

BILL NO.: 4928

ORDINANCE NO.: _____

Introduced by: City Manager Nathan Mai-Lombardo

AN ORDINANCE FOR THE CITY OF BERKELEY, AMENDING THE EMPLOYEE HANDBOOK OF PERSONNEL RULES AND REGULATIONS, POLICIES, AND BENEFITS IN SECTION ATTENDANCE AND TIME OFF ADDING A FLEXIBLE WORK POLICY

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

Section 1. That the City of Berkeley, Missouri hereby adopts the attached Flexible Work Policy to be added to the Attendance and Time Off section of the Berkeley Employee Handbook of Personnel Rules and Regulations, Policies, and Benefits.

Section 2. The attached policy is hereby incorporated herein and made a part of this ordinance, as if fully set out herein.

Section 3. This Ordinance shall be in full force and effect from and after its passage.

1st Reading this _____ day of _____ 2023

2nd Reading this _____ day of _____ 2023

3rd Reading, PASSED and APPROVED, this _____ day of _____ 2023

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Crawford-Graham	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___



MEMORANDUM

TO: Mayor Deinbo and Members of Council

CC: Deanna Jones, City Clerk, and April Walton, HR Director

FROM: Nathan Mai-Lombardo, City Manager

DATE: March 6, 2023

RE: New Flex Schedule Policy

Mayor Deinbo and Councilmembers –

As we know, the realities and expectations of a changing workforce have been causing all sectors of organizations to evaluate the way they operate. This has only been exacerbated the past few years by COVID. The public sector is not immune from these challenges, and in many cases ours are even steeper than those of the private sector. Before you now is an update to our HR Handbook concerning flexible work scheduling. This is one way we can adapt to the changes of the time. This is a new policy for the City of Berkeley.

There are many benefits to both the organization and the employees when considering flex scheduling. They include:

- improving staff retention,
- attracting the best talent,
- increasing productivity, and
- reducing absenteeism.

In our case, this policy would cover telecommuting, flextime, and temporary arrangements. All flexible schedules would have to be approved by management and not negatively impact costs, productivity, or customer service in any way. They would also be subject to a trial period. Although not all employees will qualify for flex scheduling arrangements, this is a necessary and beneficial policy update for our organization to make to attract and retain the best employees and offer the best services to our residents.

Thank you for your consideration on this matter.

Sincerely,

Nathan Mai-Lombardo
City Manager

City of Berkeley Employee Handbook

Attendance and Time Off

Flexible Work Policy

Purpose

The City of Berkeley is committed to helping employees face the demands of juggling work, family and personal obligations by offering a number of possible flexible work arrangements. We are fully aware of employees need to at times adjust their schedule to meet a healthy work-life balance. These flexible work arrangements provide employees with increased flexibility with their work schedule while allowing the City to maintain an efficient, progressive, productive work environment.

Procedures

The City of Berkeley considers flexible working arrangements to be a viable, flexible work option when both the employee and the job are suited to such an arrangement. Flexible working arrangements may be appropriate for some employees and jobs but not for others. Flexible working arrangements is not an entitlement or a citywide benefit, and it in no way changes the terms and conditions of employment with the City of Berkeley.

Any flexible work arrangement made will be on a trial basis for the first sixty days and may be discontinued at will and at any time at the request of either the employee or the City. Every effort will be made to provide thirty days' notice of such change to accommodate commuting, child care and other issues that may arise from the termination of a flexible work arrangement; however, there may be instances when no notice is possible.

Eligibility

All flexible work arrangements will be considered on a *case-by-case basis* in situations where creative work schedules have been shown to accomplish both work and personal goals, to provide coverage for individual department operations and to serve the City as a whole with increased productivity at no expense to quality output.

Flexible work arrangements are not appropriate for all employees or positions and are not a universal employee benefit. In order for a flexible work arrangement to be approved, the employee must meet all performance expectations in their current role and consistently demonstrate the ability to complete tasks and assignments on a timely basis. The nature of the employee's work and responsibilities must be conducive to a flexible work arrangement without causing significant disruption to performance and/or service delivery to their respective department.

Individuals requesting flexible working arrangements must be employed with the City of Berkeley for a minimum of 6 months of continuous, regular full-time or part-time employment,

must not currently be in a probationary period or on a Performance Improvement Plan, and must have a satisfactory performance record, free from discipline or other corrective measures related to performance in the previous 24 months, unless otherwise approved by the City Manager.

Before entering into any flexible working arrangement agreement, the employee and supervisor, with the assistance of the Human Resources department, will evaluate the suitability of such an arrangement by reviewing the following areas:

- **The nature of the employee's job**

For example, if the job requires attendance at specific hours or every day per week or has a full-time workload requiring physical presence, then the employee is not eligible for flexible working hours.

- **The needs of the employee's team or department**

For example, some departments may require employees to be present due to the business operations of the department. For example, police field patrol.

- **The impact on colleagues.**

For example, if the department's operations are largely dependent on teamwork, then the employee is less likely to freely modify his/her work schedule.

- **The duration of the arrangement.**

For example, an employee may have flexible hours on a specific time but may have to follow a standard schedule at some other time.

- **The impact on stakeholders.**

For example, a flexible work arrangement must not have a noticeable impact on providing exceptional customer service.

- **Employee suitability:**

The employee and supervisor and/or department director will assess the needs and work habits of the employee, compared to traits customarily recognized as appropriate for successful flexible working arrangements.

- **Job responsibilities:**

The employee and supervisor and/or department director will discuss the job responsibilities and determine if the job is appropriate for a flexible working arrangement.

- **Equipment needs, workspace design considerations:**

The employee and supervisor and/or department director will review the physical workspace needs and the appropriate location for the telework, if applicable.

- **Tax and other legal implications:**

The employee must determine any tax or legal implications under federal, state and local government laws, and/or restrictions of working out of a home-based office.

Responsibility for fulfilling all obligations in this area rests solely with the employee.

Request a Flexible Working Arrangement

Any employee may make a request for a flexible working arrangement on the Flexible Working Arrangement Request Form. The supervisor will be responsible for evaluating the suitability of the requested arrangement and forwarding the request to the Department Director including suitability of the position and the employee for flexible working arrangement. If the Department Director concurs, in consultation with Human Resources with the approval of the City Manager, a flexible work agreement will be prepared and signed by all parties, and 30-day trial period will commence.

Evaluation

Evaluation of flexible work arrangement performance during the trial period will include regular interaction by phone, video conferencing and e-mail between the employee and the supervisor, and weekly face-to-face meetings to discuss work progress and issues. At the end of the trial period, the employee and supervisor will each complete an evaluation of the arrangement and make recommendations for continuance or modifications. Evaluation of Employee's performance beyond the trial period will be consistent with that received by all City employees working onsite in both content and frequency but will focus on work output and completion of objectives rather than on time-based performance. The flexible work arrangement may be canceled if, at any time, the employee fails to perform satisfactorily.

An appropriate level of communication between the telecommuter and supervisor will be agreed to as part of the discussion process and will be more formal during the trial period. After the conclusion of the trial period, the supervisor and telecommuter will communicate at a level consistent with employees working onsite or in a manner and frequency that is appropriate for the job and the individuals involved.

Types Flexible Working Arrangements

Several alternative work arrangement options are available to employees:

- **Telecommuting**

Telecommuting can be informal such as working at an offsite location for a short-term project, or a formal, set schedule of working away from the office – this may be applicable to medical leave or other emergent situations.

- **Flextime**

The employee works eight hours per workday, but there is flexibility in an employee's set scheduled starting and ending times if there are documented explanations for why the flexibility is needed. Some employees, due to family or personal obligations or preferences, work very early in the morning and leave earlier in the afternoon. Other flextime employees may prefer or need to start later in the day and work into the evening. This will only be considered if the Department Head and HR have discussed the employees request pending approval of the City Manager.

Flexible Working Arrangement Responsibilities

Employees are required to maintain compliance with all City policies and procedures, whether working onsite or at any location. Employees failing to comply with policies will be subject to discipline, up to and including termination.

Telecommuting Arrangement Responsibilities

- **Equipment**

On a case-by-case basis, the Information Technology Department will determine, with information supplied by the employee, supervisor and department director, the appropriate equipment needs (including hardware, software, modems, phone, quality internet access, data lines and other office equipment) for each telecommuting arrangement. The Human Resources and Information Technology departments will coordinate acquisition of tools and equipment. The City reserves the right to make determinations as to appropriate equipment, subject to change at any time.

Equipment supplied by the City is to be used for business purposes only and will be maintained by the City. The telecommuter must sign an inventory of all City property received and agree to take appropriate action to protect the items from damage or theft. Upon termination of employment or termination of telecommuting agreement, all City property and equipment will be returned unless other arrangements have been made.

Equipment supplied by the employee, if deemed appropriate by the organization, will be maintained by the employee. The City accepts no responsibility for damage or repairs to employee-owned equipment.

The City of Berkeley will supply the employee with appropriate office supplies (pens, paper, etc.) as deemed necessary. Employees voluntarily requesting telecommuting as a flexible work arrangement will not be reimbursed for expenses, such as phone stipends or internet access solely based on the telecommuting arrangement. If the City of Berkeley requires an employee to telecommute, the City will reimburse the employee for business-related expenses, such as phone calls and shipping costs that are reasonably incurred in carrying out the employee's job duties. Personal household internet or broadband service costs will not be reimbursed.

The employee will establish an appropriate environment within his or her home for work purposes. The City of Berkeley will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

- **Security**

Consistent with the organization's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of proprietary City information and comply with all Sunshine Law retention requirements from their home office. Steps include the use of locked file cabinets and desks, regular password maintenance, and any other measures appropriate for the job and the environment.

- **Safety**

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards. The City of Berkeley will provide each telecommuter with a safety checklist that must be completed at least twice per year. Injuries sustained by the employee in a home office location and in conjunction with his or her regular work duties are normally covered by the City of Berkeley's workers' compensation policy. Telecommuting employees are responsible for notifying the City of such injuries in compliance with the Safety Policy. The employee is liable for any injuries sustained by visitors to his or her home worksite.

Telecommuting is not designed to be a replacement for appropriate child care. Although an individual employee's schedule may be modified to accommodate child care needs, the focus of the arrangement must remain on job performance and meeting performance demands. Prospective telecommuters are encouraged to discuss expectations of telecommuting with family members prior to entering a trial period.

- **Time Worked**

Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to accurately record all hours worked using the City of Berkeley's time-keeping system. Hours worked in excess of those scheduled per day and per workweek require the advance approval of the telecommuter's supervisor. Failure to comply with this requirement may result in the immediate termination of the telecommuting agreement.

- **Dress Code**

Telecommuting employees are expected to maintain the same level of professionalism as if they were onsite. Employees should comply with the City dress code when meeting by video with customers, stakeholders or other City employees.

Ad Hoc Arrangements

Temporary telecommuting arrangements may be approved for circumstances such as inclement weather, special projects or business travel. These arrangements are approved on an as-needed basis only, with no expectation of ongoing continuance.

Other informal, short-term arrangements may be made for employees on family medical leave (FMLA) to the extent practical for the employee and the organization and with the consent of the employee's health care provider, if appropriate.

All informal telecommuting arrangements are made on a case-by-case basis, focusing first on the business needs of the organization.