACCOMMODATIONS.

A pregnant employee may request other reasonable workplace accommodations when:

- (a) She has been given advice from a health care provider or doula;
- (b) The accommodations would not impose an undue hardship on the employers.
- (c) Temporary transfer to a less strenuous or hazardous job.

(4) NURSING MOTHERS.

The employer must make a reasonable effort to provide a private area to express milk. Employers are not required to provide break time if doing so would seriously disrupt operations, breaks already provided may fulfill this requirement.

- (a) A mother who needs to express breast milk for her child at work:
- (b) Must be provided reasonable unpaid break time to express breast milk;
- (c) Must when possible be provide a private area to express milk that;
 - (i) Is not a bathroom,
 - (ii) Is shielded from view,
 - (iii) Is free of intrusion from coworkers and the public, and
 - (iv) Has access to electrical outlets.

APPENDIX 6C: MILITARY FAMILY LEAVE PROVISIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT

(10) **PURPOSE**

The military family leave provisions of the Family and Medical Leave Act (FMLA) entitle eligible employees of covered employers to take FMLA leave for any “qualifying exigency” arising from the foreign deployment of the employee’s spouse, son, daughter, or parent with the Armed Forces, or to care for a servicemember with a serious injury or illness if the employee is the servicemembers spouse, son, daughter, parent or next of kin.

(11) **QUALIFYING EXIGENCY LEAVE.** A covered employer must grant an eligible employee up to 12 workweeks of unpaid, job-protected leave during any 12-month period for qualifying exigencies that arise when the employee’s spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

(n) Covered active duty means:

- (i) Members of the Regular Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or
- (ii) Members of the Reserve components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.
- (iii) Deployment to a foreign country includes deployment to international waters.

(o) Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member’s absence.

(12) **MILITARY CAREGIVER LEAVE.** A covered employer must grant an eligible employee up to a total of 26 workweeks of unpaid, job-protected leave during a “single 12-month period” to care for a covered servicemember with a serious injury or illness. The employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember.

(p) A covered servicemember is either:

- (i) 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 in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or
- (ii) A veteran of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered servicemember.

(q) For a current servicemember, a serious injury or illness is one that may render the servicemember medically unfit to perform his or her military duties. For a veteran, a serious injury or illness is one that rendered the veteran medically unfit to perform his or her military duties or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran’s ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

APPENDIX 7. OUTSIDE EMPLOYMENT

It is the policy of the Department to place certain limitations on the types of outside employment in which an employee may engage. The following limitations shall apply:

- (1) Outside employment shall be regarded as secondary to regular Department employment.
- (2) Outside employment shall not interfere with the availability of employees for emergency or call-in work.
- (3) Employees shall not engage in any outside occupation, employment, or business which could hinder the impartial, objective or efficient performance of their duties, as determined by the Fire Chief.
- (4) Employees shall not engage in non-Department employment which could create a conflict of interest with their Department employment, as determined by the Fire Chief.
- (5) No employee shall be instructed or allowed to perform work for pay for private individuals or other governmental agencies which he or she would be required or expected to perform in the regular course of hours of Department employment or as part of his or her duties as an employee as determined by the Fire Chief.
- (6) No Department equipment, materials, or supplies shall be utilized for outside employment.
- (7) Any outside employment must be approved by the Fire Chief.

APPENDIX 8. PERFORMANCE EVALUATIONS

A performance review system shall be established for the purpose of having the Fire Chief or his or her designee annually appraise the performance of the Department's employees using the prescribed form for this purpose. The quality of performance rendered by the employee in the past will receive due consideration in such personnel matters as promotions, transfers, demotions, terminations, and salary adjustments. The employee shall be able to review performance review ratings, but such ratings will not be available to unauthorized persons. An employee shall be reviewed at least once per year following the completion of the probationary period. Performance review forms shall be retained as part of the employee's personnel file.

APPENDIX 9. RESPONSE TIME

All employees who are called back to a fire and respond to the Fire Station within thirty (30) minutes of the time of the alarm will be considered to have started working at the time of the alarm. Employees who respond to the Fire Station more than thirty minutes after the time of the alarm will be considered to have started working as of the time the employee arrives at the Fire Station. Employees who respond to the Fire Station after an alarm is given and who do not arrive at the Fire Station until after the call back crew has been released will not earn any overtime.

APPENDIX 10. (Rescinded by Res. 07-11)

APPENDIX 11. SEXUAL HARASSMENT AND INAPPROPRIATE CONDUCT POLICY

(1) POLICY.

Sexual harassment is a form of sexual discrimination, which is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended, and of Minnesota Statutes 363A, the Minnesota Human Rights Act.

Harassment, intimidation and other inappropriate conduct which is based on race, color, creed, religion, national origin, sex, disability, age, marital status, sexual orientation, or status with regard to public assistance is also expressly prohibited. Any other form of harassment or intimidation is explicitly prohibited.

(2) DEFINITIONS.

Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- (a) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, for obtaining or retaining employment;
- (b) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
- (c) That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment.

(3) REPORTING.

Victims of alleged harassment and third persons with knowledge or belief of conduct constituting harassment are encouraged to report their knowledge or belief to Department officials, as designated herein, or to whomever the person feels most comfortable. If appropriate, the immediate supervisor is the responsible authority for receiving reports of harassment.

Any individual receiving any report of alleged harassment of any kind must forward the same in confidence to the Human Resources Director within seventy-two (72) hours of receipt. The individual receiving the report is to perform no screening or investigation function. Failure of the individual receiving the report to forward any report of alleged harassment to the Human Resources Director will result in discipline consistent with the terms of this Personnel Policy.

The Human Resources Director shall act as the Department human rights officer. The Human Resources Director or his or her designee shall also act as a responsible authority for receiving reports of harassment directly from any individual, employee, or victim of harassment and also from individuals who receive a report of harassment. The name of the Human Resources Director or his or her designee shall be conspicuously posted in appropriate places within the Department together with a mailing address and telephone number.

(4) INVESTIGATION.

The Human Resources Director, or his or her designee, shall, upon receiving any report alleging harassment, conduct an investigation and make a written recommendation within thirty (30) days to the Fire Chief. In determining whether alleged conduct constitutes sexual harassment, the Human Resources Director should look at the record as a whole and the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. Pending such investigation, the Fire Chief or the Human Resources Director may, in his or her discretion, take any action necessary to protect the alleged victim or other employees consistent with requirements of this policy and statutes, if any.

- (a) Reprisal. Consistent with the terms of the Personnel Policy, the Department will discipline any individual who retaliates against any person who reports alleged harassment, or who testifies, assists, or participates in any manner in any investigation proceeding or hearing related to the report alleging harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

- (b) Department Action. Upon receipt of a recommendation that probable cause exists to credit the allegation of harassment, the Fire Chief may take action based on the report and recommendation of his or her designee or may conduct his or her own investigation into the charge. Such investigation must be completed within thirty (30) days of receipt of the recommendation by the Fire Chief. Pending such investigation, the Fire Chief may, in his or her discretion, take any action necessary to protect the alleged victim or other employees consistent with the requirements of this policy and statutes, if any. Consistent with the requirements of the Personnel Policy and any applicable state statutes, the Fire Chief may take such action as deemed necessary and appropriate, including termination, to end sexual harassment found to exist.

APPENDIX 12. SMOKE FREE WORKPLACE

All Department buildings in their entirety shall be designated as smoke free, meaning that no person will smoke tobacco or other substances while in such Department facilities. Employees may not smoke tobacco or other substances directly outside the public entrances of any Department building or in any Department vehicle. Each building will have an outside area away from the front door designated for employee smoking.

APPENDIX 13. COMPUTER USE POLICY

(1) **PURPOSE**

The intent of these procedures is to ensure that use of the Department computer and communications systems is consistent with the best interests of the Department. These procedures do not attempt to articulate all required or proscribed behaviors by users but merely cover the most conspicuous examples.

Employees are expected to use their computers in a professional and business like manner. Certain restrictions are necessary to avoid improprieties, ensure that established standards are met, maintain appropriate security of computerized data and to protect the rights of third parties to get appropriate access to Department information.

(2) **DEFINITIONS**

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

- (a) **APPLICATION:** The system process or problem in which a computer, program, or software is applied.
- (b) **DEPARTMENT COMPUTER AND COMMUNICATIONS SYSTEMS:** Includes but is not limited to electronic mail, voice mail, facsimile document, software programs, applications, templates, hardware equipment, telephones, services, technology, access, data, data files residing on Department computer systems, storage media developed on Department computer systems, computers, computer files, and internet access.
- (c) **DATA FILE:** Collections of data accumulated for a definite use. Examples include word processing documents, spreadsheets, and databases.
- (d) **HARDWARE:** The electric, electronic, and mechanical equipment used to process data. Examples include the central processing unit, keyboard, monitor, and printer.
- (e) **INFORMATION RESOURCES:** Any information in digital electronic format, including, but not limited to, electronic mail, voice mail, local databases, externally accessed databases, clip art, digital images, voice and sound recordings.
- (f) **INTERNET:** A vast collection of interconnected computer networks that can exchange information through the use of common protocols. The World Wide Web (www) runs on the Internet.
- (g) **LOCAL AREA NETWORK (LAN):** A network consisting of electronic devices communicating with one another and sharing hardware, software, data, and information resources.
- (h) **PROGRAM:** A unique set of instructions purchased by the Department or created by the Department staff or by consultants that tells the computer how to perform a function or series of functions.
- (i) **SOFTWARE:** A set of programs that tells the computer how to perform a function or series of functions, usually created by commercial firms for sale and general use in specific types of applications.
- (j) **TEMPLATE:** A stored pattern of instructions or macros, developed in software, for performing the same repetitive process on different sets of data.

(3) GENERAL COMPUTER, ELECTRONIC MAIL, AND INTERNET POLICES

- (a) Department Ownership. All software programs, applications, templates, equipment, services, technology, access, data, data files residing on Department computer systems, and storage media developed on Department computer systems are the property of the South Metro Fire Department. The Department retains the right to access, monitor, retrieve, read, copy, change, alter, modify, destroy, delete, or erase this property.

Computers, computer files, internet access, E-Mail systems and software furnished to employees are Department property intended for business use. Employees should not use a password, access a file, or retrieve any stored communication without authorization. To ensure compliance with this policy, computer and communications technology usage may be monitored. Employees have no expectation of privacy with regards to any applications, data, files, or any other information accessed or stored on a Department computer.

- (b) Official Records. All data that is composed, transmitted, or received via the Department's computer and communication systems is considered to be part of the official records of the Department and as such is subject to disclosure to law enforcement or other third parties and retention according to the South Metro Fire Department's Records Retention Schedule. Consequently, employees should always ensure that the business information contained in e-mail messages and other transmissions is accurate, appropriate, ethical, and lawful.

E-Mail messages meet the State of Minnesota definition of a "record." As such, specific classifications of E-Mail shall be retained according to the South Metro Fire Department's Records Retention Schedule. E-Mail falls into two classifications:

- (1) Record of value. E-Mail is considered a record of value if it is required for ongoing legal, fiscal, administrative, operational or research purposes. These records shall be saved by the user in a word processing or paper file for storage according to Department retention requirements. Example: Official correspondence regarding a litigated matter.
- (2) Transitory record. E-Mail that does not fall into the above classification is considered a transitory record. Transitory records are generally documents of short-term interest that have no documentary or evidential value. The user is not required to save or convert a transitory record to a word processing or paper file. Example: Quasi-official notices including memoranda and other records that do not serve as the basis for official actions, such as notices for meetings or holidays. Transitory E-Mail will have a records retention of 60 days or less and will be automatically deleted from the system after 60 days.
- (c) Access. The Department reserves the right to access, at any time and for any purpose, all messages sent and received over its E-mail system, external connections, voice mail system, and fax system. The Department reserves the right to access, for any purpose, all data stored on computer media owned, leased or rented by the Department. Any person using the Department computer resources to store or send data and messages for any purpose has no expectation of or claim to privacy of that data except as provided by the Data Practices Act.

By using the communications systems of the Department, the employee consents that the following authorized Department representatives: the Fire Chief, the Fire Chief's designees, the Human Resources Director, and the Human Resources Director's designees, may review any messages on the system, may use any information for any legitimate business, legal, or disciplinary purpose, and may disclose or disseminate such messages to appropriate third parties.

The Fire Chief, as the responsible authority, or his or her designee shall review any request for access to the contents of electronic mail messages, voice mail messages, facsimile documents, files, or information by parties other than those authorized through the information system security

- (d) Copying Software, Programs, Applications, Templates, Etc. In many cases, copyright laws and/or licenses for commercial software, programs, applications and templates used by the Department prohibit making multiple copies. The Department and its employees are required to abide by the federal copyright laws and abide by all such licensing agreements. Employees may only use software on local area networks or on multiple machines according to the software license agreement.

The unauthorized use, installation, copying, or distribution of copyrighted, trademarked, or patented material on the Internet is expressly prohibited. As a general rule, if an employee did not create material, does not own the rights to it, or has not gotten authorization for its use, it should not be put on the Internet. Employees are also responsible for ensuring that the person sending any material over the Internet has the appropriate distribution rights.

- (e) Back-Up of Data Files. Employees are expected to regularly back-up computer data files in order to avoid irretrievable loss through hardware failure. Files saved on network drives are automatically backed-up through the system.
- (f) Use of Personal Computers for Work Projects. Employees who own personal computers may wish to use them for work at home. Those who choose to do so must adhere to this policy with regard to use of Department-owned software or data files. Use of outside computers introduces the risk that a "computer virus" could infect Department computer systems. Data files must be checked by Norton Anti-Virus detecting software, available on each Department computer, before utilizing the data file on Department systems.

Internet users should take the necessary anti-virus precautions before downloading or copying any file from the Internet. All downloaded files are to be checked for viruses and all compressed files are to be checked before and after decompression.

- (g) Harassment. The Department is committed to creating and maintaining a workplace that is free from harassment. Therefore, employees cannot use the Department computer and communications systems to harass others within or outside the organization. Employees shall not use the computer and communications systems to send, compose, transmit, access, or receive messages, graphics, documents, or content which could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other persons or would constitute sexual harassment as defined in the Department's Sexual Harassment Policy.

(4) USER'S RESPONSIBILITY FOR SECURITY

Users are responsible for the security of their computer and E-Mail account passwords and any E-mail that is sent via their account. To protect against unauthorized uses, the following precautions shall be taken:

- (a) Protect the computer and E-Mail systems before leaving the computer unattended if there is any possibility someone else could use the system. If a computer and/or E-Mail system is left open, and someone else uses it, it will appear as if the message was sent from the original user and the user will be held accountable.
- (b) Protect passwords against unauthorized use. The user is responsible for messages sent via their account. Users are not to read, use, or tamper with other users' accounts without their knowledge and consent. Unauthorized use of another employee's E-Mail may be unlawful.

- (c) Change passwords on a regular basis. Passwords can be stolen, guessed, or inadvertently made available. Each password change must be submitted to the systems administrator before the change occurs.

(5) INAPPROPRIATE USES

The following is a list of prohibited behaviors or uses of the Department's computer systems and resources. Engaging in these behaviors or using the Department's computer systems in an inappropriate manner will result in disciplinary action.

- (a) The display, printing, or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.
- (b) Using the Department's computer systems or knowingly allowing another to use the Department's systems for personal profit, commercial product advertisement, or partisan political purposes. The E-mail system may not be used to solicit anyone for commercial ventures, charitable, religious, or political causes.
- (c) Infringing on third party copyrights or other intellectual property rights, license agreements, or other contracts such as illegally installing or making available copyrighted software.
- (d) Inappropriate copying, modifying, distributing, transmitting, or displaying files or other data or information resources.
- (e) Sharing your user ID or password with any other person. In the event that you do share your user ID or password with another person, you will be held responsible for the actions taken by that person with respect to the use of your user ID or password.
- (f) Any unauthorized, deliberate action that damages or disrupts a computing system, alters its normal performance, or causes it to malfunction.
- (g) Use of systems and/or networks in attempts to gain unauthorized access to remote systems.
- (h) Decryption of system or user passwords.
- (i) Unauthorized copying of system files.
- (j) Intentional attempts to "crash" network systems or programs.
- (k) The willful introduction of computer "viruses" or other disruptive/destructive programs into the organization network or into external networks.
- (l) Sending anonymous E-Mail messages.
- (m) Personal use of Department equipment is strictly forbidden without prior authorization from the Human Resources Director. This includes clubs, forums, chat groups, and gates.

(6) DISCIPLINE

Employees should notify their immediate supervisor, the Human Resources Director, the Fire Chief, or any member of management upon learning of violations of this policy. Employees who violate this policy may be subject to disciplinary action up to and including termination of employment.

Immediate supervisors are responsible for ensuring the appropriate use of computers, E-Mail, and Internet access by their subordinates through training, supervising, coaching, and taking disciplinary action when necessary.

APPENDIX 14. WORKPLACE VIOLENCE PREVENTION

(1) POLICY

The South Metro Fire Department is committed to employee safety and health and seeks to provide a safe and secure environment for employees. Therefore, it is the policy of the Department to promote an environment free from violent acts, assaults, threats of assault, physical abuse, vandalism, arson, sabotage, use of weapons, or the unauthorized carrying of weapons onto Department property. Such behavior is strictly prohibited and will not be tolerated. This policy applies to employees, and to the extent possible, to non-employees and to independent contractors doing business with the Department. Any employee who acts in violation of this policy is subject to disciplinary action up to, and including termination from employment and/or criminal prosecution. Any non-employee who acts in violation of this policy could be subject to criminal prosecution and sanctions or restrictions including termination of contracts.

The Department hereby establishes a policy prohibiting all employees and independent contractors acting on behalf of the Department from carrying or possessing firearms while acting in the course and scope of employment for the Department. The possession or carrying of a firearm is prohibited while working on Department property or while working in any location on behalf of the Department. This includes but is not limited to:

- (a) Driving on Department business;
- (b) Riding as a passenger in a car or any type of mass transit on Department business;
- (c) Working at the Department building or any other Department-owned work site;
- (d) Working off-site on behalf of the Department;
- (e) Performing emergency or on-call work after normal business hours and on weekends;
- (f) Working at private residences and at businesses on behalf of the Department; or
- (g) Attending training or conferences on behalf of the Department.

An exception to this policy is that persons covered under this policy may carry and possess firearms in Department-owned parking areas if they have obtained the appropriate permit(s). Therefore, if the covered person must drive their personal vehicle on Department business, he or she may check a firearm with the city of West St. Paul or South St. Paul Police Departments during the workday and retrieve it after work. The Police Department will establish procedures to ensure that the firearm is locked up and is not able to be retrieved by anyone other than the owner/employee.

When responding to on-call work from home after regular work hours, the covered person is prohibited from bringing a firearm in their private vehicles unless the vehicle remains in a parking lot and is not needed in order to respond to the call.

All employees who believe that they have been treated in violation of this policy, or who observe behavior in violation of this policy, are required to report the behavior to one of the following: the Fire Chief or the Human Resources Director.

Prompt and accurate reporting of all violent behavior, whether or not physical injury has occurred, is required.

If the behavior represents an imminent threat to personal individual safety, 911 should be contacted immediately.

All reports of violations of this policy will be evaluated, investigated, and reviewed by the Fire Chief's office and appropriate action taken.

Incident reports, police reports, investigation reports, inspection reports, workers' compensation reports, and training records will be retained in accordance with approved records retention schedules.

(2) DEFINITIONS

- (a) **EMPLOYEE:** A person whose means and method of work are supplied and controlled by the South Metro Fire Department. The Department pays the employee's Social Security unemployment compensation taxes and workers' compensation benefits and withholds from paychecks, state and federal income taxes.
- (b) **INDEPENDENT CONTRACTOR:** A business or person contracting with the Department to complete assigned projects. Independent contractors are compensated on the basis of work completed and not necessarily for the amount of time worked. The Department does not pay any employer taxes for an independent contractor. The means and methods of independent contractors' work are not supervised by an employee of the Department. None of the provisions of the Personnel Policy apply to independent contractors.
- (c) **WORKPLACE VIOLENCE:** Violent acts including physical assault and threats of assault directed towards persons at work or on duty.

(3) REPORTING VIOLENCE IN THE WORKPLACE

- (a) Employees are required to report incidents or threats of violence to one of the following: the Fire Chief or the Human Resources Director.
- (b) If there is a threat to personal individual safety or a bomb threat 911 should be called immediately.
- (c) Fill out an Incident Report (available from the Fire Chief or the Human Resources Director) if there is a violent incident.
- (d) Reporting requirements shall be explained to the employees by the Human Resources Director on a periodic basis.

(4) PROCEDURES TO FOLLOW AFTER A VIOLENT INCIDENT

- (a) The following records will be made and retained on a violent incident:
 - (1) Workplace Violence Incident Report;
 - (2) Supervisor's Report of Injury; and
 - (3) Emergency medical care provided if needed.
- (b) Notification of law enforcement authorities is necessary when a criminal act may have occurred.
- (c) The following people will be notified following a violence incident: the Human Resources Director and the Fire Chief.
- (d) The Fire Chief will conduct a review process and take corrective action as needed.

(5) EXCEPTIONS TO PROHIBITIONS ON VIOLENCE

Employees authorized to use violence as part of their job duties, such as work on a special operations team, may use appropriate levels of violence in the course of their job duties as outlined in the special operations team procedures.

APPENDIX 15. (Rescinded by Res. 07-11)

APPENDIX 16. LIGHT DUTY POLICY

(1) POLICY

The South Metro Fire Department may assign light duty to employees who are temporarily unable to perform all of the essential functions of their job due to an injury or illness provided that a light duty assignment is available and consistent with the standards and procedures set forth in this policy.

The purpose of this policy is to establish the standards and procedures for light duty assignments. This policy does not supersede the Minnesota Worker's Compensation Laws for work-related injuries.

(2) STANDARDS AND PROCEDURES

- (a) Light duty assignments are only available to regular full-time and part-time Department employees.
- (b) This policy should not be construed or interpreted to create a right to a light duty assignment or to compel the Department to grant a light duty assignment to an employee at any time upon request.
- (c) Light duty assignments will be granted on a case-by-case basis by the Fire Chief.
- (d) The Department reserves the right to alter or discontinue an employee's light duty assignment.
- (e) A light duty assignment should not displace a regular position.
- (f) Light duty assignments are intended for employees with temporary medical disabilities. Light duty assignments will be granted with the expectation that the employee's work restriction is temporary in nature and that the employee will be able to return to full performance of his or her regular duties and responsibilities within the six month maximum light duty period.
- (g) Light duty assignments are intended for a short-term period not to exceed six months. An extension may be granted if light duty is available and consistent with the standards and procedures stated in this policy.
- (h) Light duty assignments must not hinder the Department's ability to provide services to the public. They must not impose an undue hardship or budgetary or economic constraints on the Department, and they must not jeopardize the health or safety of the employee, co-workers, or the public.
- (i) Light duty assignments must be consistent with relevant Federal and State laws such as the ADA, FMLA, Minnesota Workers' Compensation laws, and the Department's Personnel Policy and labor contracts.
- (j) Granting a light duty assignment is not an admission on the part of the Department that the employee has suffered a work-related injury and that the injury is compensable under the Minnesota Workers' Compensation laws or that one or more of the essential functions of the employee's position should be eliminated as a reasonable accommodation.
- (k) Light duty assignments are not mandatory for non work-related injuries. Light duty assignments are mandatory for work-related injuries pursuant to Minnesota's Workers' Compensation laws.
- (l) While the Department will consider light duty assignments for both work-related and non-work-related injuries, employees with work-related injuries will have priority over employees with non-work-related injuries in assigning light duty.
- (m) It is the responsibility of the employee to notify the Fire Chief of a temporary disability and to initiate

a request for a light duty assignment.

- (n) To initiate the process, the employee must provide a physician's report stating the diagnosis, current treatment, work restrictions, expected length of disability, and expected time frame for return to regular duties. Periodic physician's reports may be required.
- (o) The Department reserves the right to obtain an independent evaluation from a Department-designated physician.
- (p) If possible, every effort will be made to create a light duty assignment that is comparable to the employee's regular position in nature and level of responsibility, pay rate, knowledge, skills, and abilities.
- (q) The employee must be able to demonstrate the knowledge, skills, and abilities required for successful performance of the light duty assignment.
- (r) Light duty assignments will be evaluated monthly or more often as needed to determine if the employee is able to perform the duties of the position and to determine the employee's progress toward the expected time frame for his or her return to their regular duties.
- (s) The employee must meet all of the essential requirements, functions, and proficiency tests, if applicable, before being reinstated to his or her regular position. The employee must present a physician's report stating that the employee is able to return to regular work with no restrictions.
- (t) Information relating to light duty assignments and medical information will be handled on a need-to-know basis and in accordance with HIPAA and the Minnesota Data Practices Act.

APPENDIX 17: MOTOR VEHICLE POLICY

(1) PURPOSE

- (a) The Department is dedicated to safety of its citizens and employees and wishes to establish a policy regarding the use of Department Vehicles. Department Vehicles include passenger vehicles, trucks, vans, fire department trucks, as well as construction service and maintenance vehicles (collectively “Department Vehicles”). The Department’s intent and objective in enacting this policy is to ensure that employees driving Department Vehicles are legally able to do so and that the Department is protected from liability to the greatest extent possible.
- (b) The policy permits the Department to verify that employees who drive on Department business, regardless of whether in their personal vehicles (“Personal Vehicles”) or Department Vehicles during Department-paid work time or in Department Vehicles after work hours have a valid driver’s license and that the driver’s license meets the minimum qualifications for the employee’s job duties.
- (c) Because each employee and Department vehicle represents the Department to the citizens and the general public, the Department requires the Department Vehicles to be in good working order, clean, and well maintained and for employees to obey all traffic laws and ordinances, as well as Department policies and rules. Employees shall drive carefully so as to avoid accidents.

(2) INSURANCE AND LICENSE REQUIREMENTS

- (a) The Department insures all Department Vehicles. Employees who drive Personal Vehicles on Department business must also carry automobile liability insurance. Employees who drive their Personal Vehicles on Department business must provide the Department a valid certificate of insurance to the Department.
- (b) Employees who drive either Department Vehicles or Personal Vehicles as a part of their job duties must possess a valid driver’s license that meets the minimum qualifications for the employee’s job title. The Department shall conduct a driver’s license check at least once a year on employees who drive Department Vehicles or use their Personal Vehicles on Department business.
- (c) An employee whose driver’s license becomes invalid, meaning suspended, revoked, cancelled, provisional, limited, or otherwise less than fully valid, shall immediately report this to the Department. An employee’s failure to report any change of their driver’s license status to the Department in a timely fashion shall subject that employee to disciplinary action

(3) USE OF DEPARTMENT VEHICLES AND PERSONAL VEHICLES ON DEPARTMENT BUSINESS

- (a) Department Vehicles are intended and shall be used for Department business, with the exception of incidental personal stops while on authorized Department business.
- (b) Department business is defined as activities, jobs, tasks, errands, or other commitments that further the interest of the Department or that provide a benefit to the Department or its citizens.
- (c) An employee shall not use Department Vehicles and Personal Vehicles used for Department business to transport non-Department employees without prior approval from the employee’s supervisor.
- (d) The Department reserves the right to revoke any employee’s privilege to operate a Department Vehicle at any time.

- (e) No employee shall operate any Department Vehicle or any Personal Vehicle on Department business unless they have a valid driver's license.

(4) COMMUNICATION EQUIPMENT IN VEHICLES

- (a) Employees must receive training on any radio or communication equipment in Department Vehicles prior to using such radio or communication equipment.
- (b) Employees are responsible for knowing and obeying any Department policy involving radios, communication systems or cell phones that may be in place before operating or using such equipment.

(5) REQUIREMENTS FOR VEHICLE OPERATORS

- (a) An employee who drives Department Vehicles or an employee who must have a driver's license as a prerequisite to employment with the Department must submit a copy of the front and the back his or her driver's license to the Department so that the Department may perform a driver's license check.
- (b) An employee who drives Department Vehicles or an employee who must have a driver's license as a prerequisite to employment with the Department must maintain a valid driver's license and maintain the class of license required to meet the minimum qualifications for the employee's job description.
- (c) An employee whose driver's license becomes invalid, meaning suspended, revoked, cancelled, provisional, limited, or otherwise less than fully valid, such that it does not meet the minimum qualifications for the employee's job title, shall be prohibited from operating Department Vehicles or a Personal Vehicle on Department business and shall subject to disciplinary action.
- (d) An employee who drives Department Vehicles or an employee who must have a driver's license as a prerequisite to employment with the Department who receives three (3) or more tickets and/or one (1) or more felony conviction for moving violations within a three (3) year period is prohibited from operating Department Vehicles or a Personal Vehicle on Department business.
- (e) Employees are prohibited from operating Department Vehicles or Personal Vehicles on Department business while under the influence of alcohol, illegal or controlled substances, or while under the influence of a prescription or over the counter medication that may impair their ability to operate a vehicle.
- (f) An employee who drives Department Vehicles or an employee who must have a driver's license as a prerequisite to employment with the Department shall be responsible for knowing and obeying all applicable Department, department, office or division rules and policies.

(6) GENERAL OPERATIONAL POLICIES

- (a) An employee who drives a Department Vehicle or a Personal Vehicles on Department business must operate them in accordance with all applicable laws and ordinances. Any traffic violation received while driving a Department Vehicle or a Personal Vehicle on Department business is the responsibility of the employee receiving such violation.
- (b) No employee shall disconnect or disable any security device in a Department Vehicle or Personal Vehicle driven on Department business.

- (c) All occupants in Department Vehicles or Personal Vehicles driven on Department business must wear seatbelts.
- (d) No employee may operate a Department Vehicle or a Personal Vehicle on Department business outside of the scope of the design for said vehicle.
- (e) Smoking is prohibited in Department Vehicles.
- (f) If an employee drives a Personal Vehicle on Department business, the employee shall be reimbursed at the standard mileage rate as established by the IRS.

(7) ACCIDENT REPORTING AND INVESTIGATION REQUIREMENTS FOR ACCIDENTS INVOLVING DEPARTMENT VEHICLES OR PERSONAL VEHICLES BEING DRIVEN ON DEPARTMENT BUSINESS

- (a) Every accident on a public road outside of the cities of West St. Paul or South St. Paul involving an employee in a Department Vehicle or in a Personal Vehicle being driven on Department business must be immediately reported to the appropriate jurisdiction's law enforcement agency and a Minnesota Motor Vehicle Accident Report must be completed in its entirety.
- (b) All accidents occurring in the cities of West St. Paul or South St. Paul on a public road involving an employee in a Department Vehicle or in a Personal Vehicle being driven on Department business that require an investigation shall be immediately reported to and investigated by the Minnesota State Patrol.
- (c) When reporting an accident in a Department Vehicle or in a Personal Vehicle being driven on Department business, an employee should be truthful, provide facts, cooperate with law enforcement personnel, take notes on the facts of the incident and, if possible, take pictures of the accident scene. Additionally, an employee must report any accident to his or her supervisor.
- (d) An employee must report all damage, including dents, scrapes, and scratches to a Department Vehicle and any other Department property, even if not on a public road, to his or her supervisor.
- (e) The employee must give a copy of the completed Motor Vehicle Accident Report and a copy of any reports from the law enforcement agency to his or her supervisor.

(8) VEHICLE INSPECTIONS

All employees who drive a Department Vehicle shall comply with the vehicle safety and maintenance inspections program required by the Operational Guidelines Manual.

(Enacted by Res. 07-11, App. 17)

APPENDIX 18: CONFIDENTIALITY/DATA PRACTICES POLICY

DATA PRACTICES ADVISORY

During the course of employment, the South Metro Fire Department will require employees to provide data that is classified by State law as either private or confidential.

Private data is information that generally cannot be given to the public but can be given to the subject of the data. Confidential data is information that generally cannot be given to the public or the subject of the data.

The Department requests this information for various reasons pertaining to employment with the Department. The information provided may be used to process pay and benefits, evaluate performance, determine pay increases, evaluate suitability for an employee's position or other positions, determine whether disciplinary action will be imposed, and other personnel actions which involve review of the employee's current and past performance.

Employees who provide false, incomplete, or misleading information may be subject to discipline, up to and including the possibility of dismissal.

Employees may not be required to provide the information requested. However, the Department may choose to require the information at any time. If required, employees will be provided with another advisory explaining that the information is required and the consequences of refusal.

Other persons or entities, if authorized by law, may receive the requested information. Depending on the data requested, these persons or entities may be: employees and/or officials of the Department who have a need to know the information in the course of their duties and responsibilities; the person who is the subject of private data about him or herself; persons who have permission from the subject of the data; insurance companies providing group benefits, worker's compensation administrative services, pre-employment, return to work and fitness for duty medical exams or drug and alcohol testing services for the Department; a public pension program; the Minnesota Department of Economic Security in a claim for or appeal for re-employment benefits; individuals who have obtained a court order for the information; and/or participants in any litigation, mediation, veteran's preference hearing, grievance arbitration, or other administrative proceeding which results from actions taken.

If litigation arises, the information may be provided in documents filed with the court, which are available to any member of the public. If it is reasonably necessary to discuss this information at a Department Board of Directors meeting, it will be available to members of the public.

To the extent that some or all of the information is part of the basis for a final decision on disciplinary action, that information will become available to any member of the public.

TYPES OF DATA

Public Data: Data about a person that must be shown to the person, if he/she wishes and that is available to other people.

Private Data: Data about a person that must be shown to the person upon request, but are not available to others without his/her permission or as otherwise specifically authorized by law.

Personnel Data: Data on individuals collected because the individual is or was an employee or an applicant for employment, performs service on a voluntary basis, acts as an independent contractor with the Department or is a member of an advisory board, committee or commission.

Summary Data: Data about a person used to develop statistics or reports are considered public information, but they do not identify the person in any way.

PUBLIC PERSONNEL DATA

Except for certain employees (i.e. undercover law enforcement personnel) the following personnel data is public:

1. name
2. gross salary
3. salary range
4. gross pension
5. contract fee
6. benefits
7. expense reimbursements
8. job title
9. job description
10. education and training background
11. previous work experience
12. dates of employment (first and last)
13. status of complaints or charges against employees
14. outcome of complaints-disciplinary action
15. work location
16. work telephone number
17. badge number
18. city and county of residence

Personnel Data on Applicants for Employment:

The following personnel data are considered public data:

1. veteran status
2. test scores
3. rank and eligibility
4. job history
5. education and training
6. work availability
7. name considered private data except when certified as eligible for an appointment to a vacancy and considered as one of the "finalists."

PRIVATE PERSONNEL DATA

The following personnel data and information are considered private data on individuals and are not accessible to the public but this data is accessible to the subject employee, the employee's authorized representative, the immediate supervisor and department head, and other Department staff persons or officials who have a legitimate need to view/know such data as determined by the Fire Chief or other persons authorized by the Fire Chief.

1. Social Security number
2. age, gender
3. marital and family status
4. employee home address and telephone numbers
5. criminal records
6. race and ethnic data
7. insurance status
8. references
9. college transcripts (except for name of institution, degree granted, and date)
10. reference check data
11. medical records when part of personnel data

12. psychological evaluations
13. worker's compensation reports
14. physical limitations related to the job
15. sick leave forms - doctor's reports
16. data collected from disciplinary proceedings prior to a hearing
17. opinion questionnaire response by potential employee
18. names of applicants for employment until certified as eligible for appointment to a vacancy.
19. employee assistance programs and exit interview responses

No employee may disclose the home address, telephone number, or personal information about another employee to any third party without prior consent of the affected employee, as per Section on "Informed Consent."

Employment selection instruments and/or answer keys to such instruments are protected non-public data, except pursuant to a valid court order.

ACCESS TO DATA

Public Data:

Access shall be provided to any person, without regard to the nature of the person's interest. Access must be approved by the Fire Chief or other persons authorized by the Fire Chief. Access must be provided within a reasonable time. Interpretation shall be provided if requested. A fee may be charged, as allowed by law, reflecting time to collect or retrieve the information, paper costs, mailing costs, duplicating costs, etc.

Private Data:

Access is available to the following only:

1. The subject of the data.
2. Individuals whose work assignments with the Department reasonably require access.
3. Entities and agencies determined by the Fire Chief or his/her designee to be authorized by State Statute or Federal Law to gain access to that specific data.
4. Entities or individuals given access by the express written direction of the subject.

The Fire Chief or authorized designee shall assure that access is provided only to the parties listed above. The identity and authority of an individual who seeks to gain access to private data must be confirmed. The time that access is available is limited to the normal working hours of the Department offices. No fees shall be charged in the instances where the data subject only wishes to view private data. Fees may be charged for providing copies.

GENERAL CONTENTS OF PERSONNEL FILES

The following information shall routinely be included in an employee's personnel file:

1. data collected for administrative purposes such as job applications, resumes, confirmation letters, change of address forms, training or education records, veteran's certification, etc. (Documents containing medical information are retained in a separate medical file.)
2. documentation of personnel actions or activities such as salary changes, job classifications, performance reviews, termination notices, disciplinary actions.
3. official written correspondence to or from an employee (subject to determination by the Fire Chief/HR Director as to appropriateness).
4. documentation of employment status and benefit status, the latter only if it does not contain any medical

information. Appropriate medical information will be retained separately in an employee medical file.

Employees will not be specifically notified each time such data are routinely entered into their file, except that employees shall be made aware of data entered into their file that relates to discipline or may have adverse impact on them. Employees may request to view and receive copies of information in their file as per Section on "Access to Data."

Personnel files will be maintained by the Fire Chief or with assistance from appropriate Administration support staff. Any documents added or removed from the files must be approved by the Fire Chief. The Fire Chief may delegate the authority to add routine and non-controversial documents (such as job applications, employment confirmation letters, status change forms, etc.) to other staff as appropriate. Such staff shall be trained on this policy.

TAPE RECORDING POLICY

In order to protect the regulation and dissemination of confidential, private, and non-public data as defined in the Minnesota Government Data Practices Act; promote harmony in the work place, diminish the impediment of each employee's ability to perform his or her duties, and promote an environment with a free-flow exchange of ideas: inter-staff communications shall not be tape-recorded in any form unless all parties to the communication consent or the meeting being recorded is a meeting of the Department Board of Directors.

In the event a tape recording is created, the Fire Chief or other persons authorized by the Fire Chief shall immediately receive, keep, and maintain the tape recording and shall regulate the dissemination of the information in accordance with the Minnesota Government Data Practices Act.

INFORMED CONSENT

Private data on individuals may be used by and given to any individual or persons by the Fire Chief or other bonafide representative of the Department, if the individual subject or subjects of the data have given their informed consent. All informed consents:

1. Shall be in writing and stated in plain language.
2. Shall be signed and dated.
3. Shall specifically designate the particular persons or agencies the data subject has authorized to disclose information about him or her.
4. Shall specifically state the nature of the information authorized to be disclosed.
5. Shall specifically state the persons or entities authorized to receive the disclosed information.
6. Shall specifically list an expiration date not to exceed one year.
7. Shall specifically state the purpose for which the information may be used by the parties named above.

If the Fire Chief or other persons authorized by the Fire Chief makes reasonable efforts to obtain the informed consent of a data subject and if those efforts are not acknowledged in any way, the Fire Chief or other persons authorized by the Fire Chief shall interpret the silence of the data subject as the giving of implied consent to the new or different purpose or use of the data.

"Reasonable efforts" are defined as:

1. Depositing in the U.S. Mail, postage pre-paid, and directed to the last known address of the data subject, at least two (2) communications requesting informed consent.
2. Waiting for a period of not less than sixty (60) days for a response to the second request.

SECURITY OF PERSONNEL DATA

The South Metro Fire Department authorizes the Fire Chief and individuals responsible for providing support to the

Department's human resource function to maintain custody over all personnel records. The final authority over personnel records is the Fire Chief, and as such, retains overall authority to add or remove items from personnel and related employee files.

All records containing non-public personnel data shall remain in one or more locked filing cabinets, or other locked storage facility, with keys strictly limited to those designated to maintain custody. Others authorized to review personnel records, such as the subject of the data, or as described above under "Access to Data, Private Data," shall be required to view the contents of such files in the presence of authorized staff. No access to keys securing the information may be provided to anyone not authorized to maintain custody. All keys must be properly secured at all times to prevent improper access to files.

Personnel files shall not be removed from Fire Chief Office. Copies of file contents may be removed from Department offices only by individuals authorized to have access to those records, consistent with the Minnesota Government Data Practices Act and this policy. Unauthorized release of private and/or confidential personnel data shall be subject to immediate discipline, up to and including termination.

SUPERVISORY FILES

Information about employees maintained by supervisors is considered personnel data under State Statute and must be maintained in a locked area by supervisors. Supervisors may not maintain medical information on employees.

Types of data maintained by supervisors shall be limited to that authorized by the Fire Chief, consistent with law and policy. Examples of personnel data supervisors are authorized to maintain include:

1. vacation leave slips and other time-related records,
2. notes from supervisory coaching and counseling sessions,
3. notes on performance concerns or work rules discussed with employees, (to be removed after entry in annual performance evaluation)
4. notes on employee accomplishments, (to be removed after entry in annual performance evaluation)
5. copies of disciplinary and performance-related correspondence. (Copies of disciplinary letters may be maintained in supervisory files after ensuring a copy has been confidentially forwarded for inclusion in the employee's official personnel file.)

All original Department applications and related hiring documentation, performance evaluations, reference information, doctor's slips and other medical information about employees must be submitted to the Fire Chief. The Fire Chief will determine which documents will be maintained in Department personnel files, consistent with this policy. The personnel files maintained by the Fire Chief and authorized Administration staff are considered the official Department Personnel files.