

# City of Flint, Michigan

*Third Floor, City Hall  
1101 S. Saginaw Street  
Flint, Michigan 48502  
[www.cityofflint.com](http://www.cityofflint.com)*



## Meeting Agenda - Final

Wednesday, October 23, 2019

5:00 PM

Committee Room

### LEGISLATIVE COMMITTEE

*Eva L. Worthing, Chairperson, Ward 9*

*Eric Mays, Ward 1*

*Santino J. Guerra, Ward 3*

*Jerri Winfrey-Carter, Ward 5*

*Monica Galloway, Ward 7*

*Maurice D. Davis, Ward 2*

*Kate Fields, Ward 4*

*Herbert J. Winfrey, Ward 6*

*Allan Griggs, Ward 8*

*Inez M. Brown, City Clerk*

## ROLL CALL

## CHANGES AND/OR ADDITIONS TO AGENDA

*Council shall vote on any agenda changes.*

## PUBLIC SPEAKING

*Members of the public shall have no more than two (2) minutes to address the City Council on any subject.*

## SPECIAL ORDERS

### 190442 Special Order/Temporary Hold on Water Shut-Offs/Striking GM Workers

A Special Order as requested by Councilperson Fields in order to discuss the possibility of drafting an ordinance in order to place a temporary hold on water turn-offs for striking General Motors (GM) workers. [Referral Action Date: 10/14/2019 @ Special Affairs Committee Meeting.]

### 190441 Special Order/Ordinance Requiring Surveillance Cameras

A Special Order as requested by Councilperson Mays in order to discuss the ordinance as submitted to the City Council during the October 14th Special Affairs Committee meeting by Mayor Karen Weaver and Police Chief Timothy Johnson, re: Surveillance Cameras Required for Certain Businesses (See Ord. No. 190439). [Referral Action Date: 10/14/2019 @ Special Affairs Committee Meeting.]

### 190358.1 Special Order/City of Flint Policies Discussions

A Special Order request by Councilperson Fields allow Council to include the City's Computer Use Policy when discussing the three other policies currently on its agendas (Anti-Bullying; Harassment and Discrimination in the Work Place; Alcohol & Drug Free Work Place and Testing).

### 190032 Special Order/COF Purchasing Ordinance/Emergency Purchases

A Special Order as requested by 1st Ward Councilperson Eric Mays to allow for a council discussion regarding the emergency purchases (Ord. No. 3865, Sec. 18-21.9).

## ORDINANCES

### 190323 Amendment/Ordinance/Chapter \_\_\_\_/Article \_\_\_\_/\_\_\_\_\_/Add Section \_\_\_\_\_(Ethics and Accountability Board By-Laws)

An ordinance to amend the Flint City Code of Ordinances by amending Chapter \_\_\_\_\_, Article \_\_\_\_\_, \_\_\_\_\_, by adding Section \_\_\_\_\_

(Ethics and Accountability Board By-Laws).

- 190439** Ordinance/Amendment/Chapter 12 (Business and Occupations Generally)/Sections 12-273 through 12-283

An ordinance to amend the Code of Ordinances for the City of Flint by amending Chapter 12 (Business and Occupations Generally), by the addition of (Article XXX) Sections 12-273 through 12-283 concerning Surveillance Cameras Required for Certain Businesses.

## RESOLUTIONS

- 180590** Approval/City of Flint Statement of Policy/Anti-Bullying

Resolution resolving that the Flint City Council agrees to adopt the Anti-Bullying Policy, as requested by Human Resources.

- 180591** Approval/City of Flint Statement of Policy/Harassment and Discrimination in the Work Place/Complaint Procedure

Resolution resolving that the Flint City Council agrees to adopt the Harassment and Discrimination in the Work Place Policy, and Complaint Procedure, as requested by Human Resources. [NOTE: Policy last adopted on April 22, 2015.]

- 190011** Approval/City of Flint Statement of Policy/Alcohol & Drug Free Workplace & Testing Policy

Resolution resolving that the Flint City Council agrees to adopt the Alcohol & Drug Free Workplace & Testing Policy, as requested by Human Resources.

## OLD, OUTSTANDING DISCUSSION ITEMS

- 170028** Referral/Tax Breaks/Home-Based Businesses

Referral by Councilperson Mays to ADMIN, re: He would like to know if the current Administration has considered or is working toward offering tax breaks to city residents with home-based businesses, as well as asks that the City Council consider creating specific legislation in this regard. [Referral Action Date: 1/09/2017 @ City Council Meeting.]

- 170386** Ordinance Drafts/Water Bills

Referral by Councilperson Mays to MAYOR/ADM/LAW/: He would like two ordinances drafted for the council to review: 1. water lien relief, and 2. a limit on how far the city can go back in trying to collect past due water bills that have been estimated. [Referral Action Date: 7/6/2017 @ Finance Committee Meeting.]

- 180017** Discussion Item/Home Business Ordinance

Discussion item proposed by Councilperson Mays, re: He would like a discussion of the Home Business Ordinance on the next Legislative Agenda. [Referral Action Date: 1/3/2018 @ Governmental Operations Committee Meeting.]

**180304** Referral/CWAC/Ordinance/Discussion

Referral by Councilperson FIELDS to LEGAL/PLANNING & DEVELOPMENT, re: She would like a copy of the CWAC Ordinance and to have a discussion item about the CWAC on the Legislative Agenda. [Referral Action Date: 6/20/2018 @ Grants Committee Meeting.]

**180443** Discussion Item/Ordinance Amendment/Blight Infractions

Discussion Item as requested by Councilperson Mays, re: He would like to discuss the possibility of amending the City Code with regard to blight infractions in order to include a \$500 fine and possible jail time. [Referral Action Date: 8/27/2018 @ City Council Meeting.]

**180533** Referral/Lobbyists/Fee

A referral as requested by Councilperson Fields to LEGAL: She would like to legislation to require lobbyists to pay fees, as referenced in the new City of Flint Charter. [Referral Action Date: 10/3/2018 @ Finance Committee Meeting.]

**180534** Discussion Item/Parking on Lots/Property

A discussion item as requested by Councilperson Mays: He would like to discuss parking on lots and on a homeowner's own property. [Referral Action Date: 5/8/2018 @ Finance Committee Meeting.]

**180576** Discussion Item/Recreational Marihuana

A discussion item as requested by Councilperson Mays, re: He would like to discuss recreational marihuana. [Referral Action Date: 11/7/2018 @ Legislative Committee Meeting.]

**190033** Discussion Item/CWAC Ordinance

Discussion Item as requested by Councilperson Mays, re: He would like to discuss the proposed changes to the City Wide Advisory [Council] Committee ordinance (Ord. No. 180523.2). [Referral Action Date: 2/04/2019 @ City Council Meeting.]

**190362** Referral/Copies/Nepotism Policy/Ethics Ordinance

Referral by Councilperson Fields to LEGAL, re: As part of the discussion of the three policies on the Legislative agenda, she would like copies of the Nepotism Policy and the Ethics Ordinance. [Referral Action Date: 8/21/2019 @ Special Legislative Committee Meeting.]

**190363** Referral/Legal Opinion/Political Podcast & Facebook

Referral by Councilperson Fields to LEGAL, re: She would like to know if it's legal for a city employee to tape the Mayor on a podcast and then air it on her own (city employee) Facebook page. [Referral Action Date: 8/21/2019 @ Special Legislative Committee Meeting.]

**190386** Referral/Ordinance/Sewer Liens

Referral by Councilperson Mays to LEGAL: re, He would like the ordinance that deals with sewer liens. [Referral Action Date: 9/4/2019 @ Finance Committee Meeting.]

**NEW BUSINESS****ADJOURNMENT**

190323

ORDINANCE NO. \_\_\_\_\_

An Ordinance to amend the Flint City Code of Ordinances by amending Chapter \_\_\_\_, \_\_\_\_\_, Article \_\_\_\_, \_\_\_\_\_, to add Section \_\_\_\_\_, Ethics and Accountability Board By-laws.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF FLINT:

Sec. 1. That the Flint City Code of Ordinances shall be amended by amending Chapter \_\_\_\_, \_\_\_\_\_, Article \_\_\_\_, \_\_\_\_\_, to add Section \_\_\_\_\_, Ethics and Accountability Board By-laws, which shall read in its entirety as follows:

SECTION 1: DEFINITIONS

FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANING RESPECTIVELY ASCRIBED TO THEM BY THIS SECTION:

(a) **CONFIDENTIAL INFORMATION** MEANS INFORMATION THAT HAS BEEN OBTAINED BY A PUBLIC SERVANT IN THE COURSE OF ACTING AS A PUBLIC SERVANT, THAT IS NOT AVAILABLE TO MEMBERS OF THE PUBLIC PURSUANT TO THE MICHIGAN FREEDOM OF INFORMATION ACT, BEING MCL 15.231 *ET SEQ.* OR PURSUANT TO OTHER LAW, REGULATION, POLICY OR PROCEDURE RECOGNIZED BY LAW, AND THAT THE PUBLIC SERVANT IS UNAUTHORIZED TO DISCLOSE, INCLUDING:

(1) ANY WRITTEN INFORMATION, WHETHER IN DOCUMENT OR IN ELECTRONIC FORM, WHICH COULD BE EXEMPTED FROM DISCLOSURE PURSUANT TO STATE

LAW OR TO OTHER PERTINENT LAW, REGULATION, POLICY OR PROCEDURE RECOGNIZED BY LAW, UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION IS PERMITTED BY SUCH AUTHORITY TO MAKE DISCLOSURE; AND

(2) ANY NON-WRITTEN INFORMATION WHICH, COULD BE EXEMPTED FROM DISCLOSURE PURSUANT TO STATE LAW OR TO OTHER PERTINENT LAW, REGULATION, POLICY OR PROCEDURE RECOGNIZED BY LAW, UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION IS PERMITTED BY SUCH AUTHORITY TO MAKE DISCLOSURE; AND

(3) INFORMATION WHICH WAS OBTAINED IN THE COURSE OF OR BY MEANS OF A WRITTEN OR ELECTRONIC RECORD OR ORAL REPORT OF A LAWFUL EXECUTIVE OR CLOSED SESSION, WHETHER OR NOT THE DISCLOSURE OF THE INFORMATION WOULD VIOLATE STATE LAW, UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION IS AUTHORIZED BY STATE LAW TO MAKE DISCLOSURE, OR UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION HAS BEEN PROPERLY AUTHORIZED TO MAKE DISCLOSURE PURSUANT TO AN APPLICABLE LAW, REGULATION, POLICY OR PROCEDURE, EXCEPT THAT WHEN SUCH INFORMATION IS AVAILABLE THROUGH CHANNELS WHICH ARE OPEN TO THE PUBLIC, THIS PROVISION DOES NOT PROHIBIT PUBLIC SERVANTS FROM DISCLOSING THE AVAILABILITY OF THOSE CHANNELS.

**(b)DECISION MEANS:**

**(1) A DETERMINATION, ACTION, VOTE, OR OTHER DISPOSITION UPON A MOTION, PROPOSAL, OR RECOMMENDATION. BY THE ETHICS AND ACCOUNTABILITY BOARD**

**(c)WILLFUL NEGLECT OF DUTY MEANS THE INTENTIONAL FAILURE OF A PUBLIC SERVANT TO PERFORM THE DUTIES OF HIS OR HER OFFICE.**

**SECTION 2: DISCLOSURE REQUIREMENTS**

**(1) IMPROPER USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION IS PROHIBITED.**

**EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, AN ETHICS AND ACCOUNTABILITY BOARD MEMBER SHALL NOT KNOWINGLY USE OR DISCLOSE CONFIDENTIAL INFORMATION TO THIRD PARTIES CONCERNING THE PROPERTY, GOVERNMENT OR AFFAIRS OF THE CITY OR ANY OFFICE, DEPARTMENT OR AGENCY THEREOF, WHICH IS NOT AVAILABLE TO MEMBERS OF THE PUBLIC AND GAINED BY REASON OF HIS OR HER OFFICIAL DUTIES.**

**(2) LIMITATIONS ON PARTISAN POLITICAL ACTIVITY BY BOARD MEMBERS.**

**(a) WHILE A MEMBER OF THE ETHICS AND ACCOUNTABILITY BOARD, A BOARD MEMBER SHALL DISCLOSE ANY PARTICIPATION IN SUPPORT OF A CANDIDATE FOR ELECTION AND ANY CANDIDACY FOR OFFICE MADE BY THE BOARD MEMBER TO THE BOARD AND TO THE CITY CLERK**

**PURSUANT TO FLINT CITY CHARTER SECTION 1-602(D)(1)(c).**

**(b) PARTICIPATING IN CAMPAIGN ACTIVITIES OR THE MEMBER'S CANDIDACY FOR AN ELECTIVE OFFICE MAY DISQUALIFY THE BOARD MEMBER'S PARTICIPATION IN A MATTER BEFORE THE BOARD.**

**(c) THIS DETERMINATION MAY BE MADE BY THE INDIVIDUAL BOARD MEMBER TO RECUSE HIM OR HERSELF OR BY A VOTE OF THE BODY.**

**(3) INFORMATION PROVIDED TO BOARD TO REMAIN CONFIDENTIAL.**

**(4) MEMBERS OF THE ETHICS AND ACCOUNTABILITY BOARD OR ANY PUBLIC SERVANT WHO HAVE ACCESS TO ANY CONFIDENTIAL INFORMATION THAT IS RELATED TO THE FUNCTIONS OR ACTIVITIES OF THE BOARD ARE PROHIBITED FROM DIVULGING SUCH INFORMATION TO ANY PERSON WHO IS NOT AUTHORIZED TO POSSESS THE INFORMATION.**

**(5) VIOLATION OF THIS PROVISION IS SUBJECT TO FLINT CITY CHARTER SECTION 1-603 FORFEITURE OF OFFICE AND REMOVAL FOR CAUSE.**

**SECTION 3: COMPLAINTS**

**(1) COMPLAINT; CONTENTS THEREOF; LIMITATION OF ACTION.**

**(a) ANY PERSON MAY FILE A COMPLAINT WITH THE ETHICS AND ACCOUNTABILITY BOARD WHERE THE PERSON BELIEVES THAT A PUBLIC SERVANT MAY**

HAVE COMMITTED MISCONDUCT IN OFFICE OR A DERELICTION OF DUTY AS DESCRIBED IN FLINT CITY CHARTER SECTION 3-503(D) IN CONNECTION WITH THE CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT.

(b) A COMPLAINT SHALL BE MADE IN WRITING ON A FORM THAT IS CREATED BY THE LAW DEPARTMENT, SHALL SPECIFY THE PROVISION(S) OF THE CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT ALLEGED TO HAVE BEEN VIOLATED AND THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION, AND SHALL BE SIGNED BY THE PERSON WHO IS MAKING THE COMPLAINT AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC.

(c) SUCH A COMPLAINT SHALL BE FILED WITHIN NINETY (90) DAYS FROM THE DATE THE COMPLAINANT(S) KNEW OR SHOULD HAVE KNOWN OF THE ACTION THAT IS ALLEGED TO BE A VIOLATION OF THE CHARTER CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT. AND IN NO EVENT SHALL THE ETHICS AND ACCOUNTABILITY BOARD CONSIDER A COMPLAINT WHICH HAS BEEN FILED MORE THAN ONE (1) YEAR AFTER A VIOLATION OF THIS ARTICLE OR CHARTER IS ALLEGED TO HAVE OCCURRED.

(d) UPON MAJORITY VOTE OF THE MEMBERS-ELECT, THE BOARD MAY ACCEPT A COMPLAINT OUTSIDE THE SUBMISSION GUIDELINES PROVIDED IN SUBSECTION (C).

(e) A COMPLAINT THAT HAS BEEN FILED WITHIN THE TIME PERIOD CONTAINED IN SUBSECTION (C) OF THIS SECTION AND, WHERE DISMISSED BY THE BOARD DUE TO OTHER INVESTIGATIONS OR PENDING PROCEEDINGS, SHALL BE DEEMED DISMISSED WITHOUT PREJUDICE AND MAY BE REINSTATED AND RECONSIDERED BY THE BOARD AT THE CONCLUSION OF THE OTHER PROCEEDINGS.

#### SECTION 4: RETALIATION AND HARASSMENT PROHIBITED.

(a) IT SHALL BE A VIOLATION FOR ANY PUBLIC SERVANT TO RETALIATE AGAINST ANY INDIVIDUAL WHO FILES A COMPLAINT WITH THE ETHICS AND ACCOUNTABILITY BOARD ON THE BASIS THE INDIVIDUAL HAS FILED A COMPLAINT.

(b) IT SHALL BE A VIOLATION FOR AN INDIVIDUAL TO USE THIS ARTICLE, OR CHARTER TO HARASS A PUBLIC SERVANT, OR CONTRACTOR, BY FILING A COMPLAINT WITH KNOWLEDGE OF ITS FALSITY OR WITH RECKLESS DISREGARD FOR ITS TRUTH OF FALSITY.

#### SECTION 5: COMMUNICATION WITH THE BOARD REGARDING COMPLAINTS

COMMUNICATIONS WITH THE BOARD REGARDING A COMPLAINT IS PROHIBITED IN THE ABSENCE OF THE



**COMPLAINANT, RESPONDENT, OR HIS OR HER RESPECTIVE COUNSEL.**

**SECTION 6: DISPOSITION OF COMPLAINTS.**

(a) AFTER A COMPLAINT HAS BEEN FILED AND DURING ITS PENDENCY BEFORE THE ETHICS AND ACCOUNTABILITY BOARD, NO MEMBER OF THE BOARD MAY COMMUNICATE REGARDING THE COMPLAINT DIRECTLY OR INDIRECTLY WITH ANY COMPLAINANT, RESPONDENT, OR HIS OR HER RESPECTIVE COUNSEL, IN THE ABSENCE OF THE OPPOSING PARTY, EXCEPT THAT:

(1) THE MEMBERS OF THE BOARD MAY DISCUSS THE COMPLAINT WITH ADMINISTRATIVE STAFF, AND MAY OBTAIN LEGAL ADVICE FROM THE LAW DEPARTMENT OR, WHEN NECESSARY, FROM OUTSIDE COUNSEL;

(2) THE MEMBERS OF THE BOARD MAY DISCUSS THE COMPLAINT AT A LAWFULLY CONDUCTED MEETING;

(b) WHERE ANY COMPLAINANT OR RESPONDENT, OR HIS OR HER RESPECTIVE COUNSEL, ATTEMPTS TO COMMUNICATE WITH A MEMBER OF THE ETHICS AND ACCOUNTABILITY BOARD REGARDING A PENDING COMPLAINT IN THE ABSENCE OF THE OPPOSING PARTY, THE BOARD MEMBER SHALL REPORT THE SUBSTANCE OF THE COMMUNICATION TO THE BOARD ON THE PUBLIC RECORD AT THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD.

(a) THE ETHICS AND ACCOUNTABILITY BOARD SHALL DISPOSE OF A COMPLAINT WITHIN NINETY (90) CALENDAR DAYS AFTER ITS RECEIPT. HOWEVER, IF THE COMPLAINT IS ALREADY UNDER INVESTIGATION AND REVIEW BY ANOTHER DEPARTMENT, BODY, OR COURT OF LAW, OR THERE ARE EXTENUATING CIRCUMSTANCES PREVENTING THE INVESTIGATION FROM PROCEEDING,, THE BOARD MAY EXTEND ITS TIME TO RESPOND TO A SPECIFIC COMPLAINT BY NOT MORE THAN NINETY (90) ADDITIONAL DAYS.

(b) THE BOARD SHALL CONTACT THE HUMAN RESOURCES/LABOR RELATIONS AND LAW DEPARTMENTS TO VERIFY IF AN INVESTIGATION AND/OR LITIGATION ARE ALREADY IN PROGRESS PRIOR TO COMMENCING ITS INVESTIGATION.

(c) IN THE EVENT THE BOARD EXTENDS ITS TIME TO RESPOND TO A COMPLAINT, THE BOARD SHALL NOTIFY, IN WRITING, THE COMPLAINANT(S) , AND RESPONDENT OF THE EXTENSION AND OF THE SPECIFIC REASONS THEREFORE.

(d) AFTER GIVING DUE CONSIDERATION TO A COMPLAINT, THE ETHICS AND ACCOUNTABILITY BOARD SHALL TAKE ANY ACTION OR COMBINATION OF ACTIONS, UPON MAJORITY VOTE, WHICH THE BODY DEEMS APPROPRIATE IN ORDER TO DISPOSE OF A COMPLAINT INCLUDING, BUT NOT

LIMITED TO, ONE OR MORE OF THE FOLLOWING:

(1) DISMISS THE COMPLAINT STATING THE REASONS IN WRITING.

(i) CONDUCT ITS OWN INVESTIGATION WITH RESPECT TO ANY ALLEGED VIOLATION; OR

(ii) SUBMIT THE COMPLAINT TO THE OMBUDSPERSONS OFFICE FOR INVESTIGATION

(iii) ; OR

(1) PROVIDE RECOMMENDATIONS FOR POLICY CHANGES WHEN A PATTERN AND PRACTICE OF MISCONDUCT IS IDENTIFIED OR

(2) ISSUE AND ADVISORY OPINION , PUBLIC REPORT OR RECOMMEND FOR REMEDIAL ACTIONS TO THE APPROPRIATE GOVERNMENTAL OR JUDICIAL UNIT INCLUDING PURSUIT OF RECOMMENDATIONS FOR LEGAL REMEDIES.

(3) DETERMINE, ON ITS OWN OR UPON REQUEST OF THE PARTY WHO HAS HAD THE COMPLAINT FILED AGAINST HIM OR HER, WHETHER THE COMPLAINT WAS FILED

WITH KNOWLEDGE OF ITS FALSITY OR WITH RECKLESS DISREGARD FOR ITS TRUTH OR FALSITY.

(e) WHERE A HEARING IS HELD THE BOARD SHALL ISSUE WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW AS TO WHETHER A VIOLATION OF THIS ARTICLE OR CHARTER HAS OCCURRED. IN ITS DECISION, THE BOARD MAY MAKE ITS RECOMMENDATIONS.

SECTION 7: VIOLATIONS OF ARTICLE OR CHARTER; BOARD PERMITTED TO MAKE PUBLIC ADMONITION AND TO REFER FINDINGS.

(a) IN THE EVENT THE ETHICS AND ACCOUNTABILITY BOARD DETERMINES A VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT. HAS OCCURRED, THE BOARD MAY ADOPT A RESOLUTION OF PUBLIC ADMONITION AGAINST AN ELECTIVE OFFICER, OR AN APPOINTEE, REGARDING THE VIOLATION. IN ADDITION, WHERE, BASED UPON AN INVESTIGATION ARISING FROM A COMPLAINT, THE ETHICS AND ACCOUNTABILITY BOARD DETERMINES THERE MAY BE GROUNDS FOR FURTHER INVESTIGATION FOR POSSIBLE FORFEITURE OF OR REMOVAL FROM OFFICE UNDER APPLICABLE LAW, THE MATTER MAY BE REFERRED BY THE BOARD TO THE CITY COUNCIL FOR CONSIDERATION OF

**FORFEITURE OR REMOVAL PROCEEDINGS.**

(b) IN THE EVENT THE ETHICS AND ACCOUNTABILITY BOARD DETERMINES A VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT HAS OCCURRED, THE BOARD MAY ADOPT A RESOLUTION OF PUBLIC ADMONITION AGAINST A PUBLIC SERVANT OTHER THAN AN ELECTIVE OFFICER, OR AN APPOINTEE, REGARDING THE VIOLATION. IN ADDITION, WHERE THE ETHICS AND ACCOUNTABILITY BOARD DETERMINES A VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT BY SUCH PUBLIC SERVANT MAY PRESENT GROUNDS FOR DISCIPLINARY ACTION, THE MATTER MAY BE REFERRED BY THE BOARD TO SUCH PUBLIC SERVANT'S SUPERVISOR WITH A RECOMMENDATION THAT THE PUBLIC SERVANT'S CONDUCT BE REVIEWED FOR DISCIPLINARY ACTION.

(c) WHERE THE ETHICS AND ACCOUNTABILITY BOARD FINDS THAT A PUBLIC SERVANT MADE A DECISION IN VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT, THE BOARD MAY RECOMMEND TO THE MAYOR, THE CITY COUNCIL, THE CITY CLERK, THE APPOINTEE, THE

VOTING BODY, OR OTHER PUBLIC SERVANT THAT SUCH DECISION BE REVIEWED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE 2018 FLINT CITY CHARTER AND THIS ORDINANCE. UPON SUCH RECOMMENDATION, THE DECISION MAY BE REVIEWED BY THE MAYOR, THE CITY COUNCIL, THE CITY CLERK, THE APPOINTEE, THE VOTING BODY, OR OTHER PUBLIC SERVANT IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE 2018 FLINT CITY CHARTER, THIS ORDINANCE, AND ANY OTHER APPLICABLE LAWS.

- (d) NO REPORT OR RECOMMENDATION THAT CRITIZES AN OFFICIAL ACT SHALL BE ANNOUNCED UNTIL EVERY AGENCY OR PERSON AFFECTED IS ALLOWED REASONABLE OPPORTUNITY TO BE HEARD WITH COUNSEL.
- (e) THE INVOCATION OF ONE (1) SUBSECTION OF THIS SECTION DOES NOT PRECLUDE THE APPLICATION OF ANY OTHER SUBSECTION OF THIS SECTION OR OF ANY OTHER APPLICABLE LAWS OR POLICIES.

Sec. 2. This ordinance shall become effective this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

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Karen W. Weaver, Mayor

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**Inez M. Brown, City Clerk**

**APPROVED AS TO FORM:**

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**Angela Wheeler, City Attorney**

ORDINANCE NO. \_\_\_\_\_

An Ordinance to amend the Flint City Code of Ordinances by amending Chapter 12, Business and Occupations Generally.

IT IS HEREBY ORDANIED BY THE PEOPLE OF THE CITY OF FLINT:

Sec. 1. An Ordinance to amend the Flint City Code of Ordinances by amending Chapter 12, Business and Occupations Generally, In General, by adding Article XXX, Sections 12-273 thru 12-283, Surveillance Cameras Required for Certain Businesses, which shall read in its entirety as follows:

§12-273. PURPOSE.

THE CITY COUNCIL RECOGNIZES THAT CERTAIN BUSINESSES HAVE CHARATERISTICS WHICH MAY TEND TO INCREASE THE POTENTIAL RISK OF CRIMINAL ACTIVITY ON THEIR PREMISES. THIS CHAPTER IS ENACTED TO REDUCE THE LIKELIHOOD THAT EMPLOYEES AND PATRONS OF THOSE BUSINESSES WILL BE EXPOSED TO POTENTIAL DEATH AND/OR INJURIES BECAUSE OF CRIME OCCURRING ON THE PREMISES. IT IS ALSO INTENDED TO ASSIST LAW ENFORCEMENT WITH THE CRIMINAL INVESTIGATION OF CRIMES ON THE PREMISES OF THE BUSINESSES WHICH ARE THE SUBJECT OF THIS CHAPTER.

§ 12-274. DEFINITIONS

FOR THE PURPOSE OF THIS CHAPTER, THE FOLLOWING DEFINITIONS SHALL APPLY UNLESS THE CONTEXT CLEARLY INDICATES

OR REQUIRES A DIFFERENT MEANING.

**BUSINESS ESTABLISHMENT OR ESTABLISHMENT.** ESTABLISHMENTS LISTED AND DEFINED AS FOLLOWS:

- (1) **BANK OR FINANCIAL INSTITUTION.** AN ESTABLISHMENT WHOSE PRIMARY FUNCTION IS RELATED TO THE CUSTODY, LOAN, EXCHANGE, ISSUANCE OF MONEY, EXTENSION OF CREDIT, OR TRANSMISSION OF FUNDS, AND INLCUDES BANKS, CREDIT UNIONS, OR SAVINGS OR LOANS.
- (2) **CHECK CASHING BUSINESS.** A BUSINESS OFFERING PAYDAY LOANS, CASH ADVANCES, OR CHECK ADVANCE LOANS, AND WHICH IS REGULATED UNDER THE STATE OF MICHIGAN DEFERRED PRESENTMENT SERVICES TRANSACTION, PUBLIC ACT 244 OF 2005, AS AMENDED, OR ANY SIMILAR LAW.
- (3) **COIN DEALER.** ANY ESTABLISHMENT THAT, AS A SUBSTANTIAL PORTION OF ITS BUSINESS, BUYS AND SELLS COINS, GOLD OR OTHER PRECIOUS METALS.
- (4) **FIREARM DEALER.** AN ESTABLISHMENT REQUIRED TO OBTAIN A FEDERAL FIREARMS LICENSE TO SELL FIREARMS AND WHICH

- ENGAGES IN FIREARMS TRANSACTIONS.
- (5) **GAS STATIONS.** A RETAIL ESTABLISHMENT AT WHICH MOTOR VEHICLES ARE REFUELED.
- (6) **HOTEL OR MOTEL.** ANY BUILDING OR STRUCTURE EQUIPPED, USED, ADVERTISED AS, OR HELD OUT TO THE PUBLIC AS A FACILITY OR PLACE WHERE SLEEPING QUARTERS OR OTHER SIMILAR ACCOMODATIONS ARE FURNISHED FOR A FEE TO TRANSIENT GUESTS.
- (7) **LIQUOR OR ALCOHOL BUSINESS.** ANY RETAILER REQUIRED TO OBTAIN A PERMIT BY THE MICHIGAN LIQUOR CONTROL COMMISSION WHICH AUTHORIZES THE SALE OF BEER, WINE, OR DISTILLED SPIRITS TO BE CONSUMED ON OR OFF THE PREMISES WHERE SOLD, AND INCLUDES BREW PUBS, DISTILLERIES ,OR OTHER SIMILARLY LICENSED FACILITIES. IT SHALL ALSO INCLUDE THOSE FACILITIES NOT REQUIRED TO OBTAIN SUCH PERMIT BUT WHICH, DIRECTLY OR INDIRECTLY THROUGH A LEASE OR RENTAL OF THE PREMISES, ALLOWS BEER, WINE, OR DISTILLED SPIRITS TO BE CONSUMED ON PREMISES.
- (8) **MOBILE COMMUNICATIONS DEALER.** ANY RETAILER OF A WIRELESS TWO-WAY COMMUNICATION DEVICE, INCLUDING A TELEPHONE USED IN CELLULAR TELEPHONE SERVICE, WHICH REPRESENTS, ALONG WITH ACCESSORIES RELATED THERETO, MORE THAN 50% OF THE GOODS DISPLAYED FOR RETAIL PURCHASE.
- (9) **MONEY TRANSMISSION SERVICES.** A RETAILER SELLING OR ISSUING PAYMENT INSTRUMENTS OR STORED VALUE DEVIES OR IS RECEIVING MONEY OR MONETARY VALUE FOR TRANSMISSION.
- (10) **PHARMACY.** A FACILITY OR PART OF A FACILITY THAT DISPENSES PRESCRIPTION DRUGS, OR PREPARES PRESCRIPTION DRUGS FOR DELIVERY OR DISTRIBUTION, BUT DOES NOT INCLUDE THE OFFICE OF A DISPENSING PRESCRIBER OR AN AUTOMATED DEVICE.
- (11) **BUSINESS ESTABLISHMENT OR ESTABLISHMENT.** ALSO REFERS TO THOSE BUSINESSES REQUIRED TO OBTAIN A LICENSE PURSUANT TO
- (12) **LUMEN.** THE SI DERIVED UNTI OF LUMNIOUS FLUX; A MEASURE OF THE TOTAL AMOUNT OF VISIBLE LIGHT EMITTED BY A SOURCE.

(13) **MEDIA.** MATERIAL ON WHICH AUDIO, VIDEO, AND ELECTRONIC DATA CAN BE RECORDED FOR THE PURPOSES OF MAKING A PERMANENT RECORD TO AID IN A CRIMINAL INVESTIGATION, THAT CAN BE ENLARGED THROUGH PROJECTION OR OTHER MEANS, IN A FORMAT ABLE TO BE UTILIZED BY THE POLICE DEPARTMENT, COUNTY PROSECUTOR, AND /OR OTHER LAW ENFORCEMENT AGENCY.

(14) **OWNER.** THE INDIVIDUAL, CORPORATION, LIMITED COMPANY, PARTNERSHIP, JOINT VENTURE, OR OTHER GROUP ENTERPRISE LICENSED TO DO BUSINESS OR OTHERWISE OPERATING A BUSINESS ESTABLISHMENT AT A LOCATION WITHIN THE CITY.

(15) **VIDEO SURVEILLANCE SYSTEM.** A CONTINUOUS DIGITAL SURVEILLANCE SYSTEM CONSISTING OF CAMERAS, CABLING, MONITORS, AND DIGITAL VIDEO RECORDERS (DVR) THAT RECORD IN COLOR WITH CAMERAS AND LENSES OF A TYPE, MINIMUM RESOLUTION, NUMBER AND LOCATION APPROVED BY THE CHIEF OF POLICE OR HIS OR HER DESIGNEE. **VIDEO**

**SURVEILLANCE SYSTEMS** MUST BE CAPABLE OF PRODUCING RETRIEVABLE AND IDENTIFIABLE IMAGES AND VIDEO RECORDINGS ON APPROVED MEDIA THAT CAN BE ENLARGED THROUGH PROJECTION OR OTHER MEANS, AND CAN BE MADE A PERMANENT RECORD FOR USE IN A CRIMINAL INVESTIGATION.

§12-275 LIGHTING.

EVERY BUSINESS ESTABLISHMENT IN THE CITY, UNLESS THE STORE IS NOT OPEN FOR BUSINESS AFTER SUNSET AND BEFORE SUNRISE, IS HEREBY REQUIRED TO INSTALL AND PROVIDE LIGHTING FOR ITS PARKING AREA DURING ALL HOURS OF DARKNESS WHEN EMPLOYEES AND/OR CUSTOMERS ARE ON THE PREMISES. SUCH LIGHTING SHALL BE AT A MINIMUM AVERAGE OF TWO LUMENS PER SQUARE FOOT.

§ 12-276 VIDEO SURVEILLANCE SYSTEM REQUIRED.

(A) EVERY BUSINESS ESTABLISHMENT IN THE CITY IS HEREBY REQUIRED TO INSTALL A VIDEO SURVEILLANCE SYSTEM. VIDEO SURVEILLANCE SYSTEMS SHALL BE MAINTAINED IN PROPER WORKING ORDER AT ALL TIMES, SHALL BE IN OPERATION AT ALL HOURS THE ESTABLISHMENT IS OPEN TO CUSTOMERS, AND SHALL

MEET THE MINIMUM  
TECHONOLOGICAL  
STANDARDS ESTABLISHED IN  
THIS CHAPTER OR BY  
RESOLUTION OF CITY  
COUNCIL.

- (B) A MINIMUM OF THREE HIGH  
RESOLUTION SURVEILLANCE  
CAMERAS LOCATED IN THE  
PUBLIC AREAS OF A BUSINESS  
ESTABLISHMENT ARE  
REQUIRED OF EACH VIDEO  
SURVEILLANCE SYSTEM. AT  
LEAST ONE CAMERA SHALL  
PROVIDE AN OVERALL VIEW  
OF THE COUNTER AND  
REGISTER AREA; AT LEAST  
ONE CAMERA SHALL BE  
POSITIONED TO PROVIDE A  
CLEAR, IDENTIFIABLE, FULL-  
FRAME IMAGE OF THE FACE  
OF EACH PERSON ENTERING  
AND LEAVING THE BUSINESS  
ESTABLISHMENT; AND THE  
LEAST ONE CAMERA SHALL BE  
POSITIONED TO PROVIDE AN  
OVERALL VIEW OF THE  
BUSINESS ESTABLISHMENT'S  
PARKING LOT. CAMERA VIEWS  
SHALL NOT BE OBSTRUCTED  
BY STORE FIXTURES OR  
DISPLAYS.
- (C) BUSINESS ESTABLISHMENTS  
WHICH INSTALLED VIDEO  
SURVEILLANCE SYSTMES  
PRIOR TO THE EFFECTIVE  
DATE OF THIS CHAPTER MUST  
ENSURE THEY ARE IN FULL  
COMPLIANCE WITH THIS  
CHAPTER.
- (D) DOCUMENTATION  
EVIDENCING THE  
INSTALLATION OF SUCH

SYSTEM MUST BE PRESENTED  
TO THE POLICE DEPARTMENT,  
WHO SHALL VERIFY  
COMPLIANCE WITH THIS  
CHAPTER. THE SUFFICIENCY  
OF SUCH DOCUMENTATION  
SHALL BE DETERMINED AT  
THE DISCRETION OF THE  
POLICE CHIEF OR THEIR  
DESIGNEE. UPON APPROVAL  
OF SUCH DOCUMENTATION,  
THE POLICE DEPARTMENT  
WILL ISSUE A WRITTEN  
APPRVOAL NOTICE WHICH  
WILL BE PLACED IN PLAIN  
VIEW INSIDE THE PREMISES.  
THIS APPRVOAL NOTICE WILL  
ALSO INFORM CUSTOMERS  
AND EMPLOYEES OF THE  
EXISTENCE OF THE VIDEO  
SURVEILLANCE SYSTEM. A  
COPY OF THE APPORVAL  
NOTICE OR OTHER  
VERIFICATION OF  
COMPLIANCE SHALL THEN BE  
TRANSMITTED BY THE POLICE  
DEPARTMENT TO THE CITY  
CLERK. SUCH VERIFICATION  
MUST BE ON RECORD AND UP-  
TO-DATE AT THE TIME OF A  
BUSINESS ESTABLISHMENT'S  
APPLICATION FOR OR  
RENEWAL OF A BUSINESS  
LICENSE OR SUCH LICENSE  
SHALL BE DENIED.

§12-277 ACCESS TO MEDIA.

IF A CRIME OCCURS OR AN  
EMPLOYEE OF A BUSINESS  
ESTABLISHMENT BELIEVES A  
CRIME HAS OCCURRED, THE  
POLICE DEPARTMENT SHALL BE  
CONTACTED IMMEDIATELY, AND



THE BUSINESS ESTABLISHMENT SHALL RETAIN THE CONTINUOUS DIGITAL IMAGES OF THE EVENT RECORDED BY THE VIDEO SURVEILLANCE SYSTEM FOR NO LESS THAN 60 DAYS. SUBJECT TO ANY CONSTITUTIONAL RESTRICTIONS, UPON REASONABLE NOTIFICATION, THE BUSINESS ESTABLISHMENT SHALL PROVIDE ACCESS TO THE MEDIA CONTAINING THE RECORDED EVENT TO THE POLICE DEPARTMENT. FAILURE TO PROVIDE ACCESS TO THE VIDEO SURVEILLANCE SYSTEM MAY RESULT IN THE POLICE DEPARTMENT OR OTHER LAW ENFORCEMENT AGENCY MAKING A REQUEST FOR A SEARCH WARRANT TO SEIZE THE VIDEO SURVEILLANCE SYSTEM, OR ANY PART OR UNIT OF THE SYSTEM, DEPENDING ON THE NATURE OF THE INCIDENT.

§12-278 MINIMUM TECHNOLOGICAL STANDARDS.

THE VIDEO SURVEILLANCE SYSTEM MUST BE CAPABLE OF DELINEATING ON PLAYBACK OF THE SYSTEM THE ACTIVITY AND PHYSICAL FEATURES OF PERSONS OR AREAS WITHIN THE PUBLIC AREAS OF THE PREMISES AND MUST BE ABLE TO RECORD SUCH IMAGES ON AN APPROVED FORM OF EXTERNAL MEDIA. THE CONTINUOUS DIGITAL IMAGES RECORDED BY ANY VIDEO SURVEILLANCE SYSTEM SHALL BE RETAINED FOR NO LESS THAN 30 DAYS. CAMERAS PLACED

OUTDOORS OR IN LOW LIGHT AREAS MUST HAVE INFRARED ILLUMINATORS. ADDITIONAL MINIMUM TECHNOLOGICAL STANDARDS ARE REQUIRED FOR VIDEO SURVEILLANCE SYSTEMS SHALL BE ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL, WHICH MAY BE UPDATED PERIODICALLY. THE POLICE DEPARTMENT SHALL REVIEW THE VIDEO SURVEILLANCE SYSTEM STANDARDS BI-ANNUALLY TO ENSURE THAT THEY ARE CONSISTENT WITH CURRENT TECHNOLOGY AND SHALL RECOMMEND APPROPRIATE UPDATES TO THE CITY COUNCIL WHEN NECESSARY.

§12-279 SITE ASSESMENT AND SIGNAGE

THE CHIEF OF POLICE OR HIS OR HER DESIGNEE WILL CONDUCT AN ASSESSMENT OF EACH SITE REQUIRE TO INSTALL A VIDEO SURVEILLANCE SYSTEM SHORTLY FOLLOWING INSTALLATION, AND UPON APPROVAL WILL ISSUE A WRITTEN APPROVAL NOTICE WHICH WILL BE PLACED IN PLAIN VIEW INSIDE THE PREMISES. THIS APPROVAL NOTICE WILL ALSO INFORM CUSTOMERS AND EMPLOYEES OF THE EXISTENCE OF THE VIDEO SURVEILLANCE SYSTEM.

§12-280 INSPECTIONS.

THE VIDEO SURVEILLANCE SYSTEM SHALL BE SUBJECT TO

REGULAR INSPECTION BY THE CHIEF OF POLICE OR THEIR DESIGNEE, WHO IS AUTHORIZED TO INSPECT AT REASONABLE TIMES ANY VIDEO SURVEILLANCE SYSTEM TO DETERMINE IF THE SYSTEM CONFORMS WITH THIS CHAPTER AND REGULATIONS ADOPTED BY CITY COUNCIL RESOLUTION.

§12-281 ENFORCEMENT

- (A) BUSINESS ESTABLISHMENTS SUBJECT TO THE MANDATORY REQUIREMENTS OF THIS CHAPTER SHALL HAVE ONE YEAR FROM THE EFFECTIVE DATE OF THIS CHAPTER TO COMPLY WITH THE REGULATIONS SET FORTH HEREIN.
- (B) VIOLATION OF ANY PROVISION OF THIS CHAPTER BY ANY OWNER OR PRINCIPAL OPERATOR OF AN ESTABLISHMENT SHALL RESULT IN A NOTICE OF VIOLATION FROM THE CHIEF OF POLICE OR HIS/HER DESIGNEE TO SAID ESTABLISHMENT AT THE ADDRESS PROVIDED BY THE ESTABLISHMENT.
- (C) THE NOTICE OF VIOLATION REQUIRED UNDER THIS SECTION SHALL BE IN WRITING, SET FORTH THE BASIS OF THE VIOLATION, AND INFORM THE OWNER OR PRINCIPAL BUSINESS OPERATOR OF THE ESTABLISHMENT THAT HE/SHE HAS TEN DAYS FROM THE

DATE OF MAILING OF THE NOTICE TO FILE A WRITTEN REQUEST FOR AN ADMINISTRATIVE HEARING TO APPEAL THE FINDING OF VIOLATION TO THE CITY ADMINISTRATOR OR HIS/HER DESIGNEE. THE ADMINISTRATIVE HEARING SHALL BE HELD WITHIN 10 DAYS AFTER THE POLICE DEPARTMENT RECEIVES A TIMELY REQUEST FOR A HEARING, BUT IN NO EVENT SOONER THAN FIVE DAYS OR LATER THAN 20 DAYS AFTER RECEIPT OF A TIMELY REQUEST FOR A HEARING.

- (D) AT THE ADMINISTRATIVE HEARING, FORMAL RULES OF EVIDENCE SHALL NOT APPLY. THE PARTY FOR WHOM THE NOTICE OF VIOLATION WAS ISSUED SHALL BE ENTITLED TO PRESENT EVIDENCE, INCLUDING THE TESTIMONY OF WITNESSES AND ARGUMENT AS TO WHY THE FINDING OF A VIOLATION WAS INCORRECT.
- (E) FOLLOWING THE HEARING, THE CITY ADMINISTRATOR OR HIS/HER DESIGNEE SHALL RENDER A WRITTEN DECISION EITHER SUSTAINING OR REVERSING THE FINDING OF A VIOLATION. WITHIN ONE WEEK FOLLOWING THE HEARING, THE POLICE DEPARTMENT SHALL SEND THE WRITTEN DECISION TO THE PARTY FOR WHOM THE

NOTICE OF VIOLATION WAS  
ISSUE.

- (F) IF NO REQUEST FOR ADMINISTRATIVE HEARING IS FILED, OR IF A HEARING IS REQUESTED BUT THE FINDING OF A VIOLATION IS THEREAFTER SUSTAINED, VIOLATORS SHALL HAVE 30 DAYS AFTER RECEIPT OF THE NOTICE OF VIOLATION OR DECISION SUSTAINING THE FINDING, AS THE CASE MAY BE, TO PROVIDE THE POLICE DEPARTMENT PROOF THE VIOLATION HAS BEEN CORRECTED. IF THE VIOLATION CONTINUES AFTER THE 30-DAY PERIOD, THE CHIEF OF POLICE OR DESIGNEE SHALL REFER THE MATTER TO THE CITY ATTORNEY'S OFFICE FOR PROSECUTION AS PROVIDED BY LAW.
- (G) ANY VIOLATION OF OR FAILURE TO COMPLY WITH THIS CHAPTER OR ANY OF THE REQUIREMENTS THEREOF, SHALL BE PROSECUTED WITHIN THE LIMITS PROVIDED BY STATE AND LOCAL LAWS. SAID PROSECUTION BY MEANS OF A CITATION FOR MUNICIPAL INFRACTION. FOR PURPOSES OF THIS CHAPTER, EACH 30 DAY PERIOD THAT A VIOLATION CONTINUES SHALL BE A SEPARATE VIOLATION.

§12-282 EXEMPTIONS.

A BUSINESS ESTABLISHMENT WHICH IS REQUIRED TO INSTALL A VIDEO SURVEILLANCE SYSTEM

MAY BE EXEMPT FROM THE REQUIREMENTS OF THIS ORDINANCE IF

- (A) THE ESTABLISHMENT IS NOT REGULARLY OPEN TO THE PUBLIC (INCLUDING STRICTLY BY WAY OF EXAMPLE, A HOME BASED BUSINESS)
- (B) THE ESTABLISHMENT HAS TAKEN OR WILL TAKE ALTERNATIVE SECURITY MEASURES AND PROCEDURES WHICH ARE SUBSTANTIALLY EQUAL TO OR MORE EFFECTIVE THAN THE REQUIREMENTS OF THIS CHAPTER IN PREVENTING CRIMINAL ACTIVITY AND ASSISTING IN THE APPREHENSION OF THE PERPETRATORS OF CRIME OR THE PROTECTION OF EMPLOYEES AND PATRONS; AND
- (C) THE ESTABLISHMENT HAS BEEN AUTHORIZED BY THE CHIEF OF POLICE OR HIS/HER DESIGNEE TO IMPLEMENT ALTERNATE SECURITY MEASURES AND PROCEDURES ON AN EXPERIMENTAL BASIS. WITHIN TEN DAYS OF MAILING OF THE WRITTEN NOTICE OF VIOLATION, THE OWNER OF THE BUSINESS ESTABLISHMENT MAY APPEAL THE ALLEGED VIOLATION BY REQUESTING A HEARING BEFORE ADMINISTRATOR OR THEIR DESIGNEE. SUCH A REQUEST MUST BE MADE IN WRITING AND MUST SET FOR

THE SPECIFIC GROUNDS FOR  
APPEAL.

AN ESTABLISHMENT WHICH  
SEEKS AN EXEMPTION PURSUANT  
TO THIS SECTION SHALL APPLY,  
ON AN ANNUAL BASIS, TO THE  
CHIEF OF POLICE OR HIS/HER  
DESIGNEE FOR EXEMPTION FROM  
THE PROVISIONS OF THIS  
CHAPTER. THE APPLICATION  
SHALL BE IN WRITING AND  
SHALL STATE THE BASIS FOR THE  
EXEMPTION SOUGHT IN  
SUFFICIENT DETAIL TO ENABLE  
THE CHIEF OF POLICE OR  
DESIGNEE TO DETERMINE  
WHETHER THE PURPOSES OF THIS  
CHAPTER WOULD STILL BE MET  
IF THE EXEMPTION WERE  
GRANTED.

AN EXEMPTION GRANTED  
PURSUANT TO THIS SECTION  
SHALL CARRY A MAXIMUM  
DURATION OF TWELVE MONTHS.  
ANY ESTABLISHMENT SEEKING  
TO EXTEND STATUS MUST  
REAPPLY FOR AN EXEMPTION NO  
LATER THAN 30 DAYS PRIOR TO  
THE END OF THE EXEMPTION  
PERIOD.

ANY ESTABLISHMENT WHICH  
HAS BEEN GRANTED AN  
EXEMPTION UNDER THIS  
SECTION, OR AN EXTENSION  
THEREOF, WHICH DOES NOT SEEK  
TO FURTHER EXTEND THE  
EXEMPTION PURSUANT TO  
SECTION, SHALL OBTAIN THE  
CITY'S APPROVAL OF A VIDEO  
SURVEILLANCE SYSTEM NO  
LATER THAN 30 DAYS PRIOR TO

THE END OF THE EXEMPTION  
PERIOD.

THE CHIEF OF POLICE OR HIS/HER  
DESIGNEE MAY ALSO AUTHORIZE  
TEMPORARY EXTENSIONS OF  
TIME FOR INSTALLATION OF A  
VIDEO SURVEILLANCE SYSTEM  
WHEN AN ESTABLISHMENT  
DEMONSTRATES TO THE  
SATISFACTION OF THE CITY THAT  
IT IS TEMPORARILY UNABLE TO  
COMPLY FOR GOOD CAUSE  
SHOWN.

ANY PARTY AGGRIEVED BY THE  
DENIAL OF AN EXEMPTION  
UNDER THIS SECTION MAY  
REQUEST A HEARING AS  
PROVIDED IN SECTION 12-281. THE  
DECISION RENDERED PURSUANT  
TO SECTION 12-281 SHALL BE THE  
FINAL DECISION OF THE CITY.

Sec. 2. This ordinance shall become  
effective immediately upon publication.

Adopted this \_\_\_\_\_ day of  
\_\_\_\_\_, 2019 A.D.

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**Dr. Karen W. Weaver, Mayor**

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**Inez M. Brown, City Clerk**

**APPROVED AS TO FORM:**

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**Angela Wheeler, Chief Legal Officer**

180590

RESOLUTION NO.: \_\_\_\_\_

PRESENTED: 11-20-18 \_\_\_\_\_

ADOPTED: \_\_\_\_\_

**RESOLUTION TO ADOPT THE ANTI-BULLYING POLICY**

**BY THE MAYOR:**

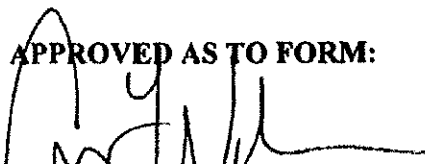
WHEREAS, The City of Flint intends to protect the rights of public servants and employees by adopting policies and procedures regarding bullying.

WHEREAS, The City has prepared an Anti-Bullying Policy. The policy is attached.


WHEREAS, Mayor, Karen W. Weaver recommends adopting the Anti-Bullying Policy.

THEREFORE, BE IT RESOLVED that the Flint City Council agrees to adopt the Anti-Bullying Policy.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Angela Wheeler, Chief Legal Officer

FOR THE CITY OF FLINT:

  
\_\_\_\_\_  
Dr. Karen W. Weaver, Mayor

APPROVED AS TO FINANCE:

  
\_\_\_\_\_  
Hughey Newsome, Chief Financial Officer

APPROVED BY CITY COUNCIL:

\_\_\_\_\_  
Herbert Winfrey, City Council President

# Resolution Routing

**TO:** Resolution Signatories  
**FROM:** **Law Department**  
**SUBJECT:** RESOLUTION FOR APPROVAL

This RESOLUTION has been forwarded to you for your respective review and approval.

**Date recorded:**

11/15/2018

18-10470

All documents should be reviewed within three working days after receipt by your office.

## Anti-Bullying Policy

The attached resolution is submitted to the Legal Dept. for approval as to form only:

<b>Review and Approval:</b>	<b>IN</b>	<b>OUT</b>	<b><u>Approval</u></b>
1. City Attorney (Form Only):		11/15/2018	
2. Finance		11/15/2018	
3. City Administrator			

**Please call Jennifer at ex. 2082**



## City of Flint

<b>Policy: Anti-Bullying Policy</b>	<b>Original Date:</b>
Issued by the City of Flint Legal Department and the Human Resources & Labor Relations Department	<b>Revision Date:</b>

**Disclaimer:** No statements in this policy are intended or set forth as contractual commitments or obligations of the City to any individual employee or group of employees or to establish an exception to the employment-at-will doctrine beyond that specified in contracts or pertinent collective bargaining agreements. If there are differences between the various collective bargaining agreements and this policy, the pertinent collective bargaining agreement takes precedence.

## INTRODUCTION

The following is the City of Flint's policy prohibiting bullying of City public servants<sup>1</sup>, employees or job applicants. The Complaint/Report Procedure described in this policy should be utilized to report bullying. The City will take appropriate action to prevent bullying and will protect the rights of public servants and employees who file complaints.

## PURPOSE

The City of Flint ("City") considers workplace bullying unacceptable and will not tolerate it under any circumstances. This policy shall apply to all public servants, employees, contractors, interns, externs, and volunteers. Any employee found in violation of this policy will be disciplined, up to and including discharge.

### A. Work Place Bullying Defined

The City defines bullying as persistent, malicious, unwelcome, severe and pervasive mistreatment that harms, intimidates, offends, degrades or humiliates an employee, whether verbal, physical or otherwise, at the place of work and/or in the course of employment.

The City promotes a healthy workplace culture where all employees are able to work in an environment free of bullying behavior.

The City encourages all public servants and employees to report any instance of bullying behavior. Any reports of this type will be treated seriously, investigated promptly and impartially. The complaint and procedure policy will be followed as found in this policy.

### B. Work Place Bullying Behavior

The City considers the following types of behavior as workplace bullying. Please note, this list is not meant to be exhaustive and is only offered by way of example:

1. Exclusion or social isolation;
2. Excessive monitoring or micro-managing;
3. Personal attacks (angry outbursts, excessive profanity, or name-calling);
4. Encouragement of others to turn against the targeted employee;
5. Sabotage of a co-worker's work product or undermining of an employee's work performance;
6. Stalking;

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<sup>1</sup> Public Servants: All persons employed or otherwise engaged by the Corporation of the City of Flint to conduct business on its behalf including but not limited to elected officials, appointed employees, members of boards and commissions, classified employees, contractual employees, and volunteers. Flint City Charter §1-405



7. Unwelcome touching or uncontested-to touching;
8. Invasion of another's person's personal space;
9. Unreasonable interference with an employee's ability to do his or her work (i.e., overloading of emails);
10. Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults and epithets; and
11. Conduct a reasonable person would find hostile, offensive, and unrelated to the employer's legitimate business interests

**C. Complaint/Report Procedure**

The following procedure shall be utilized by the City public servants and employees for the processing of complaints relating to bullying in the work place. This procedure shall apply only to those complaints directed against a person who at the time of the filing of the complaint is a City of Flint employee or public servant. The procedure may be utilized with regard to complaints covering administrators, supervisory personnel and co-employees. While the procedure itself is not directly applicable to complaints involving non-employees of the City of Flint, any bullying from such individuals in the City of Flint work place should be brought to the attention of the employee's supervisor and/or the Human Resources Director.

**1. City of Flint Fact Finding Procedure**

- i. An employee, regardless of position, who feels he or she is being or has been subjected to bullying is expected to notify the Human Resources Director or his/her supervisor (or a higher level supervisor if the immediate supervisor is the offending party) immediately by issuing their complaint in writing or verbally. All complaints will be forwarded to the Human Resources Director if the offending party. If the Human Resources Director is believed to have violated the City's Anti-Bullying Policy, the employee should immediately file a written or verbal complaint with the City Attorney.
- ii. The written complaint must provide the following:
  - a. The dates and times the instances of bullying have occurred;
  - b. The identity of the perpetrators;
  - c. Any known witnesses;
  - d. The nature of the conduct amounting to bullying; and
  - e. A request for an investigation.
- iii. If a verbal complaint is made then the person who took the complaint must reduce the complaint to writing and provide the requirements listed under Section E(1)(ii)

The Human Resources/Labor Relations Director then assigns an Investigator to the complaint. Information received during the complaint process will be treated as confidentially as may be permitted under the circumstances, giving due regard to an employee's right to be apprised of and respond to allegations made against him or her.

## **2. Investigation Process**

- i. During the investigation a statement of public servants and/or employees or others with any possible knowledge of the situation are obtained through interviews. The statement may be reduced to writing for signature by the maker of the statement recorded or transcribed at the discretion of the investigator.
- ii. The complainant and the accused employee may be accompanied at the time of the statement by his or her union steward. Other persons may not be allowed at the time the statement is made.
- iii. Any physical and/or documentary evidence is collected or secured.
- iv. Upon completion of the investigation, a summary report of the findings and the investigator's recommendation is prepared and submitted to the Human Resources Director.
- v. The Human Resources Director in consultation with the City Administrator will issue the final determination as to whether the City's Anti-Bullying Policy has been violated.
- vi. If it is found the Policy has been violated, the Human Resources and Labor Relations Director in consultation with the City Administrator will determine what amount of disciplinary action is appropriate, and initiate implementation of discipline.

Although confidentiality will be maintained to the extent practicable throughout the investigation process, notification to the accused may occur at any step of this investigation process.

At any stage in the process an investigation may be discontinued or held in abeyance due to conflicting or insufficient evidence, improper motivation or lack of jurisdiction as determined by the investigator. The Human Resources Director, in consultation with the City Administrator, shall have final authority to determine whether an investigation proceeds or is discontinued. If the Human Resources Director is the subject of such investigation, final authority shall rest with the City Attorney.

**3. Unsubstantiated Complaints**

- i. If, as a result of the investigation, it is determined no violation of the policy has occurred, or there is insufficient information from which to make a determination whether a violation has occurred: The complainant and alleged bully shall be notified of the finding and the reason(s) therefore.

**D. False Allegations**

- i. If after an investigation the City of Flint finds clear and convincing evidence a complainant knowingly made false complaints, the complainant may be subject to disciplinary action up to and including termination.

**DRAFT**

180591

RESOLUTION NO.: \_\_\_\_\_

PRESENTED: 11-20-18

ADOPTED: \_\_\_\_\_

**RESOLUTION TO ADOPT HARASSMENT AND DISCRIMINATION IN THE WORK PLACE POLICY AND COMPLAINT PROCEDURE**

**BY THE MAYOR:**

**WHEREAS,** The City of Flint intends to protect the rights of public servants and employees by adopting policies and procedures regarding discrimination and harassment.

**WHEREAS,** The City has prepared a Harassment and Discrimination in the Work Place Policy and Complaint Procedure. The policy is attached.

**WHEREAS,** Mayor, Karen W. Weaver recommends adopting the Harassment and Discrimination in the Work Place Policy and Complaint Procedure.

**THEREFORE, BE IT RESOLVED** that the Flint City Council agrees to adopt the Harassment and Discrimination in the Work Place Policy and Complaint Procedure.

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Angela Wheeler, Chief Legal Officer

**FOR THE CITY OF FLINT:**

  
\_\_\_\_\_  
Dr. Karen W. Weaver, Mayor

**APPROVED AS TO FINANCE:**

  
\_\_\_\_\_  
Hughey Newsome, Chief Financial Officer

**APPROVED BY CITY COUNCIL:**

\_\_\_\_\_  
Herbert Winfrey, City Council President

# Resolution Routing

**TO:** Resolution Signatories  
**FROM:** **Law Department**  
**SUBJECT:** RESOLUTION FOR APPROVAL

This RESOLUTION has been forwarded to you for your respective review and approval.

**Date recorded:**

11/15/2018

18-6469

All documents should be reviewed within three working days after receipt by your office.

## Harassment and Discrimination Policy

The attached resolution is submitted to the Legal Dept. for approval as to form only:

Review and Approval:	IN	OUT	<u>Approval</u>
1. City Attorney (Form Only):		11/15/2018	
2. Finance		11/15/2018	
3. City Administrator			

**Please call Jennifer at ex. 2082**



**City of Flint**

<b>Policy: Harassment and Discrimination in the Work Place Policy and Complaint Procedure</b>	Original Date:
Issued by the City of Flint Legal Department and the Human Resources & Labor Relations Department	Revision Date:

Disclaimer: No statements in this policy are intended or set forth as contractual commitments or obligations of the City to any individual employee or group of employees or to establish an exception to the employment-at-will doctrine beyond that specified in contracts or pertinent collective bargaining agreements. If there are differences between the various collective bargaining agreements and this policy, the pertinent collective bargaining agreement takes precedence.

DRAFT

## INTRODUCTION

The following is the City of Flint's policy prohibiting discrimination and harassment of City public servants<sup>1</sup>, employees or job applicants on any basis protected by federal, state or local law. The Complaint/Report Procedure described in this policy should be utilized to report discrimination and harassment. The City will take appropriate action to prevent discrimination and harassment and will protect the rights of public servants and employees who file complaints.

## PURPOSE

Because the City of Flint ("the City") is an equal opportunity employer, it is the policy of the City that public servants, officials, employees and applicants shall receive consideration and treatment consistent with all equal employment opportunity laws in all terms and all conditions of work. This includes a workplace free of discriminatory and harassing conduct as those terms are defined. The City does not discriminate against anyone on the basis of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, gender identity, gender expression, familial status, age, or non-disqualifying physical or mental disability, or any basis protected by federal, state, or local law.

The City strives to provide a work environment which promotes respect and in which each employee has the opportunity to develop to his or her full potential. Discrimination and harassment are strictly prohibited, not only because they violate the law, but also because they are contrary to the City's interest in attracting, retaining and promoting the most talented, effective and dedicated employees.

The City has an internal Complaint/Report Procedure to address and resolve complaints of discrimination and harassment. The City will take appropriate action to prevent discrimination and harassment, and to protect the rights of public servants who file complaints.

### A. Discrimination is Prohibited

<sup>1</sup> Public Servants: All persons employed or otherwise engaged by the Corporation of the City of Flint to conduct business on its behalf including but not limited to elected officials, appointed employees, members of boards and commissions, classified employees, contractual employees, and volunteers. Flint City Charter §1-405

The City requires all applicants, public servants, and employees be treated as individuals, on the basis of their own qualifications, skills, abilities, conduct and performance. Discrimination on account of any status protected by law, including but not limited to those identified in the first paragraph above, is prohibited. This Policy applies to all employment practices, including recruitment, hiring, evaluation, promotion, transfer, discipline and termination, as well as to all forms of compensation and benefits.

All personnel working for the City, including public servants, contractors, students, interns, externs and volunteers are required to comply with this Policy, including the Complaint/Report procedure. All personnel must behave in a non-discriminatory and business-like manner in all dealings with co-workers and all non-employees of the City contracted in the course of employment. The Policy also prohibits discrimination and harassment by persons doing business with the City, including vendors.

## **B. Harassment is Prohibited**

Additionally, this Policy prohibits harassment, both in the workplace and in other work-related activities, such as business trips and business-related meetings and social events. No employee should have to tolerate harassment of the type described in this Policy and the City takes allegations of harassment seriously. The City will promptly investigate all reports and complaints of prohibited harassment. If it is determined inappropriate conduct has occurred, the City will take corrective and remedial action appropriate to the situation. If any public servant or employee engages in harassment prohibited by this Policy, they will be subject to disciplinary action, up to and including discharge.

## **C. Sexual Harassment is Prohibited**

Sexual harassment in the workplace or in other work-related settings is illegal and is prohibited by this Policy. Sexual harassment is typically defined as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, when:

- Submission to that conduct is made explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of that conduct is used as a basis for employment decisions; or
- The conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

For the purpose of this Policy "unwelcome" means "unwanted." An employee should never assume any such conduct is welcomed by others.



Under the definition given above, sexual harassment includes a direct or implied request by a supervisor for sexual favors in exchange for favorable job action (such as a favorable review, a salary increase or promotion) or in exchange for avoiding unfavorable job action (such as demotion, discipline or discharge). Any such requests are strictly prohibited and will result in disciplinary action or discharge. If any supervisor or manager makes any such direct or implied request, it must be reported as described in the policy. The City will take actions appropriate to fully investigate allegations of harassment.

The legal definition of sexual harassment also includes other types of conduct. While it is not possible to describe all circumstances which may constitute sexual harassment, the following are examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances, including the severity and pervasiveness of the conduct:

- Sexual advances and propositions, with or without physical contact;
- Making or threatening reprisal for a negative response to sexual advances;
- Sexual epithets and jokes and written or oral remarks about a person's sex life, body or sexual activities, sexual deficiencies or prowess;
- Displaying or circulating obscene or sexually suggestive objects, pictures, cartoons, internet materials or screen-savers;
- Gossip or questions about someone's sexual experiences, gender identification, or orientation or talking about sexual experiences;
- Assaults, pinching, hugging, kissing or touching of an offensive or sexual nature or rubbing up against the body or impeding or blocking movement;
- Leering, wolf whistles, catcalls, sexual slurs or gestures, or sexually suggestive, insulting or degrading comments;
- Sexually suggestive or obscene letters, notes, e-mails or invitations; and
- Repeated flirtation, requests for dates and the like by anyone to someone who has indicated such attentions are not welcome.

*Whether such conduct is deemed to be illegal or not, unwelcome and offensive conduct of these types by any individual toward anyone is prohibited by this Policy. Anyone found to be in violation of this policy is subject to disciplinary action up to and including termination and any other penalties recognized by Federal, State and Local law.*

#### **D. Other Types of Harassment are Prohibited**

Not all harassment is sexual. This Policy also prohibits verbal or physical harassment of any person because of his or her race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, gender identity, gender expression, familial status, age, disability, height, weight, marital status, or protected status or exercise of legal rights, including the right to report violations of this Policy, where such conduct is unwelcome and has the effect

of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. Whether any such conduct is deemed to be illegal or not, conduct such as that described below is prohibited:

- Epithets, slurs, ridicule, insults, or threatening, intimidating or hostile acts, including those that purport to be "jokes" or "pranks," made to or about someone because of his or her membership in a protected class or exercise of legal rights;
- Stereotyping or offensive comments, cartoons, pictures or objects that denigrate or insult members of a protected class or those who exercise legal rights; and
- Demeaning, hostile or derogatory remarks directed at someone because of his or her protected class status or exercise of legal rights.

These are just some examples of conduct which may constitute harassment, depending upon the totality of circumstances, including the severity and pervasiveness of the conduct.

## E. Complaint/Report Procedure

The following procedure shall be utilized by the City public servants and employees for the processing of complaints relating to discrimination and harassment. This procedure shall apply only to those complaints directed against a person who at the time of the filing of the complaint is a City of Flint employee or public servant. The procedure may be utilized with regard to complaints covering administrators, supervisory personnel and co-employees. While the procedure itself is not directly applicable to complaints involving non-employees of the City of Flint, any discrimination or harassment from such individuals in the City of Flint work place should be brought to the attention of the employee's supervisor and/or the Human Resources Director.

### 1. City of Flint Fact Finding Procedure

- i. An employee, regardless of position, who feels he or she is being or has been subjected to illegal discrimination or harassment by another person on the basis of their race, color, sex, religion, ancestry, national origin, place of birth, sex, sexual orientation, gender identity, gender expression, familial status, age, disability height, weight, marital status, is expected to notify the Human Resources Director or his/her supervisor (or a higher level supervisor if the immediate supervisor is the offending party) immediately by issuing their complaint in writing or verbally. All complaints will be forwarded to the Human Resources Director unless the Human Resources Director is the offending party. If the Human Resources Director is believed to have violated the City's No Harassment and Discrimination in the Work Place Policy, the employee should immediately file a written or verbal complaint with the City Attorney.

- ii. The written complaint must provide the following:
  - a. The dates and times the instances of discrimination or harassment have occurred;
  - b. The identity of the perpetrators;
  - c. Any known witnesses;
  - d. The nature of the conduct amounting to the discrimination or harassment; and
  - e. A request for an investigation
- iii. If a verbal complaint is made then the person who took the complaint must reduce the complaint to writing and provide the requirements listed under Section E(1)(ii).

The Human Resources/Labor Relations Director then assigns an investigator to the complaint. Information received during the complaint process will be treated as confidentially as may be permitted under the circumstances, giving due regard to an employee's right to be apprised of and respond to allegations made against him or her.

## **2. Investigation Process**

- i. During the investigation a statement of public servants and/or employees or others with any possible knowledge of the situation are obtained through interviews. The statement may be reduced to writing for signature by the maker of the statement recorded or transcribed at the discretion of the investigator.
- ii. The complainant and the accused employee may be accompanied at the time of the statement by his or her union steward. Other persons may not be allowed at the time the statement is made.
- iii. Any physical and/or documentary evidence is collected or secured.
- iv. Upon completion of the investigation, a summary report of the findings and the Investigator's recommendation is prepared and submitted to the Human Resources Director.
- v. The Human Resources Director in consultation with the City Administrator will issue the final determination as to whether the City's No Harassment and Discrimination in the Work Place Policy has been violated.

- vi. If it is found the Policy has been violated, the Human Resources and Labor Relations Director in consultation with the City Administrator will determine what amount of disciplinary action is appropriate, and initiate implementation of discipline.

Although confidentiality will be maintained to the extent practicable throughout the investigation process, notification to the accused may occur at any step of this investigation process.

At any stage in the process an investigation may be discontinued or held in abeyance due to conflicting or insufficient evidence, improper motivation or lack of jurisdiction as determined by the investigator. The Human Resources Director, in consultation with the City Administrator, shall have final authority to determine whether an investigation proceeds or is discontinued. If the Human Resources Director is the subject of such investigation, final authority shall rest with the City Attorney.

### **3. Unsubstantiated Complaints**

- i. If, as a result of the investigation, it is determined no violation of the policy has occurred, or there is insufficient information from which to make a determination whether a violation has occurred: The complainant and alleged harasser shall be notified of the finding and the reason(s) therefore.

## **F. Federal, State and Local Laws**

Federal, state and local laws prohibit illegal discrimination, harassment and retaliation. It is the policy of the City to comply with all state and federal laws which prohibit illegal harassment and discrimination in the workplace, including the Elliott-Larsen Civil Rights Act and Title VII of the 1964 Civil Rights Act.

## **G. False allegations**

If after an investigation the City of Flint finds clear and convincing evidence a complainant knowingly made false complaints, the complainant may be subject to disciplinary action up to and including termination.

# **RESOLUTION NO. 190011**

**(Resolution to Adopt the Alcohol & Drug Free Workplace and Testing Policy) is being prepared by the Administration for the 2/20/2019 Legislative Committee agenda. Policy attached.**

**CITY OF FLINT**  
**ALCOHOL & DRUG FREE WORKPLACE AND TESTING POLICY**

**1. PURPOSE**

The City of Flint recognizes the importance of a drug and alcohol free workplace. The abuse of drugs, alcohol or other chemical substances by an employee endangers the safety of the public, the employee, and other City employees. The City recognizes it is in its best interest, as well as the best interest of its employees and the public, to prevent and eliminate drug, alcohol and/or substance abuse in the work place. Any employee found using, possessing, selling, distributing or being under the influence of an illegal chemical substance and/or alcohol during working hours, while on City property, or while using City equipment will be subject to discipline up to and including termination of employment.

**2. APPLICATION**

This policy applies to all employees as well as all applicants for employment once they have received a conditional offer of employment.

Nothing in this policy shall conflict with the Collective Bargaining Agreements of any employees. If a provision of this policy conflicts, the Collective Bargaining Agreement prevails.

Because of Federal law requirements, any employee who is convicted of manufacturing, distributing, dispensing, possessing, or use of controlled substances in the workplace must report that fact within five days of the conviction to the Director of Human Resources and Labor Relations. If your job relates to, or is funded by a Federal grant or contract, the City is required to notify the Federal Government of your conviction within ten (10) days.

**3. APPLICANT PRE-EMPLOYMENT TESTING**

All applicants will undergo drug and/or alcohol testing following a conditional offer of employment, but prior to final hiring and assignment. Refusal to undergo a test, or a positive test, will result in the City withdrawing its conditional offer of employment. In addition, adulteration of a specimen or a drug or alcohol test will be considered as a refusal to undergo a test.

**4. FOR CAUSE TESTING**

Drug and/or alcohol testing may be conducted on any employee at any time the City has reasonable suspicion there is cause to believe an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

- a. Observation of drugs or alcohol on or about the employee's person or in the employee's vicinity;
- b. Observation of conduct on the part of the employee that suggests that the employee is impaired or is under the influence of drugs or alcohol;

- c. Receipt of a report of drug or alcohol use by an employee while at work;
- d. Information that an employee has tampered with drug or alcohol testing at any time;
- e. Negative job performance patterns by the employee; or
- f. Excessive or unexplained absenteeism or tardiness.

The supervisor will verbally inform the employee of the reason for the test. Additionally, a written record of the situation leading to the drug or alcohol test will be created and signed by the supervisor(s) within 24 hours of the event. A copy of the report will be forwarded to the Human Resources and Labor Relations Department.

**5. POST-ACCIDENT TESTING**

Post-Accident drug and/or alcohol testing may be conducted on an employee where there has been damage to City property or equipment while the employee was at work or the employee or another person has sustained an injury while at work. The post-accident test will be administered while the employee is still on duty or as close as possible. No employee required to take a post-accident alcohol or drug test may use any alcohol or drugs of any kind following the accident until the employee undergoes the post-accident testing.

**6. RANDOM TESTING**

The City of Flint will randomly test employees for compliance with its drug-free workplace policy. As used in this policy, "random testing," means a method of selection of employees for testing, performed by an outside third party. The selection will result in an equal probability that any employee from a group of employees will be tested. Furthermore, the City of Flint has no discretion to waive the selection of an employee selected by this random selection method.

The City may, at various times, randomly select members of the following employment groups, at its discretion, for unannounced random testing for drugs or alcohol:

- a. Police officers
- b. Firefighters
- c. Safety-Sensitive Employees: Persons engaged in activities that directly affect the safety of the public.
- d. Employees whose work requires possession of a CDL.

**7. SCHEDULED PERIODIC TESTING**

The City of Flint reserves the right to conduct periodic testing on a regularly scheduled basis for employees in designated departments, classifications or workgroups.

**8. RETURN TO DUTY TESTING**

When an employee has a confirmed positive test result, or has been sent to a drug dependency program at the request of the City of Flint as a condition of continued

employment, the employee will be required to be tested at least six (6) times in the first twelve (12) months following the employee's return to active duty. Return to Duty tests must be conducted under direct supervision.

#### **9. SUBSTANCES COVERED BY DRUG AND ALCOHOL TESTING**

Employees will be tested for their use of commonly abused controlled substances, which include amphetamines, barbiturates, benzodiazepines, opiates, cannabinoids\*, cocaine, methadone, methaqualone, phencyclidine (PCP), propoxyphene and chemical derivatives of these substances.

Employees must advise testing lab employees of all prescription drugs taken in the past month before the test and be prepared to show proof of such prescriptions to testing lab personnel.

*\* Despite Michigan law, marijuana for medical or recreational use is a Drug Enforcement Administration listed Schedule I controlled substance and therefore is prohibited.*

#### **10. MARIJUANA USE PROHIBITED**

The State of Michigan has enacted legislation allowing for the recreational and medical use of marijuana. Despite Michigan law, marijuana for medical or recreational use is a Drug Enforcement Administration listed Schedule I controlled substance. Therefore, the marijuana use remains prohibited when engaged in activities governed by Federal law specifically, the U.S. Department of Transportation (DOT) Drug and alcohol testing regulations.

The City of Flint, as an employer, is required to ensure the safety and protection of the citizens served by its employees. Therefore, the enactment of the Medical Marijuana Act (MMA) and recreational marijuana usage legislation does not override existing policies concerning the following:

- The City of Flint Alcohol & Controlled Substance Testing Policies and Procedures for Employers with Commercial Driver's License (CDL) or City policies affiliated with DOT Federal Transit Administration Regulations;
- Negligent entrustment of City vehicles;
- Driving while impaired or yielding positive test results post-accident, including the operation of City vehicles or a private vehicle while conducting City business;
- Any employee engaged in conduct or action prohibited by the MMA;
- Smoking marijuana in public;
- Possession of marijuana at schools or correctional facilities;
- Operating a vehicle under the influence of marijuana;
- Selling marijuana during hours of employment, at any City work site and/or on City property;
- Being in possession of marijuana while on City premises or on duty; and
- Working while under the influence of marijuana.



## **11. TESTING METHODS AND PROCEDURES**

All testing will be conducted by a licensed independent medical laboratory, which will follow testing standards established by the state or federal government. Testing will be conducted on a urine sample provided by the employee to the testing laboratory under procedures established by the laboratory to ensure privacy of the employee, while protecting against tampering/alteration of the test results.

Employees will be considered to be engaged at work for the time spent in taking any tests and will be compensated for such time at their regular rate.

The City of Flint will pay for the cost of the testing, including the confirmation of any positive test result by gas chromatography. The testing lab will retain samples in accordance with state law, so an employee may request a retest of the sample at his or her own expense if the employee disagrees with the test result.

## **12. REFUSAL TO UNDERGO TESTING**

Employees who refuse to submit to a test are subject to disciplinary action, up to and including immediate discharge.

## **13. POSITIVE TEST**

If an employee tests positive on an initial screening test, the employee will be temporarily suspended while the confirmation test is being conducted. On receipt of the confirmation test, the employee will be subject to disciplinary action, up to and including discharge. Discipline selected by the City of Flint will depend on a variety of factors, including, but not limited to, the prior work record of the employee, the length of prior employment, the prior accident and attendance record of the employee, the circumstances that led to the testing, and the proposals by the employee to address the problem.

## **14. RIGHT TO EXPLAIN TEST RESULTS**

All employees and applicants have the right to meet with the testing laboratory personnel, and with the City of Flint, to explain their test results. These discussions should be considered confidential, except information disclosed in such tests will be communicated to personnel within the City of Flint Human Resources and Labor Relations department or within the lab who need to know such information to make proper decisions regarding the test results or regarding the employment of the individual.

## **15. RIGHT TO REVIEW RECORDS**

Employees have a right to obtain copies of all test results from the testing laboratory, or from the City of Flint. When an employee disagrees with the test results, the individual may request the testing laboratory repeat the test. Such repeat testing will be at the expense of the individual, unless the repeat test overturns the original report of the lab, in which case the City of Flint will reimburse the employee for the costs incurred for the retest.

**16. CONFIDENTIALITY REQUIREMENTS**

All records concerning test results will be kept in medical files that are maintained separately from the personnel file of the employee.

Testing laboratories may conduct testing only for substances included on the disclosure list provided to the individual, and may not conduct general testing related to the medical conditions of the individual that are unrelated to drug use.

**17. RETESTING**

Employees may request a retest of their positive test results within five (5) working days after notification by the City of Flint of such positive test result. This retest is at the expense of the individual, unless the original test result is called into question by the retest.

Where the employee or applicant believes the positive test result was affected by taking lawful or prescribed substances, the individual may be suspended without pay pending receipt of confirming information to substantiate the claims of the individual. Normally, the individual will be provided no more than five (5) business days in which to provide this additional information.

Once City of Flint has determined whether there is evidence to indicate the test results are incorrect, the City of Flint will advise the individual of its decision.

**18. TREATMENT, TERMINATION AND REHIRE**

Employees who test positive for any drug(s) listed on the disclosure list have two (2) choices. One, the employee may agree to enter an authorized treatment program approved by the City of Flint, and agree to subsequent retesting for a period of two (2) years after returning from treatment. Or two, the employee will be terminated immediately and will not be considered for rehire until he or she can show he or she has remained drug-free for a period of two years or more.

**19. RESPONSIBILITIES OF INDIVIDUALS**

In order to comply with the provisions of this policy, each employee assumes the following responsibilities:

- a. *Working under the Influence of Performance Impairing Medication:* Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to performing any hazardous or dangerous tasks.
- b. *Reporting to Work or Working While Impaired:* Employees may not report to work and may not continue to work while impaired by any restricted substance identified in this policy.
- c. *Reporting Violations:* The services provided by certain employees are performed, at times, under hazardous and dangerous conditions. Thus,

employees are encouraged to come forward and report any violation of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries on the job.

Any questions concerning this policy, its interpretation or application should be directed to the Human Resources and Labor Relations Department.

Policy Enacted: 2004

Policy Revision: November 20, 2006

Policy Revision: December 4, 2018