

CITY OF KUNA

PERSONNEL POLICY

This Personnel Policy for the city of Kuna (City) is intended to foster a safe, efficient and cooperative working environment, establish the responsibilities, set the level of performance expected of all employees, and explain the benefits provided to its employees covered by this Policy.

The policies and benefits outlined in this policy are subject to change at any time, without prior notice to and without the requirement for the consent of its employees. Changes may be made in the sole discretion of the City Council acting in the best interest of the City.

All employees of the City are at-will and are employed at the discretion of the Mayor and City Council and have no right to continued employment, or employment benefits upon termination of employment, except as may be agreed to in writing and expressly approved by the City Council.

This Personnel Policy does not establish or set the duration of employment or limit the reasons for which an employee may be discharged. All provisions of this Policy will be interpreted in a manner consistent with this paragraph. In the event of any irreconcilable inconsistencies, the terms of this paragraph will prevail. Only a written contract expressly authorized by the City Council can alter the at-will nature of employment by the City, notwithstanding anything said by an Elected Official or supervisor.

Department Directors may create written rules and regulations that are more specific to his/her department's operations, which shall be incorporated herein. All such rules and regulations shall be adopted by the City Council.

CHAPTER 1. GENERAL POLICIES

Section .1 THE ORGANIZATION IN WHICH YOU WORK

- 1.1.1 The city of Kuna is a political subdivision of the state of Idaho. The Kuna City Council serves as the governing body of the City, carrying out local legislative duties and fulfilling other obligations as provided by law. The City Council has primary authority to establish terms and conditions of employment with the City.
- 1.1.2 Each employee should recognize that although he/she may serve as an employee supervised by the Mayor or department Director, he/she remains an employee of the City, and not of the official who supervises his/her work. The terms and conditions set forth in this policy, and in the resolutions and policy statements that support it, cannot be superseded by any other official's pledge or promise, without the express action of the City Council. That is particularly true for terms or conditions that would establish a current or future financial obligation for the City.

Section .2 EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

All hiring and selection of employees, and all employment decisions, including classification, transfer, discipline and discharge, shall be made without regard to race, religion, sex, age, national origin, or non-job-related disability. No job or class of jobs will be closed to any individual except where a mental or physical attribute, sex or age is a bona fide occupational qualification. All objections to hiring or other employment decisions or practices will be brought to the attention of the Mayor or department Director or supervisor, or in the case of objection to actions undertaken by that person, to the city attorney or Human Resource Manager for the City.

Section .3 VETERAN'S PREFERENCE AND RIGHTS

- 1.3.1 The City will accord a preference to U.S. Armed Services veterans, or certain members of his/her family, in accordance with provisions of Idaho Code, Title 65, Chapter 5. In the event of equal qualifications for an available position, a veteran or family member who qualifies for the preference will be employed.
- 1.3.2 Any qualified veteran who has been restored to his/her position in accordance with Idaho Code § 65-508 will not be discharged from such position without cause for a period of one (1) year after such restoration. During this one-year period, a returning veteran will be entitled to an opportunity to be heard prior to termination. Such returning veteran will also be considered as having been on an unpaid leave of absence during his/her period of military duty. He/she will be restored to his/her position without loss of seniority, status or pay.

Section .4 NEPOTISM/HIRING OF RELATIVES

No person will be employed by the City when the employment would result in a violation of Idaho Code, including but not limited to Idaho Code § 74-401 et seq. (as amended), and Idaho Code §18-1359. Any such employment made in violation of this section shall be void. The appointment or employment of the following persons is prohibited:

- A. No person related to the Mayor or a City Council member by blood or marriage within the second degree, as shown in the standard Table of Consanguinity, will be hired or appointed to any compensated office, position, employment or duty.
- B. No public servant, including Elected Officials and employees, will appoint or hire, or vote for the appointment or hiring of any person related to him/her by blood or marriage within the second degree, as depicted in the Table of Consanguinity, to any compensated office, position, employment or duty. This means no one related within the second degree to anyone involved in any way in the hiring process can be hired and/or that no one related to an applicant within the second degree can take part in the hiring process.
- C. An employee whose relative is subsequently elected may be eligible to retain his/her position and pay increases as allowed by relevant provisions of Idaho law, including Idaho Code § 18-1359(5).

Section .5 PREFERENCE FOR HIRING FROM WITHIN

- 1.5.1 Qualified employees may be given preference over outside applicants to fill job vacancies or for a newly created position approved and funded by City Council.
- 1.5.2 If the open position is limited to posting within the City (internal), all employees applying shall be required to submit the approved City employment application package and go through the formal interview process, as provided for in Chapter 2.
- 1.5.3 If the City does not offer the position to a employee, or the City determines that it desires to interview external candidates, the City may proceed to post and advertise the open position as the department Director or supervisor determines to be appropriate.

CHAPTER 2. EMPLOYMENT START-UP

Section .1 EMPLOYMENT

Natural born or legalized citizens of the United States are afforded equal employment opportunity with the City. Non-citizens must meet Federal and State employment eligibility requirements prior to being hired as an employee of the City.

Section .2 APPLICATION

All candidates for any position of employment with the City shall complete the City approved application package provided by the City.

Section .3 SELECTION PROCESS

- 2.3.1 The department Director shall appoint a team of employees, consisting of not less than three (3) employees including the department Director or Mayor if required. The team shall evaluate the candidate(s) for employment based upon pre-determined written criteria prepared by the department Director. If the opening is for a department Director position, the Mayor shall sit on the selection team.
- 2.3.2 The selection process may consist of an evaluation of the candidate(s) through personal interviews, performance, work samples, physical agility tests, written tests, references, medical examinations, or any combination thereof and in no way shall be affected or influenced by race, color, religion, disability, national origin, age, gender, sexual orientation, veteran or current military status.
- 2.3.3 Selection techniques shall be impartial and shall relate to those areas that will adequately and fairly indicate the ability and quality of the candidate(s) under consideration to execute the duties and responsibilities of the position to which they seek to be appointed.
- 2.3.4 Upon completion of the selection process, if the position is for department Director, the recommendation for appointment shall be made to the City Council by the Mayor. All other candidates for City employment shall be decided by the selection team based upon the selection criteria and other relevant considerations. All such appointments will become effective after all necessary documents have been signed by the appropriate City officials and the new employee.
- 2.3.5 All new employees shall be required to submit to and successfully pass an F.B.I. criminal background check and a drug test in compliance with the City's policy on Criminal Background Checks, as adopted, and arranged through the Human Resource Manager prior to commencement of employment.

Section .4 INELIGIBILITY OR DISQUALIFICATION

The City shall withdraw a candidate from consideration whose appointment or hire is deemed to be contrary to the best interests of the City. Reasons for disqualification may include, but shall not be limited to the following:

- A. Failure to meet any of the requirements established for the examination or position for which he/she applies including failure to meet deadlines of the application process.
- B. Addiction to the use of drugs, alcohol or controlled substance.
- C. Failure to successfully pass a criminal background check in compliance with the City's Criminal Background Check Policy, as adopted. Said policy shall prohibit the employment of any person convicted of any felony, or convicted of a misdemeanor where an element of the crime involves deception, fraud, violence, threats of violence or behavior that is dishonest or immoral.
- D. Dismissal from any prior position for any cause which would be cause for dismissal by the City.
- E. Resignation from any position to avoid dismissal.
- F. Deception or fraud in content of the application.
- G. Request by the applicant to be withdrawn from consideration.
- H. Disqualification or unsuitability for employment as specified in any City or applicable department rule or regulation.

Section .5 CONTINUED EMPLOYMENT/ANNUAL EVALUATION

An employee's continued employment with the City shall be subject to satisfactory work performance, necessity for the position and the availability of funds. Each employee shall have his/her performance evaluated annually by written evaluation prepared by his/her supervisor and reviewed by the department Director, or at a more frequent interval as deemed necessary by the department Director. The evaluation shall be reviewed with the employee, signed by the employee, and placed in the employee's personnel file.

Section .6 EMPLOYMENT FORMS TO BE COMPLETED

The following forms must be completed before an employee begins work for the City, including part-time, seasonal, full-time and appointed positions:

- A. Official City of Kuna Employment Application form.
- B. Idaho State Police criminal background check form.
- C. Pre-employment, post-offer drug testing form.
- D. Insurance forms (if coverage is available to and selected by the employee).
- E. Immigration form (I-9).

- F. Withholding Form (W-4).
- G. Any other benefit forms necessary for employee information.

CHAPTER 3. EMPLOYEE PERSONNEL FILES

Section .1 PERSONNEL RECORDS

All employee personnel files, including all documents related to an employee's performance shall be kept in the Human Resource Manager's office or City Treasurer's office. No employee performance documents may be kept in a separate file or by a department Director. The personnel files shall be located in a locking file cabinet that is locked at all times. The personnel files will contain records and documents related to employee performance, employee status, and other relevant materials related to the employee's service with the City. The employee's supervisor, elected officials or the employee himself/herself may contribute materials to the personnel files deemed relevant to the employee's performance. All employee health insurance and medical information shall be kept in a separate file system, which shall be locked and stored in compliance with HIPAA, as may be amended.

Section .2 ACCESS TO PERSONNEL FILES

Only the employee's supervisor(s), the Human Resource Manager, the City Treasurer or his/her designee, the Mayor, the City Council when acting as a body in the course of its official business, attorneys for the City, and the employee are authorized to view materials in a personnel file. Access by other persons to such files will be allowed only with authorization of the supervising official after consultation with legal counsel for the City. Information regarding personnel matters will only be provided to outside parties with a release from the employee, when deemed necessary by legal counsel for the City, or pursuant to a Court order or a proper subpoena. The City reserves the right to disclose the contents of personnel files to outside state or federal agencies, its insurance carrier or its carrier's agents for risk management purposes, or when necessary to defend itself against allegations of unlawful conduct. Copies of materials in an employee's personnel file are available to that employee without charge, subject to exceptions provided by statutes.

Section .3 MANAGEMENT OF INFORMATION IN PERSONNEL FILES

Each employee will be provided an opportunity to contest the contents of his/her personnel file at any time, by filing a written objection and explanation that will be included in the file along with the objectionable material. In the sole judgment of the supervising official, after consultation with legal counsel for the City, any offending material may be removed upon a finding by the City that it is false or unfairly misleading. In general, there is a presumption that materials are to remain in personnel files accompanied by the employee's written objection and explanation to provide a complete employment history. Any such approved removal of information will be documented in writing and maintained in the employee's personnel file.

CHAPTER 4. RULES OF EMPLOYEE CONDUCT

Section .1 RULES OF CONDUCT

A violation of any of the rules set forth below will be grounds for disciplinary action including possible dismissal from employment. This list is illustrative and not all-inclusive; other behaviors and acts of misconduct not specifically set out below may be grounds for disciplinary action as well. Nothing contained herein is intended to change the at-will nature of the employee's employment with the City or limit the reasons for which the employee may be disciplined, including termination of the employment.

Section .2 PERSONAL CONDUCT

Each employee is expected to conduct himself/herself in a manner that is beneficial and productive and that does not reflect adversely upon the City. Public employees are subject to additional public scrutiny in his/her public and personal lives because the public's business requires the utmost integrity and care. Each employee is expected to scrupulously avoid personal behaviors that would bring unfavorable public impressions upon the City and its officials. In order to accomplish this, each employee must:

- A. Work cooperatively and constructively with fellow workers and members of the public to provide public service of the highest quality and quantity. **THIS IS THE FIRST PRIORITY FOR ALL EMPLOYEES.**
- B. Be prompt and regular in attendance at work for defined work schedules or other required employer functions, and follow procedures for exceptions to the normal schedules, including the scheduling and taking of vacation, Compensatory Time and Sick Leave.
- C. Comply with dress standards established in the office/department for which the employee works. In the absence of any office/departmental dress standards, clothing will be appropriate for the functions performed and will present a suitable appearance to the public.
- D. Not engage in criminal conduct of any kind while on or off duty. employees are expected to behave in a lawful manner and failure to do so is a violation of the trust placed in such employees by the public and the appointing official. An employee who is charged with any felony or serious misdemeanor, including any charge of violence and/or the charge of driving under the influence shall report the criminal charges to his/her supervisor and the Human Resource Manager as soon as practicable, but not later than three (3) days after the charges.
- E. Not engage in conduct away from work that, although not criminal, may reflect adversely upon the City or its officials or otherwise impair (excluding physical activities) the employee's ability to perform the job for which the employee is hired.

- F. Not use any City equipment for personal use unless specifically permitted in this Personnel Manual.
- G. Avoid conflicts of interests in appointments and working relationships with other employees, contractors and potential contractors in the City and related agencies.
- H. Not engage in conduct that violates the laws of the state of Idaho, including but not limited to Idaho Code §18-1356 (accepting gifts that exceed a value of \$50.00), Idaho Code §74-401 et seq. (Ethics in Government Act), Idaho Code §74-501 (Prohibitions Against Contracts) and Idaho Code §18-1359 (Using Public Position for Personal Gain).
- I. Not accept gifts or gratuities in any personal or professional capacity that could create the impression that the giver was seeking favor from the employee or official in violation of Idaho Code § 18-1356 and Idaho Code § 18-1357.
- J. Not engage in workplace or public conduct otherwise detrimental to the accomplishment of the goals established by the Mayor, City Council or the office/department for whom he/she works.
- K. Give his/her best efforts to accomplish the work of the City for public benefit in accordance with policies and procedures adopted by the Mayor and City Council and elected officials and displaying an attitude of cooperation and constructive participation.
- L. Be subject to the administrative authority of the officials who supervise the department where the employee works.
- M. Abide by all office/departmental rules whether written or oral. No employee will be required to follow the directive of a supervisor that violates the City, state or federal law.
- N. Perform such obligations as are necessary to carry out the work of the City in an efficient and effective manner at minimal costs and with limited risk to the public and fellow workers.
- O. All employees shall be attentive to his/her duties and assignments while on the clock for the City.
- P. Not engage in malicious gossip, spread rumors, engage in behavior designed to create discord and lack of harmony, willfully interfere with another employee's work output or encourage others to do the same.
- Q. Not unlawfully harass a fellow employee or member of the public, as outlined in the section entitled City's Workplace Discrimination, Harassment and Retaliation Policy.
- R. Not discriminate in the treatment of fellow employees or members of the public on the basis of race, religion, gender, age, disability or national origin.

- S. Not engage in abusive conduct to fellow employees or the public, or use abusive language in the presence of fellow employees or the public. Abusive language includes profanity and loud, threatening or harassing speech.
- T. Follow all rules for care and use of public property to assure that the public investment in such property is protected and that the safety of the public and other workers is maintained.
- U. Not use any substances, lawful or unlawful, that will impair the employee's ability to competently perform his/her work or threaten the safety and well-being of other workers or the public. Should the employee be prescribed a lawful substance that may impair the employee's ability to safely do his/her job, the employee is required to provide a physician's note explaining the possible effects of the medication on the employee's ability to do his/her job and the length of the time that the employee will be required to take the medication. The employee may be required to take leave while taking the medication.
- V. Follow the rules regarding the reporting of work hours and comply with the City's procedures for approval of time-keeping records, including any electronic time-keeping program.
- W. Follow rules and schedules for breaks and lunch periods, as established by the City.
- X. Report all accidents that occur or are observed on the job, or are on or involve City property as soon as possible or within twenty-four (24) hours, whichever is sooner, and cooperate as requested in the reconstruction of any such accident.
- Y. Follow all workplace safety rules whether established formally by the office/department or by outside agencies. employees are encouraged to suggest ways to make the workplace or work procedures safer.
- Z. Maintain a current appropriate driver's license when work for the City requires the employee to drive a vehicle as part of his/her responsibilities. Each such employee must report any state-imposed driving restrictions to his/her immediate supervisor and notify his/her supervisor if his/her driving abilities are impaired.
- AA. Not serve on any board or commission that regulates or otherwise affects the official duties or personal interests of the employee in a way that could create disadvantage for other members of the public or advantage for the employee.
- BB. Not have non-City employment that conflicts with duties performed for the City in any meaningful way.

- CC. Not release any public record, including personnel records, without the express authority of the public official responsible for custody of the record, after consulting with legal counsel for the City or without an order from a court or public agency of competent jurisdiction.
- DD. Maintain the confidential nature of records that are not open to public scrutiny in accordance with the direction of the responsible official.
- EE. Not use work time for personal business, including the selling of goods or services to the general public.
- FF. Adhere to any code of ethics in his/her profession.
- GG. Not engage in political activities while on duty.
- HH. Not provide false or misleading information on employment applications, job performance reports, or any other related personnel documents or papers.
- II. Not destroy, alter, falsify or steal the whole or any part of a police report or any record kept as part of the official governmental records of the City (Idaho Code §§ 18-3201 and 18-3202).
- JJ. Not use phones or computers in the workplace in a manner that violates policy or that disrupts workplace activities.
- KK. Not abuse employee benefit offerings by taking unjustified Sick Leave, unearned vacation, participating in a scheme designed to create incorrect personnel records or to claim benefits that are not deserved in accordance with City policy.
- LL. Not violate rules concerning absence from the workplace without proper authorization.
- MM. Not engage in prolonged visits with co-workers, children, friends or family members that interfere with work in the office/department in which the employee serves.
- NN. Not use work time or public premises to promote religious beliefs to members of the public or fellow employees.

Section .3 **SMOKING, TOBACCO USE AND E-CIGS PROHIBITED**

- 4.3.1 All City facilities, City owned vehicles and City equipment are hereby designated to be tobacco free; no person will smoke tobacco or any other substance or use smokeless tobacco or any vaporizing substances, such as e-cigs while in a City facility (City Hall or the City Wastewater Treatment Plant) or a City vehicle or other City equipment.

- 4.3.2 Smoking of any kind, including pipes, cigars, and cigarettes, e-cigs, and the use of chewing tobacco is prohibited for employees while on duty. employees eighteen (18) years of age and over are allowed to smoke only during his/her assigned breaks and lunch, and only in areas designated for that purpose. If the employee is out in the field, the employee may only smoke while on an assigned break and at a location where smoking is permitted. In all circumstances, the employee shall use common sense in determining where it is appropriate to smoke taking into consideration the public perception and the reflection and appearance upon the City.
- 4.3.3 The City shall establish a smoking area at City Hall and the North Waste Water Treatment Plant. The areas shall be located on the side or back of the buildings and at least fifty (50) feet from any entrance to the building.

CHAPTER 5. DRUG TESTING POLICY

Section .1 AUTHORITY

Pursuant to Idaho Code §72-1715, the City may conduct drug and alcohol testing of its employees under the provisions of this section, and as otherwise constitutionally permitted.

Section .2 PURPOSE AND INTENT

- 5.2.1 As an employer, the City is required to adhere to various federal, state and local laws and regulations regarding alcohol and substance abuse. Additionally, the public has the right to expect that employees are mentally and physically fit for duty at all times, so as to not endanger themselves, other employees or the public.
- 5.2.2 The City also has a vital interest in maintaining safe, healthful and efficient working conditions for its all of its employees and the public. If an employee is under the influence of controlled substance(s) and/or alcohol on the job, it presents serious safety and health risks to the employee and to all working with that employee. Therefore, possession, use, or sale of controlled substance(s) that may alter mental and physical abilities and/or the use of alcohol in the workplace present an unacceptable risk to safe, healthful and efficient City operations.

Section .3 EMPLOYEE'S POSSESSION, USE OR DISTRIBUTION OF ILLEGAL CONTROLLED SUBSTANCES

- 5.3.1 The possession, manufacture, distribution, use, purchase of illegal controlled substance(s) or drug paraphernalia, as defined in Idaho Code while on City property or within a City vehicle is prohibited.

- 5.3.2 Being under the influence of illegal controlled substances while on duty is prohibited.
- 5.3.3 Any employee who pleads guilty to, or is convicted of any criminal drug offense shall notify his/her supervisor and Human Resource Manager in writing within three (3) days of either event. Any employee convicted of a violation of a local, state or federal offense involving the use, sale, purchase, transfer, manufacture or possession of an illegal controlled substance in the workplace shall result in a disciplinary action that may include up to a termination of employment with the City.
- 5.3.4 When a supervisor has reasonable suspicion to believe that an employee is under the influence of a controlled substance while on duty, the supervisor shall notify the Human Resource Manager. The supervisor and/or Human Resource Manager should approach the employee in a private setting if possible. If, in the judgment of the supervisor and/or Human Resource Manager, the employee's condition is potentially hazardous to the safety of any individual, the supervisor and Human Resource Manager shall arrange for the employee to be relieved of duty, placed on leave with or without pay status, depending on the circumstances, and transported home. The employee shall not be allowed to drive a City vehicle until the employee is reinstated, as provided herein.
- 5.3.5 When a supervisor and/or the Human Resource Manager has reasonable suspicion to believe that an employee is in possession of any illegal controlled substance, or the selling or transferring of any controlled substance(s), the supervisor and/or Human Resource Manager shall immediately notify the police.

Section .4 EMPLOYEE'S USE OF PRESCRIPTION MEDICATION AND CONTROLLED SUBSTANCES

employees who may be required to operate vehicles, equipment, or machinery as part of his/her employment responsibility should exercise extreme caution in the use of medication that may induce drowsiness, dizziness, or other side effects that could impair the employee's ability to function. employees shall notify his/her immediate supervisor when they are required to use prescription or over the counter medicine that may impair his/her ability to perform job duties and are encouraged to discuss such situations with his/her supervisor prior to engaging in such work activities. The employee may be temporarily reassigned to other duties if necessary.

Section .5 EMPLOYEE'S USE OF ALCOHOL

5.5.1 The City is committed to ensuring that no employee is at work while under the influence of alcohol. employees are not to report to work or remain at work while having an alcohol concentration of greater than .00 BAC. employees are prohibited from using or possessing alcohol while they are on duty. Consumption of alcohol in a City facility or on City premises is prohibited unless consumed at an event with an authorized liquor-catering permit issued by the City. Consumption of alcohol in a City vehicle is prohibited and is also a violation of the law.

5.5.2 employee Under The Influence Of Alcohol

- A. When a supervisor has reasonable suspicion to believe that an employee is under the influence of alcohol, the supervisor shall immediately notify the Human Resource Manager. The supervisor and/or Human Resource Manager should approach the employee in a private setting, if possible. If, in the judgment of the supervisor and/or the Human Resource Manager, the employee's condition is potentially hazardous to the safety of any individual, the supervisor and Human Resource Manager shall arrange for the employee to be relieved of duty, placed on leave with or without pay status, depending on the circumstances, and transported home.
- B. The employee shall be tested pursuant to Section 5.6.
- C. If the employee refuses to be tested, the supervisor and/or Human Resource Manager shall advise the employee that a refusal to take a test will be considered a positive test.
- D. The supervisor and/or Human Resource Manager will arrange for the employee to be relieved of duty, placed on leave with pay status and transported home.
- E. The employee shall not be allowed to drive a City vehicle unless and until the employee is reinstated pursuant to section 5.6.12, infra.

Section .6 EMPLOYEES REQUIRED TO SUBMIT TO DRUG AND ALCOHOL TESTING

5.6.1 employees in SAFETY SENSITIVE POSITIONS will be required to submit to random drug and alcohol testing.

- A. The City has a compelling interest to protect the safety of its employees and the general public by ensuring that its employees in safety sensitive positions do not operate equipment or perform his/her job duties where they may injure themselves or the public while under the influence of alcohol or drugs.

- B. Safety Sensitive Position Defined. Safety Sensitive positions include those jobs where the duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and where errors in judgment, inattention or diminished coordination, dexterity, or composure while performing the duties that could result in mistakes that would endanger the health and safety of the employee or others.
- C. employees in Safety Sensitive positions work with such independence that it cannot be safely assumed, which mistakes such as those described in subsection (B), above, could be prevented by a supervisor or another employee.
- D. employees of the Public Works Department- Safety Sensitive Positions. employees in the Water Department, Irrigation Department, Sewer Department, Parks Department and Fleet and Maintenance Department are considered Safety Sensitive positions as they are often placed in hazardous situations, such as operating heavy equipment, operating technical equipment and instruments requiring precision, responding to emergencies where broken water, irrigation and sewer lines require that they either are the operator of heavy equipment digging trenches, or they or in the trench repairing broken lines.
- E. Other positions within the City that are determined to be safety sensitive, which classification shall be listed on the job description.

5.6.2 Post-offer job applicants shall submit to drug testing upon conditional offer of employment.

5.6.3 An employee where there is a reasonable suspicion of on-duty drug or alcohol use or impairment, including an on the job injury will submit to drug and/or alcohol testing.

5.6.4 An employee who is returning to work, where a return-to-work drug test is required pursuant to subsection 5.6.12, infra.

5.6.5 An employee operating a City vehicle that is involved in a work-related accident will be tested for the use of drugs and alcohol as soon as possible after the accident but no later than two (2) hours in the case of alcohol and no later than thirty-two (32) hours in the case of illegal drugs.

- A. Conditions that will require an employee operating a City vehicle to take a drug and/or alcohol test include, but are not limited to, accidents that are caused by a vehicle operator that result in:
 1. A fatality.
 2. An injury to another person.

3. The injury to the operator of the City vehicle, unless the Police Department determines that there is no reasonable cause to test the driver; or damage to property owned by the City or by a third party that may reasonably be estimated to exceed \$1,000.00.
- B. The employee must remain readily available for post-accident drug and alcohol testing, and notify the Human Resource Manager of his/her location if he/she leaves the scene of an accident prior to submission to these tests.
 - C. Failure to remain readily available for post-accident testing constitutes a refusal to test.
 - D. Post-accident testing may be delayed (briefly) while the employee is providing medical assistance (until the emergency services arrives) or receiving medical attention following the accident.
 - E. If the employee is unable to voluntarily submit to post-accident drug and alcohol tests (i.e. employee is unconscious, hospitalized, incarcerated, or dead), the City may accept and utilize the test results obtained by the local law enforcement officers. Such test results will only be accepted if the test results are obtained consistent with state and local law.
 - F. An employee required to take a post-accident drug and alcohol test will be transported to the collection site. The employee must provide a urine and breath sample unless it is determined by a medical examination that the employee is medically unable to provide the required samples. Following the test, the employee will be placed on administrative leave pending receipt of the test results.
 - G. An employee who is seriously injured and cannot provide a specimen for testing will be required to authorize the release of all medical records or other documentation that would indicate whether drugs or alcohol were present in his/her system at the time of the accident. Any employee required to be tested under this Section must remain readily available for such testing and that employee may not consume alcohol within eight (8) hours of the accident.
 - H. If the Human Resource Manager, based upon the investigation conducted by law enforcement, determines that an employee's accident was caused by the actions of another and that there were no unsafe actions on the part of the injured employee, the City reserves the right to waive post-accident testing of the injured employee.
- 5.6.6 Current employees who are transferring to a safety sensitive position will be required to submit to a drug test.

- 5.6.7 Applicants for safety-sensitive positions, or current employees seeking to transfer to a safety-sensitive position who refuse to submit to a pre-employment drug test; are unable to produce the required specimen volume without a medically valid reason; attempt to alter, taint, or otherwise provide a false sample; or who test positive, may not be hired or transferred into a safety-sensitive position. Such applicants will be provided a list of Substance Abuse Professionals for self-referral.
- 5.6.8 Applicants or employees, selected for hire or transfer into a safety-sensitive position that have been found to have previously failed an employment-related drug or alcohol test, must present proof of having successively completed a referral, evaluation, and treatment plan before performing the duties of a safety-sensitive position.
- 5.6.9 An employee or applicant who has not performed a safety-sensitive function for ninety (90) consecutive calendar days, and is not in the random selection pool, shall be required to take a pre-employment drug test and attain a verified negative result.
- 5.6.10 Applicants or employees, who have sustained a “cancelled test” on a pre-employment drug test, will be required to retest before performing a safety-sensitive function.
- 5.6.11 An employee or applicant with a diluted negative test results (specimens with creatinines of 5 mg/dl or greater but less than 20 mg/dl and Specific Gravity greater than 1.0010 but less than 1.0030) will be required to retest prior to beginning work.
- 5.6.12 Return-to-Work Testing. An employee who has tested positive for illegal drugs or alcohol, and, in order to maintain employment, will be given the opportunity to successfully complete a prescribed treatment program under the direction of a Substance Abuse Professional. The employee will be required to take a return-to-duty drug and/or alcohol test at the employee’s own expense. Any employee may return to duty only upon verification of a negative test result. The employee will be responsible for all costs associated with the treatment program(s).

Section .7 **REQUIREMENTS FOR SAMPLE COLLECTION AND TESTING SPECIMEN COLLECTION PROCEDURES**

All sample collection and testing for drugs and alcohol shall be performed in accordance with the following conditions:

- A. Testing shall take place at collection sites designated by the City.
- B. The collection of the two (2) samples shall be performed under reasonable and sanitary conditions.

- C. The City or City's agent who is responsible for collecting the sample shall have received training as to the proper methods of collection.
- D. Samples shall be collected and tested with due regard to the privacy of the individual being tested and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
- E. Sample collection shall be documented and the documentation procedures shall include:
 - 1. Labeling of samples so as reasonably to preclude the possibility of misidentification of the person tested in relation to the test result provided.
 - 2. Handling of samples in accordance with reasonable chain-of-custody and confidentiality procedures.
 - 3. Sample collection, storage and transportation to the place of testing shall be performed so as reasonably to preclude the possibility of sample contamination and/or adulteration.
 - 4. Sample testing shall conform to scientifically accepted analytical methods and procedures.
 - 5. Drug testing shall include a confirmatory test before the result of any test can be used as a basis for action by an employer under Idaho Code §§[72-1707](#) and [72-1708](#). A confirmatory test refers to the mandatory second or additional test of the same sample that is conducted by a laboratory utilizing a chromatographic technique such as gas chromatography-mass spectrometry or another comparable reliable analytical method.
- F. Alcohol testing shall be conducted using an approved evidentiary breath testing device operated by a trained breath alcohol technician. There will be two reviewable levels for alcohol concentration. Any employee who tests with a BAC above .00, will not be allowed to work for at least twenty-four (24) hours and shall be re-tested prior to returning to work. Any employee who tests positive for alcohol will be subject to a disciplinary action.
- G. Positive alcohol tests resulting from the use of an initial screen saliva test, must include a confirmatory test that utilizes a different testing methodology meant to demonstrate a higher degree of reliability.
- H. Positive alcohol tests resulting from the use of a breath test must include a confirmatory breath test conducted no earlier than fifteen (15) minutes after the initial test; or the use of any other confirmatory test meant to demonstrate a higher degree of reliability, such as a blood test.

- I. If the employee is suspected of being under the influence of alcohol or drugs, the employee's supervisor shall contact the Human Resource Manager for arrangements to transport the employee to the designated testing location. In no circumstance, shall the employee be directed to drive to the testing location.

Section .8 SUBSTANCES TESTED

- 5.8.1 Alcohol. An employees subject to alcohol testing may have a sample of his/her breath tested for the presence of the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
- 5.8.2 Drugs. An employees subject to drug testing will have a sample of his/her urine tested for the presence of the drugs including, but not limited to the following drugs: Marijuana, Cocaine, Phencyclidine (PCP), Opiates, Pharmacological and Amphetamines.

Section .9 ADULTERATION OR SUBMISSION OF A CONCEALED SPECIMEN

All tests will be directly observed by a monitor. If, during the collection procedure, the collection monitor detects an effort by a prospective or current employee to adulterate or substitute a specimen, a second specimen will be requested. The second specimen will be tested. If the request for a second specimen is refused, the collection monitor will inform the City of the prospective or current employee's refusal to submit a second specimen. Such conduct by a prospective or current employee will be considered a positive test. In the event that a prospective or current employee submits a specimen that the laboratory later identifies as a diluted specimen, the City will advise the employee of that finding and request that the employee shall immediately submit a second specimen. If the prospective or current employee refuses, the refusal shall be determined to be a positive test, as provided for in Section 5.9.

Section .10 TEST RESULT NOTIFICATION

- 5.10.1 All drug test results will be forwarded to the City Attorney/Human Resource Manager. The prospective or current employee's supervisor will be notified if a positive result is received. The prospective or current employee will be offered an opportunity to personally discuss the positive drug test with the City Attorney/Human Resource Manager. The employee's supervisor shall be notified.
- 5.10.2 Any employee who is taking a prescription drug that may have been the cause of a positive test result will be asked to provide the name of the medication and the identity of the prescribing physician for verification. If the proper use of the prescription drug is verified, the employee's test result will be reported as negative.

Section .11 RANDOM TESTING

- 5.11.1 The City will maintain a listing of all the safety sensitive position employees who are subject to both random drug and alcohol testing.
- 5.11.2 Random tests will be unannounced and conducted on all days and hours during which safety-sensitive functions are performed.
- 5.11.3 A computer-based random number generator, which is a scientifically valid method, is used for random selection. During each calendar year, drug and alcohol tests will be administered to all employees on a continuous, random selection basis. Each covered employee shall have an equal chance of being selected every time selections are made.
- 5.11.4 Random alcohol tests may only be administered just before, during, or immediately following completion of a safety-sensitive function. Random drug tests can be administered anytime while on duty.
- 5.11.5 employees selected for random drug and alcohol testing shall be notified on the date of the test and either transported to the collection site or notified to proceed to the test site immediately where they will be required to provide a urine and/or breath sample.

Section .12 REASONABLE SUSPICION TESTS FOR DRUGS AND/OR ALCOHOL

- 5.12.1 The City will require an employee to be tested for the use of alcohol, illegal drugs, or the use of prescription medication if an employee's physical appearance or pattern of behavior gives City officials reason to believe the employee is impaired because of substance abuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.
- 5.12.2 If that impairment would compromise the employee's ability to perform his/her assigned job tasks and would endanger his/her well-being or the safety of fellow employees or the general public, that employee will temporarily be relieved of his/her duties.
- 5.12.3 employees will be transported to the collection site and will be required to provide a urine and/or breath sample. Following completion of the test(s), the employee will be placed on administrative leave pending the results of the test.
- 5.12.4 A written record of the observations that led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Human Resources Manager and shall be attached to the forms reporting the test results.

- 5.12.5 When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred to the substance abuse professional for an assessment. The employee shall be placed on administrative leave in accordance with the provisions of this policy.

Section .13 REFUSAL OF TESTING FOR DRUGS OR ALCOHOL

An employee may refuse to take a drug and/or alcohol test when requested to do so consistent with the terms of this policy. Such a refusal will be considered equivalent to testing positive for illegal drugs or alcohol. An employee will be considered as refusing to test if he/she expressly refuses to take a test, or otherwise fails to provide an adequate breath or urine sample without a valid medical explanation. Deliberately obstructing the testing process will be considered a refusal to take a test.

Section .14 CONSEQUENCES FOR POSITIVE DRUG OR ALCOHOL TEST

- 5.14.1 A prospective employee who tests positive for illegal drugs will not be offered employment. If the employee has accepted the position under a condition that he/she take the drug test, the conditional employment shall be rescinded. Any current employee who tests positive for illegal drugs or alcohol may be allowed to continue working for the City subject to the terms and conditions of this chapter.
- 5.14.2 An employee who has a confirmed positive drug and/or alcohol test will be immediately removed from his/her safety-sensitive positions and placed on leave-without-pay status.
- 5.14.3 An employee who tests positive for illegal drugs or alcohol, and who is allowed to continue to work for the City must first consult with a Substance Abuse Professional to determine if he/she is drug/alcohol dependent. If it is determined that he/she is not drug/alcohol dependent he/she may return to work after he/she takes and passes a drug/alcohol test at his/her expense and completes any counseling or educational programs recommended by the substance abuse professional. Thereafter, that employee will be subject to at least six (6) random drug or alcohol tests during the ensuing twelve (12) month period.
- 5.14.4 The City will evaluate on a case-by-case basis whether or not an employee will be given the opportunity for rehabilitation and retention.

Section .15 RIGHT OF EMPLOYEE OR PROSPECTIVE EMPLOYEE TO EXPLAIN POSITIVE TEST RESULT AND REQUEST FOR RETEST

- 5.15.1 Any employee or prospective employee who tests positive for drugs or alcohol must be given written notice of that test result, including the type of substance involved, by the employer. The employee must be given an opportunity to discuss and explain the positive test result with a medical review officer or other qualified person.
- 5.15.2 Any employee or prospective employee who has a positive test result may request that the same sample be retested by a mutually agreed upon laboratory. A request for retest must be done within seven (7) working days from the date of the first confirmed positive test notification and may be paid for by the employee or prospective employee requesting the test. If the retest results in a negative test outcome, the employer will reimburse the cost of the retest, compensate the employee for his time if suspended without pay, or if terminated solely because of the positive test, the employee shall be reinstated with back pay.

Section .16 EMPLOYEE NOTIFICATION REQUIREMENTS

All employees are:

- A. Required to notify his/her supervisor of any moving violation involving drugs or alcohol, occurring on or off the job.
- B. If required to drive as part of his/her assigned duties or job specifications, to report to his/her supervisor any restrictions imposed by law on his/her driving privileges due to drug or alcohol use.
- C. To be evaluated by his/her supervisor and the Human Resource Manager to determine if they will be retained if they are unable to perform his/her assigned duties due to loss of driving privileges.
- D. Required to report to his/her supervisor whenever he/she observes or has knowledge of another employee who poses a risk to the safety and welfare of others.
- E. Required to inform his/her supervisor of any use of legal or illegal drugs, including prescription medication, which may impair on-the-job performance.
- F. Required to inform his/her physician of this policy when being prescribed medication(s), and he/she will be responsible for using the medically authorized drugs, or over-the-counter medication in a manner that will not adversely affect his/her ability to perform safety-sensitive duties safely, effectively, and responsibly. employees shall provide a “release to work” note from the prescribing physician before performing safety-sensitive functions.

Section .17 FOLLOW-UP TESTING

An employee who has resumed his/her safety-sensitive function, after successfully completing a prescribed treatment program, will be required to submit to a minimum of six (6) follow-up drug and/or alcohol tests during the first twelve (12) months following the employee's return to work. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the substance abuse professional reflecting the substance abuse professional's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up drug and/or alcohol tests recommended by the substance abuse professional shall be in addition to any random, post-accident, reasonable suspicion, and return-to-duty tests the employee may experience, and may continue for up to sixty (60) months. The Human Resources Manager shall be responsible for maintaining all records relating to the substance abuse professional's recommendations and will assure that all required follow-up tests are conducted.

Section .18 SELF-REFERRAL

- 5.18.1 The City recognizes that alcoholism and drug abuse are diseases that should be treated as any other health problem. Further, it is the City's desire to help any employee who has a substance abuse problem to resolve that problem before they are found in violation of this policy. All employees who consider themselves drug or alcohol dependent and who voluntarily identify themselves as such will be encouraged to obtain an evaluation by a substance abuse counselor and to seek treatment as recommended by the counselor. The City will provide informational assistance in locating professional substance abuse counseling to any employee who requests it. Requests for this assistance will be treated confidentially and the employee will be directed to professional organizations that can provide in-patient, outpatient and post-treatment care.
- 5.18.2 An employee who demonstrates successful progress or completion of a recommended course of treatment may return to work after taking and passing a drug and/or alcohol test. An employee returning to work after treatment will be expected to comply with all aspects of this drug/alcohol testing policy. A request for rehabilitation may not be made in order to avoid the consequence of a positive drug result or to avoid taking a drug test when requested to do so under the terms of this policy, including any disciplinary action being taken by the City.
- 5.18.3 An employee who voluntarily seeks assistance in treating a problem associated with drug and/or alcohol misuse will be afforded the same consideration as any other employee undergoing an illness.
- 5.18.4 An employee who waits to volunteer for treatment until after they are notified of a scheduled drug or alcohol test, or until a positive test result, will be subject to the same penalties as any other "positive" test result.

Section .19 TERMINATION OF EMPLOYMENT FOR A VIOLATION OF THIS CHAPTER

An employee may be terminated if the employee:

- A. Uses, sells, possess, purchases, manufactures, or distributes alcoholic beverages, illegal or controlled substances, or other performance impairing substances, while on duty, or on City property.
- B. Has a confirmed positive drug test or a positive alcohol test.
- C. Consumes alcohol following an accident and before completing a post-accident alcohol and/or drug test.
- D. Refuses to submit to a drug and/or alcohol test when directed by the City to do so.
- E. Alters, substitutes, tampers, or attempts to tamper with a drug or alcohol test .
- F. Submits a urine sample that is not his/her own.
- G. Tests positive for drugs and/or alcohol following an accident resulting in death, serious injury, or extensive property damage.
- H. Tests positive for drugs and/or alcohol and events surrounding the test(s) preclude rehabilitation and retention.
- I. Tests positive for drugs or alcohol during his/her “trial” period. or, as a result of a “return-to-duty” or “follow-up” drug or alcohol test.
- J. Fails to notify his/her supervisor of the use of legal or illegal drugs, including prescription medication, that may impair on-the-job performance.
- K. Fails to notify his/her supervisor of a citation or conviction under a criminal drug statute within five (5) calendar days of incurring the citation or conviction.
- L. Fails to notify his/her supervisor of any moving violation involving drugs or alcohol, occurring on or off the job, causing loss of driver’s license.

Section .20 REHABILITATION AND RETENTION

An employee, who tests positive for drugs or alcohol from a random, post-accident and reasonable suspicion test(s) and is not subject to termination, will be provided an opportunity for rehabilitation and conditional retention of employment if his/she agrees to the following:

- A. Submit to an evaluation by an approved substance abuse professional.
- B. Actively participate in a prescribed treatment or rehabilitation program.
- C. Sign a Return-to-Work Agreement.
- D. Test negative on a return-to-work drug and/or alcohol test.

- E. Undergo unannounced follow-up drug and/or alcohol tests, as recommended by the substance abuse professional, with a minimum of six (6) tests during the first year in addition to any random tests that may be required.
- F. Follow any specified after care requirements.
- G. Understand that failure to abide by the return-to-work agreement, and/or a subsequent positive drug or alcohol test will result in immediate termination.

Section .21 CONFIDENTIALITY

The City will strictly adhere to all standards of confidentiality and assures all employees that testing records and results will only be released to those authorized to receive such information. Specifically, authorized personnel include:

- A. The employee, if requested in writing.
- B. The employer.
- C. Decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee.
- D. Subsequent employers, if requested in writing by the employee; or other identified individuals or agencies, if requested in writing by the employee.

Section .22 PROCEDURES FOR MANAGEMENT, SUPERVISORS AND EMPLOYEES

- 5.22.1 When a supervisor has reasonable suspicion to believe that an employee is in violation of this policy, the supervisor shall immediately notify the Human Resources Manager to determine further action. If an employee believes another employee is under the influence of an illegal or prescription drug or alcohol while on duty, he/she shall discuss the matter with his/her immediate supervisor. It shall be the supervisor's responsibility to take appropriate action.
- 5.22.2 If evidence exists that would lead another employee or supervisor to reasonably believe that an employee is under the influence of an illegal or prescription drug or alcohol while on duty, or such are in the employee's possession while on duty, immediate action is required. When such evidence exists, the City will require the employee to undergo a drug or alcohol test consistent with the conditions set forth in this policy.
- 5.22.3 Any Supervisor/Manager who knowingly disregards the requirements of this policy may be subject to disciplinary action, up to and including termination.

CHAPTER 6. ELECTRONIC USE POLICY

Section .1 CITY ELECTRONIC RESOURCES

The proper stewardship of City Resources is a responsibility that all City officials and employees share. Accordingly, except as provided below, employees may not use City Resources for personal benefit or gain or for the benefit or gain of other individuals or outside organizations. Responsibility and accountability for the appropriate use of City Resources ultimately rests with the individual City official or employee, or with the City official or employee who authorizes such use. City officials and employees should ensure that any personal use of City Resources permitted by this policy is the most efficient in terms of overall time and resources

Section .2 DEFINITIONS

City Resources include electronic and communications equipment, software, and systems, including, but not limited to: computers, computer networks, software, copiers, scanners, printers, other computer peripherals, telephones, fax machines, cellular phones, radios, applications such as the Internet, email, office systems, and other equipment or other property or resources under the official's or employee's official control or direction or in his or her custody or to which he or she has access.

Section .3 DIRECTIVES

- 6.3.1 The City's Resources must not be used knowingly to violate the laws and/or regulations of the United States or the laws and/or regulations of any state or city in any material way. Use of any City Resource for illegal activity is grounds for immediate suspension and/or termination. Likewise, the City will cooperate with all federal, state or local law enforcement agencies investigating any illegal activity while using City Resources.
- 6.3.2 Software or files downloaded via the Internet into the City's network become the property of City. Any such files or software may be used only in ways that are consistent with his/her licenses and/or copyrights.
- 6.3.3 The City has installed a variety of security systems to assure the safety and security of its network. Any user who attempts to disable, defeat, or circumvent any security facility may be subject to disciplinary action.

Section .4 OVERSIGHT OF THE CITY'S RESOURCES

The Mayor shall designate an employee or department who shall be responsible for the oversight and maintenance of the City's Resources.

Section .5 GENERAL PROVISIONS

- 6.5.1 Prohibition Against Use of City Resources for Personal Use While on Duty.

- A. Except as provided below, no employee may use City Resources for personal benefit or gain of the official, employee, or any other person.
- B. Except as provided in this policy, a employee may not make private use of City Resources and then reimburse the City so there is no actual cost to the City.

6.5.2 Limited Exceptions to Prohibition Against Personal Use While on Duty.

- A. The prohibition set forth in Section 6.5 et seq. does not apply to the use of City Resources to benefit another person if such use is consistent with the official or employee's official duties. Notwithstanding the prohibition against use of City Resources for personal benefit set forth in this policy, a City Official or employee may make occasional but limited use of City Resources if the following conditions are met:

- 1. There is little or no cost to the City.
- 2. Any use is brief.
- 3. Any use occurs infrequently.
- 4. Any use of City Resources does not interfere with the performance of the official or employee's duties, and does not obligate other employees to use City Resources.
- 5. Any use does not disrupt or distract from the conduct of City business, including volume or frequency.
- 6. The use does not compromise the security or integrity of City information or software.

- B. Examples of "occasional but limited use."

- 1. Use of the email (or phone) during breaks to confirm that children have arrived home safely from school, confirming appointments with health care providers.
- 2. Use of the Internet during breaks, as long as such use does not interfere with official duties, pose a security risk, or consume excessive resources.

6.5.3 The City may authorize personal use of City Resources if the use promotes organizational effectiveness or enhances the job-related skills of the employee using such resources.

6.5.4 Absolute Prohibition on the use of City Resources:

- A. Any use for the purpose of conducting an outside business of the employee, or a relative or acquaintance of the employee.

- B. Any campaign or political use, unless such use has been determined not to be a violation of state or federal law.
- C. Commercial uses such as advertising or selling, whether for personal or business purposes.
- D. Any use for private benefit or gain, including use of City contracts with vendors for the purchase of goods or services.
- E. Any illegal activity, including any use of the Internet, software, or any other property or resource that violates copyright laws.
- F. employees may not play games on a City-owned computer, even if the game was preloaded on the computer as part of the manufacturer's operating system. Downloaded and interactive games have the potential to undermine the security of City information and systems.

6.5.5 No Expectation of Privacy.

The City reserves the right to monitor the activities of all employees' City computers, email, Internet, fax, cell phones, and other electronic and communications systems. Users shall have no expectation of privacy when using City Resources. Such records may be subject to disclosure under the Public Records Act as codified or hereinafter amended or may be disclosed for audit or other legitimate City operational or management purposes. Any records created while conducting City business using personally owned communications devices may also be subject to disclosure.

6.5.6 Violations – Penalties.

- A. In order to safeguard City Resources, violators of this policy may be subject to disciplinary action. Violations of this policy will be handled in accordance with the City's established disciplinary procedures.
- B. In addition to any disciplinary actions, the City may temporarily suspend, block or restrict access to computing resources and accounts, independent of such procedures, when it reasonably appears necessary to do so in order to protect the integrity, confidentiality, or availability of City computing and network resources, or to protect the City from liability.
- C. The City reserves the right to pursue appropriate legal actions to recover any financial losses suffered as a result of violations of this policy.

Section .6 SPECIAL PROVISIONS REGARDING COMPUTER ACCOUNTS

6.6.1 Security

Users are responsible for the security of electronically stored information (data) to which accounts assigned to the user have been given permission to use. All users given permission to access data must act in a manner to protect said data from loss, unauthorized alteration, and unauthorized use.

6.6.2 Assignment of Computer Accounts

- A. Computer accounts are assigned to individual employees for his/her exclusive use.
- B. employees may set his/her individual passwords. Passwords are considered secret and shall not be shared with other employees and a violation of this section may result in a disciplinary action by the City. Access to the City Resources shall not be denied to the appropriate employee. Upon termination of employment, all passwords shall be given to the Department head.
- C. Users are responsible for all activities conducted with accounts assigned to them. employees must keep passwords secret. Each user is responsible to maintain the secrecy of the passwords for accounts assigned to him/her.

6.6.3 Access Control

- A. User account and passwords are used to control access to City data resources based on an individual employee's need to access specific data. Users are responsible for data accessed, transmitted, copied, deleted, etc. to or from his/her computer account.
- B. To prevent unauthorized use, all users should power down at the end of each shift; employees should log off before leaving said computers or systems unattended.
- C. Data will not be copied or transmitted without the same access restrictions as those placed on the original data. This provision is not intended to restrict distribution of data resulting from public disclosure requests or the authorized release of information by the City.
- D. The Independent Contractor and other authorized individuals may, by nature of assigned duties and in support of authorized activities, be exempt from any or all of these provisions regarding computer accounts.

Section .7 SPECIAL PROVISIONS REGARDING ELECTRONIC MAIL

6.7.1 Electronic mail is an integral part of the City's communications. It is the policy of the City to encourage the responsible use of electronic mail whether internally or externally generated or viewed. This policy is meant to make all users aware of the risks associated with using electronic mail and to inform them of City's policy regarding such use. This policy applies to the electronic version of the messages and any paper or printed copies of the messages.

6.7.2 Right of Inspection

- A. The electronic mail system is intended for business purposes. Electronic mail communications constitute public records, subject to certain exceptions, and the City has the right to access or monitor messages for work-related purposes, security, or to respond to public record requests. All messages should be composed with the expectation that they are public.
- B. Users shall have no expectation of privacy in email messages, whether they are business related or an allowed personal use as provided herein. Use of electronic mail shall be considered consent to City Officials, managers, and other employees to inspect, use, or disclose any electronic mail or other electronic communications and/or data without further notice.

6.7.3 Prohibition of Inappropriate Message Content.

Electronic mail should be businesslike, courteous, and civil. All the City's policies, including policies prohibiting discrimination and sexual harassment, shall apply to use of email. Email shall not be used for the expression of unlawful or discriminatory ill will or bias against individuals or groups, offensive material such as obscenity, vulgarity, or profanity, or other non-businesslike material. Sexually explicit material, cursing, and name-calling are expressly prohibited.

6.7.4 Forwarding of Electronic Mail

A user forwarding a message, which originates from someone else, may not make changes to that message without clearly disclosing the exact nature of the changes and the identity of the person who made the changes.

- 6.7.5 Messages received from the City Attorney, or private attorneys acting on behalf of the City, its officers or employees, may be privileged communications and therefore, confidential, and these messages shall not be forwarded to non-City persons without the prior approval of the author.

6.7.6 Mis-delivered Messages

If an electronic mail message comes to a user by mistake, the user should stop reading as soon as they realize the message was not meant for them and notify the sender or system administrator immediately.

Section .8 USER'S RESPONSIBILITY FOR SECURITY

- 6.8.1 Users are responsible for the security of his/her electronic mail account password and any electronic mail that is sent via a user account. To protect a user account against unauthorized use, the following precautions should be taken: Log off from, or lock access to, the City computer before leaving it unattended. If user id logon is left open, and someone else uses it, it will appear as if user sent the message and user will be held accountable.

- 6.8.2 Do not give out passwords. Users are responsible for messages sent via user account. Correspondingly, do not use or tamper with someone else's account without his/her knowledge and consent. Unauthorized use of an electronic mail account is in violation of this policy.

Section .9 USE OF NON-CITY EMAIL ACCOUNTS

Non-City email accounts (AOL, MSN, Yahoo!, Gmail, Hotmail, etc.) should not be used to conduct City business unless approved in advance by the Mayor. Likewise, a non-City email account may not be linked to a City email account. All employees shall be issued City email accounts.

Section .10 TRANSMISSION OF CONFIDENTIAL INFORMATION

Confidential material must not be sent via electronic mail. Electronic mail messages may be intercepted, viewed, and used for non-approved purposes, especially when corresponding via the Internet, a medium over which the City has no control.

Section .11 SPECIAL PROVISIONS REGARDING INTERNET WEB SITE ACCESS

The City encourages effective and efficient use of all City equipment for completion of City business. This includes use of the Internet for employees to provide information to City residents, businesses, and other governmental agencies to search for information, and for information exchange.

Section .12 CERTAIN USE OF INTERNET PROHIBITED

The following are specific examples of prohibited activities/access. This policy applies to use of any Internet or Intranet access system including but not limited to the City's network, the City's wireless access system (while on duty and/or using City-owned equipment), specific accounts set up at remote sites, or other City-owned or funded access. The City reserves the right to discipline and to remove Internet access for any employee for violation of this policy.

- A. Use of City equipment to access pornographic web sites is prohibited at all times.
- B. Use of the City's Internet access to access social media web sites (MySpace, Facebook, Twitter, etc.) is expressly prohibited, except by employees in the conduct of his/her official duties.

Section .13 MONITORING AND REPORTING OF INTERNET USE

- 6.13.1 It is the responsibility of City Officials to monitor and audit Internet web use within his/her department. Because there is the potential for employee abuse of the system, the City may monitor and record user access to Internet sites and provide the Mayor or City Council with information that can be used to track access to all Internet sites as required or requested to enforce City or department policy.

Section .14 DOWNLOADING FILES

- 6.14.1 The possibility of downloading a file with a computer virus is great and care must be taken not to contaminate any City owned computers. Files copied from an Internet site, or any other outside source, must be scanned by virus checking software prior to being used on a City computer. The Independent Contractor shall make options available for virus checking of copied files.

Section .15 UPDATING INFORMATION ON THE CITY'S WEBSITE

- 6.15.1 The City designates the City Clerk's Department or its designee, as the department responsible for ensuring that the information on the City's website is accurate and up to date.
- 6.15.2 The Clerk has developed guidelines on how to submit information to the City Clerk for inclusion on the City's website. Except as provided in these guidelines, no other employee of the City has authority to add or delete information on the City's website.

Section .16 REMOTE ACCESS TO CITY SYSTEMS

- 6.16.1 Remote access to certain City systems, applications, and data is maintained for selected employees. City remote access systems require a high level of application and user maintenance as well as monitoring. In addition, they significantly increase the security risks associated with outside access to applications and data. Remote access systems are therefore restricted only to those City Officials and employees who show a demonstrated necessity to access data or applications while away from City facilities and ONLY for City business. Remote access will not be granted for convenience. Users who do not utilize remote access systems may be removed as users. Use of remote access for other than official business will result in immediate removal as a user and, if appropriate, disciplinary action.
- 6.16.2 Authorization Required
 - A. Prior to use by any City Official or employee, the appropriate City Official must submit a written request stating what business necessity exists requiring the potential user to utilize remote access. Permission will be based on demonstrated need and subject to the criteria listed below.

- B. Directors and supervisors must be aware of and restrict remote access to City systems due to the potential to result in accrual of Comp. Time. An employee's remote access to data or email shall be limited to OnCall or emergency situations, as time spent accessing data or email remotely is considered compensated time for employees subject to FLSA rules.

Section .17 CELLULAR TELEPHONES

- 6.17.1 City departments shall acquire and use City cell phones in accordance with this Section to ensure that employees use cell phones in the most expeditious manner and to provide guidelines in the acquisition and use of such equipment.
- 6.17.2 The purchase of City cell phones must be approved by the department's Director or City Treasurer to ensure that sufficient funds are budgeted for the purchase and monthly operational costs associated with a cellular phone.

Section .18 General Requirements

- 6.18.1 Wireless transmissions, including cell phones, should not be considered secure. Therefore, employees using City cell phones or his/her personal cell phones to conduct City business should use discretion in relaying confidential information.
- 6.18.2 All devices that are being used for City business must have a passcode or password to lock the device.
- 6.18.3 The City reserves the right to monitor the use of all City Cellular Phones.

Section .19 Special Restrictions Related to Driving

- 6.19.1 Safe driving is an absolute top priority of the City.
- 6.19.2 Any cell phone use while driving should only be used to report an accident, car trouble, or if there is imminent danger.
- 6.19.3 Texting while driving is a violation of the law and is strictly prohibited.
- 6.19.4 If a cell call is received while driving, safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to the side of the road and safely stop the vehicle before placing or accepting a call.
- 6.19.5 If acceptance of a cell call is unavoidable and pulling over is not a safe option: use the voice-activated or "speed dial" feature; keep the call short; do not take notes, text message or e-mail while driving; refrain from discussion of complicated or emotional issues; and, and keep eyes and attention on the road.

- 6.19.6 Under no circumstances are employees allowed to place themselves at risk to fulfill business needs. employees who are charged with traffic violations resulting from the use of his/her phone while driving will be solely responsible for all liabilities that result from such actions. Violations of this policy will be subject to discipline, including termination.

Section .20 Eligibility

An employee may be issued a City cell phone if it is determined that the cell phone may be an appropriate tool to conduct City business when it is demonstrated that an employee's communications needs cannot be met with standard telephone equipment. Examples include employees that: are mobile for most of a work period, respond to emergencies, are responsible for restoring services, or are vital to decision-making for the City.

Section .21 Approval

The City Treasurer will be the approving authority for assigning City cell phones to employees.

Section .22 Use of a City's cellular telephone

- 6.22.1 No City cell phone shall be used in any illegal, illicit, or offensive manner. This includes, but is not limited to, accessing pornographic sites or using the cell phone to harass or make threats to another person.
- 6.22.2 The City cell phone is to be used only by the individual to whom it is issued.
- 6.22.3 The use of the City cell phone during work hours to make or receive personal calls should be restricted to emergencies. An employee should limit personal calls to his/her lunch break.
- 6.22.4 Use of the City cell phone is a privilege that may be revoked at any time for inappropriate usage.

Section .23 employee's Responsibilities

- 6.23.1 An employee receiving a City cell phone must notify the City of any lost or stolen device so the City may take any action against unauthorized access to City information.
- 6.23.2 employees must follow the requirements of policies and directives related to open records, city business related records, and records retention.
- 6.23.3 An employee who abuses this policy for whatever reason may be subject to disciplinary action including termination.

- 6.23.4 The employee may be held liable for the cost of a lost, stolen, or damaged city cell phone or equipment. The individual may also be held responsible for calls made while the cell phone is missing.

Section .24 City Treasurer's Responsibilities

- 6.24.1 The City Treasurer will determine an appropriate service provider, equipment needs, and the most cost-effective service plan based on the respective department's needs.
- 6.24.2 The City Treasurer will review plans periodically with each department Director and users to determine if the most cost-effective plan is being utilized.
- 6.24.3 The City Treasurer will coordinate the setting up of new users with the cell phone provider.
- 6.24.4 The City Treasurer will coordinate the canceling, terminating or re-issuing of cell phones and plans with the cell phone provider once notified by the department Director in charge of the employee status.
- 6.24.5 The City Treasurer will maintain a City wide inventory of all cell phones and equipment. Equipment includes chargers, holders, and PC-to-phone cables.

Section .25 PERSONAL CELL PHONE USE.

An employee's use of a personal cell phone while at work shall be limited to emergencies. During work hours all personal cell phones shall be either on silent, or vibrate mode only.

VEHICLE USE POLICY

Section .1 CITY-OWNED VEHICLES

- 7.1.1 This policy provides the basic framework governing the use of City-owned vehicles, and, as such, cannot contain procedures governing every situation that might arise. An employee seeking clarification of or exemption from the provisions of this policy should contact the Human Resource Manager who will provide such clarification and may authorize exceptions to the policy under mitigating circumstances.
- 7.1.2 Certain positions require employee access to City-owned vehicles, either during the work shift or on a 24-hour on-call basis. City-owned vehicles are not personal vehicles and are not for personal use.
- 7.1.3 City-owned vehicles should be viewed as belonging to the citizens and are assigned solely for purposes consistent with providing services to those citizens.

Section .2 ASSIGNMENT OF CITY-OWNED VEHICLES

- 7.2.1 The assignment of City owned vehicles during work time is based upon job description. Department heads who have City owned vehicles available for this purpose may assign such vehicles in a manner consistent with departmental workload and employee function.
- 7.2.2 Assignment of City owned vehicles for 24 Hour Use (Vehicle Use Approved for Commuting Purposes).

The assignment of vehicles for 24 hour use will only be considered for employees who require a vehicle for the ordinary and necessary discharge of his/her job functions in accordance with the following criteria:

- 1. Officially designated on-call status.
 - 2. Requirement for frequent emergency availability.
 - 3. Emergency or other equipment contained in the vehicle.
- 7.2.3 Vehicle use is limited to travel to and from the employee's residence and place of work. The vehicle should be driven via the most direct route. The vehicle should not be utilized for travel outside a direct commuting route for personal reasons.
 - 7.2.4 General Rules Governing City-owned vehicle use:
 - A. City vehicles shall display the City of Kuna logo and a unique number at all times.

- B. City-owned vehicles may only be used for legitimate City business.
- C. City-owned vehicles will not be used to transport any individual who is not directly or indirectly related to City business. Passengers shall be limited to employees and individuals who are directly associated with City work activity (committee members, consultants, contractors, etc.). Family members shall not be transported in City-owned vehicles. An exception shall be a person is in need of medical care and needs to be transported to an emergency facility for care when an ambulance is not available.
- D. Fleet card PINs are personally assigned and shall not be given out to another employee.
- E. City-owned vehicles should contain only those items for which the vehicle is designed. The City shall not be liable for the loss or damage of any personal property transported in the vehicle.
- F. The use of City-owned vehicles, including all passengers being transported, shall be limited to official business only.
- G. employees are expected to keep City-owned vehicles clean, and to report any malfunction or damage to his/her supervisors immediately.
- H. employees assigned vehicles for commuting purposes are expected to park such vehicles in safe locations. All City property stored in the vehicle shall be secured. The employee shall be responsible for any theft out of the City vehicle while it is parked at the employee's residence.
- I. Comply with the City's Tobacco Use Policy, as provided for in Section 4.3.
- J. employees and passengers must wear his/her seatbelt in vehicles so equipped during the operation of the vehicle.
- K. employees shall not operate City-owned vehicles under the influence of alcohol, illegal drugs, or prescription drugs or medications that may interfere with effective and safe operation.
- L. employees who operate City-owned vehicles must have a valid driver's license issued by the State of his/her current residence. employees shall comply with Idaho law in obtaining an Idaho driver's license.
- M. employees driving City-owned vehicles shall obey all applicable traffic and parking regulations, ordinances and laws, and operate the vehicle efficiently in terms of fuel consumption and trip routes.
- N. employees will be reimbursed for parking fees, not including fines.
- O. An employee who incurs parking or other fines in City-owned vehicles will generally be personally responsible for payment of such fines.
- P. An employee who is involved in a work-related accident requiring medical attention shall inform his/her supervisor of the accident as soon as possible.

- Q. An employee who is issued a citations for any offense while using a City-owned vehicle must notify his/her supervisor/Director immediately when practicable, but in no case later than 24 hours. Failure to provide such notice will be grounds for disciplinary action.
- R. An employee who is assigned a City vehicle and who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of his/her driver's license, whether in his/her personal vehicle or in a City-Owned Vehicle, must notify his or her supervisor/department Director immediately when practicable, but in no case later than 24 hours. Conviction for such an offense may be grounds for loss of City-Owned Vehicle privileges and/or further disciplinary action up to an including termination.
- S. No employee may use a City-Owned Vehicle for out of state use without advance approval from the City.

Section .3 SANCTIONS

Failure to comply with any and all provisions of this policy may result in disciplinary action up to and including removal of City vehicle privileges, suspension, and/or termination from employment.

Section .4 PERSONAL VEHICLE EXPENSE REIMBURSEMENT

- 7.4.1 It is the policy of the City to reimburse employees for reasonable expenses that they incur as a result of the use of his/her personal vehicle on behalf of the City. Receipts and the employee Reimbursement Form must be submitted in order for an employee to be reimbursed for such expenses.
- 7.4.2 Expense Reimbursement
 - A. Expense Reimbursement is intended for travel outside the City.
 1. An employee will not be reimbursed for personal automobile use within the City without advance approval by his/her Director.
 2. In all cases where there is a City-owned vehicle available, the employee should use the City vehicle instead of his/her own personal vehicle.
 3. When an employee is directed to use his/her personal vehicle, the employee will be reimbursed at the IRS mileage reimbursement rate (currently \$.555). When an employee elects to use his/her personal vehicle, the employee will be reimbursed at the government reimbursement rate (currently of \$.125).

4. The Director is expected to act in the best interests of the City in making the determination for the employee's use of his/her personal vehicle.
 - B. When an employee is authorized to use a personal automobile for work-related travel, he or she shall be reimbursed at a rate of reimbursement as established by the I.R.S.
 - C. The mileage rate is intended to include the costs of gasoline, repairs, insurance, and general wear and tear on the automobile.
 - D. In addition to the mileage rate, the City will reimburse employees authorized to travel outside the City, driving personal vehicles, for parking expenses when receipts are provided.
- 7.4.3 The City shall require employees who are reimbursed for work-related travel to show proof of the following minimum levels of insurance coverage:
 - A. Bodily Injury: \$100,000.00/\$300,000.00.
 - B. Property Damage \$100,000.00.
- 7.4.4 employees will not be reimbursed for commuting between his/her homes and offices or other regular work locations.
- 7.4.5 In order to be reimbursed for personal automobile use, an employee must complete the employee Reimbursement Form.
- 7.4.6 Automobile Accidents – In the event that an employee's personal vehicle is damaged during an approved, work-related trip, and the damage is not due to the negligence of the employee, the City will reimburse the employee for his/her loss up to a maximum of \$250; provided the employee provide proof of loss by a receipt of verification of payment of a deductible (comprehensive or collision) to cover part of the cost of repair, or an estimate to repair the damage .
- 7.4.7 Tickets, Fines, Towing – In the event an employee's personal vehicle is issued a ticket, fine or towed while on City business, such costs are not eligible for reimbursement.

RELATIONSHIP POLICY

- Section .1 Personal relationships are a vital part of most people's lives. When personal relationships intersect with employment, an employer may become entangled with the consequences of the choices that employees make. The City has no desire to become involved in such matters. Accordingly, these rules serve as a basic guide to family and romantic relationships in the City's workplace:
- Section .2 No person related to the Mayor or a City Council member by blood or marriage within the second degree may be hired as a paid employee of the City.
- Section .3 No employee of the City will hire, supervise or otherwise exercise discretion concerning a paid employee who is related to the supervisor by blood or marriage within the second degree.
- Section .4 Any supervisor involved in a romantic relationship with a subordinate must immediately notify his/her superior of the existence of any such relationship. Efforts should be made to eliminate supervisory responsibility for one who is romantically involved with a subordinate. An employee involved in a relationship bears a responsibility to the City to cooperate in any effort to avoid the potential conflicts that can arise from such personal relationship in the workplace. Such relationship may result in a change of employment duties.

CHAPTER 9. CANDIDACY FOR ELECTIVE OFFICE

- Section .1 While the City recognizes that the First Amendment provides Constitutional protections for the political activity of its employees, it also recognizes that this right is not absolute when balancing the right of the individual to become a candidate for office and the City's interest in promoting the efficiency of the public services it performs through its employees.
- Section .2 If an employee initiates candidacy against an Elected Official for whom he/she is a subordinate, the employee must endeavor to avoid any disruption in the workplace.
- Section .3 The City recognizes that the following factors may contribute disruption in the workplace:
- 9.3.1 The size of the office in which the employee works—the smaller the office, the greater the likelihood of disruption.
 - 9.3.2 Whether the employee candidate holds a position of trust and confidence to the incumbent—the closer the ties, the greater the likelihood of disruption.
 - 9.3.3 Whether the employee candidate is running for a position in which he/she would replace or become superior to his/her current supervisor—in such circumstances the likelihood of disruption would be greater.
 - 9.3.4 The nature of the relationship between the employee candidate and the incumbent and the degree of contact they have with one another—the greater the amount of contact and interaction, the greater the likelihood of disruption.
 - 9.3.5 If there is a disruption in the workplace, the Human Resources Department shall meet with the Elected Official and the employee to determine if it is possible to eliminate the disruption. If it is not possible, the City may look to reassign the employee, and if this is not possible, then the employee may be asked to resign. If the employee refuses to resign, he/she may be terminated. The official should set out in writing the factual basis for finding that there is disruption in the workplace. The written findings should be provided to the employee, placed in the employee's personnel file and be made a part of the official record. All other applicable procedures that allow an opportunity to be heard, as set out in this policy, will apply.

CHAPTER 10. EMPLOYEE CLASSIFICATION, COMPENSATION, AND BENEFITS

Section .1 CLASSIFYING EMPLOYEES FOR POLICY PURPOSES

10.1.1 Employment Status

- A. All employees of the City, including part-time and temporary employees, are AT-WILL EMPLOYEES, except as otherwise provided by this policy, as required by law, or pursuant to a written contract approved by the City Council.
- B. Employed Attorneys. Because the Idaho Rules of Professional Conduct govern the relationship between an attorney and his/her client, attorneys employed by the City are considered to be at-will employees, and they serve at the pleasure of the Mayor and City Council. Removal shall require a majority vote of the City Council, upon recommendation of the Mayor.
- C. Appointed Officials. The City Clerk, City Treasurer, City Engineer, Public Works Director, Planning and Zoning Director, Parks Director, and Facilities Director, and any other officials are appointed pursuant to Idaho Code §50-204, may only be removed pursuant to Idaho Code §50-206.
- D. The City hereby adopts the City of Kuna employee Organization Chart, attached hereto and incorporated herein by reference, as **Exhibit A**.

10.1.2 employee Classification for Benefit Purposes

The classification of the position an employee holds with the City may affect the status of obligations or benefits associated with his/her employment.

10.1.3 The primary classes of employees are:

- A. Appointed Officials. Appointed officials are considered Exempt employees pursuant to the Fair Labor Standards Act (FLSA).
- B. Full-Time Regular employees. employees, excluding Appointed Officials, whose employment is sustained and continuing and whose typical work-week consists of at least thirty (30) hours are considered full-time regular employees. Full-time regular employees are eligible for employee benefits provided by the City.
- C. Part-Time Regular employees. employees whose employment is sustained and continuing and whose typical work-week consists of less than thirty (30) hours on a regular basis are considered part-time regular employees. Part-time regular employees may receive reduced employee benefits as authorized by the City Council and as required by federal and state law. The number of hours worked may affect the employee's obligation to participate in certain mandatory state benefit programs. Certain benefits may not be available because qualifying thresholds have not been reached.

- D. Temporary employees. employees who work on an irregular, seasonal or temporary basis, either Full-time Seasonal or Part-time Temporary are temporary employees for purposes of employment with the City. Temporary employees receive no benefits, except those required by law or those approved by official action of the City Council.
- E. Volunteers. Volunteers may work for the City in various offices and must complete an employment application, submit to a background check and any other requirement of the City.
- F. Elected Officials. Elected officials are not considered Full-time or Part-time employees. Elected Officials receive employment benefits as adopted by resolution of the City Council.

CHAPTER 11. COMPENSATION POLICIES

Section .1 Establishment of employee Compensation

11.1.1 All employees are compensated in accordance with, and subject to, decisions of the City Council as annual budgets are set and are subject to increase, reduction, or *status quo* maintenance for any time period. The Mayor or department Director may make suggestions about salary compensation and other pay system concerns, but the final decision regarding compensation policy rests with the City Council.

11.1.2 employee's advancement with the City shall be subject to the Step and Grade Implementation Policy as adopted by the City Council, attached hereto and incorporated herein by reference as **Exhibit B**.

Section .2 Compliance with State and Federal Pay Acts

The City will comply with all state and federal pay acts governing compensation of its employees.

Section .3 Right to Change Compensation and Benefits

The City may change general compensation for any reason deemed appropriate by the City Council. Compensation may also be adjusted based upon job performance and the availability of funds to maintain a solvent city budget. Hours worked may be reduced or employees may be laid off as necessary to meet budgetary constraints or as work needs change.

Section .4 Overtime/Compensatory Time Policy

11.4.1 In addition to the employee classifications set forth in this policy, all employees are classified as: Exempt, Regular Full-time, Seasonal Full-time or Part-time employees for purposes of complying with the federal Fair Labor Standards Act (FLSA). Exempt employees perform work that qualifies for the professional, executive or administrative exemption and do not qualify for overtime or compensatory compensation.

- 11.4.2 Regular Full-time employees who perform actual work in excess of forty (40) hours per week will be compensated with “Compensatory Time”, which shall be computed at 1.5 hours for each additional one (1) hour worked over the forty (40) hour work-week. Compensatory Time pay will be allowed only when pre-authorized in writing by the department Director or supervisor or when absolutely necessary in an emergency. Department Directors or the supervisors shall provide the pre-authorization approvals to the Payroll Department at the same time that the timecards are due. Department Directors and supervisors shall monitor his/her employees’ Compensatory Time accruals. The target maximum accumulation of total hours of Compensatory Time shall be eighty (80) hours with a use by deadline of April 1 of each year. When an employee reaches the eighty (80) hours limit, the department Director shall schedule the time off with the employee to bring him/her under the limit. employees are encouraged to use accumulated Compensatory Time during his/her department’s off season to minimize the impact to his/her department’s productivity. The City Treasurer and the Human Resource Manager shall also monitor the employees’ accrual of Compensatory Time, and if they observe an excessive accumulation of Compensatory Time, they shall meet with the employee’s Supervisor or department Director in an effort to reduce the accrual of the Compensatory Time.
- 11.4.3 Compensatory Time may be used whenever required by a supervisor or when requested by an employee with the concurrence of a supervisor.

Section .5 OnCall Status and OnCall Pay

- 11.5.1 OnCall is defined as when an employee is officially scheduled to be available for responding to after hour and weekend emergencies and maintenance duties. It does not apply to work performed beyond the employee’s scheduled eight (8) hour shift, or if an employee is hired where after hours and weekends are his/her normally scheduled work shifts.
- 11.5.2 When an employee is scheduled to be available and on call to respond to emergencies, the employee shall be on OnCall status. In no circumstance will an employee receive OnCall compensation while they are working his/her regular working hours.

Compensation for OnCall status will be granted at the rate of four (4) hours of credit at the employee’s normal rate of pay for each assigned week of OnCall duty, where the employee is available for OnCall emergencies and maintenance duties. When called out to perform emergency repairs or maintenance duties while on OnCall status, the employee will receive a minimum credit of one-half (1/2) hour, or for the actual time worked for all time above one-half (1/2) hour, for each call out.

Section .6 Reporting and Verifying Time Records

- 11.6.1 All non-exempt employees shall timely and accurately record time that he/she has worked on his/her own timecard, and each employee's timecard must be signed manually or electronically by both the supervisor and the employee, and must contain a certification that it is a true and correct record of the employee's actual time worked and benefits used for the time period covered. No employee shall enter time for another employee, and if this does occur, both employees are subject to disciplinary action.
- 11.6.2 Exempt employees may be required to document time worked or benefits used for accounting purposes.
- 11.6.3 Electronic time clock policy.
 - A. Non-exempt employees must punch in/out each time they are on or off the clock and for each day they worked.
 - B. Time punched will be actual time worked. The City may, for accounting purposes, round time to the nearest quarter (1/4) hour.
 - C. Leave time must be entered on time card.
 - D. Missed punches must be corrected prior to an employee clocking in for a new time period.
 - E. OnCall employees clock in under on-call on Saturdays/Sundays and automatically receive credit for two (2) hours. Additional hours worked must be entered by punching in/out on time card.
- 11.6.4 Any employee concerned about his/her compensation, rate of pay, payroll status, deductions, etc., must communicate such concerns to the Payroll Department or his/her supervisor as soon as any such concern becomes evident. Documentation of any such issue should be maintained in the employee's personnel file.

Section .7 Work Periods

The workweek for all Regular Full-time employees who are subject to the FLSA begins at 12:01 a.m. on Sunday of each week and concludes at 11:59 p.m. of the following Saturday.

Section .8 Payroll Procedures and Paydays

- 11.8.1 employees are paid every other week throughout the year. Paychecks or direct deposit receipts are issued on every other Thursday, or earlier if a holiday, or for another reason. Paychecks compensate employees for work performed in the pay period preceding two (2) weeks in which the check is issued.

11.8.2 Each employee must monitor the accuracy of compensation received. Information shown on the employee's paycheck stub is provided for information only. Actual practices regarding the issuance of paychecks and allocation of employee benefits must be consistent with official policy of the City. In the event of disagreement between the computer-generated paycheck stub and official policy, as interpreted by the City Council, the policy will prevail. An employee is obligated to call to the City's attention any such errors, whether to the advantage or disadvantage of the employee.

Section .9 Compensation while Serving on Jury Duty or as a Witness in a Court Proceeding

Leave will be granted and full pay provided to an employee called to serve as a court witness in matters specifically related to City operations or called to serve on jury duty. A copy of the summons or proof of jury duty shall be provided to the City before compensation will be paid.

Section .10 Military Leave

An unpaid leave of absence will be granted to an employee to participate in ordered and authorized field training in accordance with Idaho Code §§ 46-407 and 409, and the Uniformed Services Employment and Reemployment Rights Act (USERRA). The employee may use accrued leave balances if they choose while participating in ordered and authorized field training or deployments.

Section .11 Maternity Leave

An employee shall be granted twelve (12) weeks unpaid maternity/paternity leave for births and adoptions, which may be used after the employee uses his/her accrued Compensatory Time and Vacation Leave.

Section .12 Payroll Deductions

No payroll deductions will be made from an employee's paycheck unless authorized in writing or by adopted policy, by the employee or as required by law (Idaho Code § 45-609).

Section .13 On-the-Job Injuries

11.13.1 employees are covered by worker's compensation insurance for on-the-job injuries. All on-the-job injuries must be reported to the employee's supervisor as soon as practicable or twenty-four (24) hours, whichever is sooner, so that a worker's compensation claim can be filed. Supervisors are required to immediately report the injury to the Human Resource Manager and the City Treasurer.

- 11.13.2 An employee requiring (non-emergency) medical attention should go to the City's identified occupational health care provider. In case of emergency medical attention, the employee may be treated at the facility where transported by emergency personnel.
- 11.13.3 An employee who is injured and has experienced lost time will be immediately placed on Sick Leave until the lost-time compensation as provided for by the Idaho State Insurance Fund is awarded.
- 11.13.4 Return to employment will be authorized on a case-by-case basis in consultation with the department Director and the Idaho State Insurance Fund, and may require a fitness for duty medical review. If an employee is able to return to work on "light duty status", the City will make every effort to bring the employee back to work.
- 11.13.5 Concerns associated with injured worker status may be brought before the appropriate City Official for review.

CHAPTER 12. EMPLOYEE BENEFITS

Section .1 The City offers employee benefits for Exempt employees and Regular Full-time employees. These benefits are subject to change or termination in the sole discretion of the City Council. Each benefit offering is subject to the specific terms of its respective insurance policy and/or official resolution of the City Council.

Section .2 VACATION LEAVE

12.2.1 Vacation Leave is available to Exempt employees and Regular Full-time employees as follows:

- A. Vacation Leave accrues at the rate of four (4) hours per pay period [one hundred four (104) annual hours] for employees with zero (0) up to the last day of year (6) for service years with the City; six (6) hours per pay period [one hundred sixty (160) hours] for employees with seven (7) years up to the last day of year fourteen (14) for service years with the City; and eight (8) hours per pay period [two hundred eight (208) hours] for employees with fifteen (15) years or more service years with the City.
- B. An employee who is at the end of his/her five (5) years of service with the City shall receive four and 62/100 hours per pay period [one hundred twenty (120) hours of vacation a year for service years six (6).
- C. Vacation shall be computed and credited at each pay period.
- D. Any rounding of Vacation Leave shall be performed in the last pay period of the year.
- E. Lateral hires may be brought in and given credit for prior employment service years for non-City employment at the recommendation of the department director and approval of the City Council.

12.2.2 Vacation Leave can only be accrued to one hundred twenty-five percent (125%) the maximum of amount of annual vacation that an employee can accrue during the current year calendar. An employee should schedule his/her vacation time to avoid exceeding his/her maximize Vacation Leave. The City recognizes that there may be unavoidable circumstances that cause an employee to exceed the maximum; the employee's department Director may approve an extension to use the Vacation Leave to a date no later than March 31 of the next calendar year.

12.2.3 Once an employee has accrued the maximum Vacation Leave, no additional Vacation Leave will accrue until the employee's accrued hours are reduced below the maximum.

12.2.4 In order to implement the Vacation Leave cap, the following limits are established:

- A. Effective to October 1, 2016, no Vacation Leave accrual shall exceed two hundred percent (200%) of an employee's maximum amount of annual Vacation Leave.
 - B. Effective to October 1, 2017, no Vacation Leave accrual shall exceed one hundred seventy-five percent (175%) of an employee's maximum amount of annual Vacation Leave.
 - C. Effective to October 1, 2018, no Vacation Leave accrual shall exceed one hundred fifty percent (150%) of an employee's maximum amount of annual Vacation Leave.
 - D. Effective to October 1, 2019, no Vacation Leave accrual shall exceed one hundred twenty-five percent (125%) of an employee's maximum amount of annual Vacation Leave.
- 12.2.5 Vacation Leave is to be scheduled with the consent of the responsible department Director. Efforts will be made to accommodate the preference of the employee in vacation scheduling, but first priority will be the orderly functioning of affected office/departments. Upon separation from employment, unused Vacation Leave up to the maximum allowed accrual will be compensated by lump-sum payment at the then-current hourly or daily rate.

Section .3 SICK LEAVE

- 12.3.1 Sick Leave benefits are provided to both Exempt and Regular Full-time employees at the rate of eight (8) hours per month. Sick Leave is a benefit to provide relief to an employee when an illness or injury prevents the employee from working productively or safely, or when an immediate family member's (spouse, child, parent) illness presents no practical alternative for necessary care, or for medical or dental appointments for the employee. Notification of use of Sick Leave should be made at least fifteen (15) minutes prior to the beginning of the scheduled work shift (unless circumstances outside the control of the employee prevent such notice) and the notification must be made by the employee to the supervisor by 1) phone call, or if not possible, 2) text message.
- 12.3.2 employees are expected to use Sick Leave when they are exhibiting signs of being sick, such as excessive coughing, nasal discharge, or a fever, or they are considered contagious. An employee's supervisor shall send an employee to the doctor to get a physician's report that the employee is not contagious, if the employee desires to stay at work.
- 12.3.3 Department Directors or supervisors may require an employee to provide a physician's note, or require, at the City's expense, an independent review of reported illness by a competent medical authority. If an employee is out for three (3) or more days, a physician's report will be required indicating the employee's current medical illness.

- 12.3.4 Sick Leave benefit recipients will receive their normal compensation when using Sick Leave. All unused Sick Leave will be forfeited without compensation upon separation from employment.

Section .4 TRANSFER OF VACATION LEAVE AND/OR COMPENSATORY TIME TO SICK LEAVE FOR ANOTHER EMPLOYEE

- 12.4.1 In order for an employee to receive transferred Vacation Leave or Compensatory Time donated by another employee for the recipient's Sick Leave, all of the following criteria must be met, the recipient must:

- A. Be a Regular Full-time employee or Director with the City.
- B. Have used all accrued Sick Leave, Vacation Leave and Compensatory Time
- C. Have a continuing disability resulting from a serious personal illness or injury and be unable to work.
- D. Not be receiving any other form of compensation including social security disability benefits, long-term disability benefits, worker's compensation benefits, or compensation through the PERSI.

- 12.4.2 Before a recipient employee is eligible to receive donated leave, his/her physician must provide current certification that the employee has a disability resulting from serious personal illness or injury and is unable to work.

- 12.4.3 Upon receipt of such medical certification, the employee is eligible to receive up to twenty (20) days of transferred Leave.

- 12.4.4 Eligibility for additional increments of twenty (20) days of transferred Leave may be based on current medical certification of the continuing disability.

- 12.4.5 The maximum amount of Leave that may be transferred to an employee is limited to one hundred eighty (180) work days for which the employee would otherwise not be paid as stated above in Paragraph 12.4.1D.

- 12.4.6 Transfer of Leave to an employee may not be denied if all eligibility criteria are met.

- 12.4.7 For a recipient receiving transferred Leave, a "day" is defined as eight (8) hours, on the basis of a forty (40) hour workweek schedule.

- 12.4.8 Recipients shall continue to accrue all benefits and service in accordance with the policies and guidelines, as adopted by the City, which shall be used prior to using donated Leave.

- 12.4.9 Criteria for Donating Leave

- A. An employee may donate more than one time to a single individual.

- B. The identity of the donating employee is not disclosed to the recipient.

12.4.10 Procedural Guidelines

- A. In order to facilitate Leave transferred between employees, the following procedures should be followed:
 - 1. The donating employee (Donor) must complete a Transfer of Leave Form.
 - 2. This form must be signed by the donating employee, the Human Resources Director and the Payroll Department.
 - 3. Leave time transfers are converted to equivalent units on a monetary basis- for example, if the donating employee makes \$20.00/hr and the recipient makes \$15.00/hr, the conversion rate is 1.33/hr.
- B. Prior to the transfer, the following shall be verified:
 - 1. The Donor has sufficient Leave to be transferred.
 - 2. The decision to donate Leave to another individual should be a choice made freely by each employee.
 - 3. Any person attempting to unduly influence another employee to donate leave shall be subject to disciplinary action, and any prior agreement made to donate Leave under these conditions shall be voided.

Section .5 HOLIDAYS

- 12.5.1 Ten (10) official holidays are provided for Exempt employees and Regular Full-time employees. Exempt employees and Regular Full-time employees receive compensation for that day even though they do not work. Holidays that fall on Saturday will be observed on the preceding Friday. Holidays that fall on Sunday will be observed on the succeeding Monday. The holiday schedule may be changed at any time by the City Council.
- 12.5.2 Exempt employees and Regular Full-time employees who work on a Holiday will receive pay at two times (2x) the employee's regular rate of pay for the total compensation pay.
- 12.5.3 Recognized Holidays:

- New Year's Day
- Martin Luther King, Jr./Human Rights Day
- Presidents' Day
- Veteran's Day
- Memorial Day
- Labor Day

Thanksgiving Day and Friday
Independence Day
Christmas Day

Section .6 BEREAVEMENT LEAVE

Exempt employees and Regular Full-time employees will receive up to three (3) days of paid leave of absence for each death in the immediate family (spouse, parents, grandparents, children, grandchildren, brothers and sisters).

Section .7 LEAVES OF ABSENCE

Exempt employees and Regular Full-time employees may receive up to thirty (30) days of unpaid leave of absence to be granted by the Mayor for any justifiable purpose. Paid leave in any amount or unpaid leave in excess of thirty (30) days will require written approval of the City Council. Vacation Leave will not accrue during the approved Leave of Absence. The employee shall pay his/her portion of any benefits due during the Leave period.

Section .8 FAMILY MEDICAL LEAVE ACT (FMLA)

12.8.1 Current Eligibility Requirements- See subsection A.4.

- A. To be eligible for FMLA benefits, prior to any leave request, the employee:
1. Must have worked for the City for at least twelve (12) months.
 2. Must have worked at least 1,250 hours for the City during the previous twelve (12) months.
 3. The City must employ at least fifty (50) employees within seventy (75) miles of your place of work.
 4. Currently, the City does not employ at least fifty (50) employees, consequently, FMLA DOES NOT apply to employees, and they are not entitled to twelve (12) weeks of job-protected, FMLA leave. However, the City may voluntarily provide benefits on a case by case basis, as approved by the City Council.

12.8.2 Eligibility Requirements upon the City reaching at least fifty (50) employees:

- A. To be eligible for FMLA benefits, prior to any leave request, the employee:
1. Must have worked for the City for at least twelve (12) months.
 2. Must have worked at least 1,250 hours for the City during the previous 12 months,
 3. The City must employ at least fifty (50) employees.

12.8.3 FMLA Rights

- A. An eligible employee is entitled to job-protected, unpaid leave for the following reasons: 1) birth and care of the eligible employee's child, or placement for adoption or foster care of a child with the employee, 2) care of an immediate family member (spouse, child, parent) who has a serious health condition, or 3) care of the employee's own serious health condition.
- B. The employee may request up to twelve (12) weeks of leave during which the City will continue the employee's benefits (employer portion only). The twelve (12) month period is determined using a "rolling" twelve (12) month period measured backward to the date an employee first uses any FMLA leave. If the employee does not return to work at the end of the FMLA leave for reasons other than the continued serious health condition of the employee or eligible family member, the City may recover from the employee the premiums that were paid for the employee's medical coverage during the FMLA leave period.
- C. Total FMLA leave for employee spouses/parents who both work for the City is twelve (12) weeks combined if the leave is for reasons other than the employee's own personal serious illness.
- D. Concurrent Use of Accrued Leave and Worker's Compensation Required
- E. An employee may use his/her accrued Vacation Leave, Sick Leave concurrently with any FMLA leave. If the employee does not have sufficient accrued Vacation Leave and Sick Leave to cover the time out on FMLA leave, the employee may take the remainder of FMLA leave as unpaid leave. An employee will continue to accrue Vacation Leave and Sick Leave while utilizing such leave, but will not accrue such leave during the unpaid portion of his/her leave.
- F. If the employee is on Worker's Compensation leave, such leave may also run concurrently with any FMLA leave.
- G. employee Obligations
 - 1. An employee is required to give thirty (30) days advance notice or as much time as practical when the need for FMLA leave is foreseeable. The employee may be required to provide medical certification by his/her physician or medical practitioner indicating the diagnosis and probable duration of the employee's or family member's FMLA qualifying medical condition. The City may also require second or third opinions at the City's expense.

2. An employee who is on FMLA leave for his/her own serious illness is required to provide a medical practitioner's fitness for duty report prior to returning to work. The employee must provide his/her medical practitioner with a job description so that the practitioner can evaluate whether the employee will be able to perform all of his/her duties on his/her return to work. FMLA leave may be denied if these requirements are not met. The decision to allow an employee to return to work will be solely the City's in compliance with the provisions of FMLA. If a doctor finds that the employee is not fit to return to duty, the employee will not be allowed to return to work.
3. An employee on FMLA leave will not be allowed to work for any other employer without prior approval from his/her supervisor. An employee who violates this rule will be subject to disciplinary proceedings up to and including termination from employment.
4. An employee should contact the Human Resources Office to discuss his/her rights and obligations for continuation of any current benefits being received. An employee must make arrangements for payment of his/her portion of benefit costs or discontinuation of those benefits will occur.
5. To request FMLA leave, the employee must contact the Human Resource Office indicating the reason for requesting FMLA leave and the expected duration of leave

H. Intermittent Leave Requests

1. FMLA leave may be taken intermittently or on a reduced leave schedule with prior written approval from the employee's supervisor or when "medically necessary." In the circumstance of birth or placement of a child for adoption or foster care, intermittent leave is only available by written approval of the supervisor or Mayor.

12.8.4 Employer's Rights and Obligations

- A. The City has the right to determine whether the employee is or is not an "eligible employee" under the Act and to place an employee on FMLA leave without the employee's consent if the employee meets the eligibility requirements under the Act.
- B. The City may require periodic notices of the employee's FMLA status and his/her intent to return to work.
- C. The City will return the employee to the same or an equivalent position after returning from FMLA leave, subject to the terms of the FMLA. The only exception may be for individuals who, under the provisions of the FMLA, are considered to be a "key employee" whose extended absence would cause "substantial and grievous economic injury".

D. The National Defense Authorization Act

1. The FMLA also provides an entitlement of up to 26 weeks of unpaid leave during a single twelve (12) month period to an eligible employee who must care for a covered service member—a person who is a spouse, son, daughter, parent or next of kin of the employee and has a serious injury or illness incurred in the line of duty that renders that person unfit to perform his or her duties in the Armed Forces. If this type of leave is requested, the City may require medical certification that the service member being cared for has a serious health condition and that it was incurred in the line of duty.
2. FMLA also now provides twelve (12) weeks of FMLA leave to an employee if his or her spouse, son, daughter or parent has been called to active duty with the Armed Forces. No serious medical condition is required for this type of leave. If this type of leave is requested, the City may require certification that the service member has actually been called to active duty.
3. An employee will provide prior notice when the need for this type of FMLA military leave is foreseeable.

Section .9 BENEFITS FOR TEMPORARY EMPLOYEES

All temporary employees will receive benefits as required by law, including Worker's Compensation insurance. All other benefits are to be determined in the discretion of the City Council.

Section .10 INSURANCE COVERAGE AVAILABLE TO EMPLOYEES

Various insurance benefits are available to employees and family members in accordance with the terms and conditions of the City's contract for such services. The City Treasurer should be contacted to learn of sign-up and claims procedures. Other insurance offerings may be available at employee or shared expense.

Section .11 RETIREMENT PROGRAM

The City participates in the retirement program of the Public employees Retirement System of Idaho (PERSI) and with Social Security (FICA). PERSI requires the City to withhold a percentage of an employee's gross salary for pension purposes, and to contribute an additional larger amount on behalf of the employee. Contact the Human Resource Office for further information.

Section .12 TRANSFER OF BENEFITS WITH EMPLOYEE TRANSFER

Accrued benefits for each employee continue when the employee transfers from one office/department to another within the City. Any such transfer will not result in a reduction of benefit offerings separate and apart from those realized by similarly-situated employees.

Section .13 PROVISION FOR UNIFORMS, FOOTWEAR, SAFETY EQUIPMENT AND OTHER TOOLS

- 12.13.1 employees working in the field will be provided hardhats, coveralls, safety vests, safety glasses, identification t-shirts and identification hats.
- 12.13.2 employees working in environments where safety toe boots are required for safety purposes will be provided one (1) pair of safety toe boots upon the following schedule:
 - A. At date of hire.
 - B. Replacement when in the determination of the supervisor, the employee's boots are worn out and continued use will be a safety hazard.
 - C. Every employee receiving safety toe boots shall sign the Steel-Toe Boot Policy. See Steel-Toe Boot Policy in Section 18.1.
- 12.13.3 Supervisors shall prepare a list of regular duties that require safety equipment and mandate that the employees under his/her supervision wear the required safety equipment. employees shall be required to wear the safety equipment at all times while on duty.
- 12.13.4 The department Director shall prepare an annual budget for necessary items, included in this Section. The department Director and/or supervisor shall be responsible for purchasing the necessary items during the fiscal year within the approved budget.

Section .14 EDUCATIONAL REIMBURSEMENT, LICENSING AND CERTIFICATION FOR ADVANCEMENT OF EMPLOYMENT

- 12.14.1 It is the policy of the City that for it to be competitive in the employment market and to be able to attract and retain a competent work force, it is the City's desire to invest in the educational opportunities that allow for its employees to advance his/her career with the City; however with this commitment on the part of the City, the City allows desires that its employees make a long term commitment to the City.
- 12.14.2 The City will reimburse Full-time and Exempt employees for each required educational courses and tests for certificates and licenses that allow an employee to advance his/her step classification with the City.

- A. Prior to an educational testing and/or expense over two hundred-fifty dollars (\$250.00) being approved, the employee must sign an Educational Expense Reimbursement Agreement.
- B. If the employee certifications or licenses are term renewable, the City shall be listed as the address for mailing notification and not the employee's address.

12.14.3 employee Repayment of Educational Expense Reimbursements.

- A. In the event the employee does not remain employed with the City for the required period of employment as stated in Section 1 of the Educational Expense Reimbursement Agreement, whether due to the employee's resignation, termination or otherwise, pursuant to this policy, the employee is liable to repay the City on a prorated basis the amount of each educational expense which the City has paid.
- B. All amount shall be repaid pursuant to the terms of each Educational Expense Reimbursement Agreement in the amounts as prorated as set forth below. Unless a shorter time period is specified in the Educational Reimbursement Expense Agreement, if employee's employment with the City ends:
 - 1. Within one (1) year of the employee's official beginning date of employment, the employee shall be required to pay back all (100%) of the reimbursed educational expenses.
 - 2. More than one (1) year but less than two (2) years from the employee's official date of employment, the employee shall be required to pay back half (50%) of the reimbursement.

Section .15 TRAVEL EXPENSE REIMBURSEMENT

12.15.1 Meals Reimbursement:

- A. Overnight travel. The City will reimburse an employee for meals only while the employee is on City approved travel. An overnight stay is allowed only when the employee is attending a conference or training and the travel time from the City to the location is greater than two (2) hours each way. Dollar limitations shall be governed by the I.R.S. Tax Code that dictates per diem based upon meal rates by geographic area.
- B. Training Conference. The City will reimburse an employee for a lunch if the employee is attending an all-day training conference and the training or conference is greater than two (2) hours travel in each direction and a lunch is not provided as part of the training conference. There will be no reimbursement of alcohol.

12.15.2 Mileage Reimbursement for use of personal vehicles: employees shall comply with Chapter 7 of this Policy Manual.

Section .16 MISCELLANEOUS BENEFITS

12.16.1 In addition to the foregoing benefits, the following are examples of miscellaneous benefits, subject to change in the sole discretion of the City Council, may be available to employees for participation in accordance with the terms of adopted Resolution of the City Council:

- A. Deferred compensation plans handled by payroll deduction.
- B. employee-requested deduction programs subject to City policy.

CHAPTER 13. EMPLOYEE PERFORMANCE AND DISCIPLINE

Section .1 PURPOSE OF DISCIPLINE/PERFORMANCE POLICY

This discipline/performance policy of the City applies to all employees, including Exempt employees, Regular Full-time employees, Part-time employees and Voluntary employees. It establishes a consistent procedure for maintaining suitable behavior and a productive working environment. These procedures are directory in nature and minor variations in the processes set forth herein will not affect the validity of any actions taken pursuant to this policy.

Section .2 DISCIPLINARY/PERFORMANCE SYSTEM FRAMEWORK

The following framework guides the processes to be taken when an employee violates employment policies or fails to adequately perform his/her duties. Nothing contained herein is intended to limit the reasons for which the employee may be disciplined, including termination of the employment. In addition, nothing contained herein is intended to change the at-will nature of the employment. Progressive steps may be implemented in order to encourage improved performance or attitude, but are not required. The City may take any of the prescribed steps in any order when a department Director or supervisor deems an action of the employee to be serious enough to warrant a certain step.

Section .3 DISCIPLINARY ACTIONS AVAILABLE

13.3.1 The following actions are among the disciplinary actions that may be taken in response to personnel policy violations:

- A. Oral warning.
- B. Written warning or reprimand.
- C. Suspension without pay.
- D. Demotion.
- E. Dismissal.

13.3.2 Conditions of maintaining employment that relate to particular performance/behavior issues may be established in conjunction with any of these actions.

Section .4 OPPORTUNITY TO BE HEARD—ASSERTIONS OF UNLAWFUL DISCRIMINATION AND RETALIATION AND “NAME-CLEARING HEARING”

13.4.1 All employees are employed at-will.

- 13.4.2 An employee who is being demoted with a reduction in pay or terminated from employment based upon allegations of dishonesty, immorality or criminal misconduct is constitutionally entitled to a name-clearing hearing when one is requested.
- 13.4.3 Unlawful discrimination and retaliation address actions that are alleged to involve decisions based upon age, sex, race, religion, national origin or disability that is not a bona fide occupational qualification. The City does not condone discrimination on the basis of the foregoing unlawful categories. Unlawful retaliation addresses actions that are taken against an employee for initiating a charge of discrimination or harassment, or for assisting in any way in an investigation of such charges.
- 13.4.4 Failure to pursue this opportunity to be heard or name-clearing hearing procedure constitutes a waiver of this opportunity.
- 13.4.5 Issues involving job performance or employee attitude, without allegations of discrimination, retaliation, dishonesty, immorality or criminal misconduct, are not the proper subject of this procedure and will not be heard.
- 13.4.6 The procedure for the opportunity to be heard or name-clearing hearing is as follows:
- A. Within fourteen (14) days of his/her termination or demotion, the employee may submit a written allegation of unlawful discrimination or retaliation, or the basis for entitlement to a name-clearing hearing, stating with particularity the basis for the requested hearing. Council shall have the option of extending the time to submit a written allegation for an additional seven (7) days, upon a good cause finding only if the employee requests the extension with the grounds stated therein, in writing prior to the expiration of the fourteen (14) days. Written allegations that are untimely submitted or that fail to state a particular, legally recognized basis will not be granted an opportunity to be heard. An employee will be promptly notified if a requested hearing is denied.
 - B. An employee alleging unlawful discrimination or retaliation, or who is legally entitled to a name-clearing hearing, will meet with the City Council. The hearing will be of reasonable duration, however the City Council shall have the right to limit the hearing length or conclude the hearing if the presentation of evidence becomes redundant or cumulative.

- C. The employee's department Director or supervisor may provide a brief written statement at least twenty-four (24) hours prior to the hearing in support of the basis for termination. The City Council may require the employee's department Director or supervisor to participate in the hearing. If upon receipt of the employee's supervisor's written response, the employee needs additional time to prepare, limited to a response to the issues raised in the supervisor's response, the employee shall request, in writing, a reset of the hearing that may be reset based upon a finding of good cause.
- D. The employee will be provided an opportunity to present evidence upon which the grounds for termination are based.
- E. The City Council may ask questions during this process.
- F. The employee may question participants during this process.
- G. The hearing shall be conducted in Executive Session.
- H. An audio recording of the hearing shall be made and maintained as part of the personnel record.
- I. The Idaho Rules of Evidence do not apply to this opportunity to be heard or name-clearing hearing.
- J. After the hearing, the City Council will consider the information submitted, and such other information as might be in the City's records, to arrive at a decision concerning the employee's allegations. The decision will set forth in writing the reasons for the City Council's determination and shall be issued not greater than thirty (30) days after the conclusion of the hearing, unless extended based upon a finding of good cause

CHAPTER 14. WORKPLACE DISCRIMINATION, HARASSMENT AND RETALIATION POLICY AND COMPLAINT PROCEDURE PURPOSE

- Section .1 This section establishes the City’s commitment to provide a work environment free from unlawful discrimination, harassment and retaliation, and to set forth the procedures for investigating and resolving internal complaints of such behavior. This policy should be reviewed by each employee on a periodic basis.
- Section .2 It is important that all employees treat all other employees and members of the public with respect and in a lawful and civil manner. It is the responsibility of every employee, supervisor, office/department Director and Elected Official to deter inappropriate behavior in the workplace. Discriminatory harassing behavior that impacts, or has the potential to impact, the workplace will not be tolerated.
- Section .3 This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, job retention, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation and training.
- Section .4 **POLICY**
- 14.4.1 Unlawful discrimination or harassment of an applicant for employment, a member of the public or an employee by any employee of the City on the basis of race, color, religion, national origin, sex, age (40 and over as provided for by law) or disability is in violation of state and/or federal law and will not be tolerated by the City.
- 14.4.2 An employee found to be participating in any form of employment-related unlawful discrimination or harassment, or retaliating against another employee for filing a complaint alleging discrimination or harassment or cooperating with an investigation, will be subject to disciplinary action up to and including termination of employment.
- Section .5 **RESPONSIBILITIES**
- 14.5.1 **The City**
- A. It is the responsibility of the City to develop this policy, provide training on it, keep it up to date, and ensure that any violation of this policy brought to its attention is dealt with as required by law and according to this policy.
- B. The City designates the Human Resource Manager or his/her designee (“Designated Official”), as the official who will be responsible for directing the procedures of this policy.
- 14.5.2 **Department Directors and Supervisors**

- A. Department Directors and Supervisors shall enforce this policy, train new employees on it, regularly review it with all employees so that the employees know its provisions, and monitor the workplace for compliance.
- B. If a Director or supervisor observes that unlawful discrimination, harassment or retaliation is occurring, he/she should take immediate action to address the problem. Such action should include, but is not limited to, speaking directly with the affected person, developing a specific account of the actions, omissions or occurrences that are deemed discriminatory, harassing or retaliatory, consulting with an office/department Director, and taking corrective or disciplinary action as appropriate. If the alleged discrimination, harassment or retaliation is not within the supervisor's area of responsibility or oversight, he/she should notify the office/department Director or other appropriate management employee, who should then take prompt steps to address the allegation.
- C. If unlawful discrimination, harassment or retaliation is reported or alleged, it must be followed up by a supervisor. A complaining party is not allowed to retract an allegation of such unlawful actions without proving that it was made erroneously.

14.5.3 employees

It is the responsibility of every employee to know this policy and to share the responsibility of understanding and preventing unlawful discrimination, harassment and retaliation. But, satisfactory investigation or resolution of complaints cannot occur without the initiative and continued cooperation of the affected person. Individuals who believe they have been discriminated, harassed or retaliated against have the primary obligation of informing his/her supervisor, office/department head, Human Resource Officer or legal counsel for the City of such actions, recounting specific actions or occurrences whenever possible.

14.5.4 DEFINITIONS

- A. Unlawful harassment includes, but is not limited to, the following behaviors:
- B. *Verbal Harassment* – Derogatory comments, slurs, propositioning, or otherwise offensive or abusive words or comments on the basis of race, color, religion, national origin, sex, age (40 and over) or disability, whether made in general, directed to an individual or directed to a group of people regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate sexually-oriented comments about dress or physical features, sexual rumors, code words, race-oriented stories, as well as jokes of a sexual or discriminatory nature or “kidding” that is oriented towards a prohibited form of harassment.

- C. *Physical Harassment* – Assault, impeding or blocking movement, leering at, physical interference with normal work, privacy or movement when directed at an individual on the basis of race, color, religion, national origin, sex, age (40 and over) or disability. This includes pinching, patting, grabbing, inappropriate behavior in or near bathrooms, sleeping facilities and eating areas, or making explicit or implied threats or promises in return for submission to physical acts.
- D. *Visual Harassment* – Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, e-mails, notes, bulletins, drawings or pictures on the basis of race, color, religion, national origin, sex, age (40 and over) or disability. This applies to both posted material and material maintained in or on City equipment or personal property in the workplace.
- E. *Sexual Harassment* – Any act that is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

14.5.5 There are basically two types of sexual harassment:

- A. "Quid pro quo" harassment, where employment decisions such as raises, promotions, better working hours, job retention, etc., are directly linked to compliance with sexual advances/unlawful sexual harassment. Therefore, only someone in a supervisory capacity with the authority to grant any of such benefits can engage in *quid pro quo* harassment. Examples: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.
- B. "Hostile work environment," where the unlawful harassment creates an offensive and unpleasant working environment.
 1. A hostile work environment can be created by anyone in the work environment, whether they are supervisors, other employees or the public. Hostile work environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category. A prohibited hostile work environment does not exist simply because a supervisor is rude, belittles the employee or requires work that the employee does not want to do. A prohibited hostile work environment is only present when it is based on the above factors.

Section .6 COMPLAINT PROCEDURE

- 14.6.1 The following complaint procedure must be followed to address a complaint regarding discrimination, harassment or retaliation:
- A. A person who believes he/she has been unlawfully discriminated, harassed or retaliated against should report it to his/her supervisor, department Director or the Human Resource Manager, or City Attorney. If a department Director or supervisor becomes aware of a complaint in any way that unlawful discrimination, harassment or retaliation is occurring in any City office/department, it must be immediately reported to the Human Resource Manager or City Attorney (Designated Official), unless the Human Resource Manager or City Attorney is the focus of the complaint, in which case the City Treasurer should be informed, and will have the responsibility to direct the investigation.
 - B. Once such a complaint has been made, the complaint cannot be withdrawn by the complainant without a determination that it was made erroneously.
 - C. Promptly upon receiving the complaint, the Designated Official should initiate the investigation to determine whether there is a reasonable basis for believing that an alleged violation of this policy or law has occurred.
 - D. Upon receiving the complaint, or being advised by a supervisor that violation of this policy may be occurring, the Designated Official shall initially investigate the complaint to determine if they are a neutral party and able to serve as the investigator in appropriate circumstances, or if the investigation should be conducted by an outside investigator.
 - E. The investigator should interview the complainant, the person alleged to have committed the offenses, and any relevant witnesses to determine whether or how the alleged conduct occurred.
 - F. As soon as practicable, the investigator will conclude the investigation and submit a report of the findings to the Designated Official, who will then route it as appropriate.
 - G. If it is determined that unlawful discrimination, harassment or retaliation has occurred, the appropriate official will recommend the course of action to be taken by the City. The action will depend on the following factors:
 - 1. The severity, frequency and pervasiveness of the conduct.
 - 2. The conduct of the respective employees.
 - 3. Prior complaints made against the person alleged to have committed the offenses.
 - 4. The quality of the evidence (first-hand knowledge, credible corroboration etc.).

- H. If the investigation is inconclusive or it is determined that there has been no unlawful discrimination, harassment or retaliation, but some potentially problematic conduct is revealed, corrective action may be taken.
- I. Promptly after the investigation is concluded, the Designated Official and/or the appropriate department Director(s) will separately meet with the complainant and the person alleged to have committed the offenses to notify them in person of the findings of the investigation.
- J. The complainant and the person alleged to have committed the offenses may submit statements to the Designated Official and/or department Directors and/or supervisors challenging the factual basis of the findings. Any such statement must be submitted no later than five (5) working days after the meeting in which the findings of the investigation are discussed.
- K. Promptly after the Designated Official and/or department Director and/or supervisors have met with both parties and reviewed the documentation, and after consultation with legal counsel, a decision will be made as to what action, if any, should be taken by the Mayor or department Director.

Section .7 DISCIPLINARY ACTION

- 14.7.1 If unlawful discrimination, harassment or retaliation is determined to have occurred, the Designated Official should take prompt and effective remedial action against the actor. The action should be commensurate with the severity of the offense, up to and including termination of employment.

14.7.2 RETALIATION

Retaliation in any manner against a person for filing or initiating in good faith a charge or complaint of discrimination or harassment, testifying in an investigation, providing information or assisting in an investigation is expressly prohibited and subject to disciplinary action up to and including termination. The supervisor, department Director and Designated Official should take reasonable steps to protect the victim and other potential victims from further harassment or related consequences.

Section .8 CONFIDENTIALITY

- 14.8.1 Confidentiality should be maintained to the fullest extent possible in accordance with applicable federal, state and local law. However, a complete and thorough investigation of the allegations will require the investigator to inform witnesses of certain aspects of the complaint in order to obtain an accurate account of the actions of the parties involved. The City's insurer may also be engaged to assist in all phases of any proceeding or investigation.

Section .9 FALSE COMPLAINTS

- 14.9.1 Discipline will result, up to and including termination, when it is conclusively determined that an employee made a complaint of discrimination, harassment or retaliation knowing it to be false and/or knowingly participated in the falsehood. This section is not intended to discourage employees from making complaints regarding unlawful employment-based behavior. An employee will not be disciplined for reporting actual behavior that in good faith the employee believed was unlawful employment-based behavior. However, false complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated.

CHAPTER 15. SEPARATION FROM EMPLOYMENT

Section .1 REDUCTIONS IN FORCE (RIF)

- 15.1.1 When financial circumstances or changes of workload require, the City may reduce forces in such manner as it deems necessary to maintain the effective functioning of the City services. employee assignments may be affected by reductions in force made due to economic conditions or to changes in staffing and work needs. The Mayor, in conjunction with the City Council may make any changes in the work force or assignment of resources deemed to be in the City's best interests.
- 15.1.2 employees who are separated from employment for RIF, who are re-hired, shall be entitled to credited time for years of service with the City for purposes of calculation of benefits.

Section .2 RETURNING TO EMPLOYMENT

- 15.2.1 An employee who voluntarily terminates his/her employment with the City, and then is re-hired by the City shall not receive:
 - A. Credit for years of service with the City for purposes of calculation of benefits; and
 - B. Credit for Sick Leave that was forfeited at the time of separation of employment.

CHAPTER 16. COBRA BENEFITS

Section .1 employees who currently receive medical benefits and who resign or are terminated from his/her employment may be eligible to continue those medical benefits for a limited time in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). employees with questions regarding the right to continue health coverage after termination of his/her employment should contact the Human Resources Officer.

CHAPTER 17. RESIGNATION POLICY

- Section .1 Written and oral resignations are effective upon receipt by a supervisor or Elected Official. Oral resignations should be documented by the supervisor after consultation with the Mayor or department Director. Evidence of the accepted written or oral resignation should be provided to the employee and placed in the employee's personnel file.
- Section .2 employees who have an unexcused or unauthorized absence of three (3) working days or more may be considered to have resigned through abandonment of his/her position. If an employee's words or actions indicate an intent to resign, including having an unexcused or unauthorized absence of three (3) or more working days, the City will consider the employee as having resigned and immediately notify him/her of such.

ADOPTED by the City Council on the ____ day of _____, 20____.

_____, Mayor

Attest: _____

Clerk

City Rules and Regulations

SAFETY TOE BOOT POLICY

1.0 PURPOSE:

The purpose of this policy is to establish the requirement of employees wearing safety-toe footwear while working in hazardous environments which could cause foot and or toe injuries. Except for employees who work predominantly in an office environment, all other employees are required to wear work boots – not sandals, flip-flops, tennis or other canvas-type shoes or office-type footwear.

2.0 ORGANIZATIONS AFFECTED:

All departments with employees who work in hazardous environments.

3.0 POLICY

All employees who are exposed to hazardous environments which could cause foot and or toe injuries are required to wear safety-toe footwear in those environments. Department supervisors are responsible for determining which employees are required to wear safety-toe footwear, enforcing the requirement and restricting employees not properly attired from working in hazardous environments.

4.0 DEFINITION

“SAFETY-TOE FOOTWEAR” means footwear intended to provide protection for the toes against external forces by the use of a protective toe box incorporated in the footwear that is capable of complying with the requirements of ANSI Z41 1991 Standard.

5.0 PROCEDURES

5.1 Protective footwear purchased and worn by employees shall meet ANSI Z41 1991 standards.

5.2 All employees required to wear Safety-Toe footwear will be identified by his/her supervisor.

5.3 employees will have the choice of which manufacturer of approved footwear to purchase.

5.4 The City will reimburse a maximum of \$150.00 for an approved pair of safety-toe footwear for employees required to work in defined hazardous areas or activities.

5.4.1 The employee will purchase the safety-toe footwear from an approved vendor.

5.4.2 Any amount over the maximum \$150.00 will be paid by the employee, which said amount may be deducted from the employee's paycheck.

5.5 employees will be responsible for maintaining his/her own safety-toe footwear. Any willfully lost, stolen or damaged footwear in the two year period will be replaced by the employee at the employee's expense as directed by department supervisor.

5.6 An employee who is terminated or otherwise ends his/her employment and his/her boots have remaining boot life shall be required to reimburse the city for the proportionate cost of the remaining life of the safety-toe footwear based on a two year boot life.

5.7 Seasonal employees will generally be restricted from working in defined hazardous environments. If otherwise, the terms of this policy will apply, including reimbursement of the City for unused boot life at the end of employment.

CONCLUSION

This policy is intended to protect the employees who are exposed to hazards capable of damaging feet and or toes.

APPENDIX "A"

ACKNOWLEDGMENT OF RECEIPT OF THE CITY OF KUNA PERSONNEL POLICY MANUAL

I, _____ acknowledge receipt of the _____ Personnel Policy, adopted on _____.

I understand that it is my responsibility to read and review this Policy.

I understand that I am an at-will employee of the City, that this Policy is not an employment contract, that none of the provisions of this Policy can create a contract and that the Policy is not a guarantee of any particular length or term of employment.

I understand that I am obligated to perform my duties of employment in conformance with the provisions of this Personnel Policy Manual and any additional rules, regulations, policies or procedures imposed by the office/department in which I work whether or not I choose to read the new Policy.

I understand that this Policy may be modified without prior notice to me.

I understand that should this Policy be modified that I will be provided with a copy of the modifications.

I understand that this Policy may be provided to me in either paper format or by electronic access.

DATED this _____ day of _____, 20____.

(employee)

I, _____, provided a copy (either electronically or by paper) of the City of Kuna City Personnel Policy, as adopted by the City Council on _____ to _____, on this _____ day of _____, 20____.

(Name - Title - Office/department)