

RESOLUTION 3-3-12 R

A RESOLUTION ADOPTING THE KANAB CITY EMPLOYMENT POLICIES AND PROCEDURES HANDBOOK

WHEREAS, Utah Code Annotated 10-3b-105 vests the City Council with the authority to adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, and business of the municipality, and

WHEREAS, the Kanab City Council desires to replace the Kanab City Personnel Policy to conform with state and federal requirements, and to clarify numerous other policies and procedures, and

WHEREAS, the Kanab City Council has carefully reviewed the attached Kanab City Employment Policies and Procedures Handbook, and

WHEREAS, the Kanab City Council desires to separate general policies and procedures from employment policies and procedures.


NOW THEREFORE, be it resolved by the City Council of Kanab City that

1. The attached Kanab City Employment Policies and Procedures Handbook shall be in effect until further resolution. All resolutions and policies in conflict herewith, either in whole or in part, are hereby repealed.
2. In consideration for no longer having an entitlement for compensation for hours in excess of 40 hours a week, the current Library Director shall move from Grade 11 to Grade 12 (current step K), and the Airport Director shall move from Grade 9 to Grade 10 (current step O) on the Kanab City Grade and Step Classification Table.
3. Part 2 "Administrative Policies" and Part 4 "Job Descriptions" of the now previous Kanab City Personnel Policy are retained unchanged as City policies separate and apart from the Kanab City Employment Policies and Procedures Handbook.

PASSED AND APPROVED by the Kanab City Council on the 27th day of March, 2012. This resolution shall be effective immediately upon passage.



Mayor Nina Laycook



Attest: City Manager/Recorder Duane Huffman



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GENERAL POLICY

This Employment Manual is provided for general guidance only. The policies and procedures expressed in this Employment Manual, as well as those in any other personnel material, or other types of material which may be issued from time to time, do not create a binding contract or any other obligation or liability on the City. The City reserves the right to change its policies and procedures at any time, formally or informally, with or without notice, for any reason. The City also reserves the right to take any employment action it deems appropriate. The prohibitions set forth in the Employment Manual do not create an express or implied contract with any person.

No verbal representations or statements made by supervisors or co-workers can bind the City to any course of action.

I. HIRING AND EMPLOYMENT PRACTICES

A. Anti-Nepotism

It is the City's policy to comply with Title 52, Chapter 3, Utah Code Annotated, and any amendments or successor statutes, concerning the prohibitions regarding the employment of relatives. Therefore, the City prohibits any person holding any position, to appoint, vote for the appointment of, directly supervise, be in the line of supervision of, or be directly supervised by their father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild. No employee shall accept or retain such employment. Volunteers providing services to the City are excluded from this provision.

B. Equal Employment Opportunity Statement

The City is an equal opportunity employer. It is the policy of the City from recruitment through employment and promotion, to provide equal opportunity at all times without regard to race, color, religion, sex, national origin, age, pregnancy, or disability.

C. Residency

1. Preference to Residents

Preference in employment may be given to City taxpayers and their dependents.

2. Residency May Be Required

The City Council, through ordinance or resolution, may require City residency of the following officers and employees within a reasonable period of time from the date of appointment:

- a) City Manager
- b) Public Works Director
- c) Police Chief and Officers
- d) Fire Chief and Officers

- e) Other emergency related personnel

D. Veterans Preference

In accordance with Title 71, Chapter 10, Utah Code Annotated and any amendments or successor statutes, eligible veterans and their spouses shall be given preference in interviewing and hiring for a position.

E. Driver's License Requirements for New Hires

Any employee who is hired in a position which requires operation of City vehicles or equipment must possess a valid Utah driver's license and must be insurable (under the City's insurance policy then in force without any additional premiums or costs being incurred by the City to insure that employee). Prospective employees must provide the City with their date of birth, Social Security number and driver's license number in order for the City to ascertain the validity of their driver's license and their insurability. The status of the driver's license and insurability status of a prospective employee must be determined before that employee begins working for the City.

F. Maintenance of Valid Driver's License

1. Current Employees

All City employees who operate City owned or controlled vehicles or equipment will be subject to an annual drivers license status check. If, for any reason during employment, an employee is unable to maintain the appropriate valid Utah driver's license required by the employee's position or for any other reason becomes uninsurable (under the City's insurance policy then in force without any additional premiums or costs being incurred by the City to insure that employee), that employee must inform his or her supervisor immediately. The supervisor will then inform the Department Head and the Personnel Department.

The Personnel Department, the Department Head, and the City Attorney will then review the situation, considering such things as the nature of the job and the expected duration of time the employee will be without a driver's license, and decide the appropriate action to be taken.

2. Penalties for Failure to Maintain Drivers License or for Failure to Notify

Failure to maintain a valid Utah driver's license or a commercial driver's license in a position that requires such, or failure to notify a supervisor of uninsurability or a change in status of an employee's driver's license when such license is a job requirement, may subject the employee to disciplinary action up to and including termination.

II. EMPLOYMENT STATUS

A. Appointed Officials

The City Manager, City Recorder, City Treasurer, City Attorney, Police Chief, Justice Court Judge, Public Works Director, Fire Chief, and City Engineer (when applicable) shall be appointed by the Mayor with the approval of the City Council. Appointed officials are employed "at will" and terminable with or without cause or prior notice, for any reason or no reason at all, unless otherwise stated in writing at the time of appointment.

B. Probationary Employees

All new full-time employees who are hired with intention of becoming regular full-time employees, are required to serve at least six months in probationary status. If the employee's performance is unsatisfactory, the employee shall be notified in writing of his/her failure to complete the probationary period and will be terminated.

During probation, except probation due to promotion, the employee may be terminated at-will at any time, with or without cause or prior notice, for any reason or no reason at all.

An unpaid leave of absence shall not be considered part of any probationary period.

1. Promotion

Any promotion to a position with significant differences in job responsibility shall be subject to a probationary period of six months. During the probationary period the employee's abilities and performance will be evaluated by the supervisor. If, in the sole discretion of the City, the City determines that the employee's performance is unsatisfactory, the City shall notify the employee in writing of his/her failure to complete the probationary period and the employee will be reinstated, if available, to their previous position, or if available another position for which they are qualified. However, if the cause for rejection during the promotional probationary period was sufficient grounds for dismissal from both positions, the employee may be dismissed in accordance with the City's formal disciplinary procedures.

2. Reinstatement

The probationary period for a former employee being reinstated shall be for a period of:

- a) 3 months if being reinstated in the same department and to the same position previously held; or
- b) 6 months if the reinstatement is to a different department or to a different position within the same department to which the employee was previously assigned.

C. Regular Full-time Employees

Regular full-time employees are those who are scheduled to work 32 hours or more per week for the City on a continuing basis and who have successfully completed their probationary period.

D. Temporary Employees

Temporary or seasonal employees are hired to work for a limited period of time. They are always in a probationary status, and may be terminated at will, with or without cause or prior notice.

E. Part-time Employees

Part-time employees are those who were hired to work 32 hours or less each week. Their employment may be continuing, but they are always in a probationary status, and may be terminated at will, with or without cause or prior notice.

III. COMPENSATION

A. Time Sheets

All employees, full time as well as part time, shall maintain a monthly time sheet. At the end of each month department heads will review for accuracy the time sheets of their department employees, making sure each employee has signed his or her particular time sheet. Time sheets for all full time, salaried employees shall be delivered to the payroll clerk no later than 3 working days after the end of the pay period.

B. Overtime and Compensatory Time

All employees shall comply with the provisions of the Fair Labor Standards Act (FLSA) as amended and the Department of Labor regulations issued thereunder pertaining to compensation for overtime work.

Exemptions: In accordance with the provisions of the Fair Labor Standards Act, certain positions are "exempt" from the payment of additional money for overtime worked (see subparagraph 2 of this part).

Work periods: For the purpose of complying with the requirements of the FLSA, the work week shall consist of seven days beginning 12:00 a.m. Sunday and ending at 11:59 p.m. Saturday.

All overtime hours shall be accounted for by the employee on the time sheet during which the hours were worked.

Joint employment: A City employee shall not serve as a volunteer for the same job in which he/she is employed by the City.

1. Law Enforcement

At the beginning of each 28 day work period, the police chief, or his designee, shall set the time to be worked for each officer, not less than 160 or more than 171 hours per 28 day work period. Any time worked over the 171 hours in the 28 day work period will be considered overtime. Overtime work shall occur only in emergency situations. Monetary compensation will not be paid for overtime worked unless an officer accrues more than the maximum 480 hours of compensatory time or under certain special circumstances such as a grant received for payment

of overtime. Officers will be granted compensatory time off at a rate of one and one-half hours off for every hour of overtime worked.

The practice of overtime work shall be kept at an absolute minimum. All accumulated overtime shall be authorized and certified by the Police Chief.

2. Officials and Department Heads

The following employees of the City are exempt and paid a fixed salary and are not entitled to additional compensation for hours worked in excess of forty (40) hours per week.

- a) City Manager
- b) Chief of Police
- c) Police Sergeant
- d) City Attorney
- e) Justice Court Judge
- f) Fire Chief
- g) Library Director
- h) Airport Manager

3. Others

- a) All employees of the City other than those enumerated in subparagraphs 1 or 2 are subject to the provision of this subparagraph 3.
- b) Employees of the City are authorized to work forty (40) hours per week. Except as noted below, employees are not authorized to work more than forty (40) hours in any one week without the advance written consent of their department head or the City Manager. If an emergency threatening life or property arises and an employee is unable to obtain prior written consent, the employee may work more than forty (40) hours in a week. However, the employee's department head or the City Manager must be notified in writing within 72 hours and written consent for such excess hours must be obtained. If it is determined that an employee worked excess hours without advance consent and not under emergency conditions, the employee may be disciplined up to and including termination.
- c) An employee shall be granted compensatory time off at the rate of one and one-half (1-1/2) hours for each hour worked in excess of forty (40) hours in a normal work week. If an employee is scheduled to work less than his/her normal work week (40 hours), [such as those weeks when an employee takes compensatory time off, takes vacation time, sick leave or a holiday falls during that period] any time worked between the shortened work schedule and the normal work week (40 hours) will be considered straight time. Employees will be granted compensatory time off for straight time worked at a rate of one (1) hour for each hour worked up to the normal work week (40 hours). Any employee desiring to take compensatory time

off shall submit a written request to his or her department head or the City Manager stating the number of hours to be taken and the dates when the hours will be taken. The request shall be submitted no later than forty-eight (48) hours prior to the first day in which the hours will be taken off. The hours may be taken off when requested, unless the department head or the City Manager notifies the employee within twenty-four (24) hours of receipt of the request that the request will unduly disrupt the operations of the City.

- d) No employee may accumulate more than 240 hours of unused compensatory time. Hours of compensatory time earned in excess of 240 hours accumulated shall be paid at the regular rate earned by the employee at the time the employee receives such payment. Upon termination of employment, an employee with accrued unused compensatory time shall be paid at a rate of compensation equal to (a) the average regular rate received by such employee during the last three (3) years of the employee's employment, or (b) the final regular rate received by such employee, whichever is higher.
- e) For purposes of this subparagraph 3, hours worked by an employee shall not include work performed as a volunteer fireman for the City

C. Separation Pay

When employees terminate, they shall be required to return all tools, equipment and other City property and to clear all City financial obligations prior to receiving their final paycheck. Any obligations not cleared will be deducted from their final paycheck. Final pay checks shall include compensation for all unused annual leave and qualified compensable overtime. Sick leave is not compensated.

D. Pay Days

Pay periods are the 1st through the 15th and the 16th through the last day of the month. Employees shall be paid on the 5th and the 20th of each month. When pay day falls on the weekend or a holiday, pay day will be the work day preceding the weekend or holiday.

E. Work Days

The normal work day for Kanab City employees will be 8:00 a.m. to 5:00p.m., Monday through Friday. At certain times it will be necessary for employees to work times other than those considered a normal work day.

F. Rest and Meal Periods

Each workday, most full-time employees are provided with up to two rest periods. In some cases, department directors may not allow for two rest periods, due to the nature of the work. In such cases, employees may be allowed to have beverages and even certain snacks at their desk(s) throughout the work period. Supervisors will advise employees of the regular rest period length and schedule. To the extent possible, rest periods will be provided in the middle of work periods. Since this time is counted

and paid as time worked, employees must not be absent from their stations beyond the allotted rest period time. Rest periods normally will last no longer than fifteen minutes.

All regular full-time employees are provided with one meal period of 60 minutes in length each workday. Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time.

G. Pay Advancement

The City will not make pay advances to employees.

H. Anniversary Date Defined

An employee's "Anniversary Date" shall be that date, upon completion of the required probationary period and after a successful evaluation, when the employee is hired or appointed as a Kanab City employee. An employee's evaluation period shall be determined from the date of employment; if the employee is hired prior to or on the 15th day of the month, the evaluation date shall be determined from the 1st day of said month; if the date of hire is the 16th or after, the evaluation date for computing merit increases shall be determined from the 1st day of the following month. A promotion to a new job shall establish a new evaluation date for the employee, in accordance with the foregoing rules.

IV. INSURANCE AND BENEFITS

A. Worker's Compensation

Kanab City operates under the provisions of the State of Utah Worker's Compensation Act.

Any injury occurring on the job must be reported to the supervisor immediately and forms prescribed by the State Industrial Commission must be completed and submitted to the City Manager within seven (7) days of the injury.

B. Medical Insurance

The City may pay the premium for health, hospitalization, surgical, dental, life and disability insurance for regular full-time employees and those employees' dependents. The specific plan may be changed from time to time, and benefits under the plan may change or be eliminated.

C. Long Term Disability

Subject to the terms and conditions established and controlled by the plan provider and/or other Disability Plan Provider(s), the City may offer long-term disability insurance coverage for regular full-time employees and volunteer firefighters for the purpose of providing income protection against the loss of an employee's ability to work and earn income for periods of time exceeding certain long term periods and conditions.

Under the long term disability insurance plan, there may be a waiting period before benefits begin.

The City may pay for the premium cost(s) associated with the respective long term disability insurance plans and policy provisions for regular full-time employees and volunteer firefighters. More information about respective coverage or plan participation may be obtained through the City Office.

D. Social Security

All qualified employees of the City contribute to the Social Security program, as administered by the Federal Government. This is a system of retirement benefits based on equal employee contributions to public insurance reserves.

E. Employee Retirement System

All qualified employees of the City working 32 hours or more per week not listed below shall participate in the Utah State Retirement System.

The following employees may elect to exempt themselves from participation in the Utah State Retirement System through a "Request for Exemption": Mayor, City Manager, Chief of Police, and Fire Chief

For the purpose of the Utah Retirement System, all elected officials are officially designated as part-time.

This retirement system provides a number of benefits to the employee. Employees should refer to the Informational Handbook regarding any questions concerning the plan.

F. Cafeteria Plan

In an effort to help eligible employees with the costs of medical expenses and dependent care coverage and premiums, the City may sponsor a Cafeteria Plan, which reserves a certain amount of salary each year and sets it aside for the purpose of medical insurance payments and coverage costs/fees. This reserved amount is then excluded from reporting for the purposes of taxable income.

This Cafeteria Plan is a benefit plan which has been developed under the meaning of a qualified Cafeteria Plan as defined and controlled by the U.S. Internal Revenue Service. Thus, as IRS rules change or are amended, the Cafeteria Plan is also subject to change or amendment to maintain conformity to law. While sponsored by the City, specific terms, coverage, and administration of a Cafeteria Plan are developed and administered through a Plan Administrator.

Subject to certain qualifying conditions and hours of work, eligible employees, referred to as plan participants in the Cafeteria Plan, include: Full-time employees.

The Cafeteria Plan functions similarly to a personal checking account held for the purposes described above and in the written policy and plan coverage information. Money from the employee's

compensation is withheld and deposited through the year. The Cafeteria Plan has three unique benefits for employees:

- The employee decides before the beginning of each year how much their total deposit for the year in the Cafeteria Plan will be.
- The employee uses the money set aside in the Cafeteria Plan only to pay for their eligible dependent care costs and medical/dental fees/costs.
- The money deposited in the employee's account is deducted from their salary before it is taxed, thus providing a benefit of some immediate tax relief.

Once an employee makes an election for benefit coverage, that election is set for one year and may be changed only upon a qualifying event. Qualifying events include, but may not be limited to, marriage, divorce, birth of a child or change in the employment status of the employee.

Plan information and written summaries and plan documents are available from the City. Employees interested in participating in Cafeteria Plan should contact the City Office for written plan information, appropriate enrollment application(s) and forms and other pertinent information.

G. Hepatitis B Vaccinations

All employees who are currently, or who will in the future be employed in the following listed positions are required to be vaccinated against the Hepatitis B virus in whatever manner is determined by the City to be most appropriate. Those listed positions are: Law Enforcement Officers and Firefighters. If a present or future employee elects not to have the appropriate vaccinations against the Hepatitis B virus, they must sign a "Hepatitis B Vaccination Waiver Form" releasing the City from any liability with regard to their contracting the Hepatitis B virus and any and all costs associated with their contraction of that disease.

H. Benefits Continuation (COBRA)

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the City's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Subject to the terms and conditions of the group policy and applicable legal standards for extensions of insurance coverage under the law, employees, their spouses, dependents, and divorced or separated spouses may continue the group insurance plan benefits for periods of time beyond the last date of work of the employee for the City. The terms, limitations, conditions and length of extensions of coverage are specific in each individual case. Employees, dependents, spouses and ex-spouses are encouraged to make inquiry of the City through the Records Office to obtain further information.

Under COBRA, the employee or beneficiary pays the full cost of coverage at the City's group rates plus an administration fee.

The City provides each eligible employee with notice describing rights granted under COBRA when the employee becomes eligible for coverage under the City's health insurance plan. The notice contains important information about the employee's rights and obligations.

V. LEAVE AND HOLIDAYS

A. Holidays

1. List of Holidays

The following days have been designated by the City to be paid holidays for all regular full-time employees:

January 1st	New Years Day
January (3rd Monday)	M. Luther King Day
February (3rd Monday)	Presidents Day
May (last Monday)	Memorial Day
July 4th	Independence Day
July 24th	Pioneer Day
Sept. (1st Monday)	Labor Day
Oct. (2nd Monday)	Columbus Day
Nov. 11th	Veterans Day
Nov. (4th Thursday)	Thanksgiving Day
Nov. (4th Friday)	In lieu of Arbor Day
Dec. 25th	Christmas Day

2. Observed Days

When a holiday falls on a Saturday it shall be observed on the preceding work day. When it falls on a Sunday, it shall be observed on the following work day.

3. Exchange Days

Employees who for one reason or another are required to work on one of these holidays will be given compensatory time off at the rate of one hour off for every hour worked, however, law enforcement officers scheduled to work holidays will be paid their normal salary plus one days rate of pay, unless the holiday is overtime.

B. Annual Leave

1. Amounts

Unless defined in an employment contract, each regular full-time employee will be entitled to annual leave based upon the following schedule:

Service Time	Days Per Year
0 thru 5 years	12 days

6 thru 10 years	15 days
11 thru retirement	18 days

2. Use Encouraged

Annual leave is intended to benefit the employee, and employees are encouraged to take annual leave in the year in which it is earned.

3. Scheduling

Vacations will be scheduled with the Department Head so as to meet the operating requirements of the City and, insofar as possible, the preference of employees. Seniority, within the various departments, shall apply in case of conflict of requested leave schedules.

4. Eligible Employment

Eligible employment for annual leave may be with more than one department and must be continuous. Annual leave shall not accrue during any period when an employee is on a leave-without-pay status; however, employees on a leave-with-pay status will continue to accrue annual leave. Annual leave shall start to accrue at the beginning of a semi-monthly pay period and shall not be credited for less than a semi-monthly pay period.

5. Measuring Leave Taken

Holidays shall not constitute a day of annual leave. When an authorized holiday falls within the time period of an employee's annual leave(s) the employee will be entitled to one additional day beyond the specified annual leave period.

6. Accumulation

- a) An employee will begin to accumulate annual leave immediately upon employment. Upon completion of the employees first month of work, said employee will have accumulated one day of annual leave.
- b) Any annual leave in excess of thirty (30) working days will be forfeited by the employee on January 30 of each year.
- c) No employee will be granted annual leave for a period in excess of two weeks at any one time except by prior arrangement with department head and City Manager.
- d) Employees requesting annual leave from two to five days must do so at least one week in advance. Employees requesting annual leave for a period longer than five working days must do so at least two weeks in advance.
- e) Each department head shall be required to maintain records of annual leave used by each employee.

7. Termination

Upon termination of employment with the City an employee's accrued annual leave will be paid in a lump sum payment on the pay day following the last day worked, provided the amount of leave has been approved by the department head and the City Manager.

8. Use Prior to Accrual Prohibited

No annual leave with pay will be granted prior to having been earned.

C. Sick Leave

1. Use of Sick Leave

Sick leave is to be used for illness or appointments with medical personnel for consultation of medical problems only for employees or employees' dependents. Each employee absent under those provisions will arrange for a telephone report to his supervisor or management within the first two working hours of the first day of absence. Any employee absent under this provision for longer than five working days shall, upon request of his supervisor, arrange for a note from a doctor stating the nature of the illness and expected time of absence. If an employee's supervisor finds excessive sick leave is being taken, a doctor's note or other evidence of illness may be required for absences of less than five days. Abuse of sick leave privileges is considered grounds for discipline, including dismissal.

2. Accrual and Accumulation

Each full time employee shall accrue sick leave with pay at a rate of one (1) working day for each month worked, or twelve (12) working days a year. Sick leave may be accumulated indefinitely. Sick leave shall start to accrue at the beginning of a semi-monthly pay period and shall not be credited for less than a semi-monthly pay period. Sick leave shall not accrue during any period when an employee is in a leave-without-pay status; however, employees on sick leave with pay shall continue to accrue both annual and sick leave. An eligible employee may begin to utilize accrued sick leave after having completed at least one full month of satisfactory employment. Accrued and unused sick leave is not compensated when an employee leaves city employment, other than through official retirement. Accrued and unused sick leave is not compensated or transferable when an employee leaves City employment before retirement.

3. Eligible Employees

Regular full-time employees shall accrue sick leave.

4. Accrued Sick Leave Reimbursement Policy

When an employee retires, the employee shall be compensated for his/her accrued and unused sick leave. To qualify for reimbursement of unused sick leave an employee must meet full retirement qualifications. Full retirement qualifications mean those requirements set forth by the Utah State Retirement Board for a retiring employee to received full retirement benefits. Reimbursement shall be calculated on the salary of the employee at the date of retirement. The employee's hourly wage shall be calculated by dividing his/her salary by 2080.

At retirement, a qualifying employee must choose one of the following options:

a) Cash Payment

Employee will receive a cash payment of 25% of the value of all accrued unused sick leave at date of retirement.

b) Health Insurance Premium

Kanab City will pay 50% of the employees two party health insurance coverage premium using the employee's accrued unused sick leave. The other 50% must be paid by the employee. The employee may remain on the city health insurance coverage until his/her accrued unused sick leave is consumed or until the employee reaches Medicare qualification, whichever occurs first.

If the employee dies before his/her accrued unused sick leave is consumed or before his/her spouse reaches Medicare age, the City will continue to pay 50% of the employee's spouse's city health insurance coverage premium until the employee's accrued unused sick leave is consumed or until the spouse reaches Medicare age. The other 50% must be paid by the spouse.

A retired employee choosing either option shall not continue to accrue annual or sick leave after retirement.

D. Leave and Family and Medical Leave Act (FMLA) Policy

Leave of absence without pay or benefits up to 30 days may be granted by the Mayor. Leave of absence shall not be regarded as a right by an employee. Requests for a leave of absence shall be made in writing and addressed to the Mayor. After the Mayor has made a decision concerning the request for leave of absence, he/she shall respond to the employee in writing stating the reasons for said decision. Benefits will not accrue while on leave of absence.

The City provides family and medical leave of absence, without pay, to eligible employees for their own serious health conditions; or who wish to take time off from work duties to fulfill family obligations relating directly to childbirth, adoption, or placement for a foster child; or to care for a child, spouse or their own parent with a serious health condition. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Eligible employees are those who have worked for the City for at least one year and worked 1,250 hours within the previous 12 month period. Eligible employees should make requests for FMLA leave to their supervisors at least 30 days in advance of foreseeable events. When 30 days notice is not possible, the employee must provide notice as soon as practicable and must comply with the City's normal call-in procedures.

Employees requesting FMLA leave related to their own serious health condition or the serious health condition of a spouse, child, or their own parent must submit sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of leave. Employees must also inform the City if the requested leave is for a reason for which FMLA leave was

taken or previously certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Eligible employees may request up to a maximum of twelve weeks of family leave within a 12 month period. Any combination of FMLA leave may not exceed this maximum limit. The City uses the rolling period to calculate this 12 week period. The rolling period method starts counting the FMLA period on the date the employee first uses FMLA leave. Eligible employees will be required to first use any accrued paid leave time before taking unpaid leave. This accrued paid leave time will be included as part of the maximum twelve weeks leave. Married employee couples may be restricted to a combined total of twelve weeks leave within any 12 month period for childbirth, adoption, or placement of a foster child; or to care for a parent with a serious health condition.

To the extent the law requires, eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

During the single 12-month period for servicemember care leave, an eligible employee is entitled to a combined total of 26 workweeks of servicemember care leave and leave for any other FMLA-qualifying reason, provided that the eligible employee may not take more than 12 workweeks for any other FMLA-qualifying reason during this period. For example, in the single 12-month period an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of servicemember care leave, but could not take 16 weeks of leave to care for a newborn child and 10 weeks of servicemember care leave.

Subject to the terms, conditions and limitations of the applicable plan, health insurance benefits will be provided by the City for the length of time on leave, up to the maximum of twelve weeks. The employee must continue to pay any portion of the premium that the employee would typically pay if not on leave.

Benefit accruals, such as annual, personal leave, or holiday benefits, will be suspended during the leave and will resume upon return to active employment.

So that an employee's return to work can be properly scheduled, an employee on FMLA leave must provide the City with at least two weeks' advance notice of the date the employee intends to return to work. When FMLA leave ends, the employee will be reinstated to the same position, if it is available, or to an equivalent position for which the employee is qualified.

If an employee fails to report to work promptly at the end of the approved leave period, the City will assume that the employee has resigned.

E. Funeral Leave

Leave may be granted to employees to attend the funeral of an immediate family member. Such leave shall not be charged against accrued annual or sick leave. The amount of time granted will be three (3) work days. If the department head feel the circumstances warrant additional leave time, said leave may be granted with the approval of the City Manager. The City Manager shall, in all cases, determine whether the leave is with or without pay.

"Immediate Family" shall mean: Wife, husband, children, parents, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, brothers, or sisters of the employee.

F. Unauthorized Leave

Any absence from duty for one (1) hour a day or more that is not covered by an authorized grant-of-leave shall be recorded as leave without pay and may be the basis for disciplinary action and for a deduction of pay.

G. Military Leave

The City does not discriminate against any person who is a member of, applies to be a member of, performs, has performed, applies to perform or has an obligation to perform service in a uniformed service, as defined by federal statute. The City will not deny initial employment, re-employment, retention in employment, promotion, or any benefit of employment by the City on the basis of that membership, performance of service, application for service, or obligation. It is the City's policy to comply with all applicable statutes, including Employment And Re-employment Rights Of Members Of The Unified Services Act, 38 U.S.C. § 4301 et seq., and Utah Code Ann. §§ 71-10-1 et seq.

H. Court Leave

An employee who, in obedience to a subpoena or direction by proper authority, appears as a juror or witness for the Federal Government, the State of Utah, or a political subdivision thereof, shall be entitled to the difference between his/her regular compensation and the compensation or fees received (in excess of traveling expenses) as a witness or juror.

Time absent by reason of subpoena in private litigation or by some party other than the Federal Government, State Governments or political Subdivision thereof, to testify not in official capacity, but as an individual, shall be taken as annual leave or leave without pay.

I. Time Off To Vote

The City encourages employees to fulfill their civic responsibilities by participating in elections. Generally, employees are able to find time to vote either before or after their regular work schedule. If employees are unable to vote in an election during their non working hours, the City will grant up to one hour of paid time off for employees to vote.

VI. CLASSIFICATION/RECLASSIFICATION

A. Classification

All City positions are comparatively evaluated on a set of common factors and assigned a grade encompassing a specific salary range on a salary plan. Unless otherwise specified in an employment contract, all employees eligible for benefits will receive compensation according to the classification of the position for which they are hired. Employees will be hired at step (A) of the salary plan and will progress through the salary range conditional upon performance warranting such advancement.

VII. CHANGES IN EMPLOYMENT

A. Reduction in Force

At such time when circumstances (such as lack of funds or lack of work) dictate that there needs to be a reduction in force, the City Council shall lay-off the necessary number of employees according to the affected class(es) considering among other things, and without limitation: length of service and performance and in consultation with the department head(s).

B. Transfers

A transfer is defined as a move from one department to another, and should not be confused with the managerial function of moving personnel from one position to another within the same department by promotion, demotion or reassignment. Transfers must be cleared with department heads. A transferring employee must qualify for the job to which transfer is made. A transferred employee shall retain all accumulated sick leave and annual leave from the former position.

C. Reassignments

Employees who are reassigned shall be paid at the same salary that they received prior to reassignment, unless the reassignment is made in connection with a disciplinary pay reduction.

D. Resignation

Employees who resign and desire to leave the City in good standing should give at least two weeks notice in writing.

E. Promotion

Any employee receiving a promotion shall start on the initial step of the salary range of the class to which he/she is promoted, and be eligible for merit increases as elsewhere provided, unless the present

salary level is equal to or exceeds the probationary step of the class to which the employee is promoted. If this occurs, the promoted employee shall receive at least a three (3) percent increase.

F. Abandonment of Position

One unauthorized absence may constitute cause for separation. An employee who fails to call their supervisor to report their absence for one (1) working day, and to request that the absence be recorded as authorized, may be deemed to have voluntarily abandoned his/her position and may be deemed to have resigned

VIII. EMPLOYEE PARTICIPATION IN PROFESSIONAL ORGANIZATIONS

It shall be the policy of the City of Kanab to encourage participation by City employees in those professional and technical organizations which will further their knowledge and professional contacts for the benefit of the City as well as the employee.

It is the purpose of this directive to outline the procedure by which employees can join professional and technical organizations with the City participating in the cost associated with those memberships. In most instances, both the City and the employee will benefit from an employee belonging to professional or technical organizations.

At the budget preparation stage, each department head will list as part of his budget request; those professional and technical organizations which he feels should be paid for by the City.

The City Manager will review the requests and include those he feels should be funded for consideration as part of the budget.

No fee for a professional or technical organization will be paid by the City unless authorized in advance by the City Manager.

IX. CAREER DEVELOPMENT

Employees are encouraged to take advantage of education and training benefits to improve their job skills and to qualify for transfers and promotions. These benefits are limited to training and education which is relevant to the employee's current position or "reasonable" transfer and promotion opportunities. "Reasonable" is defined as attaining the minimum qualifications for promotion or transfer with no more than two years of additional education or training. These benefits may be available to all employees subject to the availability of budgeted funds.

Requests for education and training may be initiated by either the employee or the department head. Reference to training received should be made on the Performance Evaluation forms. Final decisions on requests for education and training will be made by the City Manager.

X. EMPLOYEE ACTIVITIES

A. Outside Employment

No employee may engage in additional employment which in any manner interferes with the proper and effective performance of official duties or which results in a conflict of interest. It is necessary that an employee give priority to employment with Kanab City. The City will not grant sick leave in any cases of injury to an employee while that employee is engaged in outside employment.

B. Ethics

City employees shall comply with the Municipal Officers' and Employees' Ethics Act, Title 10, Chapter 3, Section 1301 et seq, Utah Code Annotated, and any amendments or successor statutes, to avoid actual or potential conflicts of interest between their public duties and their private interests.

C. Use of City Electronic Mail, Voice mail and Computer Systems

Employees shall not use e-mail, voice mail or computer systems for any inappropriate use, including but not limited to the following:

- 1) Solicitation of employees for fund raisers not approved by the City;
- 2) To further personal business interests;
- 3) Offensive, harassing, vulgar, obscene, or threatening communications, including disparagement of others;
- 4) Verbal abuse, slander or defamation;
- 5) Creating, distributing, viewing or soliciting sexually oriented messages, materials or images;
- 6) Electronic dissemination or printing of copyrighted materials, including articles and software in violation of copyright laws.

E-mail, texts, and voice mail communication and the contents of City owned computers are the sole property of the City and may be subject to monitoring at any time without notice. When using the e-mail, text or voice mail systems, and other equipment including City computers, the employee knowingly and voluntarily consents to being monitored and acknowledges the employer's right to conduct such monitoring. The security of e-mail and voice mail communications is not guaranteed. Abuse of e-mail, voice mail and computer systems could subject the employee to disciplinary action, up to and including termination.

XI. EMPLOYEE CONDUCT AND WORK RULES

A. Cause for Discipline

Each of the following shall constitute cause for discipline, up to and including termination. The offenses listed are not intended to be comprehensive, and the enumeration of these commonly-accepted violations shall not be deemed to prevent the discipline of an employee for other violations not enumerated. Actions in the line of public safety duty or in time of emergency shall be considered in light of the circumstances.

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- 1) Personal or gross negligence on or off duty which prevents or substantially hampers job performance.
- 2) Negligently using, abusing, or damaging City property.
- 3) Any violation of City or departmental policies or procedures.
- 4) Violations of commonly accepted employment standards.
- 5) Sexual harassment.
- 6) Illegal discrimination.
- 7) Disregard for safety rules.
- 8) Insubordination by refusing superior's order, verbal abuse of a superior, or unwillingness to submit to proper authority.
- 9) Failure to follow specified job instructions.
- 10) Unwillingness to work harmoniously with other employees.
- 11) Unauthorized solicitation on City property.
- 12) Distributing unauthorized printed matter on City premises.
- 13) Tardiness.
- 14) Creating or contributing to unsanitary conditions.
- 15) Unauthorized operation of tools, machinery, equipment.
- 16) Gambling on City property.
- 17) Failure to timely report an injury or accident.
- 18) Unauthorized sleeping on the job during work hours or leaving the site early without permission.
- 19) Abuse of sick leave.
- 20) Fighting or attempting to provoke a fight on City premises.
- 21) Deliberately restricting output.
- 22) Failure to maintain production and performance standards.
- 23) Theft.
- 24) Possession and/or use of alcoholic beverages or controlled substances while on duty.
- 25) Possession and/or use of alcoholic beverages or controlled substances while operating City equipment.
- 26) Reporting for work under the influence of alcoholic beverages or controlled substances.
- 27) Assault on supervisor or other employee.
- 28) Threatening or intimidating other employees or supervisors.
- 29) Falsifying City records.
- 30) Intentionally misusing, abusing, or damaging City property or property of another employee.
- 31) Unauthorized removal, falsification, or alteration of City records or intentional release of confidential information.
- 32) Failure to report for work without notice.
- 33) Repeated violation of rules and procedures.
- 34) Use of profanity or offensive language directed at an individual.
- 35) Dishonesty, deceit, or fraud.
- 36) Excessive complaining or poor attitude.
- 37) Spreading of rumors and gossip.
- 38) Commission of criminal conduct.

- 39) Any conduct which reflects negatively on the character of the employee or the City.
- 40) Brandishing or exhibiting any dangerous weapon in an angry or threatening manner, or destroying property or throwing objects in a manner perceived to be threatening. This prohibition does not include law enforcement officers acting in their official capacity.
- 41) Inappropriate use of City computers including e-mail, the internet and chat rooms.
- 42) Inappropriate use of City cell phones including excessive personal use, text messaging and the internet.

B. Attendance and Punctuality

To maintain a safe and productive work environment, the City expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the City. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence.

Employees are required to report all absences. Department directors and their designees have the right to inquire of an employee as to any reason(s) for repeated or excessive absenteeism or tardiness. Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment

C. Personal Appearance

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and can affect the business and professional image the City presents to patrons and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work, and shall not be eligible to use or apply other paid time off.

Consult your supervisor or department head if you have questions as to what constitutes appropriate attire.

XII. PROHIBITION AGAINST SEXUAL HARASSMENT

All employees of the City have the legal right to work in an environment free from sexual harassment. In addition, all individuals making application for employment with the City have the right to expect an environment free from sexual harassment.

Sexual harassment is an unlawful activity which violates City policy and is prohibited as a form of sex discrimination. Both sexual harassment and inappropriate sexual conduct, whether legally sexual harassment or

not, are unacceptable behavior. Any employee who engages in any form of sexual harassment shall be subject to disciplinary action.

Sexual harassment, according to the federal Equal Employment Opportunity Commission (EEOC), consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual nature or sex based nature where:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- 2) An employment decision is based on an individual's acceptance or rejection of such conduct.
- 3) Such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

It is also unlawful to retaliate or take reprisal in any way against anyone who has filed a complaint about sexual harassment or sexual discrimination.

The City and its supervisors, employees and agents are under a duty to investigate or eradicate any form of sexual harassment or sex discrimination or complaints about such conduct. In addition to prohibiting sexual harassment by its employees, the City prohibits sexual harassment towards its employees by its citizens, contractors and/or vendors.

The City's management is committed to vigorously enforcing this prohibition of Sexual Harassment at all levels of the organization. This prohibition against Sexual Harassment is in effect at all times and in all places.

A. Statement of Prohibited Conduct

The following conduct is representative of the types of acts which violate Kanab City's Sexual Harassment Policy. This list is not intended to be exhaustive:

- 1) Physical Assaults of a sexual nature, such as:
 - a. Rape, Sexual battery, molestation or attempts to commit these assaults.
 - b. Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing brushing against another employee's body, or poking another employee's body.
- 2) Unwanted sexual advances, propositions or other sexual comments, such as:
 - a. Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience;
 - b. Preferential treatment or promises or preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward;
 - c. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

- 3) Sexual or discriminatory displays or publication anywhere in Kanab City's work place by Kanab City employees, such as:
 - a. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the Kanab City work environment or possessing any such material to read, display or view at work. A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work in and around the City and/or who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.
 - b. Reading or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
 - c. Displaying signs or other materials purporting to segregate an employee by sex in any area of the work place (other than restrooms and similar semi-private lockers/changing rooms).
- 4) Retaliation for sexual harassment complaints, such as:
 - a. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with any employee because that employee has complained about or resisted harassment, discrimination or retaliation; and
 - b. Intentionally pressuring, falsely denying, lying about otherwise covering up or attempting to cover up conduct such as that described in any item above.

B. Procedure for Reporting Harassment

Employees are required to report all incidents of what they believe to be inappropriate sexual conduct or violations of the City's Sexual Harassment Policy. These reports shall be made at the time when the employee first feels they or someone else has been sexually harassed or subjected to inappropriate sexual conduct. The following procedure will guide the investigation of these claims:

Employees must file a sexual harassment complaint either verbally or in writing with one of the following individuals: Mayor, City Council Member, City Manager, and City Attorney.

All such complaints will be investigated. If the investigation indicates that harassment or inappropriate sexual conduct has occurred, appropriate action will be taken. Confidentiality will, to the extent practical, be protected. The City will make every reasonable effort to keep the identity of the reporting person confidential, but confidentiality cannot be guaranteed.

Any employee of the City who is accused of sexual harassment shall not question, coerce, intimidate, or retaliate in any way during the investigation against the employee who has filed a complaint of sexual harassment or against employees that have provided information concerning the complaint.

All employees shall fully cooperate in any investigation of sexual harassment or retaliation. Disciplinary action will be taken against any employee that obstructs or does not fully cooperate with any investigation of sexual harassment or retaliation.

XIII. PROHIBITION AGAINST DISCRIMINATION/HARASSMENT

Federal and state laws prohibit discrimination because of race, color, religion, sex (including gender), pregnancy, national origin, age, or disability in all employment practices, including the terms, conditions, and privileges of employment. The policy of the City is to avoid all such prohibited discrimination or harassment in the workplace, and that all employees are entitled to work in an environment free from any such prohibited discrimination or harassment. Such discrimination or harassment is a prohibited employment practice, and perpetrators are subject to disciplinary action.

Any employee who believes that he or she has been subjected to discrimination or harassment based on race, color, religion, sex (including gender), pregnancy, national origin, age, or disability, or who is aware of such an occurrence, has the obligation, duty and right to report to the Mayor, City Council Member, City Manager, or the City Attorney. All complaints should be made as soon as the objectionable conduct or language first occurs.

All such complaints will be investigated and, if the investigation indicates that discrimination or harassment has occurred, appropriate action will be taken. Confidentiality will, to the extent practical, be protected. The City will make every reasonable effort to keep the identity of the reporting person confidential, but confidentiality cannot be guaranteed.

An employee who is accused of such discrimination or harassment shall not question, coerce, intimidate or retaliate in any way against the person making the report, against the person who was discriminated against or harassed, or against any person who provided information concerning the complaint. All employees shall cooperate fully in any investigation of discrimination, harassment or retaliation.

XIV. ALCOHOL/DRUG USE POLICY

A. Policy Statement

The City believes that a healthy and productive work force, safe working conditions free from the effects of drugs and alcohol, and maintenance of the quality of services rendered by the City are important. The abuse of drugs and alcohol creates a variety of work place problems, including increased injuries on the job, increased absenteeism, increased financial burden on health and benefit programs, increased work place theft, decreased employee morale, decreased productivity, and a decline in the quality of products and services.

Therefore, the City hereby adopts this Policy for testing employees and prospective employees as related to drugs and alcohol in the work place.

B. Drug & Alcohol Testing Policy Definitions

For the purposes of this policy:

- 1) "Alcohol" means alcoholic beverages and any other intoxicating substances.
- 2) "Drugs" used in this policy refer to and include all drugs, paraphernalia, controlled substances, or mood or mind altering inhalants, any of which were not prescribed by a licensed physician/dentist in the United States for the person taking or in possession of the drug or substance, or which have not been used as prescribed or directed.
- 3) "Drug Paraphernalia" means objects used to manufacture, compound, covert, produce, process, prepare, test, analyze, pack, store, contain, conceal, and/or to inject, ingest, inhale, or otherwise introduce a drug into the human body.
- 4) "Employee" means any person in the service of the City whether for compensation or as a volunteer.
- 5) "Prospective employee" means any person who has made application for employment with the City and to whom the City has offered employment, conditioned upon the results of a drug and alcohol test.
- 6) "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal statutes.
- 7) "Criminal Drug Statute" means a Federal or State criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
- 8) "MRO" means Medical Review Officer, charged with reviewing and interpreting test results and determining any alternate medical explanations.
- 9) "Drug Policy Coordinator" is the City employee specifically designated to administer the Drug and Alcohol Testing Policy and through whom any procedures, or disciplinary or rehabilitative action regarding this policy, must be reviewed and approved. The Drug Policy Coordinator is the City Administrator or other person designated by the City Administrator.
- 10) "CDL-Commercial Driver s License" is the license required to operate a commercial vehicle.

C. Testing Policy

It is the policy of the City to test employees and prospective employees for the presence of drugs or alcohol, according to the provisions set forth below, as a condition of hire or continued employment. Any employee or prospective employee failing or refusing to take the test will not be eligible for employment, or if employed, may be subject to termination. The City shall consider as negative all confirmed positive drug and alcohol test results with a medically sufficient explanation.

- 1) The City shall require the testing of employees and prospective employees, including management, on a periodic basis, under the following circumstances and purposes:
 - a. Pre-Employment Testing. All prospective employees shall be tested for drug or alcohol usage prior to being placed for employment. All job applicants shall be informed of the policy at the pre-employment interviews. A copy of this policy shall be available for review by all job applicants. All prospective employees shall be required, prior to being hired by the City, to sign the acknowledgment form, agreeing to abide by the terms of this policy. The City will exclude from employment

any job applicant or prospective employee who refuses to abide by the terms of this policy. Any prospective employee whose pre-employment drug and alcohol test results in a confirmed positive and who does not have a medically sufficient explanation (as determined in the sole, but reasonable, discretion of the MRO), may reapply for employment with the City after six months from the date of such test. If the City hires a prospective employee, he or she must have first successfully passed the above-referenced pre-employment drug and alcohol test, and thereafter he or she will be subject to all the procedures and requirements for drug and alcohol testing as set forth in this policy.

In addition, any employee who has taken an extended leave of absence of six months or longer must be retested under this section before returning to work.

- b. Reasonable Suspicion (For Cause) Testing. Certain supervisors shall be trained to look for behaviors which may indicate drug or alcohol usage. These behaviors include, but are not limited to: direct observation of drug or alcohol use, drug paraphernalia, abnormal or erratic behavior such as accidents, stealing, or repeated errors on the job, or unsatisfactory time and attendance patterns, any of which are coupled with a specific contemporaneous event that indicates probable drug or alcohol use. An employee will be required to provide a urine sample, as defined below, when such reasonable suspicion arises and at least one supervisor or manager, and the designated Drug Policy Coordinator, concur that a reasonable suspicion of drug or alcohol use exists. The decision to test for drug or alcohol use by an employee is based on specific contemporaneous, physical, behavioral, and/or performance indicators. Once the authorized supervisors have determined that a reasonable suspicion exists, testing is done immediately.
- c. Return to Duty Testing. If the City returns to duty an employee after he or she has voluntarily sought rehabilitation for drug or alcohol abuse and has successfully completed rehabilitation, such employee shall be entered into a program of unannounced drug and alcohol testing for a predetermined period of time at the sole discretion of the City.
- d. Post-Accident Testing. Post-accident testing will be conducted on employees whose performance either contributed to an accident, or cannot be completely discounted as contributing to the accident. Such testing will occur as soon as possible, but not later than twelve hours after an accident has occurred. The immediate supervisor and the department manager of such employee, in association with the Drug Policy Coordinator, shall determine if the performance of that employee either contributed to the accident or cannot be completely discounted as a contributing factor.

- e. Random Testing. The City reserves the right to implement a random drug and alcohol testing program consistent with applicable federal, state and local law, for purposes of maintaining safety and as a deterrent to drug and alcohol abuse.
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- 2) Employee's required to hold a Commercial Driver's License (CDL) and drive commercial vehicles as a condition of employment may be tested as required by federal and/or state law.
 - 3) Any drug or alcohol testing shall occur during or immediately after the regular work period of current employees, and shall be deemed work time for purposes of compensation and benefits for current employees.
 - 4) Individuals will be tested on City premises or sent to an outside clinic or testing facility licensed to perform such tests. If an employee is sent to an outside clinic for a "Reasonable Suspicion" test, the employee must be driven to the facility by the supervisor or his/her designee. The employee must then be put on administrative leave until the results of the test are available. The supervisor must make arrangements or help the employee make arrangements to get home without driving him/herself.
 - 5) The City shall pay all costs of testing and transportation associated with a test required by the City.
 - 6) All sample collection and testing shall be performed under the following conditions:
 - a. The collection of samples shall be performed under reasonable and sanitary conditions.
 - b. 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.
 - c. The collection of samples shall be documented, and the documentation procedures shall include labeling of samples, to reasonably preclude the probability of erroneous identification of test results. An opportunity shall be provided for the employee or prospective employee to provide notification of any information that he or she considers to be relevant to the test, including identification of currently or recently used prescriptions or non-prescription drugs, or other relevant medical information.
 - d. Sample collection, storage, and transportation to the place of testing shall be performed in a manner that reasonably precludes the probability of sample misidentification, contamination or adulteration.

- e. Sample testing shall conform to scientifically accepted analytical methods and procedures.
 - f. Testing shall include verification or confirmation of any positive initial screening test by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable method.
- 7) In the case of urine testing, an employee or prospective employee will submit a split urine sample. A split urine sample shall consist of at least 45 ml of urine. The urine shall be divided into two specimen bottles, with at least 30 ml of urine in one bottle and at least 15 ml of urine in the other. If the test results of the 30 ml urine sample indicate the presence of drugs, the donor of the test shall have 72 hours from the time he is so notified to request, at his option that the 15 ml urine sample be tested for the indicated drugs, the expense of which shall be divided equally between the donor and the City. The test results of both samples may be considered at any subsequent disciplinary hearing.
- 8) Drug and alcohol testing will be conducted in compliance with federal, state and local laws, including but not limited to Utah Code Ann. § 34-41-101 et seq., and any amendments or successor statutes.

D. City Action

Upon receipt of a verified or confirmed positive drug or alcohol test result, which indicates a violation of this policy (and in the case of urine testing after providing the employee or prospective employee notice of the result of the initial test and the option to have the 15ml urine sample tested), or upon the refusal of any employee or prospective employee to provide a sample, the City may use that test result or refusal as the basis for disciplinary or rehabilitative actions, which may include, but not be limited to, the following:

- 1) Termination of employment.
- 2) Refusal to hire a prospective employee.
- 3) Any other disciplinary measures in conformance with the City's practices, policies, or procedures.

E. Confidentiality

The information received from the drug testing results shall be the property of the City.

Test results information may be released to the person who has been tested upon written request.

F. Work Place Rules

Employees who possess, dispense, manufacture, or distribute alcohol, drugs or drug paraphernalia on City premises, or on City time may be subject to disciplinary action, including termination.

Employees undergoing prescribed medical treatment with a drug that may alter physical or mental abilities must report that to their supervisor.

Any employee convicted of violating a criminal drug statute must notify the City Administrator within five (5) days of conviction. The City may take appropriate disciplinary or rehabilitative actions as a consequence.

No employee may use or be under the influence of drugs or alcohol on the City's premises, in the City's vehicles, or any time the employee is representing the City on City business, except in cases involving a current, prescription prescribed in the United States, or over-the-counter drug, taken as prescribed or directed.

G. Miscellaneous

A copy of the City's Drug and Alcohol Testing Policy shall be distributed to and posted for all employees, and all employees shall be required to acknowledge receiving, reading, and acknowledging the policy. Copies shall be made available to prospective employees.

This policy applies to management as well as other employees.

Employees wishing assistance with overcoming drug or alcohol abuse may contact their supervisor or the Drug Policy Coordinator for information about counseling and rehabilitation programs.

H. Acknowledgment of Policy

The City shall require each employee to read this policy and sign a form, acknowledging that they have received and read a copy of this policy and agree to abide by its terms as a condition of continued employment. The signed acknowledgment shall be kept in each employee's personnel file.

I. Drug and Alcohol Policy Not a Contract

This Drug and Alcohol Testing Policy is the unilateral action of the City and does not constitute an express or implied contract with any person affected by or subject to the policy. Neither this policy nor any action taken pursuant to this policy assures or guarantees employment or any terms of employment to any person for any period of time. The City may alter, terminate or make exceptions to this policy at any time, at the City's sole discretion. This policy does not limit or alter the City's right to terminate any employee at any time for any reason.

XV. DISCIPLINARY PROCEDURES

A. Disciplinary Action

An employee whose conduct constitutes grounds for disciplinary action shall be subject to the following discipline: reprimand, suspension, demotion (transfer to a position with less remuneration) or termination.

B. Pre-Disciplinary Hearing

Whenever a regular full-time employee, who is not an appointed or probationary employee, is subject to possible suspension without pay for more than two days, demotion, or termination, a pre-disciplinary hearing shall be held prior to imposing disciplinary action. The employee shall be given written notice of the hearing which includes an explanation of the charges against the employee and notice that discipline up to and including termination is being considered. The pre-disciplinary hearing shall be conducted by the Mayor for the purpose of allowing the employee to respond to the charges and present information the employee believes is relevant to the decision. A decision as to the disciplinary action to be taken, if any, shall be made by the Mayor, and the employee shall be notified in writing within a reasonable time after the hearing. If disciplinary action is imposed, the Mayor shall provide the employee written notice of the disciplinary action along with a written explanation of employee rights for appeal, if any.

C. Appeals of Demotion or Termination

In the case of suspension without pay for more than two days, demotion or termination, a regular full-time employee, who is not an appointed or probationary employee, has the right to appeal the decision to the City Employee Appeals Board. The appeal must be in writing and filed with the City Recorder within ten days of the suspension without pay for more than two days, demotion or termination. The City Recorder will then refer the matter to the Employee Appeals Board which will take and receive evidence and fully hear and determine the matter. The employee shall be entitled to appear in person and to be represented by counsel (at the employee's expense), to have a public hearing, to confront the witness whose testimony is to be considered, and to examine the evidence. Each decision of the Appeals Board shall be by secret ballot, and shall be certified to the City Recorder within 15 days from the date the matter is referred to it. For good cause the Appeals Board may extend the 15-day period to a maximum of 60 days, if the employee and City consent.

In the event the Employee Appeals Board upholds the suspension without pay for more than two days, demotion or termination, the employee may file an appeal within fourteen (14) days to the governing body, whose decision will be final. The governing body shall not hold new or additional evidentiary hearings.

In the event the Appeals Board does not uphold the suspension without pay for more than two days, demotion or termination, the City Recorder shall certify the decision to the employee affected, and also to the Department Head from whose order the appeal was taken. The employee shall be paid his salary, commencing with the next working day following the certification by the City Recorder of the Appeals Board's decision, provided the employee reports for his/her assigned duties that next working day. The employee shall also receive salary for the period of time during which the employee is discharged or suspended without pay, or any deficiency in salary for the period during which the employee was transferred to a position of less remuneration

A final action or order of the Appeals Board may be reviewed by the Utah Court of Appeals by filing with that Court a petition for review within 30 days after the issuance of the final action or order of the Appeals Board.

D. Suspension Pending Investigation and Decision

At the City's sole discretion, an employee may be suspended (with or without pay) pending an investigation. If after an investigation, the employee is found guiltless, the employee shall be restored to his or her position and/or compensated for any lost pay.

XVI. GRIEVANCE PROCEDURE

A. Circumstance of Grievance to be Avoided

It shall be the policy of Kanab City insofar as possible to prevent the occurrence of grievances and deal promptly with those which occur.

B. Duty of Department Head

Whenever a grievance arises or is directed to the attention of the department head, the department head shall discuss all relevant circumstances with the employee and remove the cause of the grievance to the extent the department head deems advisable and possesses authority.

C. Duty of the City Manager

If the department head fails to settle the grievance in a satisfactory manner, the written grievance and department head's decision shall be referred to the City Manager. If a grievance involves a department head it shall be taken directly to the City Manager. If a grievance involves the City Manager it shall be taken directly to the Mayor. The City Manager or Mayor, as appropriate, shall investigate the circumstances and resolve the grievance to the extent he/she deems advisable and possesses authority.

D. Review by City Council

If the City Manager or Mayor fails to resolve the grievance, the grievance may be taken to the City Council by filing a notice in writing with the City Recorder. The City Council shall schedule a hearing with the parties within fifteen (15) working days after receipt of the grievance. The City Council shall render a written decision to the employee within five (5) working days after the conclusion of the hearing. The City Council shall render its findings and decision to all concerned parties, in writing, which decision shall be final and binding.

XVII. Workplace Violence

A. Workplace Violence and Policy Statement

The City is committed to providing, in so far as it reasonably can do so within available resources, a safe environment for working and conducting business. The City prohibits acts of violence committed by City employees, or against City employees by members of the public while on City property or while the City

employee is performing City business at other locations. The objective of this policy is to reduce the potential for violence in and around the workplace, to encourage and foster a work environment that is characterized by respect and healthy conflict resolution, and to mitigate the negative consequences for employees who experience or encounter violence in their work lives.

B. Workplace Violence Definitions

The work violence in this policy shall mean an act or behavior that:

- 1) Is physically assaultive;
- 2) Consists of a communicated or reasonably perceived threat to harm another individual or in any way endanger the safety of an individual;
- 3) Would be interpreted by a reasonable person as having potential for physical harm to the individual;
- 4) A reasonable person would perceive as menacing;
- 5) Involves carrying or displaying weapons, destroying property or throwing objects in a manner reasonably perceived to be threatening; or
- 6) Consists of a communicated or reasonably perceived threat to destroy property.

Violent actions on City property, in City facilities or while on City business will not be tolerated or ignored. Any unlawful violent actions committed by employees or members of the public while on City property or while using City facilities will be prosecuted as appropriate and may result in disciplinary action, up to and including termination. Employees must immediately report to their supervisor all incidents of workplace violence.

XVIII. Risk Management and Safety

A. Employee Liability

An employee who becomes aware of any occurrence which may give rise to a lawsuit, who receives a notice of claim, or is sued because of an incident related to his employment, shall give immediate notice to his supervisor and the City Manager.