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# WEST BOUNTIFUL CITY EMPLOYMENT POLICIES AND PROCEDURES MANUAL

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GENERAL POLICY/DISCLAIMER

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This Employment Policies and Procedures Manual is provided for general guidance only. The policies, procedures and prohibitions expressed in this manual, as well as those expressed in any other material the city may issue from time to time, do not create an express or implied contract with any person or any other obligation or liability on the city. No verbal representations or statements made by supervisors or co-workers can bind the city to any course of action. 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. If any conflicts exist between department-level policies and the policies, procedures and prohibitions expressed in this manual, the terms within this manual prevail.

SECTION 1: EMPLOYMENT STATUS

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1-1 APPOINTED OFFICIALS

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The following positions are appointed by the mayor with the advice and consent of the city council. These Appointed Officials are employed "at will" and may be dismissed or suspended 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 as authorized by the council. As used in this manual, Appointed Officials includes only the positions listed below and does not include private contractors, elected officials, or volunteers appointed to boards and commissions.

- 1) City Administrator
- 2) Police Chief
- 3) Assistant Police Chief
- 4) Public Works Director
- 5) City Engineer
- 6) Golf Course Director
- 7) Golf Superintendent
- 8) Recorder
- 9) Treasurer

1-2 PROBATIONARY EMPLOYEES

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All new full-time employees who are hired with the intention of becoming Regular Full-time employees are required to serve at least one year in probationary status, unless such period is extended in writing. If the employee's performance is unsatisfactory, the employee will be dismissed.

During probation, except probation due to promotion as provided below, the employee may be dismissed 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 will not be considered part of any probationary period.

- 1) **Promotion:** Any promotion to a position with significant differences in job responsibility is subject to a probationary period of one year. During the probationary period the employee's abilities and performance will be evaluated by the supervisor. If, in its sole discretion, the city determines that the employee's performance is unsatisfactory, the city will notify the employee in writing of his/her failure to complete the probationary period and the employee will be reinstated, if available, to his/her previous position, or reassigned, if available, to another position for which the employee is qualified.

Notwithstanding the foregoing:

- a. An employee within the first year of employment may be dismissed at any time, with or without cause or prior notice, for any reason or no reason at all.
  - b. The City reserves the right to impose discipline, up to and including dismissal, upon any employee whose performance is deemed unsatisfactory.
- 2) **Reinstatement/Reassignment:** The probationary period for a former employee being reinstated or for an employee being reassigned to a new or former position is one year.

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### 1-3 REGULAR FULL-TIME EMPLOYEES

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Regular Full-time employees are those who are scheduled to work 40 hours or more per week for the City on a continuing basis and who have successfully completed their probationary period.

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### 1-4 PART-TIME EMPLOYEES

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Part-time employees are those who are hired to work less than 40 hours each week. Their employment may be continuing, but they are always in a probationary status, and may be dismissed or suspended at will, with or without cause or prior notice.

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### 1-5 TEMPORARY EMPLOYEES

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Temporary employees are hired to work for a defined limited period of time regardless of the hours worked each week (may include seasonal golf course, parks, and public works employees). They are always in a probationary status, and may be dismissed or suspended at will, with or without cause or prior notice.

SECTION 2: EMPLOYMENT & HIRING PRACTICES

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2-1 EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

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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.

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2-2 ANTI-NEPOTISM

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It is the city's policy to comply with Title 52, Chapter 3, of the Utah Code, and any amendments or successor statutes, concerning the prohibitions regarding the employment of relatives.

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2-3 VETERANS PREFERENCE

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

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2-4 HIRING, EVALUATIONS, AND PROMOTIONS

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1) **City Administrator Responsibilities:**

- a. Ensure all outlined policies and procedures are followed.
- b. Maintain an accurate job description for each position.
- c. Ensure adequate notice and advertisement is provided for all open positions.
- d. Ensure a fair and reasonable selection process is used prior to the appointment, hiring, or promotion of any employee.
- e. Make recommendations to the mayor regarding candidates for any open Appointed Official position.
- f. Assist Department Heads to make hiring, selection, and promotion decisions for all Regular Full-time, Part-time, and Temporary employees.
- g. Serve as the Department Head for the city's administrative positions.
- h. Develop and implement a performance evaluation system that provides an objective measurement of job performance.

SECTION 3: COMPENSATION

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3-1 PAY RANGES

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Each Appointed Official and Regular Full-time position will have a set pay range established and updated as needed by the city council. Placement within the ranges will be determined per the city's adopted compensation policy amendments. Each Part-time and Temporary position will have an hourly rate set and updated as needed by the respective Department Head per the city's compensation policy.

Any yearly inflationary adjustments to the city's pay schedules will take effect the first full pay period of a fiscal year unless otherwise designated by the city council.

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### 3-2 WORK WEEK

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The city's work week for all employees not serving as certified police officers is the seven (7) consecutive days that begin each Saturday at 7:00am and end the following Saturday at 6:59am. The work period for certified police officers is 14 consecutive days that begin Saturday at 7:00am and end 13 days later on the following Saturday at 6:59am.

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### 3-3 TIME SHEETS

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All employees will complete and verify the accuracy of an employee time sheet. The time sheet will also include all use of compensatory time and all other leave. It is the employee's responsibility to submit to the Department Head (if applicable) or City Administrator a completed time sheet by noon on the Monday following the pay period end date.

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### 3-4 PAY DAYS

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Employees are paid every two weeks.

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### 3-5 DIRECT DEPOSIT

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Within one month of hire, all employees are required to have their entire paycheck automatically deposited into one or more financial institutions by completing a Direct Deposit Authorization Agreement.

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### 3-6 OVERTIME AND COMPENSATORY TIME

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All employees must 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. All overtime hours must be accounted for by the employee on the time sheet during the work week in which the hours were worked. An employee cannot serve as a volunteer for the same job in which he/she is employed by the city.

- 1) **Exempt Employees:** In accordance with the provisions of the Fair Labor Standards Act, certain executive, administrative, and professional positions are "exempt" from the payment of additional money or compensatory time for overtime worked. The following employees are exempt from overtime and compensatory time per the FLSA:
  - a. City Administrator
  - b. Chief of Police
  - c. Assistant Police Chief
  - d. Public Works Director

- e. City Engineer
- f. Golf Director
- g. Golf Superintendent

While not required by the FLSA, and unless otherwise provided by written agreement, exempt employees accrue and report Extra time at straight time (hour for hour) of time worked in excess of forty (40) hours within a work week. These employees may accrue up to 240 hours of Extra time, after which they are not entitled to additional Extra time for hours worked in excess of forty (40) hours per work week.

Upon separation from employment, an employee with accrued unused Extra time will 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.

- 2) **All Other Employees:** Regular Full-time employees and Temporary employees as assigned are authorized to work up to 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 consent of their Department Head or the City Administrator; however, if an emergency threatening life or property arises and an employee is unable to obtain prior consent, the employee may work more than forty (40) hours in a week. In such a case, the employee's Department Head or the City Administrator must be notified within 72 hours of the emergency. If it is determined that an employee worked excess hours without advance consent and not under emergency conditions or failed to properly account for excess hours worked on his/her time sheet, the employee may be disciplined up to and including dismissal.

At the discretion of the Department Head and as provided in approved budgets, eligible non-exempt employees will be granted either (a) 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 or (b) overtime pay at the rate of one and one-half (1-1/2) times the employee's hourly wage 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, vacation time, or sick leave or a holiday falls during the work week, 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 must submit a written request to his or her Department Head or the City Administrator stating the



number of hours to be taken and the dates when the hours will be taken. The request must 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 Administrator notifies the employee within twenty-four (24) hours of receipt of the request that the request will unduly disrupt the operations of the city.

For certified police officers, the 80 hour work period will apply to overtime and compensatory time off rather than the normal 40 work week as used above.

No employee may accumulate more than 240 hours of unused compensatory time.

Upon separation from employment, an employee with accrued unused compensatory time will 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.

- 3) **Emergency Call Outs:** Regardless of hours worked during a pay period, any non-exempt employee not assigned "on-call" who is required by a supervisor to respond during non-regularly scheduled hours or stay beyond their regular shift for longer than two hours with less than 24 hours notice will be entitled to overtime pay or compensatory time for each hour worked under these circumstances.
- 4) **On-Call:** With the approval of the City Administrator, Department Heads may designate employees to be on-call to respond to issues arising during non-regularly scheduled hours. Employees with regular on-call responsibilities may be eligible for additional compensation as set by duly authorized department policy.

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### 3-7 PAYMENT UPON SEPARATION

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Upon any separation from employment, an employee is required to return all tools, equipment and other city property, including passwords, and to clear all financial obligations to the city. Any employee dismissed will receive a final paycheck within 24 hours of dismissal. Employees who separate employment on a voluntary basis will receive a final paycheck on the first regularly scheduled pay day after the separation from employment. Final paychecks will include compensation for all unused annual leave, holiday leave, Extra time, and compensatory time.

The City does not have a policy of providing severance or separation pay beyond the final paycheck. Any exceptions are subject to approval of the city council.

SECTION 4: INSURANCE AND BENEFITS

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4-1 WORKERS COMPENSATION

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City employees and authorized volunteers injured during the performance of their job duties are covered by the city's workers compensation program, as provided by state law. The city's workers compensation program is overseen by the City Administrator. Claims administration is provided by a contracted workers compensation program administrator (examples of potential contractor program administrators include the Utah Local Governments Trust and the Workers Compensation Fund of Utah). Transitional duty is coordinated by the City Administrator.

By contract, the City designates a medical care provider to care for work related injuries. Except in the case of life or limb threatening injuries, the city does not pay other medical providers or facilities for the treatment of workers compensation injuries, even if the injury is work related, unless the city's medical provider refers the employee AND the referral is approved by the contracted program administrator PRIOR to the treatment.

Failure by an employee to follow program reporting protocol, treatment policies, transitional duty requirements, or any other law, policy, or procedure related to the program in a timely and complete manner, will result in employee disciplinary action up to and including dismissal.

**1) Reporting and Treatment**

- a. Medical Treatment - When injured, an employee must immediately obtain necessary medical treatment from the city's medical provider. If the condition is life threatening the employee should call 911. Life threatening conditions include unconsciousness, uncontrolled bleeding, severe respiratory distress, major burns, spinal cord injury, shock, or poisoning. For injuries occurring after hours of the city's medical provider, employees should go to a nearby emergency room if in the employee's judgment treatment cannot wait until the city's medical provider's operating hours. Once initial emergency medical treatment is given and the employee is physically able, the employee must report to the city's medical provider for follow-up treatment. The employee is responsible to advise the emergency medical provider that the city will not be financially responsible for any follow-up treatment by such emergency medical provider or by providers referred by the emergency medical provider unless the follow-up treatment or referral is previously approved by the city's medical provider and by the contracted program administrator.
- b. Reporting an Injury - Immediately following any injury, however minor, or immediately following emergency medical treatment, the employee must report the injury to the employee's supervisor. The report must be made NO LATER THAN 24 HOURS following the occurrence of the injury. The

employee's supervisor must notify the City Administrator as soon as possible after receiving the initial report. Although initial notice of the injury to the supervisor may be made by telephone recording/e-mail (if the injury occurs after regular city business hours), a claim is not deemed "reported" until the employee receives confirmation from the City Administrator that the appropriate injury report required by the contracted program administrator is completed. The employee is responsible to follow up with the City Administrator to assure that all details of the injury are reported. If an injury is so severe as to render the employee physically incapable of following the reporting process as required, the employee's supervisor must assure that the required reporting is completed.

**2) Return to Work; Mandatory Transitional Duty**

- a. Return to Full Duty Allowed by Medical Provider - Immediately following any necessary initial treatment for a work related injury, the employee must obtain a written return to work release ("Work Release") from the city's medical provider, and **MUST CONTACT THEIR SUPERVISOR BEFORE RETURNING** to the employee's regular place of work. An employee cannot return to the work site for work duty following a work related injury until a Work Release signed by the city's medical provider is delivered to the City Administrator. The employee's supervisor must verify that the employee has contacted the City Administrator before allowing the employee to return to the work site.
- b. Return to Full Duty Not Allowed by Medical Provider - If an employee is directed by the city's medical provider not to return immediately to full duty, the employee must immediately notify the employee's supervisor and the City Administrator of the following:
  - i. that the city's medical provider has directed the employee not to return to Full Duty;
  - ii. the reasons for such direction and the prognosis of the injury;
  - iii. the expected date and time the employee will be released by the city's medical provider to transitional duty and ultimately full duty; and
  - iv. the work restrictions the city's medical provider has placed on the employee.
- c. Secondary Employment - An employee on workers compensation leave or transitional duty cannot engage in any secondary employment except as first authorized by the City Administrator.
- d. Mandatory Transitional Duty - The City has an aggressive return to work policy. Temporary modified duty ("transitional duty") is mandatory on the part of the employee when determined practicable by the Department Head and City Administrator. When deemed practical, transitional duty

will be made available to all injured employees who, based on the city's medical provider's opinion, are unable to return to full duty immediately following an injury. An injured employee must be required to return to transitional duty immediately upon release to do so by the city's medical provider. THE FOLLOWING ARE THE RESPONSIBILITY OF THE INJURED EMPLOYEE:

- i. to notify any and all medical providers or specialists who provide treatment for the work related injury that transitional duty for the employee is available and mandatory;
  - ii. to provide to each medical provider or specialist a complete and accurate description of the employee's job description and regular work tasks to enable such provider or specialist to determine whether the employee will return to full duty or to transitional duty;
  - iii. to assure that if return to full duty immediately following the work related injury is not approved by the city's medical provider, written work restrictions are prepared by the city's medical provider in consultation with the employee, Department Head, and the City Administrator; and
  - iv. to follow medical restrictions both at work and off-hours to avoid increased injury or aggravation of existing injury.
- e. Employee to Report to City with Work Release and Written Work Restrictions - Upon release to work by the city's medical provider for either transitional duty or full duty, the employee must immediately report to their supervisor and the City Administrator with a work release and any work restrictions from the medical provider. THE EMPLOYEE CANNOT RETURN TO THE WORK SITE FOR DUTY PRIOR TO CONTACTING THE CITY ADMINISTRATOR.

The employee's supervisor must verify that the employee has reported to the City Administrator, must confirm any work restrictions placed on the employee with the City Administrator, and must review any work restrictions with the employee before allowing the employee to return to the work site.

### 3) **Payroll for Workers Compensation Temporary Disability**

An employee requiring medical attention on the same day as an on-the-job injury will not be charged sick leave or workers compensation that day. The entire shift will be paid as regular time worked.

An employee begins his/her waiting period for workers compensation wage replacement benefits effective the first full day of time off work due to an on-the-job injury as reported by the city's medical provider. For the purpose of calculating waiting periods, days with time off are not counted including weekends and unscheduled workdays.

The waiting period for workers compensation wage replacement benefits is three (3) days after the time off work is confirmed by the city's medical provider. Days counted as time off do not need to be consecutive. If an employee returns or has been released to return to work, a new report from the medical provider must confirm time off for further workers compensation benefits. Employees may use sick or vacation leave during this waiting period.

If time off work is required due to a workers compensation injury, the contracted program administrator will determine appropriate waiting periods, leave supplements, and amounts of workers compensation owed.

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#### 4-2 SOCIAL SECURITY

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All employees contribute to the Social Security program, as administered by the Federal Government. Contributions of the employee and the city will be made in accordance with applicable law.

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#### 4-3 MEDICAL INSURANCE

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The city may pay the premium or a portion of the premium for health, hospitalization, surgical, dental, life, and disability insurance for Appointed Officials and Regular Full-time employees and those employees' legal dependents. The specific plan may be changed from time to time, and benefits under the plan may change or be eliminated. Plans and premium changes are generally made concurrent with the adoption of the city's annual budget.

Upon separation of employment, medical insurance coverage continues until the end of the month in which the separation occurs.

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#### 4-4 LONG TERM DISABILITY

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The city may pay the premium or a portion of the premium associated with any long term disability insurance plans and policy provisions for Appointed Officials and Regular Full-time employees.

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#### 4-5 BENEFITS CONTINUATION (COBRA)

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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, dismissal from 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 City Recorder's 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.

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#### 4-6 EMPLOYEE RETIREMENT SYSTEM

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All eligible employees as defined by the Utah Retirement System must participate in the Utah Retirement System unless they are eligible for and request to be exempted from participation.

The City Administrator and Chief of Police may elect to exempt themselves from participation in the Utah State Retirement System through a "Request for Exemption."

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

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#### 4-7 EMPLOYEE GOLF

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Employees may be granted golfing privileges as set from time to time by the city council.

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## SECTION 5: LEAVE AND HOLIDAYS

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#### 5-1 BREAKS & MEAL PERIODS

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The city offers breaks and meal periods as work allows. The city may provide two paid breaks of up to 15 minutes each during a standard workday as determined by the supervisor. The city normally provides a one hour unpaid meal period for Appointed Officials and Regular Full-time employees during a standard workday.

Employees under the age of 18 are entitled to a rest break of at least 10 minutes for every 3 hour period worked and a meal period of at least 30 minutes no later than 5 hours from the beginning of their shift.

Police Officers take breaks and meal periods in accordance with Department work schedules and policies.

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**5-2 HOLIDAYS**

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- 1) **Approved Holidays:** The following days have been designated by the city to be paid holidays for all Appointed Officials and Regular Full-time employees, except for police officers and golf course employees. When a holiday falls on a Saturday it is observed on the preceding work day. When it falls on a Sunday, it is observed on the following work day.

January 1st	New Year's 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
September (1st Monday)	Labor Day
October (2nd Monday)	Columbus Day
November 11th	Veterans Day
November (4th Thursday)	Thanksgiving Day
November (Friday following Thanksgiving)	Thanksgiving Day
December 25th	Christmas Day

- 2) **Holiday Leave:** Full-time police officers and full-time golf course employees accrue 4 hours of holiday leave per pay period in lieu of the observance of the approved holidays. Holiday leave accrual is capped at 96 hours. Use of holiday leave 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.

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**5-3 ANNUAL LEAVE**

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- 1) **Accrual:** Unless by separate agreement with the city council, each Appointed Official and Regular Full-time employee will accrue annual leave based upon the following schedule:

Service Time	Days Per Year	Hours Per Pay Period
0 Thru 5 years	13	4
6 Thru 10 years	16	5
11 Thru retirement	20	6

Annual leave does 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 accrual is capped at 240 hours.

- 2) **Use:** Use 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.

A holiday which falls during an employee's use of annual leave will be counted as a paid holiday and not as annual leave.

No annual leave may be used prior to accrual.

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#### 5-4 SICK LEAVE

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- 1) **Accrual:** Appointed Officials and Regular Full-time employees accrue sick leave at the rate of four (4) hours per pay period.

Sick leave does 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 sick leave.

Sick Leave is capped at 1440 hours.

- 2) **Use:** Sick leave is to be used only for illness, injury, or appointments with medical personnel for employees or employees' dependents.

Employees who are unable to report to work due to illness or injury must notify their direct supervisor at least one hour before the scheduled start of their workday, if possible. The direct supervisor must also be contacted on each additional day of absence.

Any employee absent under this provision for longer than five working days must, upon request of his/her supervisor, arrange for a note from a doctor stating the nature of the illness and expected time of absence.

If the City Administrator finds an employee has taken excessive sick leave or has reason to suspect sick leave is being abused, 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.

No sick leave may be used prior to accrual.

- 3) **Conversion:**
  - a. **Active Employees:** Subject to available funding in annual budgets, employees eligible for sick leave may convert one-third (1/3) of their annual sick leave accumulation to cash each December if they choose. However, any sick leave taken during the year will decrease the convertible portion by the number of hours used. This conversion privilege is an annual program and starts new December 1st each year.



To be eligible to participate in the conversion program, employees must accrue and maintain at least one hundred twenty (120) hours of sick leave.

- b. Retiring Employees: The following three options exist:
  - i. Retiring employees with at least 10 years of West Bountiful service may convert 20% of accumulated sick leave to cash.
  - ii. Retiring employees with at least 20 years of West Bountiful service may convert 40% of accumulated sick leave to cash.
  - iii. Retiring employees with at least 25 years of West Bountiful service may convert 50% of accumulated sick leave to cash. .

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#### 5-5 FUNERAL LEAVE

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Unless the City Administrator or Department Head finds that such leave would unduly disrupt the operations of the City, employees may be granted up to three days of funeral leave with pay to attend the funeral of the employee's spouse, child, step-child, daughter-in-law or son-in-law, parent, step-parent, grandchild, mother-in-law or father-in-law, sister-in-law or brother-in-law, grandparent, spouses' grandparent, brother or sister. Funeral leave is not charged against accrued annual vacation or sick leave.

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#### 5-6 COURT LEAVE

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An employee who, in obedience to a subpoena or direction by proper authority, appears as a juror, or as a witness for the Federal Government, a state government, or a political subdivision thereof, is 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, a state government or political subdivision thereof, to testify not in official capacity, but as an individual, must be taken as paid leave or leave without pay.

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#### 5-7 MILITARY LEAVE

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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 based on that membership, performance of service, application for service, or obligation. It is the city's policy to comply with all applicable statutes, including the Unified Services Employment And Re-employment Rights Act, 38 U.S.C. § 4301, *et seq.*; and *Utah Code Ann. § 71-10-1, et seq.*

#### 5-8 ADMINISTRATIVE LEAVE

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Administrative leave with pay may be assigned by the City Administrator or a Department Head under the following circumstances:

- 1) Pending the outcome of an investigation to determine possible disciplinary action against the employee.
- 2) With regard to incidents resulting in extreme stress.
- 3) To protect city interests during a separation of employment process.
- 4) Other circumstances determined by the city to be in the best interest of the city and employee.

Written approval which documents the respective circumstances must be obtained from the City Administrator for any administrative leave request for an employee exceeding forty (40) hours during a calendar year.

Unless authorized in the written approval, an employee must not engage in secondary employment during the actual hours designated as administrative leave.

At its discretion, the city may additionally restrict the activities of an employee on administrative leave with pay, for example: requiring an employee to (1) remain at his/her residence during designated working hours (except to obtain medical care, to fulfill religious obligations, or as specifically authorized), (2) remain readily available and immediately respond to phone contact or to return to work, or (3) modify his/her working hours.

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#### 5-9 LEAVE WITHOUT PAY

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Leave of absence without pay or benefits for up to 30 days not considered family and medical leave may be granted by the mayor after a recommendation by the City Administrator. Leave of absence is not a right. Requests for a leave of absence must be made in writing. After the mayor has made a decision concerning the request for leave of absence, he/she will respond to the employee in writing stating the reasons for said decision, from which there is no appeal. Benefit accruals, such as annual, sick, or holiday leave/benefits, will be suspended during any un-paid portion of leave and will resume upon return to active employment.

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#### 5-10 FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY

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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 the City Administrator 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 12 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 work weeks of servicemember care leave and leave

for any other FMLA-qualifying reason, provided that the eligible employee may not take more than 12 work weeks 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 12 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, sick, or holiday leave/benefits, will be suspended during any un-paid portion of 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.

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## SECTION 6: CHANGES IN EMPLOYMENT

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### 6-1 PROMOTION

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Promotions are made in accordance with Section 2, Employment & Hiring Practices, of these policies. In accordance with that section, and if deemed appropriate by the Mayor, City Administrator, or Police Chief, vacancies may be filled by promotion within the City as follows:

- 1) **Competitive Examinations and/or Interviews:** These are limited to employees who possess the minimum qualifications of the classification.
- 2) **Immediate Promotional Appointments:** These may be made without examination but with the approval of the Mayor, City Administrator, or Police Chief. All such appointments must be based on the following criteria:
  - a. The employee must have been performing at a high level in their current position; and
  - b. The employee must have the skills and abilities required for the position.

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### 6-2 DEMOTION

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A Department Head may demote an employee to a position with or without a reduction in pay. If the demotion is to a position with less pay, the City must first conduct a pre-

determination hearing as outlined in Section 13, Disciplinary Procedures, except for (1) Appointed Officials and probationary employees, and (2) demotions resulting from a layoff or reorganization.

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#### 6-3 TRANSFER

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A transfer must be made in accordance with Section 2, Employment & Hiring Practices, of these policies. A transfer is defined as a voluntary move from one position to another, generally in a different department, and should not be confused with reassignments within job descriptions or promotions. Transfers must not be used as a disciplinary action. An employee cannot be transferred to a position for which the employee does not possess the minimum qualifications.

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#### 6-4 RESIGNATION

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An employee wishing to resign in good standing must submit to the Mayor, City Administrator, or Department Head a written notice of their intent to resign, at least two (2) weeks prior to their last day of work. The notice should include the effective date and reasons for the resignation. Any failure to give two (2) weeks' notice with proper justification will be noted on the service record of the employee and may be cause for denying future employment with the City.

The Mayor, City Administrator, or Police Chief may allow a proper notice of resignation to be withdrawn prior to its effective date if the position has not already been re-filled and if they find it in the best interest of the City.

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#### 6-5 ABANDONMENT OF POSITION

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An employee who fails to call their supervisor to report their absence for one (1) working day may be deemed to have voluntarily abandoned his/her position and may be deemed to have resigned unless the Mayor, City Administrator, or Police Chief determine that the abandonment was beyond the control of the employee.

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#### 6-6 REDUCTION IN FORCE

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The Mayor, City Administrator, or Police Chief may direct and/or authorize the layoff of any employee because of City Council action that effects, directs, or recognizes organizational changes, abolition of positions, and/or lack of funds. Generally, employees to be laid off will receive at least two (2) weeks' notice or the equivalent of two (2) weeks' severance pay. However, the City has the option, in exceptional circumstances, not to give the two weeks' notice or pay. Whenever a layoff situation occurs, seniority will only be considered when all other critical elements are equal. A reduction in force must never be used in lieu of disciplinary action.

6-7 DISMISSAL

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1) **Dismissal of Employees Who Are Not Appointed Officials**

- a. An employee who is not an Appointed Official may be dismissed:
  - i. As a result of failure to satisfactorily complete a probationary period.
  - ii. For any or no reason during the probationary period (or at any time, for any or no reason for Part-time and Temporary employees).
  - iii. For disciplinary action, including in response to the employee's inability to perform the essential functions of the job. If dismissal is the result of disciplinary action, it must be carried out in compliance with Section 13, Disciplinary Procedures, of these policies.

- 2) **Dismissal of Appointed Officials:** Dismissal may occur for these positions at any time, for any or no reason.

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**SECTION 7: PROHIBITION AGAINST SEXUAL HARASSMENT**

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All employees 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 will 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 and 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

will not tolerate sexual harassment towards its employees by its customers, contractors and/or vendors.

The city 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.

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#### 7-1 STATEMENT OF PROHIBITED CONDUCT

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The following conduct is representative of the types of acts which violate the 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, poking, or brushing against 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 the work place by 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 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 or otherwise covering up or attempting to cover up conduct such as that described in any item above.

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#### 7-2 PROCEDURE FOR REPORTING HARASSMENT

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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 must be made at the time when the employee first feels he or she or someone else has been sexually harassed or subjected to inappropriate sexual conduct. The following procedure will guide the investigation of these claims:

- 1) Employees must file a sexual harassment complaint either verbally or in writing with one of the following individuals: Mayor, City Administrator, or Police Chief.
- 2) All such complaints will be investigated. If the investigation indicates that harassment or inappropriate sexual conduct has occurred, appropriate action will be taken.
- 3) To the extent practical, confidentiality will be protected. The city will make every reasonable effort to keep the identity of the reporting person confidential, but confidentiality cannot be guaranteed.
- 4) Any employee of the city who is accused of sexual harassment must 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.
- 5) All employees must fully cooperate in any investigation of sexual harassment or retaliation. Disciplinary action will be taken against any employee who obstructs or does not fully cooperate with any investigation of sexual harassment or retaliation.

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#### SECTION 8: PROHIBITION AGAINST HARASSMENT/DISCRIMINATION

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Federal and state laws prohibit discrimination because of race, color, religion, sex, age (over 40), national origin, disability, sexual orientation, gender identity, pregnancy, childbirth, or pregnancy-related conditions 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 violators 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, age (over 40), national origin, disability,



sexual orientation, gender identity, pregnancy, childbirth, or pregnancy-related, or who is aware of such an occurrence, has the obligation, duty and right to report to the Mayor, City Administrator, or the Police Chief. 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. The city will make every reasonable effort to keep the identity of the person who was discriminated against or harassed or the reporting person confidential, but confidentiality cannot be guaranteed.

Any employee who is accused of such discrimination or harassment must 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 must cooperate fully in any investigation of discrimination, harassment or retaliation. Disciplinary action will be taken against any employee who obstructs or does not fully cooperate with any investigation of harassment or retaliation.

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## SECTION 9: ALCOHOL/DRUG FREE WORKPLACE

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The city complies with the Federal Drug Free Workplace Act of 1988.

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### 9-1 EMPLOYEE RESPONSIBILITIES

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No employee may unlawfully manufacture, possess, use, or distribute any controlled substance or alcohol in a city workplace.

Any employee convicted under any criminal drug statute must notify their supervisor and Department Head within five days after the conviction.

No employee may consume alcoholic beverages for eight (8) hours before work, during work hours, or during breaks or meal periods.

While on the job, employees are prohibited from being impaired by alcohol, medication, or illegal drugs, or having in their system alcohol or any illegal drugs in an amount sufficient to produce a positive test result.

An employee who is on-call may not consume alcohol or any drug which may impair her or his ability to perform assigned duties.

Any employee who is called back to work during non-scheduled work hours and has recently consumed alcohol or drugs which may impair his or her ability to safely perform her or his duties must notify the supervisor of the impairment and may not report to work.

1) **Additional Responsibilities of “Safety Sensitive” Employees:**

For purposes of this policy, the city designated safety sensitive positions are:

- a. Law enforcement officers, and
- b. All public works, parks, and golf course maintenance employees required to operate dangerous equipment in public.

All safety sensitive employees will report to their immediate supervisor or Department Head the use of any medication that could reasonably be expected to impair their ability to perform their duties, prior to, or upon reporting for duty.

Any safety sensitive employee cited, arrested, or charged with any criminal drug or alcohol related offense must notify their Department Head within 24 hours.

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9-2 DRUG/ALCOHOL TESTING

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All employees and prospective employees (including designated classes of volunteers and prospective volunteers) are required to participate in drug testing as a condition of hire or continued employment. Failing or refusing to take a test or a confirmed, positive drug and/or alcohol test result, will be deemed a violation of this policy. The types of drugs or metabolites and cut-off levels will be determined by the city, except as mandated or limited by federal regulations.

1) **Pre-employment Testing:** All prospective employees and designated prospective volunteers will be tested for drug usage.

All job applicants will be informed of the policy during conditional job offers. A copy of this policy will be available for their review.

All applicants will be required, prior to being hired or volunteering for the city, to sign an acknowledgment form agreeing to abide by the terms of this policy.

The city will exclude from employment any job applicant who refuses to abide by the terms of this policy.

Any applicant with a confirmed positive drug test may not reapply for employment with the city for six months from the date of such result.

2) **Reasonable Suspicion (For Cause) Testing:** An employee may be required to submit to a drug test when reasonable suspicion arises and the employee’s supervisor, manager, or Department Head and a City Designee concur that reasonable suspicion exists. Reasonable suspicion testing may include re-tests or follow-up tests as may be necessary to protect the integrity of the testing protocols, such as newly discovered evidence that the employee tampered with a previous drug test.

The City Designees are: a Department Head not associated with the supervision of the employee; the City Administrator; the City Attorney; the Mayor.

“Reasonable suspicion” means a belief based on articulable, specific facts and reasonable inferences drawn from those facts that an employee or volunteer is in violation of the alcohol/drug-free workplace policy set forth in this Section 9. The circumstances listed below are indicators that may give rise to reasonable suspicion. (The presence of one such factor may or may not, in and of itself, be sufficient to form a reasonable suspicion. Supervisors should look at the totality of the circumstances in determining whether or not reasonable suspicion exists and if the test(s) should be required.)

- a. A pattern of abnormal or erratic behavior.
- b. Information provided by a reliable and credible source that an employee is under the influence of illegal drugs or alcohol, or is abusing prescription drugs while on the job.
- c. A work related accident.
- d. Direct observation of drug or alcohol use.
- e. Presence of physical symptoms of drug or alcohol use, such as glassy or bloodshot eyes, dilated pupils, the odor of alcohol or marijuana, slurred speech, poor coordination or reflexes, unsteady walk, uncontrolled shaking, or small tremors in the hands.
- f. Drug paraphernalia, remains of marijuana cigarettes, plastic sandwich bags with non-food residue inside.
- g. Increased absenteeism, inattentiveness or absentmindedness.
- h. Frequent need for work breaks.
- i. Increased hostility toward the public or other employees.
- j. Unexplained secret meetings with other employees or other persons during work hours.
- k. Sudden, unexplained personality changes, drastic mood swings, changes in personal habits, including inattention to personal hygiene, or frequent borrowing of money.
- l. Increased disciplinary incidents or deteriorating work relationships.
- m. A significant increase in errors or repeated errors in spite of increased guidance.
- n. Behavior that disrupts workflow.

Once the authorized supervisors have determined that reasonable suspicion exists, testing will be done as soon as practical.

If an employee is sent to an outside clinic for a reasonable suspicion test, the employee will be driven to the facility by the supervisor or his or her designee. The employee will then be put on paid administrative leave until the results of the test are available. The supervisor will arrange for or help the employee arrange to get home without driving himself or herself.

- 3) **Rehabilitation Testing:** If the city returns an employee to work after he or she has enrolled in a rehabilitation program for drug or alcohol abuse and has successfully completed the rehabilitation program, such employee may be

entered into a program of unannounced drug and alcohol testing for a predetermined period of time at the sole discretion of the city.

- 4) **Post-Incident Testing:** Post-incident testing will be conducted on employees involved in the following incidents while on duty:
  - a. Treatment for a workers compensation injury at a medical facility (either out- patient or in-patient); or
  - b. A traffic accident involving bodily injury to any party, a collision with any pedestrian or person on a non-motorized device; or
  - c. Any incident estimated by the employee's supervisor to involve property loss or combined damage of \$1,500.00 or more.

The employee must immediately notify his/her supervisor of all such incidents.

Such testing will occur as soon as practical after the accident or incident. The employee may be returned to work after completion of the testing, unless the testing is based on reasonable suspicion.

- 5) **Random Testing:** For purposes of maintaining safety and as a deterrent to drug and alcohol abuse, safety sensitive employees are subject to random drug and alcohol testing. The frequency of random testing will be determined by the city, except as otherwise required by federal law for CDL drivers.
- 6) **Testing Procedures:** All drug testing will be carried out in compliance with Title 34, Chapter 41, *Utah Code Annotated*.

Any drug or alcohol testing will occur during or immediately after the regular work period of current employees, and will be deemed time worked for purposes of compensation and benefits for current employees.

The city will pay all costs of testing associated with a test required by the city.

The information received from drug testing is the sole property of the city.

Upon the city's receipt of the test results, the Department Head or City Administrator will, as soon as practical, notify the person tested, by telephone or in writing, of a positive test.

If the test results are positive, the person tested will be advised of the option to have the split sample tested, the expense to be equally divided between the donor and the city. The option must be exercised within 72 hours of the notification to the employee.

- 7) **Employees Required to Hold a Commercial Driver's License (CDL):** Those employees required by their employment at the city to hold a CDL will be tested as required by Federal and/or State law.

Prior to requiring any drug or alcohol testing of a CDL holder employee, the supervisor will determine whether the testing is authorized under CDL

requirements or under the city's alcohol/drug-free workplace policy. CDL testing involves a different panel of drug and alcohol tests and requirements.

All testing under CDL requirements will be preceded by specific notification by the supervisor to the employee that the test is being ordered as a CDL requirement.

CDL post-accident testing is only conducted if the employee, during the drug testing window, is cited for a contributory moving violation or if another person is a fatality. All other post-accident testing will be done under the city's drug/alcohol testing policy. This testing must occur for alcohol within 2 hours, but not more than 8 hours, of the accident and within 32 hours for controlled substances.

Any reasonable suspicion testing decision must be made by an officially trained supervisor. A City Designee must concur.

Random drug testing is conducted during working hours just before, during, or just after performance of CDL duties.

Rehabilitation testing, if offered by the city, will meet CDL requirements.

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### 9-3 DISCIPLINARY ACTION

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Because of the serious nature of illegal use or abuse of alcohol, illegal drugs, or medication, appropriate employee disciplinary action, which may include dismissal, will be taken for all such violations of this policy. The city, at its discretion in a disciplinary action, may require an employee to participate in a rehabilitation program and mandatory drug and/or alcohol testing, at the employee's expense, as a condition of continuing employment.

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## SECTION 10: TOBACCO-FREE WORKPLACE

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The city is subject to and enforces the Utah Indoor Clean Air Act and is committed to providing a safe and healthy work environment. All employees are prohibited from use of tobacco products (including chewing tobacco and electronic or vapor cigarettes) throughout the work-place, including all city buildings, vehicles, and equipment. Use of tobacco products is also prohibited within 25 feet of any entrance-way, exit, open window, or air intake of city buildings.

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## SECTION 11: WORKPLACE VIOLENCE

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The city is committed to providing a safe environment for working and conducting business. The city prohibits acts of violence committed by employees, or against employees by members of the public while the employee is performing city business. 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.

Workplace violence, as used in this policy, means 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 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.

Workplace violence 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. Incidents of workplace violence will result in disciplinary action, up to and including dismissal. Employees must immediately report to their supervisor all incidents of workplace violence.

## SECTION 12: REASONABLE ACCOMMODATIONS FOR NURSING MOTHERS

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The city will provide reasonable accommodations for nursing mothers to include the following:

- 1) In addition to normal breaks, reasonable daily uncompensated break periods, as requested by the employee to his or her supervisor, will be granted following the birth of a child to allow the employee time to express breast milk or feed her child.
- 2) The city will provide the following in a private room designated for breastfeeding or expressing milk:
  - a) Chair
  - b) Table
  - c) Electrical outlet
  - d) Refrigerator access, and
  - e) Microbiological wipes/cleanser
- 3) Employees may use their own private office or other locations that meet the criteria of this policy agreed upon in consultation with their supervisor.
- 4) Employees may store expressed milk in a break room refrigerator, a designated refrigerator, or the employee's personal cooler. Containers must be labeled with the employee's name and date.

SECTION 13: EMPLOYEE CONDUCT

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13-1 OPERATING A VEHICLE

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This section applies to all employees and approved volunteers that operate any vehicle while conducting city business.

1. PERSONAL COMMUNICATION DEVICES

Except in an emergency, employees who are operating non-emergency vehicles cannot use a personal communication device (such as a cell phone) while driving unless the device is specifically designed, configured, and used in such a way to allow hand-free use. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the personal communication device.

2. DRIVER QUALIFICATION

All employees operating city vehicles or who operate any vehicle while conducting city business must be qualified as an "Acceptable" driver per this Driver Qualification Policy prior to operating said vehicles on any public roadway.

Employees' or potential employees' Motor Vehicle Record (MVR) will be screened pre-hire and monitored thereafter. Employees will be qualified as "Acceptable," "Borderline" or "Unacceptable." Employees whose qualification is "Borderline" will require approval from the City Administrator and Department Head before operating a vehicle on public roadways while conducting or traveling for city business. Employees with a "Borderline" qualification who are authorized to drive will receive a written explanation and terms of their borderline status. Employees with an "Unacceptable" qualification will not be allowed to operate any vehicle while conducting or traveling for city business, and may be disciplined up to and including dismissal if operating a vehicle is an essential job function of the position.

All employees required to drive as part of their position must possess a valid Driver License with endorsements appropriate for the vehicles to be operated. The driver qualification evaluation will be based on the driver's MVR and other substantiated work-related motor vehicle incidents, whether or not the incident is reported to the Utah Driver License Division and recorded on the driver's MVR. All violations or incidents recorded on the MVR, whether they occurred on the job or not, are included in the driver qualification evaluation.

"Acceptable", "Borderline" and "Unacceptable" qualification will be determined using the following criteria based on a rolling 18-month period:

Moving Violations	At-Fault Accidents			
	0	1	2	3
0	0	1	2	3
1	Acceptable	Acceptable	Borderline	Unacceptable
2	Acceptable	Acceptable	Borderline	Unacceptable
3	Borderline	Borderline	Unacceptable	Unacceptable
4	Unacceptable	Unacceptable	Unacceptable	Unacceptable

Notwithstanding the foregoing, any single major violation may result in an “Unacceptable” qualification as determined by the City Administrator and Department Head. Major violations include the following or equivalent:

- 1) Driving under the influence of alcohol/drugs;
- 2) Failure to stop/report an accident;
- 3) Reckless driving/speeding contest;
- 4) Driving while impaired;
- 5) Making a false accident report;
- 6) Vehicular homicide, manslaughter or assault;
- 7) Driving while license is suspended/revoked;
- 8) Attempting to elude a police officer;
- 9) Other violations as collectively determined by the City Administrator and Department Head.

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### 13-2 ETHICS

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City employees must comply with the Municipal Officers’ and Employees’ Ethics Act, *Utah Code Ann.* § 10-3- 1301, *et seq.*, and any amendments or successor statutes, to avoid actual or potential conflicts of interest between their public duties and their private interests.

In accordance with and in addition to the Municipal Officers’ and Employees’ Ethics Act, the city has the following policies:

- 1) An employee may not disclose private, confidential or protected information acquired by reason of the employee’s position.
- 2) An employee may not use private, confidential or protected information to secure privileges.
- 3) An employee may not use his or her position to secure privileges.
- 4) An employee may not receive, take, seek, or solicit a gift of substantial value (\$50 or more) or a substantial economic benefit that:
  - a. Would tend to improperly influence a person in the discharge of his/her official duties; or
  - b. A person should know is primarily for the purpose of rewarding him/her for official action taken.
- 5) An employee must file a disclosure in any of the following situations:



- a. If the employee receives compensation for assisting any person or entity in a transaction involving the city, the following disclosures must take place:
    - i. A sworn disclosure must be filed with the Mayor at least ten days prior to the agreement between the employee and the person or entity, or ten days prior to receiving compensation, whichever is earlier.
    - ii. The employee must disclose to his/her immediate supervisor and any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.
  - b. If the employee is an officer, director, agent, employee or owner of a business regulated by the city or if the employee has a substantial interest (over \$2,000) in a business regulated by the city, the employee must do the following:
    - i. File a sworn disclosure statement with the Mayor upon being elected, sworn or employed.
    - ii. File another disclosure statement if the employee's position in the business entity changes significantly or if the value of the employee's interest in the entity has increased significantly since the last disclosure.
  - c. If the employee has a substantial interest in a business which does or anticipates doing business with the city, the employee must make the following disclosures:
    - i. A sworn disclosure must be filed with the Mayor at least ten days prior to doing business with the city or ten days prior to receiving compensation, whichever is earlier.
    - ii. The employee must disclose to his/her supervisor and any other officer or employee who must rely upon the employee's representations in evaluating or approving the transaction.
- 6) If an employee has a personal interest or investment which creates a conflict with his/her public duties, the employee must:
- i. File a sworn disclosure with the Mayor and,
  - ii. Make a public disclosure in a public meeting to the city council where appropriate.
- 7) If an employee fails to disclose the required information, he/she is subject to criminal prosecution under state law, discipline up to and including dismissal of employment, and rescission of any transaction.

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### 13-3 POLITICAL ACTIVITY

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City employees must comply with State and Federal laws concerning political activity by municipal officers and employees, which include the following policies:

- 1) Employees may not engage in political campaigning or solicit political contributions during hours of employment.
- 2) Employees may not use municipal equipment while engaged in political activity.

- 3) Employees may not directly or indirectly coerce, command, or advise another municipal officer or employee to pay, lend, or contribute part of the officer or employee's salary or compensation, or anything else of value to a political party, committee, organization, agency, or person for political purposes.
- 4) Employees may not attempt to make another officer or employee's employment status dependent on the officer or employee's support or lack of support of a political party, affiliation, opinion, committee, organization, agency, or person engaged in political activity.
- 5) An officer's, employee's or applicant's legal partisan political activity, political opinion, or political affiliation may not provide the basis for the officer, employee, or applicant's hiring, employment, promotion, disciplinary action, demotion, or dismissal.

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#### 13-4 OUTSIDE EMPLOYMENT

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West Bountiful City is considered to be the primary employer of all Appointed Officials and Regular Full-time employees.

Employees may be involved in outside employment (including any sole proprietorship, partnership, or other self-employment) if:

- 1) It does not conflict with their city duties, responsibilities, and work schedules;
- 2) It does not reasonably give rise to criticism or suspicion of conflicting interests or duties; and
- 3) The employee provides notice of outside employment within 5 days of commencement of such employment and annually during his/her performance evaluation.

An employee on sick leave, administrative leave, or FMLA leave must not engage in any outside employment except as first authorized by the City.

Employees who think that there may be a conflict should discuss their outside employment with their immediate supervisor for clarification and should contact the City Recorder to obtain a copy of the city's disclosure statement. The employee should review the disclosure statement and determine if it should be completed and filed with the City Recorder.

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#### 13-5 INTERNET, E-MAIL, AND ELECTRONIC COMMUNICATION DEVICES

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- 1) **City Equipment.** Employees must not use e-mail, voice mail or computer systems for any inappropriate use, including but not limited to the following:
  - a. Solicitation of employees for fund raisers not approved by the city;
  - b. To further personal business interests;
  - c. Offensive, harassing, vulgar, obscene, or threatening communications, including disparagement of others;
  - d. Verbal abuse, slander or defamation;

- e. Creating, distributing, viewing or soliciting sexually oriented messages, materials or images (excluding police officers in the legal course of their duties);
- f. Electronic dissemination or printing of copyrighted materials, including articles and software, in violation of copyright laws.
- g. Employees eligible for overtime or compensatory time may not send, check, or respond to e-mails, text messages, or otherwise conduct work during non-working hours, unless they are being contacted to return to work.

E-mail, texts, voice mail and similar communications using city-owned equipment/networks and the contents of city-owned computers/phones are the sole property of the city and may be subject to monitoring at any time without notice. When using the email, text or voice mail systems, and other equipment including city computers, the employee knowingly and voluntarily consents to being monitored and acknowledges the city's right to conduct such monitoring. The security of e-mail, voice mail, and any similar communication is not guaranteed.

Abuse of e-mail, voice mail and computer systems could subject the employee to disciplinary action, up to and including dismissal.

- 2) **Personal Electronic Communication Devices:** The use of personal electronic communication devices, including but not limited to radios, satellite phones, cellular phones, computers, and tablets, must not unreasonably interfere with the performance of the employee's duties or interfere with city business operations. Department Heads may restrict or prohibit the use and/or possession of personal electronic communication devices for safety or other productivity or operational reasons.
- 3) **Personal Social Media Participation:** An employee who participates in social networking sites for personal purposes, during working hours or at any other time, must not:
  - a. claim to represent the position of the city, including any department or other organizational sub-unit; or
  - b. use any city logo or trademark; or
  - c. post any private, protected, or controlled information or record not obtained through GRAMA; copyrighted information; confidential information received from city clients; or any city-created or issued documents including those documents created by the employee for city or personal use, without permission of the city; or
  - d. unlawfully discriminate against, harass, or otherwise threaten a city employee, resident or any person doing business with the city.

Each of the following is a cause for discipline, up to and including dismissal. The offenses listed are not intended to be comprehensive, and the listing of these commonly-accepted violations cannot be deemed to prevent the discipline of an employee for other violations not listed. Actions in the line of public safety duty or in time of emergency will be considered in light of the circumstances.

- 1) Violation of the laws of the United States, the State of Utah, or ordinances of the city or any other jurisdiction determined to be job related.
  - a. A conviction (including a plea in abeyance or no contest) for the violation of any criminal law will be prima facie evidence in any city hearing process.
  - b. Violation may also be established in any city hearing process under an administrative standard of whether the evidence shows more likely than not the violation occurred regardless of the pendency or dismissal of criminal charges.
- 2) Poor attitude, comments and/or behavior which are non-supportive toward the city, the elected and appointed officials, supervisors, and the general direction of the city;
- 3) Fraud;
- 4) Deception in securing employment/appointment;
- 5) Fraudulent alteration of public records;
- 6) Incompetence;
- 7) Inefficiency;
- 8) Neglect of duty;
- 9) Inability to perform the essential duties of the position due to mental or physical problems after the city makes any reasonable accommodations required by law;
- 10) Insubordination;
- 11) Dishonesty;
- 12) Violation of the city's Alcohol/Drug-Free Workplace policy;
- 13) The use of narcotics, drugs or alcohol which affects on-the-job performance;
- 14) Any absence without approved leave;
- 15) Abusive or inappropriate treatment of the public or other employees;
- 16) Inability or refusal to get along with other employees;
- 17) Improper political activity as defined by State law;
- 18) Violation of the city's Harassment Policy, including sexual harassment or inappropriate sexual conduct;
- 19) Willful disobedience;
- 20) Misuse of public property or employees;
- 21) Conduct which causes discredit to the city;
- 22) Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment;
- 23) Violation of city or department rules, regulations, orders, policies, procedures and/or directives, either written or verbal;
- 24) Violation of any of the provisions of these policies and procedures;
- 25) Failure to abide by reasonable safety precautions and risk management practices;

- 26) Misuse or abuse of sick leave;
- 27) Failure to meet expected performance levels;
- 28) Failure to possess the minimum qualifications for the job;
- 29) Outside employment which conflicts with the employee's city employment and/or impairs his/her ability to complete his/her city responsibilities;
- 30) Failure to improve or change behavior specified in counseling or written requests, requirements and/or expectations made by a supervisor.
- 31) Violence or threat of violence against any another person.
- 32) Failure to cooperate and/or participate in an internal investigation.
- 33) Inability to report to work due to incarceration.
- 34) Causing damage to city property.
- 35) Unauthorized or inappropriate use of city logos and uniforms.

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## SECTION 14: DISCIPLINARY PROCEDURES

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### 14-1 DISCIPLINARY ACTIONS

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An employee whose conduct constitutes grounds for disciplinary action will be subject to the following discipline. THE FOLLOWING ARE NOT TO BE DEEMED A PROGRESSIVE DISCIPLINARY SCHEME OR SYSTEM.

- 1) **Verbal Warning:** A verbally communicated warning to an employee by a supervisor for a work performance deficiency, which is documented in the employee's personnel file.
- 2) **Written Reprimand:** A formal written notice outlining work performance deficiencies and required corrective action, to an employee by a supervisor for disciplinary purposes, which is documented in the employee's personnel file.
- 3) **Suspension:** An employee may be suspended from work without pay for up to 30 days (240 hours). Except for Appointed Officials and Probationary Employees, a suspension of more than two days (16 hours), is subject to the outcome of a pre-determination hearing as outlined in this Section 14.
- 4) **Demotion:** An employee may be demoted to a position with or without a reduction in pay. Except for Appointed Officials and Probationary Employees, a demotion to a position with less pay is subject to the outcome of a pre-determination hearing as outlined in this Section 14.
- 5) **Dismissal:** An employee's employment may be terminated by dismissal. Except for Appointed Officials and Probationary Employees dismissal is subject to the outcome of a pre-determination hearing as outlined in this Section 14.

Appointed Officials may be demoted, suspended for more than two days without pay, or terminated only by the city council.

Employees whose conduct constitutes grounds for discipline may be subject to one or more of the foregoing disciplinary actions depending on the severity of the improper conduct. The city reserves the right to impose disciplinary action, up to and including dismissal, on a first offense, depending on the nature and severity of the improper conduct.

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#### 14-2 PRE-DETERMINATION HEARING

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Whenever a Regular Full-time employee (not an Appointed Official or Probationary Employee) is subject to possible suspension without pay for more than two days (20 hours for Police Officers), demotion to a position with less pay, or dismissal, except as a result of a layoff or reorganization, a pre-determination hearing must be held prior to imposing disciplinary action.

The employee will be given prior written notice of at least three working days of the hearing. The notice will include an explanation of all charges against the employee and notice that discipline, up to and including dismissal, will be considered.

The pre-determination hearing will be conducted by the employee's Department Head or City Administrator 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 of disciplinary action, if any, must be made by the individual conducting the hearing, and the employee will be notified in writing. This written notification must include:

- 1) The grounds for disciplinary action.
- 2) Any disciplinary action to be imposed.
- 3) The effective date and duration of the disciplinary action.
- 4) Any required corrective action necessary for the employee to avoid further disciplinary action.
- 5) Notice and a copy of the post-determination appeal process outlined herein, if the imposed disciplinary action is demotion to a position with less pay, dismissal, or a suspension of more than two days (16 hours).

**Waiver of Pre-determination Hearing:** An employee may waive the right to a pre-determination hearing. Such waiver must be in writing, signed by the employee, and specifically acknowledge that the employee has received a copy and read the requirements of this section, accepts the proposed discipline, and acknowledges that the waiver also applies to the right to appeal.

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#### 14-3 POST-DISCIPLINARY APPEAL PROCESS (UTAH CODE ANN. § 10-3-1106)

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A Regular Full-time employee (not an Appointed Official or Probationary Employee) may use the post-disciplinary appeal process. Appeals to the Hearing Officer are made by filing written notice of the appeal with the City Recorder within ten (10) calendar days of receipt of the notice of the imposition of the suspension of more than two days (20

hours for Police Officers), demotion to a position with less pay, or dismissal, except if the action is the result of a layoff or reorganization.

The Hearing Officer must be an Administrative Law Judge or other legally trained individual appointed as an independent contractor by the Mayor with the advice and consent of the city council.

- 1) **Exhaustion of Internal Grievance Procedures:** The city designates the appeal to the Hearing Officer as the only internal post-disciplinary appeal procedure for demotions to positions with less pay, dismissals or suspensions without pay for more than two days (20 hours for Police Officers).
- 2) **Appeal Hearing Process:** The employee is entitled to appear in person before the Hearing Officer and to be represented by counsel (at the employee's expense), to have a hearing open to the public, to confront the witnesses whose testimony is to be considered, and to examine the evidence to be considered by the Hearing Officer.

An employee or the city may request the hearing be open to the public.

A court-reporter will be provided for the hearing at the city's expense.

The Hearing Officer determines the admissibility of evidence and its use. Further, the Hearing Officer is not bound by the rules of evidence and may consider any evidence it determines relevant to the matter.

The standard of review is an administrative standard of whether the evidence shows that it is more likely than not that the findings and action taken by the Department Head or City Administrator are supported.

The Hearing Officer may establish hearing procedures consistent with *Utah Code Ann.* § 10-3-1106, and may modify those procedures at the hearing as may be equitable and conducive to a determination of the issues.

- 3) **Decision of Appeal Hearing:** Each decision of the Hearing Officer must be certified to the City Recorder no later than 15 days after the day on which the hearing is held; however, for good cause, the Hearing Officer may extend the 15 day period to a maximum of 60 calendar days, if the employee and the city both consent.

Upon reaching a determination, the Hearing Officer will issue the decision. A decision is issued when it is signed and dated by the Hearing Officer, and certified with the City Recorder. The City Recorder will immediately distribute the certified decision to the employee and the City Administrator.

If the Hearing Officer does not uphold the suspension, demotion or dismissal to a position with less pay, the Hearing Officer will provide in the order that:

- a. the employee will receive the employee's salary for the period of time during which the employee was dismissed or suspended without pay less any amounts the employee earned from other employment during this period of time; or
- b. the employee will be paid any deficiency in salary for the period during which the employee was demoted or involuntarily transferred to a position of less remuneration.

Any final action or order of the Hearing Officer may be submitted by either the employee or the city to the Utah Court of Appeals for review by filing a petition for review with that court no later than 30 days from the date of the issuance of the final action or order of the Hearing Officer.

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## SECTION 15: GRIEVANCE PROCEDURE

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Grievances by employees may not be used to interfere with or appeal a pre-determination hearing, discipline resulting from a pre-determination hearing, or the post-discipline appeal process.

**Circumstance of Grievance to be Avoided:** It is the policy of the city insofar as possible to prevent the occurrence of grievances and deal promptly with those which occur.

**Duty of Department Head:** Whenever a grievance arises or is directed to the attention of the Department Head, the Department Head will 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.

**Duty of the City Administrator:** If the Department Head fails or is not authorized to settle the grievance in a satisfactory manner, the written grievance and Department Head's decision will be referred to the City Administrator. If a grievance involves a Department Head it may be taken directly to the City Administrator. If a grievance involves the City Administrator it may be taken directly to the Mayor. The City Administrator or Mayor, as appropriate, will investigate the circumstances and resolve the grievance to the extent he/she deems advisable and possesses authority.

**Review by City Council:** If the City Administrator 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 will schedule a hearing with the parties within the two regularly scheduled council meetings ensuing after receipt of the grievance. The City Council will render a written decision to the employee within ten (10) working days after the conclusion of the hearing. The City Council will render its findings and decision to all concerned parties, in writing, which decision will be final and binding.