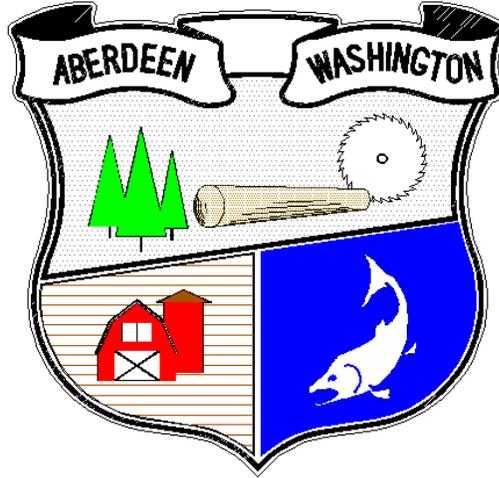


# CITY OF ABERDEEN



## PERSONNEL POLICIES



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## **SECTION 1. PURPOSE AND APPLICABILITY**

### **1.10 Purpose.**

**The provisions of this policy are enacted to further the following municipal goals and policies:**

- A. To provide a uniform system of personnel administration throughout the City service.
- B. To ensure that recruitment, selection, placement, promotion, retention, and separation of City employees are based upon a person's qualifications and are in compliance with federal and state laws.
- C. To assist managers in the development of sound administrative practices and procedures and to make effective and consistent use of the City's Human Resources Department.
- D. To promote improved communications between elected City officials, department managers, supervisors and employees.
- E. To ensure, protect and clarify the rights and responsibilities of all City employees.

### **1.20 Applicability.**

The provisions of this policy shall apply to all positions of employment with the City.

Conflicting provisions of collective bargaining agreements, civil service rules and regulations, ordinances, and laws shall prevail over these policies. In all other cases these rules shall govern.

### **1.30 Savings Clause.**

If any provisions of these policies, or any amendment hereto, or its application to any person or circumstance is held invalid, the remainder of these policies or the application of these policies to other persons or circumstances is not affected.

### **1.40 Disclaimer.**

The City specifically reserves the right to repeal, modify, or amend these policies at anytime, with or without notice. None of these provisions shall be deemed to create a vested contractual right in any employee or to limit the power of the Mayor or the City Council to repeal or modify these rules. These policies are not to be interpreted as promises of specific treatment but as general statements of City policy.

### **1.45 Exceptions to Policies.**

Any exceptions to these policies must be approved by the Personnel Committee and City Council.

## **1.50 Definitions.**

The following standard personnel administration terms, shall have the meaning assigned to them below:

**Anniversary Date.** The annual reoccurring calendar date on which the employee commenced City employment or was promoted to another position resulting in a 10% or greater wage increase.

**Appointing Authority.** The City official or body empowered to appoint or remove employees of the City department over which the official or body has jurisdiction.

**Appointment.** The word appointment shall be synonymous with the word hire. "Date of appointment" shall be synonymous with "date of hire".

**Cause.** The logic or rationale supported by substantial evidence, for a supervisor to take corrective action or measures against a subordinate employee.

**City Classification Plan.** The designation of a title for each class, together with the specifications for each class as approved by the Mayor and City Council or their assigned representative.

**City Compensation Plan.** A schedule of salary ranges and steps established for all approved classes in the City service in accordance with the criteria and procedures established by the Mayor and City Council.

**City Facility.** Any enclosed facility owned or operated by the City of Aberdeen that is frequented by the public or represents a workstation for one or more City employees.

**Class.** A group of positions sufficiently similar in duties, responsibilities, salary range, and minimum qualifications to permit combining them under a single title, and to permit the application of common work standards, selection and compensation criteria.

**Continuous Service.** Employment in the City service as a regular or probationary employee which is uninterrupted except for authorized leave of absence or separation due to layoff; provided that time lost due to layoff shall not be included in the determination of length of continuous service.

**Demotion.** The assignment of an employee from his or her present position to another position providing a lower maximum salary rate.

**Department Head.** An employee selected by the Mayor and confirmed by the City Council to serve as the head of a City department as provided for in the City Charter or as authorized by the Mayor and City Council.

**1.50 Definitions.** (Continued)

**Dismissal.** The discharge of an employee from employment with the City by the appointing authority.

**Employee.** A person who is paid a salary or wage for services rendered to the City of Aberdeen, except elected officials.

**Full-Time.** An employee who is hired to work a predetermined schedule of at least 40 hours per week.

**Part-Time.** An employee who works less than 40 hours per week who normally follows a predetermined pattern of working hours. Part-time employees are entitled to vacation, sick leave and other benefits on a pro-rated schedule on the basis of hours usually worked; provided, however, that temporary part-time employees shall receive no benefits.

**Regular.** An employee who has been retained in an authorized classified position following the completion of the initial one year probationary period. Regular employees receive the vacation, sick leave, holidays, and other benefits provided for the position classification to which they have been assigned.

**Provisional.** A provisional employee is one whose position is created because of a specific project or grant. A provisional employee is entitled to the same benefits received by regular full-time or part-time employees, as the case may be; however, provisional employees have no lay-off rights or rights to grieve the termination of their position.

**Temporary.** An employee who has been appointed to a particular set of duties and responsibilities for a limited period of time not to exceed six (6) months, unless an extension is granted by the Mayor with Council confirmation. Temporary employees are not entitled to sick leave, paid holidays, vacations or any other benefits except those mandated by law. If a temporary employee is subsequently retained in a regular position, the date for computing seniority and vacation leave accrual rates shall be the date uninterrupted, temporary employment began.

**Casual.** An employee who is hired to work on an intermittent or as needed basis and not on a predetermined schedule. Casual employees normally work less than 40 hours per week and do not receive benefits except those mandated by law.

**1.50 Definitions.** (Continued)

**Exempt.** An employee defined by the Fair Labor Standards Act as exempt from overtime and whose classification is not included in any collective bargaining unit. Exempt employees receive benefits as provided in the City's Exempt Employee Benefit Ordinance.

**Non-Exempt.** An employee who is retained in a position whose classification is eligible for overtime compensation. Non-exempt employees receive benefits as provided by the relevant labor contract with the City or, if not represented by a union, as provided in the City's Non-represented Employee Benefit Ordinance.

**Employer.** The City of Aberdeen, Washington.

**Immediate Family.** That group of individuals including the employee's son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, grandfather, grandmother, grandchild, or any person permanently residing with the employee.

**Original Appointment.** The initial appointment to a position in the City service.

**Persons Related by Blood or Marriage.** All of the following relationships are included in the term "Persons Related by Blood or Marriage": husband, wife, children, parents, grandchildren, brothers, sisters, grandparents, and great-grandchildren.

**Position.** A group of current job duties and responsibilities assigned or delegated by competent authority, requiring the full or part-time services of an employee.

**Probationary Employee.** An employee who is serving his/her required probationary period.

**Promotion.** The assignment of an employee from a position in one class to another class providing a higher maximum salary rate.

**Registered Domestic Partner.** Domestic partners who meet the qualifications of RCW 26.60.030 and who are registered with the Office of the Secretary of State.

**Salary.** Compensation or wages paid to an employee at an hourly, weekly, semi-monthly, monthly, quarterly, semi-annually, or annual rate for services rendered to the City of Aberdeen.

**Salary Range.** The approved minimum to maximum compensation or salary steps as set forth in the City Compensation Plan.

**Salary Step.** An established increment within an approved salary range.

**1.50 Definitions.** (Continued)

**Smoke.** (As defined by RCW 70.160.020) shall include the smoking or carrying of any kind of lighted pipe, cigar, cigarette or any other lighted smoking equipment. For the purposes of this policy "smoke" and "smoking" shall have the same meaning.

**Suspension.** A temporary removal from duty with or without pay of a City employee for disciplinary purposes or for investigating accusations brought against a City employee.

**Termination.** Separation of an individual employee from City employment.

**Transfer.** A change of an employee from one position to another in the same or a different class requiring substantially the same basic qualifications, salary range, and/or the performance of similar duties.

**Vehicle.** Any passenger automobile, pickup, van, or other enclosed motor vehicle.

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## **SECTION 2. ADMINISTRATION AND RESPONSIBILITIES**

### **2.10 Role of the City Council.**

As the legislative body of the City, the City Council may adopt, repeal, and amend personnel policies, rules, and regulations governing City employment. These rules shall provide for:

- A. The classification of all positions in the City service;
- B. Salary and wage plans for all City positions;
- C. Methods for determining the qualifications and fitness of candidates for employment, retention, and promotion in the City service;
- D. Procedures for the removal, suspension, and discipline of any appointed employee in the City service;
- E. The policy for effecting layoffs or reductions-in-force.

### **2.20 Role of the Personnel Committee.**

The Personnel Committee shall consist of the Mayor as Chairperson, the Council President and one member of the City Council appointed by the Mayor and confirmed by the City Council. The Personnel Committee shall be responsible for studying, developing, and recommending policies affecting the City's personnel system and is advisory to both the Mayor and the City Council. As the Mayor may request, the Personnel Committee shall advise the Mayor on the selection, appointment, discipline, and removal of department heads. The Personnel Committee shall also serve to advise the City Council on requests for exceptions to the personnel policies or compensation plan of the City. The Human Resources Director shall provide resource material and assistance to the Committee as necessary and shall provide such periodic reports as are requested by the Committee.

### **2.30 Role of the Mayor.**

The ultimate authority and responsibility for assuring that these personnel policies are carried out rests with the Mayor. As Chief Executive Officer of the City, the Mayor shall serve as the director over all City department heads and the Mayor's immediate subordinates.

#### **2.40 Duties of Department Heads.**

The duties of the department heads shall include:

- A. Participation in the recruitment, selection, and placement of employees by specifying actual job duties and responsibilities assigned to the positions being filled and providing accurate information concerning the precise knowledge, abilities, and skills needed to adequately fill each position vacancy.
- B. Hiring, placing, removing, disciplining, and suspending employees in positions within their respective departments in accordance with the City's established personnel policies, rules, and procedures.
- C. Accountability for daily administration of the provisions of pertinent labor contracts, departmental policies, and work procedures affecting employer-employee relations. Department heads may delegate such authority to their division managers and supervisors.
- D. Making recommendations to the Human Resources Director for desired additions or changes in the City's personnel policies, rules, and procedures.
- E. Keeping department employees informed of current personnel policies, rules, and procedures.
- F. Requesting reviews of position classifications by the Human Resources Director.
- G. Participation with subordinates in the development of probationary review and standards of performance for employee positions.
- H. Provision of and responsibility for job orientation, safety training, and career development of subordinate employees.

#### **2.50 Duties of Human Resources Director.**

The Human Resources Director shall:

- A. Be accountable to the Mayor and City Council for the administration of the City's centralized personnel management program and the timely promulgation and effective administration of the City's established personnel policies, rules, and procedures.
- B. Develop and implement standard personnel forms and administrative procedures to carry out the City's centralized personnel management and human resources development program in the most effective, efficient, and economical manner possible.

## **2.50 Duties of Human Resources Director.** (Continued)

- C. Serve as an advisor and counselor to the Mayor and department heads in all employee relations matters as requested.
- D. Develop and administer the City's centralized personnel selection and placement functions in a manner which involves full participation by the requesting department, and which delivers the most qualified candidates available to City departments in the shortest possible time.
- E. Maintain the number of authorized positions in the various departments and review their duties, compensation, and such other personnel studies or tasks as are authorized by the Mayor, the City Council, or mandated by federal and state law.
- F. Be responsible for the development and implementation of special programs necessary to assure equal opportunity in all aspects of municipal personnel administration.
- G. Coordinate probationary review and specific performance standards for each City position in consort with the expressed requirements of the City's department heads and division managers.
- H. Assist department heads in satisfying their departmental training needs as requested and coordinate any additional City staff training and development programs as are requested by the Mayor or City Council.
- I. Provide staff support and assistance for the development and implementation of such additional personnel programs and activities as are desired by the Mayor, the City Council, or department heads.

## **2.60 Duties of Managers and Supervisors.**

Subject to the general supervision of department heads, the duties of managers and supervisors shall include:

- A. Participation with department heads in the selection process and hiring or promotional decisions.
- B. Responsibility for daily supervision of subordinate employees and disciplinary action.
- C. Daily administration of pertinent labor contract provisions, personnel policies, and employer-employee rules and procedures.
- D. Recommendations to department heads of proposed additions or changes in labor contract provisions and established or proposed personnel policies, rules, and administrative procedures.

## **2.60 Duties of Managers and Supervisors** (Continued)

- E. Development of measurable performance standards for individual positions, and completion of performance evaluations in accordance with established City personnel policies, rules, and procedures.
- F. Provisions of and responsibility for job orientation, safety training, and development of subordinates.
- G. Requesting and facilitating review of position allocations as needed for proper maintenance and updating of the City Classification Plan.

## **2.70 Role of Employees.**

All employees shall:

- A. Satisfactorily perform all duties and tasks appropriately assigned to them.
- B. Be responsible for reading, understanding, and conforming to the City's established personnel policies, rules, and procedures.
- C. Recommend needed changes in the City's personnel policies, rules, and procedures to the appropriate manager, supervisor, department head, the Employee Safety Committee, or the Human Resources Director.

## **SECTION 3. EMPLOYMENT**

### **3.00 Equal Employment Opportunity/Nondiscrimination.**

It is the policy of the City to treat all applicants and employees equally and without regard to race, religion, color, national origin, gender, sexual orientation, gender identity, age, disability, pregnancy, marital, military or veteran status, genetic information, or any other basis prohibited by local, state, or federal law. It is also the policy of the City to foster and maintain a harmonious nondiscriminatory working environment for all employees.

Toward this end, the City will not tolerate racial, ethnic, religious, or sexual slurs or comments demeaning national origin or the disabled by an employee to or about any employee or applicant.

Violations of this policy will be cause for disciplinary action, including written warnings, suspension, and termination. Any person who feels he or she has been the victim of discriminatory treatment in violation of this policy should bring this concern to his or her department head or to the City Human Resources Department for appropriate action.

All departments shall adhere to the following guidelines:

A. Employment Practices.

All activities relating to employment such as recruitment, selection, promotion, termination, and training shall be conducted in a nondiscriminatory manner. Personnel decisions shall be based on individual performance, staffing requirements, and in accordance with governing laws.

B. Cooperation with Human Rights Organizations.

The City will cooperate fully with all organizations and commissions organized to promote fair practices and equal opportunity in employment.

C. Background Checks

Results from all background checks for employees will be evaluated based on crimes that would reasonably affect an applicant's fitness for the job. Except for employees who are subject to the Child and Adult Abuse Information Act, criminal background checks for applicants will be limited to convictions in the past 10 years.

### **3.10 Selection and Appointment.**

All appointments shall be determined by individual qualifications based upon predetermined employment standards. Qualifications shall be assured through careful evaluation of one or more of the following selection criteria:

- A. The applicant's level of training relative to the specific requirements of the position.
- B. The applicant's level of education relative to the specific requirements of the position.
- C. The applicant's mental and physical fitness relative to the specific requirements of the position.
- D. The results of an oral interview or examination panel.
- E. The results of a written test and/or performance evaluation.
- F. The results of an assessment center for appraising the abilities, knowledge, and skills of qualified candidates.

The appointing authority, with the support of the Human Resources Director will be responsible for determining the selection device or devices to be used to obtain the best-qualified candidates for selection.

To be actively considered for a vacant position, each applicant must complete a City prescribed application form and file it with the Human Resources Department by the deadline stated in the position announcement.

### **3.20 Hiring of Immediate Family Members - Nepotism.**

No persons related by blood or marriage shall be employed in the City's service where (a) one would have the authority or practical power to supervise, hire, appoint, remove, or discipline the other; or (b) one would be responsible for auditing the work of the other. This rule shall not affect persons related by blood or marriage who are in the City's employ on the effective date of the installation of this personnel policy (March, 1984).

### **3.30 Regulation on Outside Employment.**

An employee shall not engage in employment other than his or her City job if such employment interferes with the efficient performance of the City job, constitutes a conflict of interest, or would result in a poor public image for the City as determined by the department head. Any employee or recognized employee group aggrieved by a department head's determination or policy under this subsection may appeal to the Personnel Committee for review. The Personnel Committee is empowered to take testimony and shall make a prompt determination to affirm, modify, or reverse the determination of the department head.

### **3.40 Probation.**

All newly hired employees shall serve a probation period of one year as part of the selection process designed to provide the employer the opportunity to determine whether the employee is adjusting to City employment. An employee may be discharged at any time during the probationary period. Such employee is entitled to a statement of reasons for termination but shall have no grievance or appeal rights on the termination.

### **3.50 Employee Work Assignments.**

While all employees have normal work assignments, the broader needs of public service may require that an employee be temporarily assigned to do work of a different nature or in a different department of the City from that which the employee has been classified or is normally assigned.

### **3.60 Department Work Rules.**

Each department head is responsible for developing and distributing to each employee specific work rules and job procedures to be followed in that department. All department work rules must be consistent with these policies, the compensation plan, and other personnel policies, regulations, and procedures adopted by the City Council, the Mayor, or the appropriate collective bargaining agreement or Civil Service provisions. Department work rules should address such issues as work schedules (starting/quitting times and optional work schedules, if any), rest periods, smoking and eating at the work site, calling in sick, and the proper handling of confidential material.

### **3.70 Rest Periods.**

Employee rest periods must be arranged so as not to interfere with the ongoing conduct of official City business. The business of the City should not be interrupted simply because it is an employee's normal break time. Employees are entitled to one fifteen minute rest break in the first half of the shift and to one fifteen minute break in the second half of the shift. Rest breaks should be taken in designated areas as directed by the department head or supervisor. Misuse of an employee rest break may subject the offender to disciplinary action.

### **3.80 Overtime.**

Any City employee may be required, as a condition of employment, to work overtime when necessary as determined by his or her departmental management. Overtime shall be worked only with the approval of the departmental management. Employees working unauthorized overtime are subject to discipline. Department heads and other designated employees of the City classified as exempt shall not be eligible for overtime compensation.

### **3.90 Performance Evaluations.**

The Human Resources Director shall work with the department heads and the Personnel Committee, as requested, to develop a system of performance evaluations for all departments. Employees and their bargaining units shall be given an opportunity to participate in the development of the performance evaluation system. The performance evaluations should be designed to assure open and effective communications at all organizational levels, including feedback from employees, to motivate and develop individual employees to their fullest potential, and to clarify the roles and mutual expectations of employees.

### **3.100 Health Coverage.**

The City's policy is administered in accordance with the Employer Shared Responsibility provisions of the Patient Protection and Affordable Care Act, as amended (PPACA). Under the terms and conditions of this policy and the City's health benefits plan, the City provides health coverage to full-time employees and their dependents up to age 26. The benefits, terms, and conditions of the City's health benefits plan, including costs owed by eligible employees are explained in applicable collective bargaining agreements or benefits ordinances or resolutions. If there are conflicts between this policy, the Plan, and any collective bargaining agreements, the document satisfying the minimum protections of the PPACA shall apply.

#### **A. Definitions.**

For the purposes of this section, the following definitions shall apply:

Full-time. At the time of hire or change in job classification, the employee is reasonably expected to work, on average, 30 or more hours per week. Full-time employees are eligible for health coverage and will be enrolled in health coverage as specified under the terms of the appropriate collective bargaining agreement, benefits ordinance or benefits resolution. Health care benefits become effective on the first of the month following the employee's first work day. If the employee starts on the first working day of the month, benefits are effective the first of that month.

Part-time. At time of hire or change in job classification, the employee is reasonably expected to work, on average, less than 30 hours per week. Part-time employees are subject to monthly and annual hours limitations and are generally not eligible for health coverage, unless otherwise specified under the terms of the appropriate collective bargaining agreement, benefits ordinance or benefits resolution. If, based on the City's prior approval, a part-time employee averages 30 or more hours per week during a measurement period (discussed below), the employee will be deemed a full-time employee, eligible for health coverage during a subsequent stability period (discussed below).

### **3.100 Health Coverage.** (continued)

Variable hour. At time of hire or change in job classification, the City cannot reasonably determine whether the employee will or will not average 30 or more hours per week. Variable-hour employees are subject to monthly and annual hours limitations and are generally not eligible for health coverage, unless otherwise specified under the terms of the appropriate collective bargaining agreement, benefits ordinance or benefits resolution. If, based on the City's prior approval, a variable-hour employee averages 30 or more hours per week during a measurement period (discussed below), the employee will be deemed a full-time employee, eligible for health coverage during a subsequent stability period (discussed below).

Seasonal. At time of hire or change in job classification, employee is hired or re-hired into a position which the customary annual employment is approximately six months or less, beginning in approximately the same season of each calendar year. Seasonal employees are subject to a mandatory annual break in service of six continuous months (with limited exceptions) and are not eligible for health coverage, unless otherwise specified under the terms of the appropriate collective bargaining agreement, benefits ordinance or benefits resolution.

Dependents. Children of full-time employees up to age 26 (including the entire calendar month in which a child turns age 26). Includes biological and adopted children. Excludes spouses, domestic partners, stepchildren and foster children. Dependents of full-time employees are eligible for health coverage.

Volunteers. Individuals who provide services to the City on a voluntary basis and whose compensation is limited to: (1) reimbursement for reasonable expenses incurred in the performance of services as a volunteer; (2) reasonable fringe benefits, excluding health coverage; and/or (3) nominal fees or honorarium provided in connection with services as a volunteer. Volunteers are not employees and are not eligible for health coverage.

### **B. Work Hours Limitations**

For certain employee classifications, the City restricts the maximum annual and/or monthly hours of work.

Full-time employees are not subject to an annual or monthly hours limitation and may work 30 or more hours per week, without limit, unless otherwise limited by the City's overtime policy, job description, the terms of any applicable collective bargaining agreement, or the terms of any other City policy, agreement, ordinance or resolution. Full-time employees are not subject to initial or standard measurement, administrative or stability periods (discussed below).

### **3.100 Health Coverage.** (continued)

Part-time employees are subject to an annual hours limitation and may not exceed 1500 hours annually without the Department Head's prior approval. In addition to an annual hours limitation, part-time employees may not exceed 125 hours in any single calendar month without the Department Head's prior approval. Part-time employees are subject to initial and standard measurement, administrative, and stability periods (discussed below).

Variable-hour employees are subject to an annual hours limitation and may not exceed 1500 hours annually without the Department Head's prior approval. In addition to an annual hours limitation, variable-hour employees may not exceed 125 hours in any single calendar month without the Department Head's prior approval.

Variable-hour employees are subject to initial and standard measurement, administrative, and stability periods (discussed below).

Seasonal employees are not subject to an annual or monthly hours limitation and may work 30 or more hours per week, without limit, unless otherwise limited by the City's overtime policy, job description, the terms of any applicable collective bargaining agreement, or the terms of any other City policy, agreement, ordinance or resolution. Seasonal employees are limited to an annual employment duration of six months and must have an annual break in service of approximately six continuous months before being eligible for re-hire. Seasonal employees may work longer than six months with prior approval from their Department Head. Seasonal employees are subject to initial and standard measurement, administrative and stability periods (discussed below).

#### **C. Measurement and Administrative Periods – Initial Periods**

The City uses a 12-month initial measurement period to measure the hours of new part-time, variable-hour and seasonal employees.

The City uses an initial administrative period of not longer than two months, divided in two phases. The first phase begins on the date of hire of a new part-time, variable-hour, or seasonal employee and continues until the last day of that calendar month. The second phase begins at the end of the 12-month initial measurement period and lasts for one full calendar month. The purpose of the first phase of the initial administrative period is to reduce administrative complexity by consolidating all new part-time, variable-hour, and seasonal employees hired during a month into the same initial measurement and stability periods. The purpose of the second phase of the initial administrative period is to allow the City to calculate the hours worked by employees during the initial measurement period and to enroll eligible employees in health coverage.

**3.100 Health Coverage.** (continued)

The City uses a 12-month initial stability period for purposes of providing or excluding health coverage to new part-time, variable-hour, and seasonal employees. If an employee works an average of 30 hours or more per week during an initial measurement period, the employee will be deemed a full-time employee and will be eligible for health coverage during the initial stability period, regardless of the hours worked during the initial stability period, so long as the employee remains employed by the City. If an employee works an average of less than 30 hours per week during the initial measurement period, the employee will not be deemed a full-time employee and will not be eligible for health coverage during the initial stability period, regardless of the hours worked during the initial stability period.

Initial Administrative Period (Phase 1)	Begins on the date of hire, continues until the end of that month.
Initial Measurement Period	Begins on the first day of the first full calendar month following date of hire and continues for 12 months.
Initial Administrative Period (Phase 2)	Begins on the first day of the first full calendar month following the Initial Measurement Period and lasts for the entire month.
Initial Stability Period	Begins on the first day of the first full calendar month following Phase 2 of the Initial Administrative Period and continues for 12 months.

To determine the average hours worked by each employee during the 12-month initial measurement period, the City will divide the employee's total hours worked during the period by 52.

**D. Measurement and Administrative Periods – Standard Periods**

The City uses a 12-month standard measurement period to measure the hours of all ongoing part-time, variable-hour, and seasonal employees hired on or before the start of a standard measurement period.

The City uses a standard administrative period of 31 days. The purpose of the standard administrative period is to calculate the hours worked by employees during the preceding standard measurement period and to enroll eligible employees in health coverage during the resulting standard stability period.

**3.100 Health Coverage.** (continued)

The City uses a 12-month standards stability period for purposes of providing or excluding health coverage to ongoing part-time, variable hour, and seasonal employees. If an employee works an average of 30 hours or more per week during a standard measurement period, the employee will be deemed a full-time employee and will be eligible for health coverage during the resulting standard stability period, regardless of the hours worked during the standard stability period, so long as the employee remains employed by the City. If an employee works an average of less than 30 hours per week during the standard measurement period, the employee will not be deemed a full-time employee and will not be eligible for health coverage during the resulting standard stability period, regardless of the hours worked during the stability period.

Standard Measurement Period	December 1 through November 30. (i.e. December 1, 2014 through November 30, 2015)
Standard Administrative Period	December 1 through December 31 of each year.
Standard Stability Period	January 1 through December 31 of each year.

To determine the average hours worked by each employee during the 12-month standard measurement period, the City will divide the employee’s total hours worked during the period by 52.

**E. Measurement and Administrative Periods – Overlapping Initial and Standard Periods**

The City’s standard measurement periods apply to all ongoing part-time, variable-hour, and seasonal employees hired by the City on or before the start date of a standard measurement period. New part-time, variable-hour, and seasonal employees will be measured by both the City’s initial measurement period and the first standard measurement period beginning on or after each employee’s date of hire.

Based on the overlapping nature of initial and standard measurement and stability periods, situations will arise where part-time, variable-hour, and seasonal employees will be subject to simultaneous initial and standard measurement, administrative, and stability periods.

### **3.100 Health Coverage.** (continued)

If the City determines that an employee is eligible for health coverage during an initial measurement period or standard measurement period, the employee must be enrolled in health coverage for the entire associated stability period. This is the case even if the employee is determined to be eligible for health coverage during the initial measurement period but determined not to be eligible for coverage during the overlapping or immediately following standard measurement period. In such a case, the City may exclude the employee from health coverage only after the end of the initial stability period. Thereafter, the employee's eligibility for health coverage would be determined in the same manner as that of other ongoing part-time, variable-hour, or seasonal employees.

In contrast, if the City determines an employee is not eligible for coverage during the initial measurement period, but is eligible for coverage based on the overlapping or immediately following standard measurement period, the employee will be eligible for health coverage for the entire standard stability period (even if the standard stability period begins before the end of the initial stability period). Thereafter, the employee's eligibility for health coverage would be determined in the same manner as other part-time, variable-hour, or seasonal employees.

#### **F. Rules Concerning Eligibility and Enrollment**

To be enrolled in health coverage under the applicable collective bargaining agreement, City policy, ordinance or resolution, eligible employees must comply with all applicable application requirements and deadlines. Failure to do so may result in delayed or no enrollment until the next annual enrollment period or upon a qualified change in status.

If an eligible employee's payment for the cost of health coverage is untimely, the City is not required to provide health coverage for the period and may terminate coverage.

Eligible employees have the right to waive enrollment in the City's health coverage. The City will provide a written waiver that must be timely completed, signed, and submitted by an eligible employee desiring to waive enrollment. Unless the applicable collective bargaining agreement, City policy, ordinance or resolution specifies otherwise, a new waiver must be completed annually. The City will provide otherwise eligible employees who previously waived enrollment in health coverage the opportunity to enroll at least once annually.

### **3.100 Health Coverage.** (continued)

#### **G. Hours for Paid and Unpaid Leave During Measurement Periods**

Hours for service for employees during measurement periods include both actual hours of service worked in addition to paid hours for vacation leave, sick leave, holiday leave, or other paid leave.

Periods of unpaid leave, including unpaid FMLA or military leave, are excluded from the hours calculation during any measurement period.

Administrative periods overlap with measurement and stability periods. Employees offered health coverage during a stability period must remain enrolled in coverage during a subsequent administrative period. Employees excluded from health coverage during a stability period remain excluded from coverage during a subsequent administrative period.

#### **H. Breaks in Service**

Employees, regardless of classification, who separate their employment with the City, voluntarily or involuntarily, must have a break in service of at least 13 continuous weeks before being eligible for re-hire. Employees re-hired after a break in service of at least 13 continuous weeks will be treated as a “new” employee, without any consideration given to previous hours worked or previous measurement or stability periods that may have applied prior to separation.

Employees who are re-hired into full-time positions must be enrolled in health coverage no later than the first day of the fourth calendar month following their date of re-hire. Employees who are re-hired into part-time, variable-hour, or seasonal positions are subject to the City’s initial measurement, initial administrative, and initial stability periods.

The City reserves the right to suspend this rule on a case-by-case basis.

## **SECTION 4. PERSONNEL ACTIONS**

### **4.10 Promotions - Definition.**

Promotions are advancements from one position classification to another with a higher pay range and requiring a higher degree of skill or responsibility.

In-line promotions are promotions within a department when the promotional position supervises the former position, or requires skills of a similar but higher degree than the former position, and where the promotional position is normally filled by someone from a lower position in-line. The department heads are responsible for identifying lines of promotion within their respective departments.

### **4.20 Promotions - Policy.**

It is the policy of the City to encourage but not to require that vacancies be filled by interested and qualified persons already employed by the City. To further this policy, the City encourages cross training so that employees can perform a variety of jobs, including those of their supervisors, as the needs arise.

### **4.30 Promotions - General Procedures.**

The appointing authority is accountable for his or her appointments. When a vacancy occurs, the appointing authority should first determine whether an in-line promotion is appropriate. If an in-line promotion is not made, the position should be posted, as provided in this section, so that other qualified City employees may express an interest and be considered for the position. If the appointing authority does not make an appointment from among those already employed by the City, or from an existing applicant pool from a recent recruitment, the vacancy shall be advertised to the public at large. All employees who have requested consideration for the position shall have the right to be considered for the position in competition with the outside applicants on file and/or the public at large.

### **4.40 Posting of Vacant Positions.**

Except for Civil Service positions, department head positions, or vacancies filled by in-line promotions, all job openings for full-time positions should be posted in-house for three working days before the jobs are publicly advertised. The postings shall be at locations accessible to the City's employees.

### **4.50 Transfers.**

A regular employee may request a transfer to another position in the same or similar class or to another department and such request may be granted upon the approval of the receiving department head. In order to insure an orderly transfer, the details of any transfer shall be coordinated by the department heads of both affected departments.

#### **4.60 Resignation/Exit Interview.**

An employee wishing to leave the City service in good standing shall file, at least two weeks in advance, with his or her department head a written resignation letter with the effective termination date.

The department head shall forward a copy of the employee's termination letter with the effective date thereof to the Human Resources Director who may conduct an exit interview on behalf of the employer, at the resigning employee's option.

#### **4.70 Demotion.**

A regular employee may request a demotion to a position in a lower classification or a restructuring of the job duties resulting in a lower position classification. Department heads are encouraged to explore ways to accommodate the employee if it is reasonable to do so without jeopardizing the effectiveness or efficiency of the work unit, or placing an unfair burden on other City employees.

An employee may be demoted when: (a) his or her performance consistently fails to meet pre-established standards for the current classification; (b) the employee becomes physically or mentally incapable of performing the duties of his or her job; (c) for disciplinary reasons; (d) when position responsibilities are decreased or level of involvement lowered; or (e) in lieu of layoff. An employee being demoted is entitled to two weeks prior written notification. Any demotion to prevent layoffs shall be reversed when the previous position is reopened.

No person shall be demoted to a position for which he or she does not possess the minimum qualifications.

#### **4.80 Probation.**

Any person who is promoted, transferred, or demoted shall serve a probationary period of six months during which time the employee may be returned to his or her former position without cause by the department head with the concurrence of the head of any other department which is directly affected. The employment of any person on probation under this section may only be terminated with cause.

All personnel actions made because an employee has been promoted, transferred, or demoted shall be deemed temporary appointments during the employee's probationary period.

#### **4.90 Layoffs.**

The City may lay off employees due to lack of work, budgetary restrictions, or for other legitimate employer reasons. When a City employee is laid off, the affected employee shall be given at least two weeks advance notice. Whenever a layoff occurs, every reasonable effort will be made by the employer to integrate the affected employees into other suitable employment. The City's layoff procedures are as follows:

#### **4.90 Layoffs.** (Continued)

- A. Whenever a layoff is anticipated, employees whose jobs may be affected will be notified of the situation and be provided with their available options as soon as possible to allow the employer and the affected employee sufficient time to make necessary arrangements.
- B. Temporary employees performing similar work in the same department or division will be laid off before regular full-time employees.
- C. Options such as part-time work schedules, job sharing, voluntary time, or pay reductions may also be explored, if, in the opinion of the department head, such options are practicable.
- D. Regular full-time employees in positions that are subject to layoff will be retained on the basis of seniority whenever job performance and qualifications are equal. Relative job performance will be determined by the department head on the basis of past job performance evaluations. Qualifications will be determined by the knowledge, abilities, and skills required for each affected position as stated in the class specification, and each affected employee's ability to perform the remaining work without further training.
- E. For a period of one year, regular full-time employees affected by layoff will be offered the first opportunity to fill comparable funded vacant positions. These employees will be placed on the City's job announcement mailing list for one year from the effective date of the layoff to assist them in applying for other job vacancies with the City for which they are qualified. Qualified persons on the layoff lists will be recalled in inverse order of layoff. A person may be removed from the layoff list if he or she declines offered employment with the City or if the City, after reasonable attempts, is unable to contact or receive a response from the individual.
- F. The Human Resources Director may provide limited out-placement services to regular full-time employees that have been laid off such as job counseling, assistance in the development of resumes, and assistance in the location of other employer contacts and community resources which may lead to suitable employment elsewhere.

#### **4.100 Discharge.**

Any employee who is unable or unwilling to meet predetermined performance standards for his or her position and whose job performance does not improve with additional training or other corrective action, may be discharged from City employment. An employee may be discharged for disciplinary reasons according to the provisions of this policy relating to discipline.

**4.100 Discharge.** (Continued)

No regular employee shall be terminated without a pre-discharge meeting as provided in Section 10.30, D., of these policies.

Newly hired probationary employees may be discharged at any time during the probationary period and shall have no grievance or appeal rights on the termination but shall be entitled to a statement of reasons for the termination.

When an employee appeals a dismissal, as provided in Section 11, the vacated position shall be considered a temporary vacancy until the final decision on the appeal is made.

**4.110 Reinstatement.**

An employee who has been suspended, demoted, or dismissed may be reinstated to his or her former position upon successful appeal.

**4.120 Reemployment.**

An employee who has resigned and who is subsequently rehired by the City shall be considered for all purposes except retirement benefits to have received an original appointment and shall serve a one year probationary period; provided that the City Council, in its discretion, may advance the employee's vacation schedule to consider prior service to the City. Requests to advance a reemployed person's vacation schedule should be referred to the Personnel Committee for recommendation.

## **SECTION 5. CENTRAL PERSONNEL RECORDS**

### **5.10 Confidentiality.**

The City treats as confidential all employee information except when requested to verify the following: job title, department, date of hire, and base salary. The City does not provide addresses, private telephone numbers, birth dates, social security numbers, or other personal information to any agency or private individual except under court order or as required for enrollment in City- sponsored benefit plans.

Should an employee desire that the City release any information not allowed by this policy, he or she must sign an authorization indicating the specific information to be released and to what specific agency or individual.

### **5.20 Access to Employee Files.**

Access to the employee personnel files for any particular employee shall be limited to the employee, a person with the employee's written consent, the employee's department head or appropriate supervisor, the Human Resources Director, the Corporation Counsel or deputy, the Mayor and other staff employed by the Human Resources Department. Requests pursuant to a public records request shall be handled in accordance with personnel policy 5.25.

Personnel records are property of the City. Employees may review their own personnel file by contacting the Human Resources Director and making an appointment to do so. The review of the file shall be conducted in the presence of the Human Resources Director.

Employees have the opportunity to submit a letter of rebuttal regarding any information contained in their file that is in dispute.

### **5.25 Public Records Request.**

If an entity or person legally requests the personnel records of an employee, the Human Resources Director will immediately notify the employee. The City will not provide the records for one (1) week after notification to the employee. This will allow the employee to seek an injunction if he or she so desires.

### **5.30 Contents of Employee Files.**

The following information shall be maintained in each employee's file:

**5.30 Contents of Employee Files.** (Continued)

- A. Name, Employee Number, Employment Date, Social Security Number, Address and Telephone Number; Who to Contact in Case of Emergency; Relatives and Friends Employed by the City; Employee Group; Pension Plan, Education Level, College Degrees, Special Skills and Training; and checklist indicating the following to be on file elsewhere: EEO Profile, I-9 Form, and medical records.
- B. A summary listing employment effective dates, job titles held, status changes, changes in rates of pay, and notations.
- C. Application for original appointment.
- D. Application(s) for subsequent promotions or re-hire, if applicable.
- E. Contracts or other documents outlining special conditions of employment.
- F. Personnel Action Notices - (PANS).
- G. Employee Data Calendars (if used by the employee's department).
- H. Copies of performance evaluations (if given by the employee's department).
- I. Copies of letters and documents related to disciplinary procedures which the employee has also received a copy.
- J. Copies of letters of employment commendation or recommendation.
- K. Requests for and letters granting leaves of absence without pay.
- L. Certificates or employee-completed training and development courses or educational work-shops.
- M. Resignation letter or an explanation of circumstances surrounding termination of City of Aberdeen employment.
- N. Additional job-related data or employer information the individual employee or the department head desires to maintain in the employers central personnel record file.
- O. Other such information as may be considered pertinent.

#### **5.40 Other Personnel Files.**

Documents containing personal information such as dates of birth, beneficiaries, marital status, race, and other potentially discriminatory information shall be maintained in separate files apart from the employee's individual personnel file. Examples of such files include:

- A. U.S. Immigration Employment Eligibility Verification Forms (I-9).
- B. Medical/Disability Records.
- C. On-the-Job-Accident (Workers' Compensation) Reports.
- D. Equal Employment Opportunity Profiles.
- E. Benefit enrollment/dis-enrollment forms.

#### **5.50 Employment References.**

Unless otherwise required by a valid court order, the City will furnish only the following information about past or present City employees to persons outside of the City of Aberdeen government: (1) dates of employment; (2) job title(s); and (3) verification of salary.

All requests for information regarding past or present City employees shall be directed to the Human Resources Department. Because of the potential for liability to the City, supervisors, managers, and directors shall not respond directly to such requests for information.

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## **SECTION 6. CLASSIFICATION PLAN**

### **6.10 Classification Plan Objective.**

The Classification Plan is intended to provide a complete inventory of all positions in the City of Aberdeen. The Plan shall contain accurate descriptions and specifications for each approved class of employment within the City service. Class titles shall be standardized and each shall be indicative of a definite range of duties and responsibilities and shall have the same meaning throughout the City service. The Human Resources Director shall recommend necessary amendments and changes to the Plan to effectively meet the current employer needs of the City of Aberdeen.

This Plan is designed to be used by management to provide assistance:

- A. In assuring essentially equal pay for essentially equal work;
- B. In making annual employer or labor market salary comparisons;
- C. In providing a unified basis for the recruitment and selection of qualified employees;
- D. By serving as a tool for department heads in their managerial planning and organizing functions;
- E. In determining needs for staff training and management development programs;
- F. In identifying and developing employee career paths;
- G. By serving as a common baseline for employee performance evaluation.

### **6.20 Classification Plan - Structure.**

The City Classification Plan shall be comprised of the following elements:

- A. An assembly into classes of positions with approximately equal difficulty and responsibility, which require the same general qualifications and which can be compensated within the same range of pay under similar working conditions;
- B. A class title descriptive of the work of each class which shall identify the class for personnel control and payroll accounting purposes;
- C. A written specification for each class containing: a description of the nature of the work and of the relative responsibility of the class; distinguishing characteristics of the class; examples of work which are illustrative of the duties of the positions within the class; requirements of the class in terms of knowledge, abilities, and skills necessary for the performance of the work ; a statement of minimum qualifications or experience and training desirable for recruitment into the position; and other standard material as may be prescribed by the Human Resources Director.

### **6.30 Classification Plan Class Specifications.**

The specifications of the classes of positions in the City Classification Plan and their integral parts shall be used as a guide in the classification of positions and have the following force and effect:

- A. Classification specifications are descriptive and not restrictive; they are intended to indicate the kinds of positions that are allocated to the classes as determined by their duties and responsibilities. Specifications are to be interpreted in their entirety in relation to the others in the City Classification Plan. Particular phrases or examples shall not be isolated or treated as a full definition of the class.
- B. In determining the class to which any position should be allocated, the specifications of each class shall be considered as a whole. Consideration shall be given to the duties, specific tasks, responsibilities, qualifications, requirements, and relationships with other classes, as together affording a statement of the various employments that the classes as a whole intend to embrace.
- C. Qualifications commonly required of all incumbents of the different classes, such as job related physical condition, honesty, sobriety and industry, shall be universally implied as standard qualification requirements for entrance to each class even though they may not be specifically mentioned in the specifications.

### **6.40 Classification Plan Class Title Use Required.**

Class titles shall be used in all personnel accounting, budgeting, appropriation, and financial records. Except for temporary positions for which no appropriate classification exists, no person shall be appointed to or employed in a position in the City service under a title not included in the present City Classification Plan.

### **6.50 Classification Plan Maintenance.**

The Human Resources Director shall be responsible for the maintenance of the City Classification Plan, ensuring that it continuously reflects on a current and timely basis the duties being performed by each employee in the City service and the class to which each position is allocated. Changes and reallocations within the Classification Plan shall be made as follows:

- A. The Human Resources Director shall analyze the duties and responsibilities to be assumed by incumbents of proposed new positions and using such appraisal as a basis, assign the position to the appropriate class within the Classification Plan. A new class specification shall be prepared to cover each additional position which is created and for which the City Classification Plan does not provide a satisfactory job description. All new class specifications shall be submitted to the City Council for its approval.

#### **6.50 Classification Plan Maintenance.** (Continued)

- B. Changes in the duties and responsibilities of a position involving the addition, reduction, or modification of assignments shall be reported to the Human Resources Director by the responsible department head. If the changes are determined to be permanent and are sufficiently significant to justify reallocation to a different classification, the Human Resources Director shall recommend such amendments or changes with justification for the same to the City Council for approval. If approved, the Human Resources Director shall assign or reassign the position to the appropriate class.
- C. The Human Resources Director shall methodically review the classification of all established positions and audit each City employee's assigned duties and responsibilities, and on the basis of such appraisal or reappraisal, propose changes as are necessary to keep the City Classification Plan current. In recommending the reallocation of positions, the Human Resources Director shall give due consideration to the recommendations of the department head and the Mayor.
- D. Minor changes in the class specifications may be made by the Human Resources Director with the approval of the Mayor. Minor changes are those which collectively do not justify reallocation to a different classification and do not change or modify policy established by the Council.
- E. Employees dissatisfied with the allocation decision or proposal may take the matter to their department head and the Human Resources Director. If the employee remains dissatisfied, the issue may then be appealed to the Personnel Committee for review. The Personnel Committee may make such recommendations it sees fit to the City Council. If the Personnel Committee makes no recommendation or if the employee is dissatisfied with the Committee's recommendation, the employee may appeal the matter to the City Council. The decision of the Aberdeen City Council shall be final.
- F. Prior to the adoption of a new job description or a substantive change in an existing job description, the appropriate bargaining units and employees holding those positions should be informed of the proposed changes and given an opportunity for meaningful comment on those changes.

The Human Resources Director shall utilize standard procedures for developing and reviewing class specifications. Any procedures prepared by the Human Resources Director are subject to the approval of the Mayor.

All class specifications shall note the date of original adoption by the City Council and list any later dates of revision. A master file of all class specifications will be maintained by the Human Resources Director that includes copies of questionnaires for all positions allocated to the class, historical data on changes, and other relevant documents and data. Copies of abolished or corrected specifications will be retained for future reference within the master file.

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## **SECTION 7. SALARY ADMINISTRATION**

### **7.10 Salary Structure.**

The City Council has established and may amend the salary structure for all City employees. The structure consists of a series of salary ranges, with each range containing a series of salary steps. Each position classification shall be assigned an appropriate salary range by the City Council after consideration of the classification plan.

### **7.20 Salary Steps.**

#### **A. Original Appointment.**

All new employees, other than lateral police officers, will be appointed at the minimum step of the range for their position classifications. Lateral police officers will be appointed at the third step of their position classifications. The Mayor may grant exceptions and appoint a new employee, other than lateral police officers, to a step no higher than the third step of the pay range based on exceptional qualifications, experience, or ability of the employee. Any exception approved by the Mayor shall be in writing and shall identify the specific circumstances that justify the higher step. Any exceptions beyond the third step of the range for any new employee, including lateral police officers, must be reviewed by the Personnel Committee and approved by the City Council.

#### **B. Progression within the Range.**

Each newly appointed employee will advance to the next step in the allocated salary range on his or her anniversary date, provided that the department head for cause may delay the advancement for up to twelve months.

Subsequent step increases within the range shall be made upon the recommendation of the department head or the department head's designee, provided that such step increases shall not occur more often than once between anniversary dates.

Employees may not be advanced beyond the top step of the salary range allocated to their position classification.

### **7.30 Promotions.**

Employees promoted from a job in one position classification to a job in another position classification will, on the date of the promotion, advance to the minimum of the salary range for the new position classification or to the step in that range which is closest to being 5% greater than their previous salary, whichever is greater. The employee's anniversary date will be changed only if the pay in the new step and range is 10% or more above the pay for the employee's former step and range.

#### **7.40 Upward Job Reclassification.**

An employee whose job is reallocated to a classification with a higher pay range will move on the date of reallocation as though he or she had been promoted. The employee's anniversary date will be changed only if the pay in the new step and range is 10% or more above the pay for the employee's former step and range.

#### **7.50 Downward Reclassification.**

An employee whose job is reallocated to a classification with a lower pay range will move, on the date of the reallocation, to the step in the new range which is closest to the dollar amount of the employee's previous step and range. The employee will retain his or her former anniversary date.

#### **7.60 Demotion.**

Employees being demoted will move, on the date of the demotion, to the step in the range of their new classification which is closest to the dollar amount of the employee's previous step and range, provided that if the demotion is for disciplinary reasons, the employee may be placed in a step designated by the department head after consultation with the Human Resources Director. The employee will retain his or her former anniversary date.

#### **7.70 Transfers.**

Employees who are transferred from a position in one department to a position in another department shall be placed in the step designated by the Mayor after consultation with the affected employees, department heads, and the Human Resources Director provided that no transferred employee shall be placed in a step which is more than 5% greater than his or her previous salary without the approval of the City Council; and further provided that any employee aggrieved by the decision of the Mayor may appeal to the City Council whose decision shall be final.

#### **7.80 Salary Range Adjustments.**

Adjustments by the City Council to the salaries attached to the various steps and ranges made to keep the salary structure current do not affect the progress of an employee through the range.

### **7.90 Position Allocation.**

During the budget process, the department heads shall submit to the City Council as part of their budget, a Personnel Allocation List of the requested regular full-time positions, the salary range for each position and the number of employees in each position. Funding for anticipated increases in staffing levels, reorganizations, reclassifications, and promotions for the upcoming year should be included in that year's budget; however, actual implementation of those changes must be submitted for approval on a case-by-case basis to the Personnel Committee and City Council.

### **7.100 Administration.**

It is the responsibility of the Human Resources Director to coordinate the administration of salaries according to the provisions of this section.

All requests for personnel actions which affect any employee's placement within the City's salary structure shall be submitted to the Human Resources Director for review.

Before any such action takes effect, the Human Resources Director shall ensure that the:

- A. Action conforms to the provisions of this section or any superseding provision of law or labor contract; and
- B. Proposed action does not conflict with the approved Position Allocation List for the particular department. The department head shall certify that there are sufficient funds in the salary portion of the particular department's budget to support the personnel action.

The City Council may permit exceptions to the rules provided in this section and all exceptions must be approved by the City Council.

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## **SECTION 8. ATTENDANCE AND LEAVES**

### **8.10 Hours of Work and Attendance.**

Offices and departments of the City shall be open for the transaction of public business Monday through Friday, approved holidays excepted. Hours of business shall be determined by the Mayor and City Council. Employees may be required to work other schedules, including varying shifts, weekends, holidays, and overtime as required to meet the needs of the City.

If an employee knows that he or she will be late for work or absent because of illness or other reasons, it is the employee's responsibility to contact his or her supervisor prior to the start of the work shift or as early as practicable.

Each department shall keep daily attendance records of employees on a standard specified form.

### **8.20 Leave of Absence Without Pay.**

Upon written request of a City employee, and with the express recommendation of the appropriate department head, the Mayor may grant an employee a leave of absence without pay not to exceed one year.

A department head may approve a request for a leave of absence without pay which does not exceed 15 consecutive calendar days per calendar year without the consent of the Mayor.

Approval of such extended leave shall be in writing, signed by the department head or the Mayor. No vacation or sick leave benefits or any other employee fringe benefit shall accrue while a City employee is on approved leave of absence without pay. Any employee on an approved leave of absence may continue his or her medical and dental insurance coverage by paying the full cost to the City in advance for each month or portion thereof for which the employee is absent.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated in the position held at the time the leave was granted unless such position has been affected by a layoff or reorganization, in which case the employee may be returned to an equivalent position or placed on layoff.

The employee's anniversary date will be adjusted by the length of the leave taken if the leave exceeds 6 consecutive months.

### **8.30 Unauthorized Absence - Presumption of Job Abandonment.**

An employee who is absent for three consecutive work days without advance notice to the employee's immediate supervisor shall be presumed to have abandoned his or her City position and such absence shall be treated as prima facia evidence of resignation from City employment. It is recognized that unique, emergency conditions may make it impossible for a City employee to notify his or her supervisor of an extended absence from work. Upon the return of the City employee, the department head may approve the extended leave.

### **8.40 Vacation Leave.**

Annual vacation leave shall be earned as provided in City benefit ordinances or the appropriate labor agreement. No vacation time shall accrue in excess of the maximum provided in the appropriate ordinance or labor agreement except when the employer requests the employee not to take his or her vacation time.

After the first twelve months of employment, the City is obligated to compensate any employee for any unused accumulated vacation time prior to retirement or termination.

The method of scheduling and time of taking vacations shall be determined by the department head. Vacation leave taken as part of Domestic Violence Leave is subject to the provisions of Section 8.55 of these policies. Vacation leave taken as part of Family Care Leave is subject to the provisions of Section 8.130 of these policies.

### **8.41 Vacation Leave Donation Program.**

#### **A. Purpose.**

City employees historically have joined together to help their fellow employees suffering from extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economical and emotional distress to the employee and his or her family. These circumstances may be exacerbated because the affected employee(s) use all their accrued leave and must either request leave without pay or terminate their employment. The purpose of this policy is to facilitate voluntary donations of vacation leave from employees to assist other employees on unpaid leave due to catastrophic medical events. The donations shall be made by converting the donor's earned vacation leave to a cash equivalent which will then be used to fund paid leave benefits to the donee employee.

The exceptions permitted under Personnel Policy 1.45 will not apply to any portion of this section 8.41.

#### **8.41 Vacation Leave Donation Program.** (Continued)

Employees requesting vacation leave donation must first request, and be approved for, either Family Medical Leave (FMLA) or a leave of absence without pay pursuant to City policies and/or civil service rules. Only after FMLA and/or a leave of absence is approved, may the employee then ask for the vacation leave donation program to also be implemented to provide for a means for other employees to donate their vacation time to cover the requesting employee's salary and benefit costs so as to minimize the effect of the situation on the employee and/or his or her family.

#### **B. General Policy.**

##### **1. Eligibility to Receive Donated Time.**

The City may permit an employee to receive leave under this policy if:

- a. The employee suffers from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature as the result of a catastrophic illness or injury and which has caused, or is likely to cause, the employee to:
  - (i) go on leave without pay status; or
  - (ii) terminate City employment.
- b. The employee's absence and the use of donated leave are supported by the written opinion of a medical provider.
- c. The employee has depleted or will shortly deplete his or her vacation leave, sick leave and compensatory time (*if applicable*) reserves
- d. The employee has no current record of sick leave abuse within the 24 month period prior to the request. For the purposes of this section, a record of sick leave abuse includes written or verbal counseling, coaching, or warnings related to sick leave use.
- e. The employee has applied for, and been approved for, FMLA or a leave-of-absence without pay pursuant to City policies and/or civil service rules.
- f. The employee is an accrual eligible, non-probationary employee.
- g. Employees eligible for and collecting worker's compensation time-loss benefits, social security benefits or disability benefits, **where the City has paid any portion of the premiums**, are not eligible for this program. Employees who would qualify for any of these benefits must first apply and exhaust those benefits in order to be eligible for this donation program. Employees waiting to hear about their application for benefits or serving a waiting period before benefits begin may be eligible for donations.
- h. Employees requesting leave must agree that they will not solicit employees directly for donations.
- i. The request for donated leave must be for at least 40 hours. Requests less than 40 hours fall under the leave without pay policy and may be granted by the Department Head.

#### **8.41 Vacation Leave Donation Program.** (Continued)

- j. If the request exceeds 488 hours there must be a reasonable expectation, as documented by a physician, that the employee will be able to return to work.

#### **2. Cap on Hours to be Received.**

The Human Resources Director shall monitor the amount of leave which an employee receives under this section. An employee shall not be credited with more than 976 hours of leave in their career as a City of Aberdeen employee. This cap will be pro-rated for part-time employees.

#### **3. Restrictions on Donations.**

- a. Donated leave shall be donated in no less than 4-hour increments. Because of the equivalent hours calculation explained below, the actual donation utilized may be any increment of an hour, not to exceed the maximum number of hours donated.
- b. Donors cannot donate more than 25% of their accrued vacation balance at the time of donation in any calendar year. In the event of multiple donations, the balance at the time of the first donation will determine the 25% maximum.
- c. Donated time does not count toward the annual minimum use required by a collective bargaining agreement, City policy or ordinance.

#### **4. Recipient's Employment Status.**

While an employee is on transferred vacation leave per this policy, he or she shall continue to be classified as a City employee and shall receive the same treatment in respect to salary, wages, and employee benefits as he or she would normally receive if using their own accrued vacation or sick leave, except as noted below.

- a. Any vacation time the recipient may be transferring to deferred compensation will cease at the time of the request for donations.
- b. Donated leave time will not count as hours worked for purposes of calculating accrued leave time for the month.
- c. It is the employee's responsibility to understand the impact that donated time may have on their retirement plan, social security, or short or long term disability benefits.

#### **5. No Cash-Out of Donated Hours.**

Employees receiving leave hours under this program, or donating vacation hours will not receive payment for these hours at time of resignation or retirement.

#### **8.41 Vacation Leave Donation Program.** (Continued)

6. **Transferred Leave Not To Affect Departmental Position Allocations.**

Leave transferred under this policy shall not be used in any calculation to determine a department's allocation of full-time, equivalent staff positions.

#### **C. Procedures.**

1. The Human Resources Department shall provide employees with the application form to request recipient status in the Vacation Leave Donation Program.
2. The employee shall complete the application form and return it to the Human Resources Department. The request must include an explanation of the circumstances that make the donations necessary and must be supported by the written opinion of a qualified medical professional.
3. After consultation with the department head, Human Resources shall determine the employee's eligibility to participate in the program.
4. Once approved, the Human Resources Department shall provide a citywide notice to all Department Heads and department timekeepers advising of the opportunity to donate vacation leave hours to an individual. Department Heads and timekeepers will ensure that the information is posted or otherwise made available to employees.
5. Employees wishing to donate vacation hours shall complete and sign a Vacation Transfer Request that can be obtained from their timekeeper or from the Human Resources Department.
6. Donating employees acknowledge that the IRS determines taxability of donated time. Events qualifying as catastrophic medical situations have historically been treated as taxable income to the recipient, not the donor, but if future IRS guidance changes or if a situation does not meet the definition of catastrophic, the donation will be taxable to the person GIVING the donation.
7. The Human Resources Department shall compile the donor's Vacation Transfer Requests for the Finance Department including instructions for the transfer of vacation hours from one employee to the donated leave accrual of another.
8. The formula for calculating equivalent hours shall be the hours donated times the donor's hourly rate divided by the recipient's hourly rate. The recipient's hourly rate will include the full cost of the employee's salary and benefits including City-paid health care insurance (unless the recipient is on approved FMLA leave), social security and Medicare, retirement contribution, if any, and any other payroll related taxes or benefit expenses. Example follows:

**8.41 Vacation Leave Donation Program.** (Continued)

Vacation Hours <u>Donated</u>	X	Donor's <u>Hourly Rate</u>	-----	Recipient's <u>Hourly Rate</u>	=	Equivalent Donated Leave <u>Hours</u>
8		\$21.94		\$17.23		10

The Human Resources Department in conjunction with the department heads shall monitor the use of donated leave to insure equivalent treatment for all employees of the City. Inappropriate use or treatment of the donated leave provisions may result in cancellation of the donated leave or use of donated leave.

**8.50 Sick Leave.**

**A. Accrual Rate/Cap.**

Employees entitled to sick leave shall accrue one day of sick leave for each month of employment. Sick leave can be accumulated up to the number of hours provided by ordinance or the appropriate labor agreement.

If an employee has used all of his or her accumulated sick leave, additional sick days may be charged against the employee's accumulated vacation time at the employee's option.

**B. Eligibility.**

To be eligible to use sick leave, the employee must:

1. be sick to the extent that he or she is unable to perform the job, or
2. need leave to attend a medical, dental, or vision appointment, or
3. need to use leave pursuant to Domestic Violence Leave in accordance with Section 8.55 of these policies, or
4. need to use leave pursuant to Family Care Leave in accordance with Section 8.130 of these policies.

The department head may require satisfactory proof of such illness or appointment before the employee can be paid for sick leave.

**C. Recordkeeping.**

The department head shall keep accurate permanent records showing all time off taken by each employee in the department whether for vacation, sick leave or otherwise, and shall indicate on each payroll the period of absence, for any cause, of each employee; and in the case of absence on account of sickness with pay, shall certify that the employee has accumulated such sick leave. In the case of absence on account of vacation, he/she shall certify that the employee has not taken more time off than he or she is entitled.

## **8.55 Domestic Violence Leave**

In accordance with RCW 49.76, an employee who is a victim of domestic violence, sexual assault, or stalking, may take reasonable or intermittent leave, with or without pay, to take care of legal or law enforcement needs or to get medical treatment, social services assistance or mental health counseling. Employees who are family members of a victim may also take reasonable leave to help the victim obtain treatment or seek assistance.

### **A. Definitions**

For the purposes of this policy, the following definitions shall apply:

“**Dating relationship**” has the same meaning as in RCW 26.50.010 or as hereafter amended.

“**Domestic violence**” has the same meaning as in RCW 26.50.010 or as hereafter amended.

“**Family member**” includes the child, spouse, parent, parent-in-law, grandparent or person with whom the employee has a dating relationship.

“**Intermittent Leave**” has the same meanings as in RCW 49.78.020 or as hereafter amended.

“**Sexual assault**” has the same meaning as in RCW 70.125.030 or as hereafter amended.

“**Stalking**” has the same meaning as in RCW 9A.46.110 or as hereafter amended.

### **B. Notice Requirements**

As a requirement of taking leave under this section, an employee shall give his or her department head advance notice of the intention to take the leave. When advance notice cannot be given due to an emergency or unforeseen circumstance, the employee or his or her designee must give notice to department head no later than the end of the first day that the employee takes such leave.

### **C. Type of Leave**

An employee who is absent from work pursuant to this policy may elect to use his or her accrued sick leave, other paid leave, compensatory time or unpaid leave time.

### **D. Verification**

The department head may require that the request for leave be supported by verification that the employee or employee’s family member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes described in RCW 49.76. The need for the leave is confidential and will only be released with the employee’s consent, by court or administrative agency order, or as otherwise required by law.

## **8.55 Domestic Violence Leave** (Continued)

### **E. Protection of position and benefits**

Upon the employee's return, the City shall either return the employee to the same position that was held prior to the leave commencing or return the employee to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. However, these restoration rights do not exist if the employee was hired for a specific term or only to perform work on a project and the project is over.

To the extent required by law, the City shall maintain coverage under any health insurance plan for an employee who takes leave under this policy. The coverage will be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had not taken the leave.

### **8.60 Funeral Leave.**

In the event that an employee requests leave for a death in the employee's immediate family, the employee may take three days funeral leave if the funeral is to be held in the State of Washington and five days if it is to be held outside of the State of Washington; provided that such leave will be charged to the employee's accumulated sick leave.

### **8.70 Military Leave.**

The City shall provide employees with paid military leave and shall consider employees for reemployment in accordance with the laws of the state of Washington (RCW 38.40.060, Chap. 73.16 RCW). When an employee who is serving in a probationary period at the time of leaving for military service returns to City employment, the employee shall complete the remaining portion of the probationary period according to the then applicable rules and regulations.

### **8.75 Family Military Leave**

In accordance with RCW 49.77, during a period of military conflict, an employee who works an average of 20 or more hours per week is entitled to leave under this section.

The employee shall be granted a total of 15 days of unpaid leave per deployment when a spouse who is a member of the armed forces of the United States, national guard, or reserves has been notified of an impending call or order to active duty or has been deployed.

An employee who seeks to take leave under this section must provide his or her department head with notice, within 5 business days of receiving official notice of an impending call or order to active duty or of a leave from deployment, of the employee's intention to take leave.

An employee who takes leave under this section may elect to substitute accrued leave, provided the use meets the criteria for such leave, for any part of the leave under this section.

### **8.80 Jury Duty Leave.**

While on jury duty, an employee will receive full pay from the City but the City shall deduct an amount equal to jury fees actually received by the employee.

### **8.85 Volunteer Emergency Services Personnel Leave**

In accordance with RCW 49.12.460, an employee who is a volunteer firefighter, reserve peace officer, or member of the Civil Air Patrol will not be subject to discipline or termination when an emergency call, fire alarm, or emergency service operation prevents them from showing up to work on time.

In the case of a volunteer firefighter working at, or returning from, a fire alarm or emergency call that causes the employee to be late or miss work, the on-scene commander must order the firefighter to remain at the scene. Training and other non-emergency activities do not qualify. Volunteer firefighters cannot be paid and must be away from their regular job when the fire alarm or emergency call comes in to qualify for this leave.

A reserve peace officer, as defined in RCW 41.24.010, must be called to an emergency to be late or miss work. A member of the Civil Air Patrol must be involved in an emergency service operation, as defined in RCW 49.12.460, to be late or miss work.

#### **A. Notice Requirements**

An employee shall make every reasonable attempt to give his or her department head advance notice of the need to take leave.

#### **B. Type of Leave**

An employee who is absent from work pursuant to this policy may elect to use his or her accrued vacation leave, floating holiday, compensatory time or unpaid leave time.

#### **C. Verification**

The department head may require that the request for leave be supported by verification from the agency at which the employee volunteers.

### **8.90 Holidays.**

Holidays are as set forth by ordinance or the appropriate labor agreement. If an employee is on vacation or authorized sick leave when a holiday occurs, the employee will be paid for the holiday but shall not be charged for the vacation or sick day.

### **8.95 Unpaid Holidays for Reasons of Faith or Conscience**

Employees are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization.

The employee may select the days on which he or she desires to take the two unpaid holidays after consultation with his or her supervisor. If an employee prefers to take the two unpaid holidays on specific days, then the employee will be allowed to take the unpaid holidays on the days he or she has selected unless the absence would unduly disrupt operations, impose an undue hardship, or the employee is necessary to maintain public safety. The term “undue hardship” has the meaning contained in the rule established by the Office of Financial Management.

If possible, an employee should submit a written request for an unpaid holiday provided for by this section to the employee’s supervisor a minimum of two weeks prior to the requested day. Approval of the unpaid holiday shall not be deemed approved unless it has been authorized in writing by the employee’s supervisor. The employee’s supervisor shall evaluate requests by considering the desires of the employee, scheduled work, anticipated peak workloads, response to unexpected emergencies, the availability, if any, of a qualified substitute, and consideration of the meaning of “undue hardship” developed by rule of the Office of Financial Management.

The two unpaid holidays allowed by this section must be taken during the calendar year, if at all; they do not carry over from one year to the next.

### **8.100 Maternity Disability Leave.**

Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom, for all job related purposes are to be considered temporary disabilities. Accrued sick leave may be used for childbearing or related circumstances (e.g., miscarriage, abortion, or recovery therefrom). If the period of disability because of childbirth or related circumstances extends beyond the employee’s accrued sick leave, she may request a leave of absence according to leave of absence policies. Nothing herein shall prevent an employee from requesting a leave of absence occasioned by childbirth beyond the actual period of disability. In any event, the employee must work out the conditions of the leave of absence with the City. To be eligible for sick leave because of childbearing or related circumstances, an employee shall give her supervisor two weeks’ notice, if possible, of her anticipated date of departure and intention of return to work.

The actual period of disability will be determined by the employee’s medical provider. Employees shall not be categorically denied the opportunity to work during the entire period of pregnancy, but may continue to work as long as the employee and her physician concurs her ability to work and the demands of the job are satisfied. Proof of the physician’s concurrence shall be provided when requested by the City.

### **8.110 Family and Medical Leave.**

In accordance with the Federal Family and Medical Leave Act of 1993, the City of Aberdeen will grant job-protected unpaid family and medical leave to eligible employees for any one or more of the following reasons:

**1. New Child or Health Leave:**

An employee who is eligible for Family Medical Leave (FMLA), may receive up to twelve (12) weeks of unpaid leave in a twelve (12) month period to care for:

- (a) A newborn child, newly adopted child, newly placed foster child;
- (b) a spouse, child or parent with a serious health condition; or
- (c) a personal serious health condition that leaves the employee unable to perform the essential functions of his/her job.

If both spouses are city employees, the city reserves the right to restrict family and medical leave to a total of up to twelve (12) work weeks of unpaid leave in a twelve (12) month period for the birth or adoption of a child or to care for a parent with a serious health condition. The city may opt to limit the use of the family and medical leave to one spouse at a time.

Family and medical leave taken to care for a newborn or newly adopted child must be completed within twelve (12) months of the child's birth or placement for adoption.

**2. Military Caregiver Leave:**

An employee who is eligible for FMLA, may receive up to twenty-six (26) weeks of unpaid leave in a 12-month period to care for recovering current military service personnel (including National Guard or Reserves) who is a spouse, parent, child or next of kin who develops and is undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty while on active duty in the armed forces. This includes a recovering veteran discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. (The period of October 28, 2009 – March 7, 2013 is excluded from the determination of this five year period.)

**3. Call to Active Duty Leave:**

An employee who is eligible for FMLA, may receive up to twelve (12) weeks of unpaid leave in a 12-month period when a spouse, parent, or son or daughter on *covered active duty* in the Armed Forces has a qualifying exigency arising out of active duty or has been notified of an impending call or order to active duty in the armed forces in support of a contingency operation.

While an employee may also take 12-weeks of leave other than military care leave, the total amount that an employee may take of both military and other FMLA leave is 26 weeks in a 12-month period.

## **8.110 Family and Medical Leave.** (Continued)

### **A. Definitions.**

For the purposes of this policy, the following definitions shall apply:

**"12-Month Period"**: A "rolling" 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. Each time an employee takes family leave, the remaining leave entitlement would be any balance of the twelve weeks not used during the immediately preceding twelve months. For example, if an employee has taken eight weeks of leave during the past twelve months, an additional four weeks of leave could be taken.

**"Child"**: A person either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" includes a biological, adopted, foster, stepchild, or legal ward.

**"Contingency Operation"**: Those circumstances and situations as designated so by the US Secretary of Defense.

**"Covered Active Duty"**: Duty during deployment to a foreign country if a member of a regular component of the Armed Forces; for members of a reserve component, it means duty during deployment to a foreign country under a call or order to active duty pursuant to specified provisions of federal law.

**"Eligible Employee"**: A regular employee who has worked for the City for at least twelve months and has worked at least 1,250 hours over the prior twelve months. USERRA-covered military leaves of absence are counted as time worked for purposes of determining FMLA eligibility.

**"Medically Necessary"**: There must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

**"Next of Kin"**: The nearest blood relative or as further defined by the U.S. Department of Labor.

**"Parent"**: The biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child. This term does not include in-laws.

### **8.110 Family and Medical Leave.** (Continued)

**“Qualifying Exigency”**: Those circumstances and situations as defined by the US Department of Labor as they relate to the return to active military duty including: short notice of deployment, military events and related activities, childcare and school activities, financial and legal arrangements, rest and recuperation (limited to fifteen calendar days), post-deployment activities and additional activities where the City and employee agree to the leave. Qualifying Exigency leave also includes leave to care for a military member’s parent who is incapable of self-care when the care is necessitated by the member’s covered active duty. Such care may include arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility.

**“Serious Health Condition”**: An injury, illness, impairment, or physical or mental condition that involves either: an overnight stay in a medical care 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. In determining whether a *serious health condition* exists, the term "*continuing treatment*" shall mean either:

- 1) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
  - Treatment two or more times by, or under, the supervision of a health care provider (i.e. in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
  - One treatment by a health care provider (i.e. an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g. prescription medication, physical therapy); or
- 2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
- 3) Any period of incapacity for treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
- 4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or

### **8.110 Family and Medical Leave.** (Continued)

- 5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

**“Serious Injury or Illness for a Covered Veteran”**: An injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran, and is:

- 1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank or rating; or
- 2) A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or
- 3) A physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or
- 4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

**“Serious Injury or Illness While Serving in the Armed Forces”**: An injury or illness sustained in the line of duty or that existed before a service member’s active duty began and were aggravated by service in the line of duty while on active duty in the armed forces that renders the member medically unfit to perform the duties of the member’s office, grade, rank or rating and/or as further defined by the U.S. Department of Labor. For veterans, a serious illness or injury is a “qualifying injury or illness” (as defined by the DOL) that was incurred in the line of duty on active duty in the Armed Forces (or that existed before the beginning of active duty and was aggravated by service in the line of duty on active duty) and that manifested itself before or after the service member became a veteran.

**“Spouse”**: A husband or wife, as a case may be, and does not include unmarried domestic partners.

## **8.110 Family and Medical Leave.** (Continued)

### **B. Relationship to Other Leave.**

1. Federal and state leave will run concurrently provided the leave circumstances qualify under both sets of laws. Where leave qualifies under only one set, the employee retains full leave allowance under the other laws. (See Section 8.120 - Washington State Family Leave Act and Section 8.130 - Family Care Act).
2. Time loss due to Workers' Compensation and LEOFF I Disability Leave shall be counted as medical leave under the Family and Medical Leave Act when no paid leave is used or the employee requests FMLA coverage.

### **C. Additional Leave.**

1. Pregnancy related disability leave, Section 8.100 Maternity Disability Leave, of this personnel manual may be considered separately from and in addition to this family and medical leave policy when required by law.
2. If an employee needs additional leave beyond the twelve-week period, he or she may request a leave of absence without pay under Section 8.20 Leave of Absence Without Pay, of this personnel manual.

### **D. Mandatory Use of Accrued Sick Leave, Vacation, & Compensatory Time.**

The City requires the employee to use paid leave, provided the use meets the criteria for such leave, concurrently and at the beginning of Family and Medical Leave, unless a specific provision of a contract or ordinance allows otherwise. If the accumulated paid leave time is less than twelve workweeks, then the additional weeks added to attain the total will be unpaid, unless the employee qualifies for and receives vacation leave donations as provided for under Section 8.41 of these policies.

### **E. Intermittent or Reduced Leave.**

An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for himself or herself, a spouse, child or parent when the certification documentation confirms that the need for intermittent or reduced schedule leave is "medically necessary".

1. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates the employee's modified work hours.
2. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the department's consent.

## **8.110 Family and Medical Leave.** (Continued)

### **F. Notice Requirement.**

1. An employee is required to give 30 days notice in the event of a foreseeable leave. A written statement of the specific reasons for the request shall be submitted to his or her supervisor.
2. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a written request.
3. If an employee fails to give 30 days notice for a foreseeable leave with no reasonable excuse for the delay, the leave can be denied until 30 days after the employee provides notice.
4. All requests for FMLA leave submitted to a supervisor or department head must be forwarded to the Human Resources Director upon receipt.

### **G. Certification.**

1. The City may require confirmation from the health care provider on the forms provided by the US Department of Labor. Certification must be provided by the employee within 15 days after requested, or as soon as is reasonably possible.
2. The City may require a second or third opinion at City expense, periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.
3. All documents related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file in the Human Resources Department.
4. Confirmation of the need for qualifying exigency leave for rest and recuperation leave can include a copy of the military member's rest and recuperation leave orders, or other documentation issued by the military setting forth the dates of the military member's leave.

## **8.110 Family and Medical Leave.** (Continued)

### **H. Continuation of Health Plan Coverage.**

During the period of unpaid family and medical leave, the City will continue health insurance coverages as they existed prior to the leave. However, if the employee fails to return from leave not due to illness or circumstances beyond the employee's control, the employee shall reimburse the City for the health insurance costs paid by the City during the period of leave. If an employee is normally required to pay for part of the health insurance premiums, mutually acceptable arrangements for payment of the employee's share of the premiums must be made to ensure continuation of coverage.

### **I. Employment Protection.**

1. If the employee returns to work within the agreed upon time period of family and medical leave, he or she will be reinstated to his or her former position or an equivalent position with equivalent pay, benefits, status, and authority.
2. The employee's restoration rights are the same as they would have been had the employee not been on leave; thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

### **J. Status Reports While Using Family and Medical Leave.**

The city may require an employee using family and medical leave to periodically report their status and intention to return to work. The city may also require an employee to obtain additional, written medical certification for the need to continue the leave.

### **K. Other Benefits.**

The taking of leave shall not result in loss of any benefits, including seniority or pension rights accrued before the day on which the leave commenced. However, the City shall not grant benefits, including vacation, sick leave, or pension rights during unpaid leaves of absences. Paid holidays will not be provided if the employee is in unpaid leave status the working day before and the working day after the holiday.

### **L. Lactation Room.**

For up to one year after a child's birth, any employee who is breastfeeding her child will be provided reasonable break times as needed to express breast milk for her baby. The City of Aberdeen has designated the separate room ("respite room") located just to the left of the women's restroom on the second floor of City Hall for this purpose. Employees who work off-site or in other locations will be accommodated with a private area as necessary.

### **8.110 Family and Medical Leave.** (Continued)

Breastmilk can be stored in any City refrigerator in the same manner as any other perishable food for employees. Labeling is recommended for your safety and privacy. Employees storing milk in the refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage or refrigeration and tampering.

Nursing mothers using the room, shall identify the room is “in use” by closing the door.

Additional rules for use of the room may be posted in the room.

### **8.120 Washington State Family Leave Act**

In accordance with RCW 49.78, a pregnant employee, an employee with a registered domestic partner, or an employee with family leave remaining after FMLA has been exhausted for an exigent deployment reason or as a military caregiver, will be entitled to leave under the Washington Family Leave Act. An employee who takes leave under this section may elect to substitute accrued leave, provided the use meets the criteria for such leave, for any part of the leave under this section.

### **8.130 Washington State Family Care Act**

In accordance with RCW 49.12.265, an employee can use paid leave to care for family members.

#### **A. Permitted Use of Family Care Leave.**

An employee may use any or all of the employee's choice of sick leave or other paid time off to care for:

- (a) A “child” less than 18 years of age with a “health condition that requires treatment or supervision”, or
- (b) Any child, regardless of age, school attendance or marital status, that is “incapable of self care” because of a “physical or mental disability”, or
- (c) A spouse, parent, parent-in-law, or grandparent of the employee who has a “serious health condition” or “emergency condition”.

An employee may not take leave until it has been earned.

Use of leave other than sick leave or other paid time off to care for a child, spouse, parent, parent-in-law, or grandparent under the circumstances described in this section shall be governed by the terms of the appropriate collective bargaining agreement, benefits ordinance or City policy, as applicable.

### **8.130 Washington State Family Care Act** (Continued)

The employee taking leave under the circumstances described in this section must comply with the terms of the collective bargaining agreement or employer policy applicable to the leave, except for any terms relating to the choice of leave.

#### **B. Definitions.**

For the purpose of this policy, the following definitions apply:

**"Child"**: A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, or a child of an employee's registered domestic partner, who is:

- (1) Under eighteen years of age; or
- (2) Eighteen years of age or older and incapable of self-care because of a mental or physical disability.

**"Emergency condition"**: A health condition that is a sudden, generally unexpected occurrence or set of circumstances related to one's health demanding immediate action, and is typically very short term in nature.

**"Grandparent"**: A parent of a parent of an employee.

**"Health condition that requires treatment or supervision"** includes:

- (1) Any medical condition requiring treatment or medication that the child cannot self-administer;
- (2) Any medical or mental health condition which would endanger the child's safety or recovery without the presence of a parent or guardian; or
- (3) Any condition warranting treatment or preventive health care such as physical, dental, optical or immunization services, when a parent must be present to authorize and when sick leave may otherwise be used for the employee's preventive health care.

**"Incapable of self-care"**: The individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

**"Parent"**: A biological or adoptive parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

### **8.130 Washington State Family Care Act** (Continued)

**"Parent-in-law"**: A parent of the spouse or registered domestic partner of an employee.

**"Physical or mental disability"**: A physical or mental impairment that limits one or more activities of daily living or instrumental activities of daily living.

**"Serious health condition"**: An illness, injury, impairment, or physical or mental condition that involves any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment or recovery in connection with such inpatient care; or that involves continuing treatment by or under the supervision of a health care provider or a provider of health care services and which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities).

**"Spouse"**: means a husband or wife, as the case may be.

All other words have definitions as provided for in Section 1.50 of this policy manual or, in the absence of a definition; utilize the most common meaning of the word.

#### **C. Notice Requirement.**

Employees unable to report to work because of the need to take family care leave are to notify their immediate supervisor within one hour of the official start time, except in the case of a bona fide emergency. Use of paid leave may not be allowed, at the discretion of the supervisor, unless such report has been made.

## **SECTION 9. HEALTH AND SAFETY**

### **9.10 Health and Fitness.**

Each employee is expected to maintain physical and mental health fitness necessary to effectively and efficiently perform the duties of his or her position. When the health of an employee becomes a hazard to other persons or property, or prevents the employee from effectively performing the duties of the assigned position, the employee may be required by the department head to undergo a health examination. When so required, the employee will be paid for the time required for the examination and for the cost of the examination itself if it exceeds insurance benefits. Correction or treatment of conditions diagnosed during this health examination will be the responsibility of the employee.

If an employee's physical or mental health condition causes the employee to be incapable of performing the work of the current position, the employee and the department head will explore ways to restructure the position to accommodate the employee's incapacity if it is possible to do so without creating an undue hardship on the operation of City business or posing a direct threat to the health or safety of the employee, other employees, or the public. The employee also has the option of requesting a voluntary demotion or transfer as provided in these policies.

### **9.20 Safety.**

It is the policy of the City of Aberdeen to achieve the greatest practical degree of freedom from accidents and to insure that its employees are provided safe and healthful working conditions free from recognized hazards.

The City is vitally concerned with the safety and well-being of its employees and the public that they serve. It is the responsibility of all employees to share this concern and support the City's efforts to provide a safe and healthful environment.

The City has developed a separate written accident prevention plan to address the safety requirements and responsibilities of managers, supervisors and employees. The Human Resources Department will be responsible for maintaining and distributing the accident prevention plan document. In addition, individual departments will maintain safety programs as they apply to each department.

### **9.30 Injuries On-The-Job.**

Regardless of nature or severity, all employee injuries incurred while on-the-job must be reported immediately to the injured employee's immediate supervisor and Human Resources Department.

The injury report must be submitted in writing on a form provided by the City through the employee's normal chain of command and filed with the Human Resources Director.

### **9.30 Injuries On-The-Job.** (Continued)

Employees attended by a licensed medical doctor because of an injury sustained on the job must notify their physician that the injury did in fact occur on the job. The doctor's office will submit the necessary claim forms to the Washington State Department of Labor and Industries for coverage under the Workers' Compensation Act.

### **9.40 Worker's Compensation.**

All employees (except LEOFF I) are covered by the State Workers' Compensation Program. This insurance covers employees for on-the-job injuries or job-related illnesses. For qualifying cases, State Industrial Insurance will pay the employee for workdays lost and medical costs due to job-related injuries or illnesses.

#### **All job-related accidents should be reported immediately to the Supervisor and Human Resources.**

Employee(s) need to complete the Employee's Report of Incident and Injury form.

The supervisor is required to complete the Supervisor's Investigation Report and submit both documents immediately to Human Resources.

When an employee receives treatment because of an on-the-job accident/injury, the physician/hospital will file a claim for Workers' Compensation.

In the event of absence due to injury, the employee will be placed on paid sick leave pending approval of the Workers' Compensation benefits.

If the employee receives L & I benefits and has been paid by the City in the form of sick leave then the employee is required to submit the L & I payment and documentation to Human Resources.

Upon receipt of the payment, the Human Resources Office staff will process the Time Loss Buy Back form and calculate the benefits.

If the employee has not been paid by the City for the time loss then they are entitled to keep the check from Labor and Industries.

Employees cannot receive Workers' Compensation benefits and paid sick leave for the same period. Upon the repayment of funds advanced, the appropriate amount of sick leave shall be restored to the employee's account.

This policy is to ensure that employees will receive prompt and regular payment during periods of injury or disability so long as the disability continues and the employee has accrued sick leave. The employee will not receive more than he/she would have received had the injury not occurred.

#### **9.40 Worker's Compensation.** (Continued)

The buy-back bank of time must be used before similar non-buy-back time is used. Buy back time, when used, is not reported as worked hours to the Department of Retirement Systems nor is it taxable income to the employee.

The employee must furnish a physician's release before returning to work.

At any time during the disability period, but no later than six (6) months from the last day worked, the City may require an examination at its expense, performed by a physician of its choice to determine if the employee can return to work and if he/she will be capable of performing the duties of the position.

#### **9.45 Disability Leave Supplement for Law Enforcement Officers and Fire Fighters – Payment**

In accordance with state law, the City will provide a wage supplement to LEOFF II employees who are receiving workers compensation due to an occupational injury or illness. The supplement shall be in an amount which when added to the workers' compensation will result in the same pay the employee would have received for full-time active service. The supplemental benefit begins on the sixth day of absence from work. The City pays one half of the supplement and the other half is charged to accrued paid leave in the order of Sick Leave, Compensatory Time, Holiday, and Vacation. The supplement and use of accrued sick leave shall continue, as long as the employee is receiving workers' compensation, to a maximum of six (6) months from the date of injury or illness. If the employee returns on a part-time basis, the supplement and accrued sick leave shall be prorated.

The disability leave supplement shall be paid as follows:

- (1) The disability leave supplement shall begin on the sixth calendar day from the date of the injury or illness which entitles the employee to benefits under RCW 51.32.090. For the purpose of this section, the day of the injury shall constitute the first calendar day.
- (2) One –half of the amount of the supplement as defined in RCW 41.04.505 shall be charged against the accrued paid leave of the employee. In computing such charge, the employer shall convert accumulated days or other time units as the case may be, to a money equivalent based on the base monthly salary of the employee at the time of injury or illness. "Based on monthly salary" for the purposes of this section means the amount earned by the employee before any voluntary or involuntary payroll deductions, and not including overtime pay.
- (3) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be paid by the employer.

**9.45 Disability Leave Supplement for Law Enforcement Officers and Fire Fighters – Payment** (Continued)

If an employee has no accrued paid leave at the time of an injury or illness which entitles him to benefits under RCW 51.32.090, or if accrued paid leave is exhausted during the period of disability, the employee shall receive only that portion of the disability leave supplement prescribe by subsection (3) of the section.

If a LEOFF II employee's accrued sick leave is exhausted during the period of disability, the employee may, for a period of two months following return to active service, draw prospectively upon sick leave the employee is expected to accumulate up to a maximum of three days or three work shifts, whichever is greater. Any sick leave drawn prospectively as provided in this section shall be charged against earned sick leave until such time as the employee has accrued the amount needed to restore the amount used. In the event an employee terminates active service without having restored the sick leave drawn prospectively, the employer shall deduct the actual cost of any payments made under this section from compensation or other money payable to the employee, or otherwise recover such payments.

**9.50 Drug-Free Workplace.**

**A. Purpose.**

1. The City of Aberdeen, its employees and their unions recognize a mutual obligation to ensure a safe and healthy work environment for all employees, to ensure efficient and safe community service, to protect employees and the City from liability, to safeguard City property and assets, and to comply with all applicable laws and regulations governing substance abuse. This policy is instituted to assure that the workplace be free of employees whose job performance is impaired by the abuse of drugs or alcohol.
2. The City is committed to a substance-free workplace and has an obligation to ensure public safety and trust in its services and programs. Accordingly, the manufacture, distribution, dispensation, possession, or use of a controlled substance, the unauthorized use of prescription drugs, the use of drugs not medically authorized, or the use of any other substance, including alcohol, which would impair job performance or pose a hazard to the safety and welfare of the employee, the public, or other employees is strictly prohibited. Employees who possess or use substances in violation of this policy are subject to discipline in accordance with this policy.

### **9.50 Drug Free Workplace.** (Continued)

3. It is imperative that employees who abuse substances, as defined in this policy, be aware of the seriousness of such misconduct and the potential penalties. In addition to law enforcement measures that could be invoked for criminal violations, such employees are subjecting themselves to discipline because of the serious safety, health, and service risks that they create. By avoiding substance abuse, such risks and penalties may be averted. All employees are strongly urged to follow the guidelines in this policy and utilize rehabilitation services if substance abuse becomes a personal problem.
4. The City of Aberdeen, its employees, and their unions recognize that when employees have placed themselves in a situation where their ability to perform their jobs is impaired by drugs or alcohol, it is the responsibility of the parties to remove such employees from the work environment to prevent endangerment of the employee, fellow employees, and the public.
5. The City recognizes employee concerns of personal privacy and therefore agrees that drug or alcohol testing shall be used only in cases where there is a reasonable cause to believe that job performance is impaired. Nothing contained herein shall be construed as authorizing random or across-the-board drug testing of City employees.
6. The City of Aberdeen is a government agency responsible for enforcement of criminal drug laws in its community. City employees and their unions recognize that criminal drug activity by employees on or off the job serves to undermine the community's confidence in City government and has an adverse effect on the City's ability to fulfill its obligation to enforce the criminal laws of the state.
7. This policy has been developed in compliance with the federal Drug-Free Work Place Act. It is consistent with the City Civil Service Rules and relevant personnel policies and procedures.

#### **B. Scope.**

This policy applies to all City employees as defined in this policy. It includes individuals at all levels and in all capacities. In addition, the Fire and Police Departments have specific departmental regulations governing substance abuse and their employees are also subject to those departmental regulations. Employees whose positions require a commercial driver's license are also subject to the testing requirements as outlined in personnel policy 9.70.

#### **C. Responsibility**

1. **Management.** Management personnel for the City are responsible for taking immediate and consistent action in compliance with this policy and applicable procedures. To accomplish the policy's purpose, all managers and supervisors must treat compliance as a high priority item.

## **9.50 Drug Free Workplace.** (Continued)

2. **Employees.** Employees must comply with this policy as a condition of employment. Employees must cooperate with applicable testing procedures presented in this policy. Employees who test positive for substance use are subject to discipline and possible termination, and continued testing if the City elects to continue employment. Employees are urged to seek appropriate assistance for substance abuse problems on their own so they can avoid the safety, service, and disciplinary issues regulated by this policy. The City's Human Resources Department will provide information on available rehabilitation programs to employees who test positive and to others upon request.

Regardless of any substance dependency, all employees at all levels must maintain adequate job performance as normally required by the City, and must comply with this policy's rules regarding substances.

3. **The City of Aberdeen.** The City is responsible for instituting and maintaining a program designed to achieve a substance-free workplace, and for complying with all applicable laws and regulations. The City accepts the responsibility of educating employees about the dangers and adverse effects of substance abuse. The City will train management personnel in the appropriate implementation of this policy and its procedures and will alert employees to the significance of this policy. As appropriate, the City will coordinate and negotiate with union representatives.
4. **Department Heads.** Each Department Head is responsible for taking the necessary steps to ensure that employees, supervisors, managers, contractors, suppliers, and others who may be performing work or providing services on City property, or on behalf of the City, comply with this policy and all applicable laws and regulations so that safety, liability reduction, and public service concerns are met. Questions related to this policy should be directed to the Human Resources Director or Corporation Counsel.

### **D. Definitions**

**"Alcohol"** means any intoxicating liquor that when consumed to excess will produce some level of intoxication.

**"Alcohol test"** means a saliva or breath test to determine an employee's alcohol concentration level.

## **9.50 Drug Free Workplace.** (Continued)

“**Drug**” means any substance that impairs an employee’s ability to perform a job or duty, or poses a threat to the safety of the employee or others. This definition includes controlled substances (those substances whose dissemination is controlled by regulation or statute, including, but not limited to, those drugs included in Schedule I and II as defined by 21 U.S.C. 801 et seq., the possession of which is illegal under Chapter 13 of that title). Such controlled substances are frequently and commonly referred to in familiar terms and specifically include marijuana, cocaine, opiates, amphetamines, and phencyclidine (“PCP”). Further, this definition of drug also includes over-the-counter drugs or drugs which require a prescription or other written approval from a licensed medical practitioner for their use, if the use of such drug(s) may impair the employee’s ability to perform a job or duty, or poses a threat to the safety of the employee or others. It further includes any other substance capable of altering an individual’s mood, perception, pain level, or judgment (*e.g.*, mushrooms, glue).

“**Drug test**” means a urinalysis test for the presence of the substances identified in Section F of this policy.

“**Employee**” includes civil service, probationary, temporary, seasonal, and variable hour employees.

“**Failing a substance test**” means that the test result showed positive evidence of the presence of a substance in an employee’s system that is at or above a determined threshold level. This determination shall be made by the City MRO under the same standards as passing a substance test. Failing a substance test shall be referred to as “testing positive.” Employees who refuse to take a substance test when requested to do so shall be considered to have failed the substance test.

“**Impaired**” means a diminishing or worsening of an employee’s mental or physical condition that is the result of using a substance.

“**Medical Review Officer (MRO)**” means the City’s designated, licensed individual with knowledge of substance abuse disorders and appropriate medical training. The MRO shall interpret drug test results for the City. The MRO identified in personnel policy 9.70 will also be the MRO for the purposes of this policy.

“**Passing a drug test**” means that the test result does not show any positive evidence of the presence of a drug in the employee’s system that is at or above a determined threshold level. An MRO must determine that the results of a drug test:

- (1) show no evidence or insufficient evidence of a prohibited drug or drug metabolite;
- (2) show evidence of a prohibited drug or drug metabolite, but there is a legitimate medical explanation for the result;

**9.50 Drug Free Workplace.** (Continued)

- (3) show evidence of a prohibited drug or drug metabolite below a determined threshold level; or
- (4) are suspect because of irregularities in the administration of the test or chain of custody procedures.

Passing a drug test shall be referred to as “testing negative.”

**“Passing a substance test”** means passing a drug or alcohol test, as defined in this section.

**“Passing an alcohol test”** means that the test result shows an alcohol concentration of less than 0.04. Passing an alcohol test shall be referred to as “testing negative.”

**“Substance”** includes drugs and alcohol, as defined in this section.

**“Substance abuse”** means involvement with a substance in violation of this policy.

**“Substance Abuse Professional (SAP)”** means the City’s designated, licensed individual with knowledge of substance abuse disorders and appropriate medical training. The SAP shall determine whether employees who fail a drug or alcohol test or refuse to submit to such a test need assistance in resolving problems associated with substance abuse. The SAP will recommend a course of action to such employees and determine whether they follow through with the SAP’s recommendations.

**“Substance test”** includes both drug and alcohol tests, as defined in this section.

**“Under the influence”** is defined as a condition arising from using a substance, which may limit an employee’s ability to safely and efficiently perform a job or duties, or may pose a threat to the safety of the employee or others, and it shall be determined by the presence of a substance in an employee’s system as measured by a substance test in accordance with the terms of this policy.

**E. Prohibited Conduct.**

The following conduct is strictly prohibited:

1. Reporting to work under the influence of intoxicants, drugs, or controlled substances.

**9.50 Drug Free Workplace.** (Continued)

2. The manufacture, distribution, dispensation, use, or possession of a controlled substance in any amount or in any manner while on City business, City premises or in City vehicles at anytime, whether or not performing City business. Possession as used in this section does not include the handling of drugs by employees in accordance with established procedures and departmental policies or drugs that are medically authorized, other than marijuana, for use by the employee.
3. The use in any way of City property or the employee's position with the City to make or traffic intoxicants, illegal drugs, or controlled substances.

**F. Prohibited Substances.**

Prohibited substances shall be defined as those drugs (natural or synthetic) whose dissemination is regulated by law, including but not limited to narcotics, depressants, stimulants, hallucinogens, cannabis, and alcohol. Substances that are included in these categories are as follows:

- |                               |                                     |
|-------------------------------|-------------------------------------|
| 1. alcohol                    | 5. phencyclidine (PCP)              |
| 2. cannabis/marijuana (THC)   | 6. benzodiazepines                  |
| 3. cocaine                    | 7. barbiturates                     |
| 4. opium, opiates, or opioids | 8. amphetamines or methamphetamines |

Washington state marijuana laws do not change the City's policy on the use of marijuana. Testing positive for marijuana will be a violation of this policy.

**G. Over the Counter and Personal Prescription Drugs.**

Any employee who is taking any over-the-counter or prescription drug, whether or not prescribed by the employee's physician, which may adversely affect that employee's ability to perform work in a safe or productive manner, is required to report such use of medication to his or her supervisor. This includes all drugs which are labeled by a manufacturer, distributor, or physician as possibly affecting judgment, coordination, or any of the senses, including those which may cause drowsiness or dizziness. It is the employee's responsibility to determine from a licensed medical practitioner whether the prescribed or over-the-counter drug would impair safe job performance. The supervisor in conjunction with the Human Resource Department will then determine whether the employee can remain at work and whether any work restrictions will be necessary.

## **9.50 Drug Free Workplace.** (Continued)

### **H. Testing based on Reasonable Suspicion.**

1. In the event there is reasonable cause to believe that an employee's job performance may be impaired by drugs or alcohol, the employee's supervisor shall question the employee with regard to the behavior. The supervisor shall directly observe the employee's behavior and document the behavior. Indications of impaired behavior include but are not limited to the following: staggering or irregular gait; the odor of alcohol on the breath; slurred speech; dilated or constricted pupils; inattentiveness; listlessness; hyperactivity; performance problems; illogical speech and thought processes; poor judgment; or unusual or abnormal behavior.
2. When possible, a second managerial employee shall also observe the employee to verify that there is reasonable cause to believe that drug or alcohol consumption may be involved. A determination shall be made as to whether or not the employee's behavior is impaired to the point of being unable to perform his/her duties effectively and safely. The employee shall be relieved of his/her duties and required to submit to a substance test. An employee who is also covered by personnel policy 9.70 but who is being required to submit to reasonable suspicion testing under this policy, must be informed that the reasonable suspicion testing is not required by the Federal Motor Carrier Safety Administration regulations.
3. Refusal by an employee to take a substance test when directed to do so by his/her supervisor or manager shall be considered insubordination and the employee shall be relieved of duties immediately pending investigation. Refusing to take a substance test includes: failure to appear for the test within a reasonable time after being directed to do so; failure to remain at the test site until the test is complete; failure to provide adequate saliva, breath, or urine for testing without a valid medical explanation; failure to cooperate with any directions given during the testing process, including directions for an observed sample collection; use of a prosthetic device that could interfere with the test; or adulteration or substitution of the test sample. Refusal to submit to testing shall be considered the same as testing positive.
4. An employee who has refused to take a substance test, or who has tested positive for a substance, including those employees who have undergone evaluation or rehabilitation, will not be permitted to return to work until the employee has passed a substance test, has been evaluated by the SAP, the SAP has confirmed that the employee complied with his/her education and treatment plan, and the City determines that the employee is fit to return to duty. The decision to allow an employee to return to work shall be made by the City at its sole discretion.

**9.50 Drug Free Workplace.** (Continued)

5. An employee relieved of his/her duties and required to submit to a substance test will be placed on paid administrative leave until the results of the test are determined. If the test is negative, the employee shall be returned to work. There shall be no loss of pay or benefits. Where appropriate, a signed physician's release may be required by the City before the employee is returned to work. Time lost due to an illness will be charged to sick leave. If the behavior that led to the initial investigation is not due to substance abuse but continues to hinder job performance, the City may require the employee to undergo further medical evaluation.
6. In all substance test situations, an employee may request the presence of his/her union representative. Although an employee may later file a grievance against the direction to submit to substance testing, the employee must take the test when requested to do so.
7. If the need for testing occurs outside the normal hours of operation of the regular collection site, a supervisor or manager will be responsible for contacting the after-hours testing service provider indicated below:
  - Cedar Grove Recovery Services
  - 614 West Market Street
  - Aberdeen, WA 98520
  - Phone: 360-533-3161 (Mon-Fri, 8 a.m. to 5 p.m.)
  - After Hours Phone: 360-808-3138

**I. Training and Education.**

The City will ensure that each employee receives a copy of this policy and will provide information regarding:

1. Dangers and adverse effects of substance abuse.
2. Signs and symptoms of a substance problem.
3. Available methods of intervening when a substance abuse problem is suspected, including confrontation, referral to an employee assistance program, and referral to management.

**J. Employee/Employer Notification Requirements.**

1. Employees:
  - a. Employees are required to notify the City if they are convicted of any criminal drug statute conviction for a violation relating to the workplace.
  - b. The employee must notify the City within five (5) days of the conviction, *nolo contendere* plea, or sentence.

**9.50 Drug Free Workplace.** (Continued)

2. **The City:**
  - a. The City will notify any federal contracting or granting agencies within ten (10) days after receiving the conviction , *nolo contendere* plea, or sentence notice from the employee of convictions occurring in the workplace.
  - b. The City will take appropriate personnel action against the convicted employee up to and including discharge, as provided in this policy, within thirty (30) days after the City receives the employee's conviction notice.

**K. Disciplinary Action for Violation of this Policy.**

Disciplinary actions taken by the City under this policy shall be subject to the grievance procedures of the applicable labor contract or personnel policy of the City. Any employee who violates any aspect of this policy shall be subject to disciplinary action up to and including immediate termination.

1. **Criminal Violations.** A supervisor who observes an employee selling, purchasing, transferring, using, or possessing prohibited substances while on the job shall take immediate action. Observations about the employee's behavior, as well as discussions and contacts with the employee should be documented. Where available evidence warrants, the City will bring matters of illegal drug activity to the attention of the appropriate law enforcement agency in addition to taking disciplinary action up to and including immediate termination.
2. **Positive Drug Tests.** An employee who tests positive for prohibited substances after being required to submit to a test shall be subject to disciplinary action up to and including immediate termination. Circumstances that would warrant an immediate termination would include incidents where the employee's impairment resulted in loss of life, serious injury to self or others, serious loss or damage of property, or an incident of comparable magnitude.
3. **Mandatory Treatment.** In cases resulting in a positive drug test where immediate termination is not warranted, the employee will be placed on unpaid rehabilitative leave status. An employee with accrued vacation or comp time, may use the accrued leave before going on unpaid leave. The employee shall be evaluated by the SAP and an appropriate treatment shall be arranged.

## **9.50 Drug Free Workplace.** (Continued)

Sick leave may be used for time actually spent in an approved treatment program or facility. The employee assumes the financial responsibility for all services which are not covered by the employee's health insurance. Treatment plans shall include, at a minimum, drug or alcohol abuse education and abstinence as a part of a return to work agreement. Where appropriate, the employee shall be referred to an inpatient treatment program. Once the inpatient portion of a treatment program has been completed, the employee may be returned to work but only with a written release from a physician. Drug testing may be required as a part of a treatment program where recommended by the evaluation or agreed to by the employee as a part of the return to work agreement. An employee who is returned to work who fails to comply with any of the terms of a treatment or return to work agreement may be terminated.

4. **Voluntary Treatment.** Employees will not be subject to discipline for voluntarily seeking treatment for a substance abuse problem prior to notification of the administration of a substance test and may use accumulated sick leave for participation in recommended treatment programs. However, continued performance, attendance, or behavioral problems following treatment which relate to the same substance abuse problem may be treated as a disciplinary matter and may result in disciplinary action up to and including termination.

## **9.60 Smoking and Tobacco Products Policy.**

### **A. Purpose.**

The City complies with all federal and state smoking in the workplace regulations and is committed to providing a work environment promoting productivity and the well-being of all employees.

The City recognizes that use of tobacco in the workplace adversely affects the health and productivity of employees while increasing maintenance and operation costs. Accordingly, the use of smoking and smokeless tobacco products including the use of electronic cigarettes or similar vapor emitting devices are restricted on City premises.

### **B. Smoking, Use of Smokeless Tobacco and Vapor Emitting Products Prohibited.**

Smoking, use of smokeless tobacco products including the use of electronic cigarettes or similar vapor emitting devices is prohibited in all city owned or operated "public places" and "places of employment" as defined in RCW 70.160.020, including private enclosed workplaces. Smoking and the use of electronic cigarettes or similar vapor emitting devices is also prohibited within twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve any enclosed area of city facilities.

## **9.60 Smoking and Tobacco Products Policy** (Continued)

Smoking, use of smokeless tobacco products including the use of electronic cigarettes or similar vapor emitting devices by employees is only allowed during breaks and lunch time. Employees are expected to exercise common courtesy and to respect the needs and sensitivities of co-workers with regard to their use of tobacco and vapor emitting products. Users of tobacco products are responsible for removing or depositing all used tobacco products, including smokeless tobacco spittle, in litter receptacles.

### **C. Outdoor Work Areas.**

In addition to the prohibition in sub-section B, smoking, the use of smokeless tobacco products including the use of electronic cigarettes or similar vapor emitting devices by employees shall also be prohibited in all unenclosed facilities or outdoor work areas where it would create a safety hazard, where other city employees would be exposed to smoke, vapor, or spittle from smokeless tobacco users, or where city equipment or property could be damaged or soiled by smoke, vapor or the residue from tobacco products, including spittle from smokeless tobacco users.

### **D. Implementation and Enforcement.**

The Human Resources Department shall post and distribute copies of this policy to all departments. Department heads are responsible for enforcing this policy and resolving complaints regarding the use tobacco products.

The Public Works Department shall install signs at all entrances to city facilities notifying employees and the public that smoking and the use of smokeless tobacco products is prohibited in city facilities.

### **E. Employee Violations.**

Employee violations of the work rules established in this policy are grounds for discipline. Complaints of employee violations of this policy should be referred to the immediate supervisor responsible for the work area, building, or facility. The immediate supervisor shall attempt to resolve the complaint and obtain voluntary compliance with the work rules. Complaints that are not resolved by the immediate supervisor may be referred to the department head responsible for the work area. The department head shall resolve the complaint or take appropriate disciplinary action to correct any violation. Disciplinary actions against employees shall not preclude issuance of civil infractions for violations of state law.

## **9.60 Smoking and Tobacco Products Policy** (Continued)

### **F. Non-Employee Violations.**

The following enforcement steps shall be taken with citizens who violate the terms of this policy: (1) The work area supervisor or department head will advise the violator that he or she is in violation of state law which prohibits smoking in public facilities; (2) If the violation continues, the supervisor or department head will ask the citizen to leave the building; and (3) If the violator refuses to comply, a notice of infraction under RCW 70.160.070 may be issued.

## **9.70 Drug and Alcohol Testing for Employees who Operate Commercial Vehicles**

### **A. Purpose.**

Federal regulations require that employers conduct alcohol and controlled substances testing of drivers who operate commercial motor vehicles, mechanics, and supervisors with a commercial driver's license. For the purpose of this policy, the employee will be referred to as "driver" and the employer will be referred to as "City." This policy provides guidelines for circumstances under which the Federal Motor Carrier Safety Administration (FMCSA) and the United States Department of Transportation (DOT) mandated testing must be conducted. Of course, all the details of every possible situation cannot be anticipated, so the City reserves the right to determine the appropriate application of this policy and general employment policies to any particular case.

### **B. Application.**

Employees covered by this policy have been provided a copy of these FMCSA/DOT provisions and by signature verify that they have read and understand the policy. **Drivers should note that in addition to the required DOT regulations, they are also subject to the City's drug and alcohol policy (Personnel Policy 9.50) and all other policies and procedures applicable to all employees.**

### **C. Policy.**

The City expects all drivers to work drug- and alcohol-free at all times. If you have any questions about this policy, contact your supervisor, your Department Head or the Human Resources Director.

The following conditions and activities are expressly prohibited:

- The manufacture, or sale, or use or possession of alcohol, any controlled or illegal substance (except strictly in accordance with medical authorization) or any other substances which impair job performance or pose a hazard, when use or possession occurs on City premises or property, or during work time, or while representing the City in any work-related fashion.

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- Reporting for work having consumed alcohol or used illegal drugs or controlled substances at a time, or in such quantities, or in a manner that may impair work performance. For purposes of this policy, having any detectable level of an illegal or controlled drug, or alcohol with an alcohol concentration of .02 or greater, in one's system while covered by this policy will be considered to be a violation.

### **D. Alcohol and Drug Problems**

In some cases alcohol and drug abuse can be a result of chemical dependency that can be successfully treated with professional help. Drivers who are having problems with alcohol or drug use are encouraged to seek voluntary counseling and treatment. It is **the driver's** responsibility to seek help when needed, and to do so **before** substance abuse causes problems on the job or results in disciplinary action.

Drivers who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, and treatment requirements of 49 CFR Part 382 and 40, provided that:

- The admission is in accordance with the City's written established voluntary self-identification policy;
- The driver does not self-identify in order to avoid testing;
- The driver makes the admission of alcohol misuse or controlled substances use before performing a safety-sensitive function;
- The driver does not perform a safety-sensitive function until the City is satisfied that the driver has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

Normally, the City will:

1. Not take adverse action against a driver making a voluntary admission of alcohol misuse or controlled substances use provided that the admission occurs before the employee has been subject to disciplinary action or the use/misuse has affected job performance;
2. Allow the driver sufficient opportunity to seek an evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
3. Permit the employee to return to safety sensitive duties **only** upon successful completion of an educational or treatment program, as determined by a substance abuse professional.

The City's Employee Assistance Program (EAP) through ComPsych is available to make arrangements for a referral to a Substance Abuse Professional. CompPsych can be reached at 1-800-570-9315, 24 hours a day, seven (7) days a week, 365 days a year.

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**E. Definitions**

"**Alcohol**" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"**Alcohol concentration (or content), BAC**" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR Part 382.

"**Alcohol use**" means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

"**City**" means the City of Aberdeen employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with 49 CFR Part 382. The term refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, as well as those individuals employed by the entity who take personnel actions resulting from violations of 49 CFR Part 382 and any applicable DOT agency regulations. Service agents are not employers.

"**Commercial motor-vehicle (CMV)**" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- 1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or ;
- 2) Has a gross vehicle weight rating of 26,001 or more pounds; or
- 3) is designed to transport 16 or more passengers, including the driver; or
- 4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

"**Controlled substances**" mean those substances identified in 49 CFR Part 40.85, as amended: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

"**Designated Employer Representative (DER)**" means the person designated by the City of Aberdeen to answer questions about the program and provide employees with resource materials and information. That person is the Human Resources Director.

"**DOT Agency**" means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with 49 CFR Part 40.

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**"Driver"** means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly-employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

**"Drug"** has the meaning of any controlled substances, prescription, or over-the-counter medication.

**"EBT (or evidential breath testing device)"** means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

**"Licensed medical practitioner"** means a person who is licensed, certified, and registered, in accordance with applicable federal, state, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

**"Medical Review Officer (MRO)"** means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**"Performing (a safety-sensitive function)"** means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**"Refuse to submit (to an alcohol or controlled substances test)"** means that a covered employee:

- Fails to show up for any test (except a pre-employment test) within a reasonable time after being directed to do so by the City. This includes the failure of an employee to appear for a test when called by a Consortium/Third Party Administrator;
- Fails to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test. The testing process commences once the applicant has been provided the specimen collection cup;

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- Fails to provide a urine specimen for any drug test or breath or saliva sample for an alcohol test required by 49 CFR Part 382, if the employee leaves after the testing process has commenced;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;
- Fails to provide a sufficient amount of urine, breath or saliva when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure to provide;
- Fails or declines to take a second test the employer has directed following a negative dilute result as required by 40.197(b);
- Fails to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) concerning the evaluation as part of the "shy bladder" procedures in 49 CFR Part 40, subpart I; or fails to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined in 40.265(c);
- Fails to cooperate (e.g. refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector) or otherwise interferes with any part of the testing process;
- Fails to sign the certification at Step 2 of the alcohol testing form (ATF);
- Is reported by the MRO as having a verified adulterated or substituted test result;
- For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process; or
- Admits to the collector or MRO to having adulterated or substituted the specimen.

**"Safety-sensitive function"** means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
2. All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

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3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**F. Prohibited Conduct**

The following conduct regarding alcohol and drug use or abuse is prohibited:

1. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
2. No driver shall use alcohol while performing safety-sensitive functions.
3. No driver shall perform safety-sensitive functions within four hours after using alcohol.
4. No driver required to take a post-accident alcohol test under 49 CFR 382.303 shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first. e) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions of a licensed medical practitioner, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial vehicle.

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- (a) No driver may possess any prescription medication or report to work while using any prescription, except when he/she is under a doctor's care and the doctor has advised the driver that the substance does not affect his/her ability to safely operate a commercial motor vehicle. The use of medication that could affect a driver's safe job performance is prohibited while working. The driver shall report to his or her supervisor, Department Head, or the Human Resources Director the use of any prescribed medication and, without identifying the medication, shall provide a certificate from the driver's doctor that the use of the medication will not impair the ability to safely perform his/her duties. If, as a result of testing under this policy, the driver is found to have the presence of controlled substances in the body which is a result of the use of his/her legally prescribed medication that has not been reported, the driver may be removed from service without pay until it is determined that the use of medication will not impair his/her ability to safely perform assigned duties.
5. No driver shall refuse to submit to a post-accident, random, reasonable suspicion, or follow-up controlled substance or alcohol test as directed by 49 CFR Part 382 or this policy.
  6. No driver shall report for duty, remain on duty or perform safety-sensitive functions if the driver tests positive for controlled substances.
  7. A driver tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the test administration.

The City shall not permit a driver to continue to perform safety sensitive functions if the City has actual knowledge of a driver violating any of the aforementioned prohibitions.

The City can obtain actual knowledge based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substances use, except as discussed in the City's voluntary self-identification program.

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### **G. Controlled Substances and Alcohol Testing**

A driver may be tested for controlled substances at any time during his/her work day, and alcohol testing will be conducted just before, during or after performing safety-sensitive functions. Submission to the controlled substance and alcohol testing described in this policy is a condition of employment with the City for those drivers covered by DOT and FMCSA regulations. A refusal to submit (as described above) will constitute a violation of this policy and be grounds for termination of employment.

Drivers will be subject to testing as follows:

#### **1. Pre-employment**

All drivers will be tested for controlled substances as a post-offer condition of employment. A driver/applicant who tests positive on a pre-employment test will not be hired, however, may be eligible to reapply for employment with the City after six (6) months from the date of the positive test. In addition, an applicant who tested positive on any DOT mandated pre-employment drug test after August 1, 2001, must provide documentation of his/her successful completion of DOT return-to-duty requirements (i.e. an evaluation by a substance abuse professional, education or treatment, and a negative DOT pre-employment test, all of which meet the requirements of 49 CFR Part 40). The driver/applicant will be responsible to pay for the pre-treatment evaluation, education or treatment, and the subsequent pre-employment test.

#### **2. Reasonable Suspicion**

Drivers will be tested for alcohol and controlled substances whenever the City has reasonable suspicion that the individual has violated any of the drug and alcohol policy (for example, if the employer observes physical signs of drug or alcohol use, such as slurred speech, unsteady gait, dilated pupils, odor of alcohol or controlled substances, etc.; or if observed, unusual behavior suggesting the use of controlled substances or alcohol in violation of the City policy).

Reasonable suspicion drug testing is authorized when the supervisor's observation of the driver's behavior occurs any time during the workday. Reasonable suspicion alcohol testing is authorized only if the supervisor's observation of the driver's behavior has been made during, just preceding, or just after performing any safety-sensitive function.

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The alcohol test must be completed within two (2) hours of the observation; if not, the City must document the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the observation. After eight (8) hours, the attempt to test will cease, and the City must again provide the reasons for the test not being administered.

If an alcohol test is not completed within the two (2) or eight (8) hour time periods, the employer shall prepare and maintain on file a record stating the reasons the test was not administered within the appropriate time frames.

The City shall not permit a driver to report for duty, remain on duty, perform, or continue to perform any safety-sensitive functions while the driver is impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, until:

- a) an alcohol test is administered and the driver's alcohol concentration measures less than 0.02 percent; or
- b) the start of the driver's next regularly-scheduled duty period, but not less than twenty-four (24) hours following the supervisor's determination that reasonable suspicion exists.

Supervisors and any City representative that may be expected to serve in a supervisory capacity, and who may be required to make a reasonable suspicion determination, must have received at least 60 minutes of training on the indications of probable drug use and an additional 60 minutes training on the indicators of probable alcohol misuse. Only those individuals who have received this training are qualified to make these decisions.

**3. Post-Accident**

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each surviving driver shall be tested for controlled substances and alcohol if:

- a) The driver was performing safety safety-sensitive functions with respect to the vehicle and if the accident involved the loss of human life (fatality); or
- b) The driver received a citation for a moving traffic violation and the accident involved bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or,

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- c) The driver received a citation for a moving violation and the accident involved one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

A driver may not consume alcohol for eight (8) hours following an accident that requires the DOT alcohol test. The alcohol test must be completed within two (2) hours of the accident; if not, the driver must advise the City the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the accident. After eight (8) hours the attempt to test will be ceased, and the driver must again provide the reasons for the test not being administered.

A controlled substances test shall be administered as soon as practicable up to 32 hours following the accident. After 32 hours the attempt to test will be ceased, and the driver must provide the reasons for the test not being administered promptly. A driver must remain readily available for testing, or may be deemed by the City to have refused to submit to testing.

Nothing in this policy should be construed to require the delay of necessary medical attention for the injured.

**4. Random**

The City is using a consortium/third party administrator to facilitate the random selection of drivers and notification to the employer of the driver(s) selected for testing. The consortium/third party administrator is:

A WorkSAFE Service, Inc.  
1696 Capitol St NE  
Salem OR 97301  
(503) 391-9363

Drivers will be subject to random alcohol and controlled substance testing under the following program:

- a) Random selection of drivers will be made by a scientifically valid method using a computer-based random number generator that is matched with drivers' social security numbers.
- b) Each driver shall have an equal chance of being drawn each time selections are made.
- c) Selections for testing are unannounced and reasonably spread throughout the calendar year.

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- d) Random selections are made to ensure testing for controlled substances is conducted at not less than the minimum annual 50% rate and alcohol is conducted at not less than the minimum annual 10% rate, or the rates as established by the FMCSA.
- e) A driver shall only be tested for alcohol just before, during, or after performing safety-sensitive functions; however, he/she may be tested for controlled substances any time while performing work for the employer.
- f) Once a driver is notified of selection for random alcohol or controlled substances testing, he/she shall proceed to the test site immediately.

**5. Return to Duty**

No driver found to be in violation of this policy, will be permitted to return to duty involving safety-sensitive functions until the driver has a verified negative controlled substances test or an alcohol test with a result less than 0.02 alcohol concentration, as applicable. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

**6. Follow-up**

Any driver in need of assistance in resolving problems associated with alcohol misuse or controlled substances use as identified through the evaluation by the Substance Abuse Professional will, if still employed, be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances or alcohol as directed by the Substance Abuse Professional and the City. The City may perform follow-up testing for five years. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

**7. After Hours Testing**

If the need for testing occurs outside the normal hours of operation of the designated collection site, a supervisor or manager will be responsible for contacting the after-hours testing service provider indicated below:

Cedar Grove Recovery Services  
614 West Market Street  
Aberdeen, WA 98520  
Phone: 360-533-3161 (Mon-Fri, 8 a.m. to 5 p.m.)  
After Hours Phone: 360-808-3138

## **9.70 Drug and Alcohol Testing for Employees who Operate Commercial Vehicles** (continued)

### **H. Compensation**

Employees who have been asked to submit to a reasonable suspicion controlled substances test will be placed on unpaid leave pending the outcome of the test results. Such employees are eligible to use accrued vacation or comp time during this time. If the test result is negative, the time will be paid and any vacation leave or comp time used will be credited.

### **I. Failure to Cooperate**

Employees who are subject to this policy are expected to comply fully with any required testing. Failure to do so (including, for example, refusing to sign consent or refusing to test, obstructing the testing process, failing to make themselves available for a required test, failing to provide an adequate sample for testing, attempting to adulterate or substitute a specimen, or in any way tampering with a required test, failure to empty pockets or wash hands as requested by collection site personnel, refusing to permit an observed collection, possessing or wearing a prosthetic or other device that could be used to interfere with the collection process) will cause the driver to be immediately relieved from performing safety-sensitive functions, and will also be considered a violation of City policy that will subject the employee to discipline, up to and including termination of employment. The City also reserves the right to involve law enforcement officials for any conduct that it believes might be in violation of state or federal law.

### **J. Testing Procedures**

1. **Urine specimen collection:** Specimen collections will be conducted in accordance with the procedures of 49 CFR Part 40, as amended. The collection procedures are designed to ensure the security and integrity of the specimen provided by each covered employee, and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be made to preserve the individual's privacy as much as possible consistent with ensuring an accurate result. Covered employees will be required to empty their pockets before providing the drug test specimen.

Under normal circumstances, the applicant or covered employee will be afforded complete privacy in the restroom for providing the urine sample. Certain situations do require the urine sample be provided under same-gender direct observation. Those situations include:

- The temperature on the original specimen was out of range; or
- The original specimen appeared to have been tampered with (i.e. unusual color, odor, foam, etc.); or

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- The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the City there was not an adequate medical explanation for the result; or
- The MRO reported to the City that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; or
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5mg/dL, and the MRO reported the specimen to the City as negative-dilute and a second collection must take place under direct observation; or
- All return-to-duty or follow-up drug tests.

When that occurs, the donor will be required to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

Refusing to permit an observed collection, or possessing or wearing a prosthetic or other device that could be used to interfere with the collection process, are considered a refusal to test and will constitute a verified positive drug test result.

2. **Laboratory analysis:** As required by 49 CFR Part 40, only a laboratory certified by the Department of Health and Human Services (DHHS) will be retained by the City to perform the analysis of the urine specimen for controlled substances. The initial screening test will be performed by immunoassay and will test for substances and at cutoff levels required by 49 CFR Part 40, as amended. All specimens identified as positive on the initial screening test will be confirmed using gas chromatography/mass spectrometry techniques at cutoff levels required by 49 CFR Part 40, as amended.
3. **Breath alcohol:** Testing will be conducted by a qualified technician according to 49 CFR Part 40 procedures. Either a breath or saliva test by an EBT device will be used for the testing.

### **K. Medical Review**

All controlled substances test results will be reviewed by a Medical Review Officer (MRO) before results are reported to the City. The MRO will attempt to contact the driver to discuss the test results before reporting positive results to the City.

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The City Medical Review Officer is:  
Dr. C. Kirby Griffin, MD  
Paragon MRI  
9370 SW Greenburg Rd., Suite #200  
Portland, OR 97223  
Business # (877) 977-3225  
Emergency #: (503) 708-9418 (all hours)  
Office hours: 7:30 a.m. – 4:30 p.m. Monday - Friday

**L. Notification of Results**

The City will notify the affected driver of any controlled substances test that is reported as positive by the MRO. The City will notify driver-applicants of the results of pre-employment controlled substances testing if the applicant requests that information in writing within 60 days after the City notifies the applicant that he/she has or has not been hired.

**M. Reanalysis of Original Specimen**

Within 72 hours of the MRO notifying the driver of a verified positive controlled substances test, an adulterated or substituted specimen, the driver may request the reanalysis of the original specimen. Only the MRO may authorize such a reanalysis, and such a reanalysis may take place only at laboratories certified by the Department of Health and Human Services (DHHS). If the reanalysis fails to reconfirm the presence of the drug or drug metabolite, the MRO shall cancel the test. Drivers are responsible for the costs associated with this test. If the test returns a negative result, the City will reimburse the driver for the cost of the test.

**N. Securing Information from Previous Employers**

If a person is to be hired into a position subject to this policy and during the previous two years has worked as a driver of a commercial vehicle, that person must authorize a request of all employers of the driver within the past two years to release information on the following:

1. Positive alcohol or drug tests;
2. Refusal to be tested;
3. Other violations of DOT agency drug and alcohol testing regulations;
4. Information obtained from previous employers of a drug and alcohol rule violation; and
5. Documentation, if any, of completion of the return-to-duty process following a rule violation.

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This information must be obtained before the person is employed by the City. However, if the information has not arrived by the anticipated start date, and if the person has passed the pre-employment drug test, the person may be hired and the requested information must be obtained from the previous employers within 14 calendar days of the date of hire. If the information has not been received within the 14 calendar days, the person will not be permitted to drive commercial vehicles until the information has arrived. If the information obtained from previous employer indicates either a positive test or that a refusal to be tested occurred within the past two years, that person will not be permitted to drive commercial vehicles unless subsequent information indicates that an evaluation by a Substance Abuse Professional was made and return to duty testing was administered.

### **O. Confidentiality**

Records required under this policy, including test results will be maintained in a secure location with controlled access. Each driver shall, upon written request, be entitled to receive copies of his/her own records, and to have copies of his/her records made available to any subsequent employer. Information may also be disclosed to the relevant state or federal agencies, or in connection with judicial, administrative or related proceedings (e.g., grievances and arbitration) initiated by or on behalf of the driver. These records will be kept separate from the employee's personnel file.

### **P. Consequences**

Under normal circumstances, employees violating this policy or federal regulations will be suspended from performing any safety-sensitive functions with a commercial motor vehicle as defined by this policy and will be subject to disciplinary action up to and including termination of employment. Under some circumstances, however, the City may agree to return an employee to performing these functions following treatment and rehabilitation. When that occurs, the employee must pay the cost of any pre-treatment evaluation, treatment, and rehabilitation. The City medical plan, if available to the employee, may cover a portion of the costs associated with the pre-treatment evaluation and treatment. Uncovered costs of treatment are the employee's responsibility to pay. The City will pay the cost of the pre-treatment evaluation and any follow-up controlled substances or alcohol testing if required to do so by 49 CFR Part 382.

When, at the City's discretion, an employee is returned to work, the driver will be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances or alcohol as directed by the Substance Abuse Professional in order to continue to perform safety-sensitive functions and operate a commercial motor vehicle requiring a CDL.

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The City reserves the right to take disciplinary action up to and including termination for violation of the City drug and alcohol policy where and when deemed appropriate.

**Q. Evaluation and Referral**

The City supports employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily. Any employee who comes forth and notifies the City of alcohol or drug abuse problems will be given the assistance extended to employees with any other illness. Voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this policy or other policies of the city.

Sick leave, vacation leave or leave of absence without pay may be granted for treatment and rehabilitation as in other illnesses. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.

DOT regulations require that any driver who violates the alcohol and controlled substances rules of 49 CFR Part 382 be advised of available evaluation resources and be evaluated by a Substance Abuse Professional. The driver must complete an appropriate education and treatment program before being eligible to return to safety sensitive duty.

Before returning to performing safety-sensitive functions for **any** DOT employer, a driver must be tested for controlled substances with a verified negative controlled substances test result or alcohol with a test result less than 0.02 alcohol concentration. The driver will be subject to follow-up testing of at least six tests in the first 12 months of returning to duty, and follow-up testing may continue for five (5) years.

**R. Information on effects and signs of alcohol and controlled substance use**

DOT regulations require employers to furnish information regarding the effects of alcohol and controlled substance use, as well as the signs and symptoms of such use. This information will be provided to all new employees covered by this policy and is available upon request from the Human Resources Department. Any employee who suspects a co-worker has an alcohol or drug problem may refer the co-worker to contact information for the Substance Abuse Professional identified in this policy, the City's Employee Assistance Program (EAP) at 1-800-570-9315, or to management.

## **SECTION 10. DISCIPLINE**

### **10.10 Purpose.**

Standardized disciplinary procedures are intended to assist department heads, managers, supervisors and all other employees in the sensitive area of disciplinary action by providing examples of unacceptable behavior and by providing procedures to promote consistency in corrective actions.

Causes for disciplinary action are listed in, but not limited by, these Personnel Policies. Current personnel policies, rules, procedures, as well as departmental work rules and procedures shall be made readily available to employees in each department or division.

All employees shall conduct themselves in a manner consistent with established rules and regulations. Discipline will be administered as a deterrent to behavior that is destructive to the principles and the standards established for the purpose of maintaining order in the day-to-day operations of business and in keeping with sound principles of human relations. A member of a bargaining unit has the right to request that his or her shop steward be present during disciplinary procedures. When possible and practical, discipline shall be exercised in a mutually constructive and progressive manner.

All discipline should begin with an objective investigation of a problem or incident. Constructive discipline should be an attempt to help the employee correct any job-related deficiencies and will begin with the least amount of action needed.

### **10.20 Causes for Disciplinary Action.**

Any City employee may be subject to disciplinary action for cause, including but not limited to the following:

- A. Sexual harassment.
- B. Arriving on the job under the influence of intoxicating beverages or controlled substances; or using intoxicating beverages or nonprescription drugs on the job; or misuse of prescription drugs on the job that constitutes a potential hazard or threat of danger to other employees or the general public.
- C. Insubordination.
- D. Violation of any department directive or established work rule or standard operating procedure.
- E. Unauthorized absence from work, tardiness, or abuse of sick leave privileges.
- F. Violation of the City's adopted safety rules or personal conduct at work which is clearly dangerous to the employee or others.

**10.20 Causes for Disciplinary Action.** (Continued)

- G. Conviction of a felony or a misdemeanor which could adversely impact the employee's ability to effectively and efficiently perform the duties of his or her position.
- H. Negligent or willful damage to City-owned or private property; wasting City owned supplies and equipment, theft, or conduct constituting a serious breach of the public trust; personal use of City equipment and property, unauthorized removal of City-owned equipment or property from City premises or its conversion to personal use.
- I. Discourteous treatment of the public or other City employees.
- J. Fighting on the job.
- K. Inability or unwillingness to maintain an acceptable level of work performance.
- L. Any violation of the provisions of the City's personnel policies.

**10.30 Disciplinary Procedures.**

There are four general methods of discipline that may be applied to one who has violated the rules, principles, and standards established for the purpose of maintaining order and integrity:

**A. Level 1 - Oral Warning.**

Oral warnings shall be used for minor offenses which occur occasionally. The supervisor may call the employee aside to privately discuss the offense and warn the employee not to repeat the behavior. The employee should be informed that an oral warning is being administered and that he or she is being given an opportunity to correct the condition. If the condition is not corrected, the person will be subject to more severe disciplinary measures. The supervisor should document the warning.

### **10.30 Disciplinary Procedures.** (Continued)

#### **B. Level 2 - Written Reprimand or Warning.**

Written reprimands are used initially for more serious problems or offenses or for repeated incidents where an oral warning has failed to correct unacceptable behavior. The supervisor will discuss the warning notice with his or her immediate supervisor and then with the employee to be certain that the employee understands the reasons for the disciplinary action. The employee will receive a signed letter from his or her supervisor listing the violations or failures of the employee, and clearly stating what corrective action must be taken by the employee to avoid further discipline. Copies of such warnings shall be placed in the employee's personnel file. The department head or supervisor may, as a part of an appropriate written warning concerning a work-related problem, notify the employee that he or she is on disciplinary probation for a specified length of time. This status is short of suspension without pay or discharge; however, an employee on disciplinary probation is on notice that further disciplinary actions may result in immediate termination of City employment.

#### **C. Level 3 - Disciplinary Suspension.**

An employee will be suspended without pay when the offense is of a serious enough nature (usually sufficient for discharge) or for continuing violations after the employee has received a written warning and has not made an adequate effort to improve performance, but when circumstances related to an employee's overall performance do not warrant immediate discharge. Except in unusual circumstances, the normal length of a suspension without pay should not exceed fifteen workdays. Suspension is generally the most severe form of discipline given by a supervisor short of termination. It should be applied only after thorough evaluation by the department head or his or her designated representative. Depending on the circumstances, it may be desirable for the department head to consult with the Human Resources Director prior to administering a suspension.

The supervisor shall state in writing the facts leading to the reason for the disciplinary suspension and the duration and terms of the suspension. The supervisor will inform the employee in writing of the disciplinary action, making sure that the employee is fully aware of the reasons for the action. The Human Resources Director shall be notified of the action and a copy of the written notice of suspension shall be placed in the employee's personnel file.

### **10.30 Disciplinary Procedures.** (Continued)

Investigatory suspensions with or without pay may be used in cases where it is necessary to investigate a situation to determine what further disciplinary action may be warranted. This suspension allows the supervisor to determine an appropriate course of action when the situation is serious enough for the employee to be removed from the work environment. If after investigation, it is determined that the employee was not guilty of any violation, he or she shall normally be returned to work and paid for any lost time. If the employee is found in violation, the appropriate employer disciplinary action will take effect on the date that the investigatory suspension began if such suspension was without pay. As an alternative to an investigatory suspension with or without pay, an employee may be directed to use accumulated vacation or holiday time during the investigation. If the employee is exonerated such leave shall be restored to the employee.

When the employee returns to work after a period of disciplinary suspension, the supervisor should see that the employee gets back to the job with as little injury to his or her self respect as possible.

#### **D. Level 4 – Discharge.**

Discharge is the most severe discipline and should be reserved for the most serious offenses or for repeated offenses of a less serious nature. Discharge must be approved by the department head or the department head's designee. The Mayor and the Human Resources Director should be consulted before a non-probationary employee is discharged.

No regular employee shall be terminated without a pre-discharge meeting. The employee shall be provided with a written notice of the charge or grounds for termination and a summary of the City's evidence. The employee shall be given an opportunity to respond to these charges, either orally or in writing, and to explain why the City should not go ahead with the discharge.

Although the department head's explanation of the City's evidence should be sufficient to inform the employee of the basis for discharge, this procedure shall not be construed to limit the City at any subsequent hearing or proceeding from presenting a more detailed and complete case, including the presentation of witnesses and/or documents not introduced at the pre-discharge meeting. After receiving the employee's response, should the City determine to proceed with the discharge, or some alternative disciplinary action, the City will give the employee written notice of discipline without undue delay.

These disciplinary measures are not exclusive. Other or additional discipline may be administered with the consent of the department head according to the nature and circumstances of the offense and the needs of the department. Any disciplinary action of a regular employee taken by a supervisor may be appealed by the employee using the grievance procedures contained in Section 11 of these policies.

## **SECTION 11. GRIEVANCE PROCEDURES**

### **11.10 Definition of Grievance.**

A grievance is a complaint by an employee alleging that the employee has not been treated justly concerning the administration, interpretation, or application of the City's established personnel policies, rules, procedures, or departmental work rules. Newly hired probationary employees may not grieve the subject of cause for their discharge from City employment which occurs during their required probationary period.

### **11.20 Purpose.**

This grievance procedure is established to further sustain healthy employer-employee relations by providing the employees with a means for airing complaints regarding their ongoing employment and working conditions with the City of Aberdeen.

City employees and their supervisors are strongly encouraged to resolve the causes of any employee grievance informally between themselves. If, however, an employee feels that, after working with the immediate supervisor, satisfactory adjustment has not been made, the employee may file a formal employee grievance.

No employee retaliation, disciplinary action, or discrimination shall occur because of the filing of an employee grievance, nor shall such filing preclude the ongoing administration of any appropriate personnel actions by the City.

City employees reporting directly to the Mayor are excluded from exercising the provisions of the City's employee grievance procedures.

### **11.30 Procedure.**

Grievances must be initiated by an employee within fourteen calendar days of the alleged grievable act according to the following steps:

#### **A. Step 1 - Immediate Supervisor.**

If a grievance cannot be resolved informally, the employee may submit a written grievance in writing to the immediate supervisor. The written grievance shall clearly state:

1. the facts giving rise to the grievance;
2. the policy or rule believed to have been violated;
3. the resolution recommended by the employee.

The immediate supervisor shall investigate the issue and provide a written response to the employee within five working days of the date of the initial presentation of the grievance.

**11.30 Procedure.** (Continued)

If the supervisor is the subject of the grievance, an employee may request permission from the department head to dispense with this step and proceed immediately to Step 2.

**B. Step 2 - Division Manager and Department Head.**

If after five working days the employee fails to receive a response from the immediate supervisor or receives a response which is unacceptable to him or her, the employee may file the written grievance with the division manager or department head. In City departments having division manager's performing intermediate supervisory functions, employees shall present their grievances to the appropriate division manager before proceeding to the department head. If no such intermediate manager exists, employees shall proceed directly to their department head. In each instance, written employee grievances which have not been resolved at the immediate supervisor or division manager's level will be forwarded directly to the appropriate department head.

A grievance submitted to the department head shall be accompanied by the written response of the supervisor and division manager and the employee's written comments.

Each department head may further define these internal grievance steps in written departmental operating procedures to best suit the departmental organization. Departmental procedures may provide for the bypassing or elimination of the division manager portion of Step 2. In any case, however, a division manager or department head, as the case may be, shall investigate the grievance issue or problem and provide a written response to the employee within five working days of the date he or she received the employee's formal grievance.

**C. Step 3 - Appeal to Mayor/Hearing Officer.**

Any employee who is not satisfied with the written decision reached by the department head may appeal directly to the Mayor. Depending upon the nature of the grievance, the Mayor may appoint a special hearing officer to conduct an informal hearing on the Mayor's behalf. An employee appeal must be made in writing within ten (10) working days of receipt of the department head's decision. If the department head fails to provide the employee with a written decision within the five-day limit as provided in Step 2, the grieving employee may file his or her appeal with the Mayor within ten working days of when the latter decision was due. The Mayor or the appointed hearing officer shall hold an informal hearing as soon thereafter as possible pursuant to procedures developed or approved by the Mayor and made available to the grieving employee. The Mayor or the hearing officer shall consider:

**11.30 Procedure.** (Continued)

1. the written grievance presented at Steps 1 and 2;
2. the written decisions of the division manager and the department head;
3. relevant documents and testimony of the grieving employee and all other interested parties.

If the Mayor appoints a hearing officer, the hearing officer shall prepare a written recommendation to affirm, reverse, or modify the department head's ruling. The hearing officer's written recommendation shall be provided to the Mayor. The Mayor shall, in each instance, make the final employer decision to affirm, reverse, or modify the resolution of the grievance in writing to the grieving employee, as well as provide a copy to the employee's immediate supervisor, division manager, department head, and the Human Resources Director. The decision of the Mayor shall be final and binding on all parties.

All written grievances under these procedures or under contractual grievance procedures shall be filed by the department head with the Human Resources Director. The Human Resources Director shall be informed in writing of the resolution of all such grievances.

**11.40 Policy Against Unlawful Harassment.**

**A. Purpose.**

To establish a policy and procedure defining the City's position on harassment and providing guidance to any employee who believes he or she has been exposed to harassment by another employee of the City of Aberdeen.

**B. Applicability.**

This policy shall be followed by all City departments and divisions.

**C. Policy.**

It is the policy of the City of Aberdeen to provide a work environment for its employees which is free from unlawful harassment. The City will not tolerate any form or degree of harassment based on race or ethnic background, gender, national origin, religion, age, marital status, pregnancy or maternity status, sexual orientation, gender identity, genetic information, disability, or veteran status and any other class protected by federal, state, or local law. Prompt investigation of harassment complaints shall be undertaken and appropriate disciplinary action, up to and including termination, shall be taken against any employee who is found guilty of any form of unlawful harassment.

## **11.40 Policy Against Unlawful Harassment.** (Continued)

### **D. Definitions.**

1. Harassment (non-sexual): Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual based on the individual's protected status or characteristics that:
  - a) Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or
  - b) Has the purpose or effect of unreasonably interfering with an individual's work or performance; or
  - c) Otherwise adversely affects an individual's employment opportunities.

The City's prohibition on unlawful harassment encompasses conduct at work, as well as off-duty behavior that adversely affects the work environment.

Examples of behavior that could constitute or contribute to harassment include but are not limited to: using epithets, slurs, or negative stereotypes; threatening, intimidating, or engaging in hostile acts that relate to protected status or characteristics such as those referred to above; jokes or pranks that refer to or denigrate a protected status; or placing on walls, bulletin boards, or elsewhere on the work premises or circulating in the workplace written, electronically transmitted or graphic material that denigrates or shows hostility or aversion toward a person or group because of a protected characteristic.

2. Sexual Harassment: Sexual harassment is unwelcome behavior of a sexual nature that affects terms and conditions of employment, including unsolicited, unwelcome sexual conduct or advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that interferes with an employee's work performance, or that creates an intimidating, hostile, or offensive working environment. Sexual harassment also includes conduct that links favorable treatment in employment to sexual favors. It also can involve unwelcome touching or other physical contact and/or verbal conduct, such as requests for sexual favors, repeated use of lewd remarks and "off-color" jokes and posting in the work place of cartoons and pictures of a sexual nature.

Examples of behavior that constitutes or contributes to sexual harassment include:

- a) Unwelcome or unwanted flirtations, propositions, or advances. This includes patting, pinching, brushing up against, hugging, cornering, kissing, fondling, putting one's arm around another, or any other similar physical contact considered unacceptable by another individual.
- b) Requests or demands for sexual favors. This includes subtle or blatant expectations, pressures, or requests for any type of sexual favor accompanied by an implied or stated promise of preferential treatment or negative consequences concerning an individual's employment.

#### **11.40 Policy Against Unlawful Harassment.** (Continued)

- c) Verbal abuse or kidding that is sexually oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance when such comments go beyond an isolated innocuous compliment; off-color jokes or offensive language; or any other tasteless, sexually oriented comments, innuendoes, or offensive actions, including leering, whistling, or gesturing.
- d) Participation in fostering a work environment that is generally intimidating, hostile, or offensive because of unwelcome or unwanted sexually oriented conversation, office décor, suggestions, requests, demands, physical contacts, or attention.

#### **E. Procedure for Reporting and Investigating Harassment.**

An employee who feels harassed should immediately ask the offending individual to stop. If that does not work or if the employee is uncomfortable confronting the offending individual, the employee should report the incident promptly. A complaint can be made orally or in writing to the Human Resources Director. In the alternative, as the employee may wish, the complaint may be brought to the attention of the Mayor or Corporation Counsel. If an employee brings the complaint to the attention of another supervisor or manager, the supervisor or manager is obligated to report the complaint in compliance with this policy.

A harassment complaint will be handled as follows:

1. Every complaint is to be reported promptly to the Human Resources Director (or to the Mayor or Corporation Counsel as provided for above) either by the complainant or by the person receiving the complaint. If reported verbally, the person taking the complaint should produce a written statement for the complainant to review and sign.

The written statement should contain as much of the following information as possible.

- The name of the person(s) who the complainant believes have engaged in unlawful harassment,
- Description of what occurred (what was done or said),
- Date and time the incident occurred,
- Names of witnesses, if any,
- The action(s) of the complainant before, during and after the incident, and
- Whether or not any hardcopy or electronic documents (e.g. emails, memos, text messages) exist that relate to the incident(s),
- Name and signature of complainant,
- Date of the complaint, and
- Any other information the complainant feels is relevant.

#### **11.40 Policy Against Unlawful Harassment.** (Continued)

2. The complaint will be investigated in a timely manner to determine if it has merit. Choice of investigator, level of formality, and the procedures used in the investigation may vary, depending upon the nature of the allegations and full circumstances of the situation, including the context in which the alleged incidents occurred.
3. Confidentiality will be maintained throughout the investigatory process to the extent practical and consistent with the City's need to undertake a full investigation.
4. There shall be no retaliation by the City, its officers, elected officials, supervisors, or other employees toward any employee bringing a complaint in good faith or cooperating with the investigation of a harassment complaint.
5. Where the investigation confirms the allegations, the City will take prompt corrective action and, where appropriate, discipline the offending individual. Discipline may include verbal and written reprimands, professional counseling, reassignment, or other appropriate action, up to and including termination. The affected individuals will be informed of the outcome of the investigation.
6. Employees who bring complaints may be subject to discipline only if the investigation reveals the complaint was made in bad faith (i.e., statements that were known to be false at the time they were made).

#### **F. Responsibility for Enforcement.**

The Human Resources Director shall be responsible for disseminating information on this policy, for developing training programs and guidelines for preventing sexual or other forms of harassment, and for investigating and resolving allegations of harassment.

All officers, supervisors, and managers (generally, "supervisors") are assigned responsibility for implementing this policy, ensuring compliance with and knowledge of its terms, and for taking immediate and appropriate corrective action if they witness inappropriate behavior or receive a complaint. Supervisors must open and maintain channels of communication to permit employees to raise concerns of sexual or other workplace harassment without fear of retaliation, stop any observed harassment, and treat harassment matters with sensitivity, confidentiality, and objectivity.

A supervisor's failure to carry out these responsibilities may result in disciplinary action up to and including discharge.

## **11.50 Whistleblower Protection Policy.**

### **A. Purpose.**

To establish the City of Aberdeen's policy for the Washington State Local Government Whistleblower Act.

### **B. Policy.**

It is the policy of the City of Aberdeen to encourage its employees to report improper governmental action taken by City officers or employees. It is also the policy to protect City employees, who in accordance with City policies and procedures have reported improper governmental actions, from retaliatory action.

### **C. References.**

Chapter 42.41 RCW

### **D. Application.**

This policy applies to all City of Aberdeen employees, officials, and volunteers.

### **E. Procedures.**

#### **1. Definitions.**

As used in this policy, terms shall have the meanings indicated below:

- a) **Improper Governmental Action:** Any action by a City officer or employee that is undertaken during the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and does the following:
  - i. Violates any federal, state, or local law or rule;
  - ii. Is an abuse of authority;
  - iii. Is of substantial and specific danger to the public health or safety; or
  - iv. Is a gross waste of public funds.

"Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or RCW 54.04.170 and 54.04.180.

### **11.50 Whistleblower Protection.** (Continued)

- b) Retaliatory Action: Any adverse change in an employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations. This includes demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or hostile actions by another employee towards an employee that were encouraged by a supervisor or senior manager or official.
- c) Emergency means: A circumstance that, if not immediately changed, may cause damage to persons or property.

### **2 Reporting Procedures.**

- a) An employee who becomes aware of an improper governmental action shall first raise the issue with the employee's immediate supervisor. If the supervisor requests, the employee shall submit a written report to the supervisor, or to a person designated by the supervisor. The written report should state in detail the basis for the employee's belief that an improper governmental action has occurred. When an employee believes that the action involves his or her immediate supervisor, the employee should raise the issue with the Department Head. If the action involves the employee's Department Head, the employee may report the matter to the Mayor or to the Human Resources Director.
- b) In the case of an emergency, an employee may report the alleged improper governmental action to the Grays Harbor County Prosecutor or to the agency responsible for investigating the allegations, as identified in Section 6.
- c) Except in the case of an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a public official or a person listed pursuant to subsection (1) of this section, the employee shall submit a written report to the local government. An employee who fails to make a good faith attempt to follow the policy shall not receive the protections of this chapter.

### **3. Investigation**

- a) The immediate supervisor, department head, Mayor, or Human Resources Director shall take prompt action to properly investigate the report of improper governmental action. The City (to the extent possible under law) shall keep the identity of the reporting employee(s) confidential, unless the employee authorizes, in writing, the disclosure of his/her identity.

**11.50 Whistleblower Protection.** (Continued)

- b) After an investigation has been completed, the employee reporting the improper governmental action shall be given a summary of the results of the investigation. However, personnel actions taken as a result of the investigation shall be kept confidential (to the extent possible under law).
- c) If an employee believes the City's investigation of the improper governmental action is inadequate; the employee may report the action directly to the outside governmental agency responsible for investigating improper actions as identified in Section 6. An employee may also turn to the governmental agency if the employee believes the City's response to the improper governmental action is insufficient or believes that the improper action is likely to reoccur.

**4. Protection From Retaliatory Action – Administrative Review**

- a) No City official or employee is permitted to take retaliatory action against an employee because the employee provided information in good faith in accordance with the provisions of this policy that an improper governmental action occurred.
- b) An employee who believes that he/she has been retaliated against in violation of this policy shall provide written notice to the Mayor within 30 days of the alleged retaliatory action. This written notice shall specify the alleged retaliatory action and specify the relief requested.
- c) Upon receipt of an employee's charge of retaliatory action, the Mayor has 30 days to respond. Upon receipt of either the response of the Mayor or after the last day upon which the Mayor could respond, the employee may request a hearing with a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief as defined in this section. The request for a hearing shall be delivered to the Mayor and the Human Resources Director within fifteen days of delivery of the response from the Mayor, or within fifteen days of the last day on which the Mayor could respond.
- d) Within five working days of receipt of the request for hearing, the Mayor or his/her designee shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge.

Office of Administrative Hearings  
2420 Bristol Court SW, 1st Floor  
PO Box 42488  
Olympia, WA 98504  
(360) 586-3169

### **11.50 Whistleblower Protection.** (Continued)

- e) The employee, as the initiating party, must prove his/her claim of retaliation by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the Mayor. The administrative law judge may grant specific extensions of time beyond this period of time for rendering a decision at the request of either party upon a showing of good cause, or upon his/her own motion.
- f) Relief that may be granted by the administrative law judge consists of reinstatement, with or without back pay, and such injunctive relief as may be found to be necessary in order to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.
- g) If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend to the local government that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account.
- h) The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court.

### **5. Whistleblower Responsibilities.**

The Mayor is responsible for implementing the City of Aberdeen's policies and procedures for reporting improper governmental action and for protecting employees against retaliatory actions. Each Department Head's responsibilities include ensuring that this policy is permanently posted in their areas of responsibility where all employees will have reasonable access to it. The Human Resources Director is responsible to ensure that this policy is made available to any employee upon request, and that this policy is provided to all new employees. Department Heads and supervisors are responsible for ensuring the policy is fully implemented within their areas of responsibility. Violations of this policy may result in appropriate disciplinary action, up to and including termination.

### **6. List of Agencies.**

The following is a list of agencies responsible for enforcing federal, state, and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental actions are encouraged to contact the Human Resources Director.

**11.50 Whistleblower Protection.** (Continued)

**GRAYS HARBOR COUNTY**

Grays Harbor County Prosecutor  
P.O. Box 550  
Montesano, WA 98563

**STATE OF WASHINGTON**

**Attorney General's Office**  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 753-6200

**State Auditor's Office**  
Legislative Building  
PO Box 40021  
Olympia, WA 98504-0021  
(360) 902-0370

**State Department of Ecology**  
P.O. Box 47600  
Olympia, WA 98504-7600  
(360) 407-6000

**Human Rights Commission**  
402 Evergreen Plaza Bldg., FJ-41  
711 South Capitol Way  
Olympia, WA 98504-2490  
(360) 753-6771

**State Department of Health**  
Health Consumer Assistance  
PO Box 47890  
Olympia, WA 98504-7891  
(800) 525-0127

**Dept. of Labor & Industries**  
PO Box 44850  
Olympia, WA  
98504-4850  
1-800-547-8367

**State Liquor Control Board**  
3000 Pacific Avenue SE  
Olympia, WA 98504-3080  
(360) 664-1600

**Dept. of Natural Resources**  
P.O. Box 47001  
Olympia, WA 98504-7001  
(360) 902-1004

**Dept. of Social & Health Services**  
6860 Capitol Blvd  
Tumwater, WA 98501  
(360) 725-6600

**UNITED STATES**

**Department of Agriculture**  
*Office of Inspector General*  
75 Hawthorne Street, Suite 200  
San Francisco, CA 94174-1093  
(415) 744-2851

**Bureau of Alcohol, Tobacco  
& Firearms**  
*Seattle Field Division*  
915 Second Avenue, Room 790  
Seattle, WA 98174-1093  
(206) 220-6440

**U. S. Attorney**  
1201 Pacific Avenue, Suite 700  
Tacoma, WA 98402-4305  
(253) 428-3800

**Department of Commerce**  
*Office of Inspector General*  
915 Second Avenue  
Room 3062  
Seattle, WA 98174  
(206) 220-7979

## **11.50 Whistleblower Protection.**

(Continued)

### **Consumer Product Safety Commission**

1301 Clay Street, Suite 610-N  
Oakland, CA 94612-5217  
(510) 637-4050

### **U.S. Customs Service**

Office of Enforcement  
100 Second Avenue Suite 2300  
Seattle, WA 98104  
(206) 553-7531

### **U.S. Department of Education**

Jackson Federal Building  
915 Second Avenue, Room 3362  
Seattle, WA 98174-1099  
(206) 220-7800

### **Environmental Protection Agency**

*Criminal Investigations*  
1200 Sixth Avenue  
Seattle, WA 98101  
(206) 553-1200

### **Equal Employment Opportunity Commission**

909 First Avenue, Suite 400  
Seattle, WA 98101  
(206) 220-6883 or 1-800-669-4000

### **Federal Emergency Management Agency**

130 228th Street SW  
Bothell, WA 98021-9796  
(425) 487-4600

### **Federal Trade Commission**

915 Second Avenue  
Seattle, WA 98174  
1-877-382-4357

### **General Services Administration**

400 15<sup>th</sup> Street SW  
Auburn, WA 98001  
(253) 553-1049

### **Department of Health & Human Services**

1200 Sixth Avenue, Room 1930  
Seattle, WA 98101  
(206) 553-1049

### **Department of Housing and Urban Development**

909 First Avenue, Suite 255  
Seattle, WA 98104-1000  
(206) 220 5101

### **Department of Interior**

510 Desmond Drive SE, Suite 102  
Lacey, WA 98503  
(360) 753-9440

### **Department of Justice**

*Drug Enforcement Administration*  
400 Second Avenue West  
Seattle, WA 98119  
(206) 553-5443

### **Department of Labor**

*Occupational Safety & Health  
(OSHA)*  
1111 Third Avenue, Suite 715  
Seattle, WA 98101-3212  
(206) 553-5930

### *Office of Inspector General Audits*

1111 Third Avenue, Suite 780  
Seattle, WA 98101-3212  
(206) 553-4880

**11.50 Whistleblower Protection.** (Continued)

*Office of Women's Bureau*  
1111 Third Avenue, Suite 885  
Seattle, WA 98101-3212  
(206) 553-7037

**Mine Safety & Health**

**Administration**

3633 136<sup>th</sup> Place, SE, Room 206  
Bellevue, WA 98006  
(425) 553-4333

**Nuclear Regulatory Commission**

Region IV

611 Ryan Plaza, Suite 400  
Arlington, TX 760011-8064  
1-800-695-7403

**Securities and Exchange**

**Commission**

Pacific Regional District Office  
44 Montgomery Street, Suite 1100  
San Francisco, CA 94104  
(415) 705-2500

**Social Security Administration**

402 Yaeger Way SW  
Olympia, WA 98502  
1-800-772-1213

**Department of Transportation**

*Washington Division Office*

711 South Capitol Way, Suite 501  
Mail Stop: 40943  
Olympia, WA 98501  
(360) 753-9480

**Department of Treasury**

Internal Revenue Service (local  
office)  
404 Legion Way  
Olympia, WA 98501  
(360) 570-5410

**Department of Treasury**

**Financial Management Service**

PO Box 193858  
San Francisco, CA 94119  
(415) 817-7300

**Department of Veterans Affairs**

4916 Center Street, Suite E  
Tacoma, WA 98409  
(253) 565-7038

## **11.60 ADA Grievance Procedure.**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (“ADA”). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Aberdeen.

### **A. ADA Contact Person.**

The Human Resources Director shall be designated the ADA Coordinator. Complaints and requests for reasonable accommodation should be directed to: The City of Aberdeen, Human Resources Director, 200 E. Market St., Aberdeen WA 98520. (360) 537-3212.

Individual department heads may designate an employee who is in charge of a specific City program or activity to receive and respond to requests for ADA reasonable accommodations and grievances. The department designee shall inform the Human Resources Director of requests and complaints received and responded to and forward records of same to the Human Resources Office for centralized recordkeeping purposes as provided in Section “E” of this policy.

### **B. Complaint/Request.**

The Human Resources Director or department designee may assist the petitioner in completing the complaint/request. The complaint should be submitted as soon as possible, but no later than 60 calendar days after the alleged violation to the person and address identified in Section “A” of this policy. The request or complaint should be in writing and include the name, address, telephone number, date and signature of the person filing it, and briefly describe the alleged violation of the regulations or the nature of the request for reasonable accommodation. The Human Resources Director may forward the complaint/request to the responsible program manager or department head.

### **C. Investigation/Appraisal.**

Within fifteen (15) calendar days after receipt of the complaint, the Human Resources Director or designee will meet with the complainant or requestor to discuss the complaint or request and the possible resolutions. An investigation or appraisal, as may be appropriate, shall follow a filing of a complaint or a request for reasonable accommodation. The investigation/appraisal shall be coordinated by the Human Resources Director with the involvement of the appropriate department head, program director, or manager and/or other City officials as may be necessary. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.

## **11.60 ADA Grievance Procedure.** (Continued)

### **D. Determination.**

A written determination as to the validity of the complaint or the City's response to a request for reasonable accommodation and a description for substantive resolution, if any, shall be issued by the ADA Coordinator or department designee and a copy forwarded to the complainant no later than fifteen (15) days after the meeting with the complainant or requestor. Where appropriate, the response will be in a format accessible to the complainant or requestor, such as large print, Braille, or audio tape.

### **E. Recordkeeping.**

The Human Resources Director shall maintain the files and records of the City relating to complaints and requests for reasonable accommodation for at least three (3) years

### **F. Appeals.**

If the response by the Human Resources Director or designee does not satisfactorily resolve the issue, the complainant/grievant and/or her designee may appeal the decision within 15 calendar days after receipt of the response to the Mayor of the City of Aberdeen.

Within 15 calendar days after receipt of the appeal the Mayor will meet with the complaint/grievant to discuss the complaint and possible resolutions. Within 15 calendars days after the meeting, the Mayor will respond in writing, and, where appropriate, in a format accessible to the complainant/grievant, with a final resolution of the complaint.

### **G. Outside Remedies.**

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

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## **SECTION 12. EMPLOYEE AFFAIRS**

### **12.10 Employee Bulletin Boards.**

Each City department or major division will establish and maintain an employee bulletin board or other suitable device where job openings and other employer-employee information pertaining to current personnel policies, rules, procedures, as well as department work rules may be posted on a current basis.

### **12.20 Training Needs Analysis.**

It is the responsibility of the department heads, with active employee participation, to identify required training needs for the employees and positions in the department to effectively achieve full job performance. Unusual needs or needs of a general application should be discussed with the Human Resources Director to determine what, if any, courses or other training is available or can be developed in-house, or if employees should be referred to other community-based or outside training and development resources.

### **12.30 Training and Development Opportunities.**

Training and development is in the best interests of the City and all employees. Whenever possible and within budgetary constraints, the City shall endeavor to provide training opportunities for employees to build and improve their job-related knowledge, skills, and capabilities. These opportunities include in-house workshops such as those for first aid, defensive driving, technical, supervisory, and managerial skills; educational workshops and seminars sponsored by other agencies and paid for by the City, and correspondence courses (amended December 23, 1987).

At the department head's discretion, an employee may be granted time off with pay to attend an approved course, seminar, or educational workshop for which the employee is paying. Employees are strongly encouraged to take and complete relevant training courses on their own time, and to use the City's established tuition reimbursement program when eligible and funds are available.

Except for the reimbursement of expenses, employees normally will not receive additional pay or compensating time off for attendance at seminars or other training opportunities.

### **12.40 Supervisory Training.**

Every City employee within six months after promotion to or placement in a supervisory position may be required to complete an in-house orientation conducted by the employee's department or the Human Resources Office on basic supervisory principles and practices, the City's personnel policies, rules, and procedures as well as other job-related topics. Successful completion of this training may be a condition of continued employment in a supervisory position of the City.

### **12.50 Tuition Reimbursement Program.**

The City recognizes the value of a well-educated work force and in order to encourage employees to further their formal educations may reimburse an employee's tuition costs. In order to provide highly motivated employees the opportunity to pursue a formal college degree and to retain those employees, the City Council has established a tuition reimbursement program. An employee's participation in the program and eligibility for any reimbursement shall be subject to the following conditions:

- A. Participation is subject to the City Council's determination that funds are available. Participating employees will be notified prior to enrollment in their current course, quarter, or other semi-annual scholastic period if funding is not be available for that period.
- B. The employee is classified as a "full-time, regular" employee of the City with two or more years of service.
- C. The course or courses to be taken are part of a formal degree program offered by an accredited institution of higher education and the degree being pursued is reasonably related to skills which will improve either the employee's general performance in the employee's existing position or the opportunity for promotion.
- D. Attendance at classes and time spent in study by the employee shall be voluntary and not directly related to performance of the employee's job or part of the employee's compensable hours worked. The employee shall not perform any productive work for the City as part of the course of study. The department head may, in his or her sole discretion, approve the use of accumulated comp time, vacation leave, or flexible work schedules to allow the employee to attend courses offered during the employee's regular working hours.
- E. The department head has reviewed the request for participation in the tuition reimbursement program on an individual basis and has recommended approval to the Personnel Committee. The department head's recommendation shall include a reimbursement amount based on consideration of: (a) available funds, (b) the needs of the department, (c) the progress the employee has made towards obtaining the degree, (d) the time commitment required, and (e) any other relevant factor. The reimbursement shall not exceed fifty percent (50%) of the current credit hour rate of tuition for residents at the nearest state-supported institution offering a similar program and will not be paid for that portion of the employee's tuition that has been paid by scholarship, grant, or other form of tuition waiver, or any source other than the employee.

**12.50 Tuition Reimbursement Program.** (Continued)

- F. The Personnel Committee and the City Council have approved the employee's participation in the tuition reimbursement program. Approval of the employee's participation shall be made on an annual basis. The employee may apply for an extension of the approved period by submitting a request to the department head which shall include transcripts and a summary of progress made on obtaining the degree. Department heads may recommend approval of extensions in the same manner as new requests are submitted.
  
- G. Reimbursement will be paid by the City upon completion of the course(s) for which reimbursement is requested and submission of transcripts showing that the employee has maintained an overall grade point average no lower than 2.5 and received no grade lower than a "C" for each individual course. The department head or City Council may also require the employee to submit a current summary of progress during the period approved for participation.
  
- H. The employee must commit to remain in the employ of the City for a minimum of two years following the most recent reimbursement. The employee shall agree in writing, as a condition of receiving each reimbursement payment, to reimburse the City on a prorated basis, at the rate of one-twenty-fourth (1/24) of the tuition previously paid by the City, for each month short of the employee's two-year obligation. The employee shall not be required to reimburse the City if the termination is due to injury or other disability, layoff, or was initiated by the City.

The tuition reimbursement program is offered and maintained by the City Council on a discretionary basis as a general incentive to develop and improve the City's work force. It is not a part of any labor agreement or benefit program related to work performed or compensation for hours worked. The City Council may terminate any employee's participation in the program, or the funding for the program, or revise the conditions for participation at any time in the Council's sole discretion (amended February 23, 2005).

**12.60 Employee Service Recognition.**

Effective 01-01-93, employees leaving City employment for the reasons listed below in sections (1) and (2) will be recognized by the Mayor and City Council at a mutually agreed upon City Council meeting and presented a plaque commemorating their years of service to the City of Aberdeen:

- 1. for Service Retirement regardless of years of service; or
  
- 2. for separation after 20 or more years of service if separation is for other than retirement or disciplinary action.

**12.60 Employee Service Recognition.** (Continued)

The Human Resources Director shall ensure that the plaque is obtained in a timely manner and submitted to the respective department head who shall then make arrangements for the presentation at the City Council meeting.

## **SECTION 13. MISCELLANEOUS**

### **13.00 Computer, Electronic Mail, and Internet Use.**

#### **A. Purpose.**

The purpose of this policy is to implement guidelines for the use of City computer network resources including the Internet, e-mail, local area networks (LANs), and online information services.

#### **B. General Policy.**

Computer network resources are made available to staff as determined by the respective department head to improve communications and information exchange within and outside the City, with other local, state, and federal officials, and professional business associates; and to provide information and research resources. This policy sets forth computer network, Internet, LAN, e-mail, and online services restrictions which are necessary to reduce potential liability, the risk of inappropriate use, and possible adverse perceptions by the general public.

#### **C. Applicability.**

This policy applies to all City employees and volunteers and pertains to all computer hardware, operating systems, data, and application software of the City and any stored electronic media and other systems that may be connected, such as bulletin boards, Internet, and online information services. This also includes any information in digital electronic format, including but not limited to electronic mail, databases, clip art, digital images, voice and sound recordings, and any digitized information that may be available.

#### **D. Prohibited and Inappropriate Uses.**

The City of Aberdeen's electronic communications systems, the Internet, local area networks, and online information services are to be utilized as research and communications tools for conducting official City business. Employees shall not use same for unauthorized, non-City related business.

City computer network resources shall not be used inappropriately. Examples include but are not limited to:

1. Seeking to gain or gaining information for inappropriate purposes or unauthorized access to proprietary information. Seeking access to passwords belonging to others.
2. Unauthorized attempts to break into any computer whether of the City or another organization.

### **13.00 Computer, Electronic Mail, and Internet Use.** (Continued)

3. Using the Internet or knowingly allowing another to use the Internet for personal profit, personal business, commercial product advertisement, or partisan political purposes.
4. Processing, distributing, transmitting, or displaying inappropriate stored electronic media such as obscene, libelous, or defamatory materials. This includes downloading, transmission, and possession of pornographic, profane, or sexually explicit materials.
5. The City of Aberdeen prohibits the display or transmission of offensive, threatening, or disruptive material.
6. Activities of the Police Department related to criminal investigations or personal investigations by any department in general would not constitute a prohibited or inappropriate use.
7. Sending or posting confidential materials outside of the City or posting confidential City materials inside the City to non-authorized personnel.
8. Infringing on third party copyrights or other intellectual property rights, license agreements, or other contracts; for example, illegally installing or making available copyrighted software.

#### **E. Personal Use Prohibited.**

Personal use of City-owned communications systems, the Internet, local area networks, and online information services is strictly prohibited.

#### **F. User Accountability.**

Complex passwords are important for the protection of the City's network. Employees are expected to not divulge their individual passwords. If users need to share computer resident data, they should utilize message forwarding facilities, public directories on local area network servers and other authorized information-sharing mechanisms. To prevent unauthorized parties from obtaining access to electronic communications, users shall choose passwords in accordance with the protocols listed below.

### **13.00 Computer, Electronic Mail, and Internet Use. (Continued)**

1. Passwords must be considered “strong “ passwords and will be at least eight characters long; not contain the user name, real name, or company name; not contain a complete word; and contain characters from three of the following four categories:
  - a. Uppercase characters of European languages (A through Z)
  - b. Lowercase characters (a through z)
  - c. Base 10 digits (0 through 9)
  - d. Nonalphanumeric characters:  
~ ! @ # \$ % ^ & \* ( ) \_ - + = { } [ ] \ | : ; ‘ “ < > , . / ?
2. User passwords on the City network must be changed at least every 90 days. After 90 days users get a message reminding them to change their password. If they do not do so with 14 days they will then be required to change the password or will not be allowed to log in.
3. Administrative level passwords must be “strong” passwords, which are different from their other user accounts. These passwords must be changed on a regular basis.
- 4.. Users must have cycled through ten unique passwords before an old password can be reused.

#### **G. Expectation of Privacy.**

Users should be aware that any computer, whether networked or stand-alone, may be accessible by other users. The City cannot guarantee the absolute privacy of e-mail communications, whether internal or external. Never assume that e-mail can be read by no one except yourself; employees’ communications are not automatically protected from viewing by third parties. At any time, and without prior notice, the City reserves the right to examine e-mail, personal file directories, and other information stored on City computers.

#### **H. Employee Responsibilities.**

Except as otherwise specifically provided, employees may not intercept, disclose, or assist in intercepting or disclosing electronic communications that are not sent to them or they are not the intended recipient. Each department head has the responsibility for servicing and protecting the electronic communications networks in their department. To accomplish this, it occasionally may be necessary to intercept or disclose electronic communications. Management reserves the right to enter an employee’s e-mail file for business purposes. To this end, employees are required to make their computer passwords available to their supervisors and/or department head. Management may examine e-mail communications at any time without prior notice.

## **13.00 Computer, Electronic Mail, and Internet Use. (Continued)**

### **I. Retrieval of Information.**

Employees shall not use a code, access a file, or retrieve any stored information unless authorized to do so. Employees should not attempt to gain access to other employees' computers without their permission. All computer pass codes must be provided to supervisors and/or the department head.

### **J. Guidelines for Use.**

The following guidelines are established for sending Internet and e-mail:

1. Do not communicate confidential and sensitive issues via e-mail as it is not secure. Never include in an e-mail message anything that you want to keep private and confidential.
2. Racism, sexism and other inappropriate behavior will not be tolerated. If you receive such messages, forward them to your supervisor or department head.
3. Do not send angry messages. Take a minute before you enter an e-mail message. Be careful about the words you use and how you say them. Remember that messages can be printed and forwarded.
4. Be cognizant of system etiquette. Mail takes up space. It is best not to save every message you receive.
5. Be careful when sending replies; make sure that mail is addressed to the individual or group you want to receive it.
6. E-Mail is best for short messages. A message that takes only one screen is more likely to be read.

### **K. Purging Electronic Messages.**

Messages no longer needed for business purposes must be periodically purged by users from their personal electronic storage areas. Printed copies of documents to be purged shall be retained for the appropriate file prior to purging the electronic memory.

### **L. Internet Security Policy.**

This policy describes the City of Aberdeen's policy regarding Internet use and security. All Internet users shall be familiar with and comply with these policies. Questions and concerns about specific policy applications should be directed to the respective department head.

## **13.00 Computer, Electronic Mail, and Internet Use. (Continued)**

### **1. Information Movement.**

All software downloaded from non-City sources via the Internet must be screened with virus detection software prior to being invoked. Downloaded software should be tested on a stand-alone computer. If the downloaded software contains a virus, worm, or Trojan horse, then damage will be restricted to the involved machine.

### **2. Information Protection.**

Wiretapping and message interception is straightforward and frequently encountered on the Internet.

Confidential, proprietary, or private information of the City must not be sent over the Internet unless it has first been encrypted.

Credit card numbers, SCAN numbers, telephone calling card numbers, login passwords, and other parameters that can be used to gain access to goods or services, shall not be sent over the Internet in readable form.

Exchanges of software between the City and any third party shall not proceed unless a written agreement has first been signed by the department head. Such an agreement shall specify the terms of the exchange as well as the ways in which the software is to be handled and protected.

### **3. Access Control.**

City employees shall not establish Internet or other external network connections that could allow non-City users to gain access to City of Aberdeen systems and information.

### **4. Reporting Security Problems.**

Whenever passwords or other system access control mechanisms are lost or suspected of being stolen or disclosed, the respective department head must be notified immediately. All unusual behavior such as missing files, frequent system crashes, misrouted messages, etc. shall be immediately reported.

## **M. Policy Violation.**

Any employee who discovers a violation of this policy shall immediately notify their respective supervisor or department head. The respective department directors reserve the right to review employee computer, Internet, LAN, online services, and e-mail to determine whether the system's use is appropriate and conforms to this policy. If an employee is found to be out of compliance with this policy, the director has the choice to remove the employee's access to the computer network resources and/or to proceed with disciplinary action up to and including termination.

## **13.05 Social Media Use.**

### **A. Purpose.**

The purpose of this policy is to establish guidelines for the City of Aberdeen's use of social media. Social media (broadly defined here as the use of third party hosted online technologies that facilitate social interaction and dialogue) provides alternative ways for the City of Aberdeen to share information with a broader audience. Social media includes, but is not limited to, social networking sites such as FaceBook, micro-blogging tools such as Twitter and audio-visual networking sites such as YouTube. The City encourages the use of social media as tools to further the goals of the City and the missions of its departments, where appropriate.

### **B. General Policy.**

The City of Aberdeen has an overriding interest and expectation in deciding what is "spoken" on behalf of the City through social media. This policy establishes guidelines for the use of social media by the City and its departments, divisions, boards and commissions. The City of Aberdeen's website ([www.aberdeenwa.gov](http://www.aberdeenwa.gov)) will remain the City's primary and predominant internet presence.

### **C. Applicability.**

This policy applies to all City employees, elected officials, members of city boards and commissions, and volunteers.

### **D. City-wide Social Media Sites.**

Any social media site created for use by the City of Aberdeen that is not associated with a particular department but instead represents the City as a whole will be established, maintained and monitored by the Finance Director/City Clerk. The Finance Director/City Clerk will designate a specific staff member(s) to maintain and monitor the social media site(s). The Finance Director/City Clerk is responsible for ensuring staff follows the procedures set forth in this social media use policy, that information is posted regularly, that comments are monitored and prohibited content is removed, and that content is saved as required by the Public Records Act.

The Finance Director/City Clerk will ensure that an additional employee has record of the designator staff member's log in(s) and password(s), or otherwise has full administrative rights, to the social media site(s) and a basic operating knowledge of posting, removing, and disabling the site(s).

## **13.05 Social Media Use. (Continued)**

### **E. Creating Department Social Media Sites**

Prior to creating a social media site, departments should consider the need and value of a department- or program-dedicated site versus relying on the City-wide site (if available) or City website to disperse department or program information. Since social media sites lose the interest of their audiences when not updated regularly, department staff should calculate the time and effort it will take to maintain a site so that visitors continue to find value over time. As a rule of thumb, social media sites should be updated at least once a week.

Departments must obtain approval from the Mayor prior to creating a social media site.

The Department Head shall designate a specific staff member(s) to maintain and monitor the social media site. Department Heads are responsible for ensuring their staff follows the procedures set forth in this social media use policy, that information is posted regularly, that comments are monitored and prohibited content is removed, and that content is saved as required by the Public Records Act.

The Department Head will ensure that an additional employee has record of the designated staff member's log in(s) and password(s), or otherwise has full administrative rights, to the social media site(s) and a basic operating knowledge of posting, removing, and disabling the site(s).

### **F. Information Posted on Social Media Sites**

The most appropriate uses of City social media sites are: (1) for time-sensitive and emergency information, and (2) as a communication, promotional, or marketing tool which increases the City's ability to broadcast its message to the widest possible audience.

Whenever possible, content posted to social media sites should contain links directing users back to the City's official website for in-depth information, forms, documents, or online services necessary to conduct business with the City of Aberdeen.

Department designated moderators must maintain accurate information on the City's social media sites by frequently reviewing and updating the information as necessary and appropriate. No content that is confidential or may otherwise compromise the City is permitted to be posted on social media.

### **13.00 Computer, Electronic Mail, and Internet Use. (Continued)**

In order to ensure appropriate retention of public records, most content posted on any City social media site should not be original source content (content that has not been created anywhere else and only exists on the social media site), but rather a secondary copy of information that is posted either on the City website or contained in an electronic record or hard copy. If original content is posted on a social media site, that information must be copied from the site, pasted into a Word document and saved in a searchable electronic folder.

Councilmembers and other officials and appointed volunteers (i.e. members of the Park Board, Planning Commission, LEOFF I disability boards, Civil Service Commission, Lodging Tax Advisory Committee, Building Code Commission, etc.) should not comment or otherwise communicate on the City's social media sites. Participating in online discussions may constitute a meeting under the Open Public Meetings Act. Elected officials participation on the City's social media sites may also be a violation of the Public Disclosure Commission campaigning regulations.

Department designated moderators must also consider the needs of people with disabilities using "assistive technology" to enable them to use computers and access the internet using screen readers – devices that speak the text that would normally appear on the monitor. Because screen readers cannot interpret images unless there is text associated with it, adding text and other means of obtaining the information (such as a telephone number) will make the site more accessible to everyone.

#### **G. Information Posted by Outside Individuals**

The City requires that, when the option exists, the ability for outside individuals to comment or respond be turned off so that information cannot be posted by outside individuals. However, in the event that such posts occur or that the feature cannot be turned off, the following applies:

- 1) The designated moderator is responsible for ensuring that the content posted by outside users is appropriate.
- 2) Posted content (including comments, photos and links) must be related to the topic(s) posted by the City to be considered appropriate.
- 3) Inappropriate and prohibited content subject to immediate removal from the site, includes content that:
  - Is not topically related to the particular article being commented upon,
  - Promotes or advertises commercial services, entities or products,
  - Supports or opposes political candidates or ballot propositions,
  - Is obscene, vulgar, offensive, threatening, harassing, sexual or profane,
  - Discusses or encourages illegal activity,

### **13.00 Computer, Electronic Mail, and Internet Use. (Continued)**

- Promotes, fosters or perpetuates discrimination or harassment on the basis of race, color, age, religion, gender, marital, military or veteran status, status with regard to public assistance, national origin, physical or mental disability, pregnancy, genetic information, gender identity, sexual orientation, or any other basis prohibited by local, state or federal law,
  - Provides information that may tend to compromise the safety or security of the public or public systems,
  - Violates a legal ownership interest of any other party; or anonymous posts, or
  - Personal attacks of any kind.
- 4) Inappropriate content must be removed immediately and retained as required under the Public Records Act.

These policy guidelines will be made available on social media sites that provide a reasonable location for such information.

#### **H. Retention of Posted Information**

Information posted on the City's social media site(s) is subject to the Public Records Act and associated retention schedule. Original source content posted on social media sites must be retained for three years from the date of posting.

Designated staff is responsible for ensuring retention of the original source content in organized, searchable electronic file folders. The records should be retained in such a manner that entire folders can be deleted after the three year retention period is met.

All comments posted by outside users on City social media sites, including those that are inappropriate and removed by staff, must be retained. Staff must copy these posts, including the City information to which they are responding, if applicable, into a Word document to be retained as outlined above. In addition, when staff removes inappropriate content that staff member must include their name and the date and time the content was removed.

#### **13.10 Peddling or Soliciting.**

Peddling or soliciting for sale or donation of any kind on City premises or during regular working hours is not permissible without the prior consent of the appropriate department head or the Mayor.

### **13.20 Political Activity.**

No person shall solicit any contribution to be used for political purposes on City property or during employee work hours; provided, however, that officers of recognized employee associations or collective bargaining units shall not be prohibited from soliciting dues or contributions from members in good standing of their association or union on other than City time. Any compulsory employee assessment or contribution for political purposes is strictly prohibited.

### **13.30 Receipt of Gifts.**

No employee shall solicit or accept compensation from any source other than the City for work done in the course of his or her employment with the City. No employee shall solicit or accept any personal gifts, tips, or special monetary favors which appear to be offered to that person because he or she is a City employee. Questions relating to this subject should be directed to the appropriate department head. Additional regulations related to receipt of gifts can be found in AMC 2.24.050 [Limitations on gifts].

### **13.40 Use & Care of City Property and Equipment.**

City vehicles, equipment, facilities, and other property are provided for City business only. City employees may not use City vehicles, equipment, facilities, or other City property for personal use or gain. This applies to all City departments and work sites; there are no exceptions.

An employee is expected to exercise proper care in the use of City property and to utilize such City-owned property only for authorized official business purposes. Negligence in the care and use of any City-owned property may be considered cause for suspension and/or dismissal from City employment by the appropriate department head.

Unauthorized removal of City-owned property from the City's premises or its conversion to personal use shall be considered cause for disciplinary action, including suspension or termination.

### **13.50 Return of City Property.**

City-owned property issued to an employee must be returned to the employer at the time the employee terminates employment or when it is requested by the employee's immediate supervisor or department head. The value of any City-owned property issued and not returned shall be deducted from an employee's final or next paycheck. In each instance, the employee's department head shall so instruct the Finance Director in writing of such payroll deduction as soon as practicable.

### **13.60 Cellular Telephone Use Policy.**

*Adopted by Personnel Committee Report on 06/26/13.*

No employee shall **initiate** a conversation on any cellular telephone (business or personal) when operating a motor vehicle while engaged in City business. The operator of the vehicle is directed to stop at a safe location prior to initiating any phone call.

An employee is permitted to **receive** an incoming cellular telephone call when it is safe to do so using a hands-free device. An employee must use his/her discretion prior to answering an incoming call to determine if the call can be answered safely given the existing traffic and road conditions. If in doubt, the employee is directed to let the call go to voicemail and retrieve the message when stopped at a safe location. Answered calls are to be kept to the shortest duration necessary to meet the immediate need of the call.

In no case may an employee create, send or read an incoming text message or email while operating a motor vehicle while engaged in City business.

The following exception is noted for Police and Fire Department personnel, as determined by the respective chiefs: Commissioned personnel responding to, or investigating, an emergency call for service where the mobile radio is not a viable option and time is of the essence.

### **13.70 Travel Policy.**

*Adopted by Personnel Committee Report on 08-29-07.*

#### **I. General Procedures and Provisions.**

##### **A. Applicability of Regulations.**

Unless otherwise provided by law, the provisions of this resolution shall be applicable in reimbursing the travel and other necessary expenses of City officials and employees except in cases of extended travel status such as incurred for police basic training, in which cases alternate reimbursement provisions may be made provided they do not result in a greater expense to the City than under these regulations.

##### **B. References.**

RCW Chapter 42.24 and Internal Revenue Service (IRS) regulations.

## **13.70 Travel Policy.** (Continued)

### **C. Definitions.**

1. "Conference": Examples may include, but are not limited to, a symposium, seminar, forum, or convention associated with a league, association, alliance, etc. Can be interpreted to include any formal training session typically attended by an audience from a wide geographic area and organized by a regionally or nationally known entity.
2. "Eligible Meals": meals which are sufficiently related to work that the cost will be paid by the City. Eligible meals can be purchased, subject to this policy and tax regulations, on either a taxable or non-taxable basis.
3. "Employee" shall include, but not be limited to, elected and appointed City officials and all persons employed by the City of Aberdeen.
4. "Hosting": For regulatory purposes includes but is not limited to those activities that are intended to lobby or influence any elected official, governmental official, or vendor and are normally social rather than a governmental business event, and further normally includes expenditures for meals.
5. "Ineligible Expenses": None of the following expenses shall be paid by the City: travel paid for by any other organization, alcoholic beverages, valet services, meals or lodging accommodations for family or guests, tour bus fees for sightseeing tours, mileage if traveling as a passenger in a privately owned car, trip insurance, hosting, or any other personal expenditure for entertainment or other purposes.
6. "Ineligible Meals": Meals which do not meet the IRS qualifications for a tax free meal or are not sufficiently related to work or employee convenience to justify City payment.
7. "Official Station": Means the location of the employee's office or where employee's work is performed on a regular or permanent basis, or the location in which an employee reports to work.
8. "Official City Business": Shall mean all employee activities directly related to the City's business and the employee's responsibilities. It may include activities as an officer or committee member of a job-related association if prior supervisory approval is obtained for such activities.

### **13.70 Travel Policy.** (Continued)

9. “Per Diem Rates”: The City uses per diem rates for meals and incidentals as established by the Office of the General Services Administration (GSA) or as here by after amended obtained and maintained by the Washington State Office of Financial Management. The most current per diem rates can be found at the following web address: <http://www.ofm.wa.gov/resources/travel.asp>. Per diem rates include the costs of tax and gratuity.
10. “Reimbursement”: Can also be interpreted to mean “paid for by the City” directly to the vendor.
11. “Special Event”: An event that is not regularly scheduled. If scheduled, it occurs no more frequently than annually.
12. “Tax Home”: The IRS identifies this as your regular place of business regardless of where you maintain your family home. It includes the entire city or general area in which your business or work is located.
13. “Travel Status”: The IRS defines this as a time when your duties require you to be away from the general area of your “tax home” substantially longer than an ordinary day’s work, and you need to sleep or rest to meet the demands of your work while away from home. (In almost all cases, this means an overnight stay is involved.)
14. "Vehicle": Shall include all motor vehicles.

### **D. Control of Travel.**

1. Officers and employees are expected to exercise prudent judgment in incurring travel expenses on official City business. Excessive or unnecessary expenses shall not be approved or reimbursed. The number of employees from any department attending a particular meeting should be the minimum necessary consistent with the benefit to be derived therefrom.
2. The itinerary of an employee shall be planned to eliminate unnecessary travel in the performance of work assignments. Whenever it is feasible for two or more employees to travel on official business in one car, they should do so.
3. Before placing an employee on travel status, the appropriate Department Head should determine whether it is more economical to reimburse the employee for subsistence and/or lodging, or require the employee to return to employee's official station or residence daily or on weekends.

### **13.70 Travel Policy.** (Continued)

4. Public transportation shall be by coach class. All exceptions must be approved by the appropriate Department Head, in writing, including the justification for other than coach class travel.
5. City-owned or privately-owned vehicles may be used for travel while on official business; the use of which will be determined by the appropriate Department Head.
6. Any normal travel time in excess of one day each way, which is brought about by the employee's choice of transportation, will be charged to the employee as vacation time. Paid time for travel shall be clearly resolved in accordance with FLSA guidelines in advance of authorizing travel.

## **II. BASIS FOR REIMBURSEMENT.**

### A. Documentation of Expenses.

1. All actual expenses shall be submitted to the Finance Department on the Payment Voucher Form. In the case of lodging expense, a detailed statement of charges must be submitted. Each employee is expected to submit his/her own travel expense voucher reflecting reimbursable expenses actually incurred.
2. If lodging accommodations are shared between two or more employees, the lodging portion of the billing for all such employees may be submitted by the employee paying the bill.
3. Claim of any charge which could reasonably raise a question should be accompanied by an explanation of such charge.

### B. Individuals may be reimbursed for single non-travel status meal expense from the petty cash fund, provided proper documentation and approval is submitted.

### C. Except for lodging where individuals share the same room or transportation conveyance (cab, rental car, etc), each individual seeking reimbursement must incur his/her own expense and seek individual reimbursement. The only exceptions are group meals arranged for working sessions or banquets arranged by the department.

### **13.70 Travel Policy.** (Continued)

#### D. Eligible Expenditures Other than Meals.

1. Registration: Actual cost of any employee at a meeting conference, or convention for which he/she has received approval. Registration should be prepaid. The finance department is to be contacted in sufficient time to process the registration with regular accounts payable procedures. If it is not possible to prepay registration fees, receipts must be submitted for reimbursement.
2. Transportation.
  - a. Actual costs for bus travel, train travel, taxi, tolls, car rentals, parking fees and air travel are eligible, provided all air travel shall be by coach class unless only higher cost accommodations are available. Payment for air travel shall be at actual cost from Sea-Tac or Portland Airport to destination and return.
  - b. Employees using a personally owned auto to travel out of town on City business will be reimbursed at the rate of twenty-nine and one half cents (\$.295) per mile. (Note: This is the Internal Revenue Service business standard mileage rate (\$.485) less the depreciation factor (\$.19) cents per mile as of January 1, 2007.) Payment of the mileage reimbursement rate will not exceed coach class airfare to and from the same destination.
  - c. When appropriate and while using a City-owned vehicle on City business out of the Grays Harbor county area, the employee shall secure a City gasoline credit card from ER&R management and use such for purchases of gasoline, oil, emergency repairs, etc.
3. Lodging: Actual cost of hotel or motel accommodations is eligible. If a family member or guest accompanies the employee, the employee shall pay for the amount over that of a single accommodation. The single accommodation rate must be noted on the hotel/motel bill submitted.
4. Telephone: Charges for telephone are eligible for reimbursement if City business requires such communication. Where possible, calls should be made using the SCAN system. Employees staying outside of Grays Harbor on business are allowed one personal call per day at the City's expense. Such calls shall not exceed 10 minutes in duration. Any personal calls in excess of one per day are to be paid by the employee.
5. Miscellaneous travel expenses essential to the transaction of official City business are reimbursable to the employee.

### **13.70 Travel Policy.** (Continued)

#### E. Non-Reimbursable Expenses.

Certain travel expenses are considered as personal and not essential to the transaction of official business. Such non-reimbursable expenses include, but are not limited to:

1. Laundry, valet service and entertainment expenses, radio or television rental, alcoholic beverages and other items of a similar nature.
2. Taxi fees, car rentals and other transportation costs to places of entertainment and other similar facilities.
3. Costs of personal "trip insurance" and medical and hospital services.
4. Transportation expenses between an employee's residence and official station are not allowable.

#### F. Meals.

Meals associated with work by City employees are either eligible meals or ineligible meals as defined in Section I-C.

##### 1. Eligible Meals.

- a. Unless the meal is provided by the conference organizers, as part of the conference agenda, an eligible meal expense will only be reimbursed at the applicable per diem rate.
- b. Meals for City Council, boards, commissions and staff conducting formal City business during meal times are specifically authorized.
- c. Meals consumed while in travel status shall be reimbursed on a tax free basis consistent with IRS rules. The following table contains policy application examples:

**13.70 Travel Policy.** (Continued)

<b>ELIGIBLE, REIMBURSED AND NOT SUBJECT TO INCOME TAX</b>		
1	Council has a non-regular, early work session at 5:30 p.m., prior to 7:00 p.m. council meeting. Participating staff are invited to order dinner to be delivered for the meeting.	Reimbursed Tax Free
2	An employee attends training out of town which includes an overnight stay and a meal is not included in the registration fee	Reimbursed Tax Free
3	Department Head asks employee to fill-in for him/her at a local breakfast, lunch or dinner meeting (same day notice, no advance notice given)	Reimbursed Tax Free
4	An employee attends a not regularly scheduled business meeting on behalf of the City during breakfast, lunch or dinner. The meeting is held locally and the meal is consumed by meeting participants as part of the meeting.	Reimbursed Tax Free
5	An intergovernmental agency calls a special meeting in Aberdeen to discuss regional issues. Lunch is purchased by the City staff attending the meeting; lunch is consumed while the meeting is conducted.	Reimbursed Tax Free
6	A meal is provided by the conference or special event organizers (regardless of location), whether or not it is included in the registration fee or in addition to, for which the meal has a business purpose such as a keynote speaker. This meal is not subject to the per diem limits referenced in this policy	Reimbursed Tax Free

d. Taxable Eligible Meals (consumed while in non-travel status)

Certain meals consumed on official city business which do not meet the IRS definition of a travel status meal but require a City employee to travel outside of Grays Harbor County are eligible for reimbursement by the City.

1. Such non-travel status meals are subject to income tax withholding. Reimbursements for non-travel status meals shall be taxed as income to the employee consistent with IRS rules.
2. Taxable meals shall be reimbursed on the basis of the per diem rates established by the City for travel status meals. The following table contains policy application examples:

**13.70 Travel Policy.** (Continued)

<b>ELIGIBLE, REIMBURSED AND SUBJECT TO INCOME TAX WITHHOLDING</b>		
7	An employee attends one day training in Ocean Shores (inside GH County) and lunch is not included in the registration fee.	Eligible Reimbursed Taxable Meal
8	An employee or elected official travels to Olympia (out of GH County) for a work related meeting which extends into a meal period and returns on the same day.	Eligible Reimbursed Taxable Meal

2. Ineligible Meals.

- a. Expenses for meals, where City business is conducted and that could reasonably occur during non-meal periods, are not eligible for reimbursement.
- b. Generally meals consumed within Grays Harbor County are ineligible for reimbursement. See example #7(in table) for an exception to this rule. The following table contains policy application examples:

<b>INELIGIBLE MEALS</b>		
9	Consultant invites Department Head, Manager, or staff to lunch locally	Ineligible meal
10	An employee/elected official “hosts” another elected/government official or vendor for a meal (regardless of location)	Ineligible meal
11	An employee attends a training at GH College and lunch is not included in the registration fee	Ineligible meal
12	Mayor meets regularly with regional city Mayors at a local restaurant for breakfast, lunch or dinner (regardless of location)	Ineligible meal
13	Department Head, Manager, or employee meet regularly with regional counterpart for any meal at a local restaurant (regardless of location)	Ineligible meal
14	Councilmember asks to meet with employee over lunch at a local restaurant to discuss regional/city issues (regardless of location)	Ineligible meal
15	Council has a regularly scheduled early morning committee meeting and breakfast is ordered for staff and officials (regardless of location)	Ineligible meal

3. Per Diem Rates.

- a. Individuals on travel status shall be reimbursed for meals expense using per diem rates.

**13.70 Travel Policy.** (Continued)

- b. Meal and incidental expense (M&IE) per diem rates will be applied using IRS guidelines.
- c. M&IE per diem will be reduced by the amount of any meal not related to the travel and the amount of any meal provided as part of the conference or training. Incidental expenses can be pro-rated based upon the number of reimbursed meals.

**III. TRAVEL EXPENSE ADVANCES.**

A. Purpose of Travel Expense Advances.

Whenever it becomes necessary for an employee of the City to travel and incur reimbursable expenses, the City at its discretion, may make a travel expense advance to such officer or employee. The purpose of the advance is to defray the anticipated reimbursable expenses while traveling on City business away from the work station. The advance shall cover a period not to exceed thirty (30) days. An advance will not be paid when estimated expenditures are less than \$50.00.

B. How to Obtain Travel Expense Advances.

The employee is to submit a travel request on a form approved by the Finance Director to the Department Head. Upon approval of the proposed travel, the Department Head will forward the travel authorization to the Finance Director. The Finance Director will process the document for payment of the advance and present the employee with a check.

C. Subsequent Accounting for Travel Advances.

Any unexpended portion of the advance shall be returned to the Finance Director at the close of the authorized travel. The authorized travel period is that period of time when the employee is on authorized travel status away from employee's official station. Payment is to accompany an itemized travel expense voucher and payment is to be made by check payable as directed by the Finance Director. The travel expense voucher will list all legally reimbursable expenses.

D. Limitation on the Use of Travel Expense Moneys.

An advance shall be considered as having been made to such officer or employee to be expended by employee as an agent of the City for City purposes only, and specifically to defray necessary costs while performing his official duties. No such advance shall be considered for any purpose as a loan to such officer or employee, and any unauthorized expenditure of such funds shall be considered a misappropriation of City funds by the officer or employee.

### **13.70 Travel Policy.** (Continued)

#### E. Default by Employee.

1. Any default in accounting for or repaying an advance shall render the amount which is unpaid immediately due and payable with interest of ten percent (10%) per annum from date of default until paid.
2. In order to protect the City from any losses on account of advances made, the City shall have a prior lien against and a right to withhold any and all funds payable to or to become payable by the City to such officer or employee up to the amount of such advance and interest at a rate of ten percent (10%) per annum, until such time as repayment or justification has been made.
3. No advance of any kind may be made to any officer or employee at any time when employee is delinquent in accounting for or repaying a prior advance. Any employee with a demonstrated history of advance travel defaults may be barred from receiving advance travel funds by the Finance Director.

### **IV. USE OF AUTOMOBILES.**

#### A. City-owned Vehicles.

1. General Requirements:
  - a. City-owned vehicles shall be used only by employees on official City business.
  - b. The operator shall be responsible for controlling the use of the vehicle while on travel status and for maintaining good appearance of the vehicle.
  - c. The operator of each City-owned vehicle shall at all times possess a valid driver's license. Drivers shall have appropriate vehicle endorsements where necessary. Each Department Head has the responsibility for ascertaining that each driver has such a license.
  - d. Non-employee passengers may be allowed to ride in City-owned vehicles only if their presence is required for official City business and is authorized by the appropriate Department Head.
2. Temporary Assignment of Vehicles:
  - a. The Mayor or Department Head may authorize the temporary, overnight use of a City own vehicle for a period not to exceed one (1) week.

**13.70 Travel Policy.** (Continued)

b. Temporary assignments are subject to vehicle availability and regulations.

**B. Privately-Owned Vehicles.**

1. The use of a privately-owned vehicle is permissible with the Department Head's authorization.
2. The driver of a privately-owned vehicle being used for official City business must possess a valid driver's license and current liability insurance.
3. It is the responsibility of the Department Head to ascertain that the driver-employee has such a license.
4. The City will assume no responsibility for damage to privately-owned vehicles used while on City business, or for injuries to non-employee passengers.

**C. Report of Accidents.**

Traffic accidents must be reported by the operator within twenty-four (24) hours to the Department Head and to the proper law enforcement agency.

**13.80 Wellness Program.**

Wellness Resolution No. 2009-02 adopted on 02-11-09.

**A. Policy.**

The City of Aberdeen recognizes that healthy employees have higher productivity and lower health-related costs, including direct medical care, absenteeism, disability, and workers' compensation. The City recognizes its need to contribute in a positive way to the health and well-being of its employees. This policy is established as a means to provide information and activities to City employees to encourage healthy behaviors in the work environment.

**B. Goal.**

To support wellness in the workplace by creating a wellness program of health education and fitness activities that meets the needs and interests of all employees.

**C. Scope.**

All City of Aberdeen employees and their families.

## **13.80 Wellness Program.** (Continued)

### **D. Participation & Program Involvement.**

1. The City will allow Wellness Committee members to conduct meetings and activities during regular business hours.
2. Employee participation in wellness programs and activities is voluntary.
3. The City of Aberdeen recognizes, authorizes, and supports employee participation in the City's Wellness Activities and Programs and will allow employees to attend wellness activities and programs during business hours, while ensuring that normal work demands are appropriately met.

### **E. Administration.**

The Wellness Program is budgeted and administered through the Human Resources Department. A voluntary employee Wellness Committee will assist with the planning, oversight, management, promotion and execution of program activities.

### **F. Program Budget.**

The program budget shall consist of annual appropriations from the current expense fund and grants received for Wellness Programs.

### **G. Program Committee.**

#### **1. Membership.**

- a. The Wellness Committee is made up of 6-12 members representing a variety of departments.
- b. One (1) position shall be permanent (Human Resources); all other positions shall be rotational. In addition, a City Councilmember will be appointed to the Committee each year and the Human Resources Director will serve as the Executive staff member.
- c. Membership on the committee is voluntary and is to be reviewed by Department Directors annually.
- d. Wellness Committee officers shall be elected by the Committee and will consist of: Chairperson, Vice-Chairperson and Secretary.
- e. The term for rotational committee members will be a minimum of two (2) years with rotations occurring every other year and a goal that no more than four people will change in the same year, to ensure continuity in the events and scheduling.
- f. If any member must relinquish their position for any reason, the responsible department will have four (4) weeks to replace this member.
- g. If less than a year is remaining in a departing rotational member's term, the new member will complete the previous term as well as their own two (2) year term.

## **13.80 Wellness Program.** (Continued)

### **2. General Committee Requirements.**

- a. Meetings will start promptly and end on time and should last no more than one (1) hour.
- b. Committee members are equal participants and have equal right and responsibility to voice opinions and ideas and share in the success of this program.
- c. Confidentiality is important in all health education activities. Because the Wellness Committee may offer programs about potentially sensitive issues, the transactions and interactions regarding personal and medical information that take place in the wellness programs will be confidential and will be respected as such. Each committee member shall sign a *Confidentiality Agreement*.

### **3. Duties of Committee Members.**

- a. Attend Wellness meetings.
- b. Inform another attending member if he/she cannot attend a meeting and, if possible, arrange for a substitute from his/her department to attend on his/her behalf.
- c. Advise supervisor of meetings and ensure all department employees are informed about wellness events and activities.
- d. Serve on at least one sub-committee each year.
- e. Provide enthusiastic support of the purpose and goal of the Wellness Committee.
- f. Act as a liaison between the Wellness Committee and the employees to represent the interests, needs and opinions of the employees.
- g. Help, plan, implement, and promote Wellness programs.
- h. Provide peer support and advocacy to boost wellness program participation.
- i. Prepare an annual budget for program support.
- j. Share responsibilities to lessen the workload impact on the Chairperson.
- k. Perform evaluation of ongoing programs and activities.
- l. Work in conjunction with management and AWC to increase awareness about the benefits of healthy living.
- m. Attend conferences and retreats established by AWC, when possible.

### **4. Duties of Chairperson.**

- a. Set the dates and times of meetings.
- b. Communicate with all members of the Committee to coordinate meeting dates and times.
- c. Prepare an agenda in advance of all meetings and distribute copies to Committee members.
- d. Manage the agenda and discussion of each meeting.
- e. Ensure preparation of the Wellness newsletter.

### **13.80 Wellness Program.** (Continued)

- f. Work with the Executive sponsor and the Wellness Committee to identify external resources that may be Coordinate training on-site, as needed.
- g. Find new avenues to work with other organizations to maximize Wellness resources and relationships.
- h. Prepare the Wellness newsletter.
- i. Apply for, obtain and manage annual grant funding requirements.
- j. Manage the budget and financial program requirements.
- k. Work with the Executive sponsor and the Wellness Committee to identify external resources that may be Coordinate training on-site, as needed.
- l. Find new avenues to work with other organizations to maximize Wellness resources and relationships.
- m. Prepare and submit all required reports to Human Resources, the Mayor, City Council, AWC, etc.

#### **5. Duties of Vice-Chairperson.**

- a. Assist the Chairperson in conducting Committee meetings and conducting meetings in the Chairperson's absence.
- b. Assist in administering the business of the Wellness Program.

#### **6. Duties of Secretary.**

- a. Take notes at all Committee meetings.
- b. Prepare and distribute minutes of Committee meetings.

#### **7. Duties of Executive/Human Resources Director.**

- a. Provide executive/director support and guidance to the Wellness Committee.
- b. Provide Wellness budget oversight and expenditure approvals.
- c. Gain the support of department heads, managers and supervisors for the Wellness Program.
- d. Direct the City of Aberdeen's Health Fair.
- e. Explore opportunities to develop and institute additional wellness incentives and policies that contribute to the health and well-being of employees.
- f. Identify external resources that may be able to provide services and products for the Wellness Program.
- g. Apply for, obtain and manage annual grant funding requirements.
- h. Manage the budget and financial program requirements.
- i. Prepare and submit all required reports to the Mayor, City Council, AWC, etc.
- j. Complete timely annual application for the AWC WellCity Award.

## **13.80 Wellness Program.** (Continued)

### **H. Program Activities.**

The Wellness Committee will coordinate activities designed to meet the needs and interests of the workforce and the requirements for the AWC WellCity Award. Such programs may include:

1. Behavior change programs such as nutritional information, stress reduction, smoking cessation and weight management.
2. Motivational programs such as interdepartmental and employee group challenges and gift certificates for healthful eating, exercise and stress reduction programs.
3. Information and awareness programs such as flyers, paycheck stuffers, bulletin boards, brown bag lunch sessions, wellness seminars, workshops and classes.
4. AWC's biennial Health Screenings.

### **I. Healthy Food Policy.**

Our food choices, physical activity, lifestyle and environment all affect our health. For City-sponsored functions, the City commits to model wellness by providing only healthy food choices, whenever possible. We recommend that employees also commit to bringing in only healthy food options for employee events (i.e., potlucks, lunch gatherings, and special recognition functions).

1. Offer enough variety and choices, whenever possible.
2. Offer fruits and vegetables – organic or locally produced, if possible.
3. Provide whole grain choices, if possible.
4. Provide foods that are lower in fat, salt and sugar.
5. Provide water as a beverage option.
6. Practice safe food handling.

### **J. Consent Form.**

Prior to the participation in exercise or fitness programs and activities, employees may be required to sign a *Consent Form*.

### **13.80 Wellness Program.** (Continued)

#### **K. Wellness Day Off**

With the Mayor's approval, the Wellness Committee may decide to offer an incentive of a Wellness Day Off to one employee annually who meets pre-determined criteria set and announced by the Wellness Committee.

1. The wellness day off is defined as eight hours. The recipient of the wellness day off will have eight hours put into a wellness day leave bank to be used in the following calendar year. The wellness day off will be treated like a "floating holiday" and must be used within the calendar year or it will be forfeited. The wellness day off must be scheduled with the recipient's supervisor, like any other floating holiday. Temporary, seasonal, casual or variable hour employees are not eligible for the wellness day off award. The wellness day off has no cash value.
2. Eligible employees qualify for the wellness day off by earning points following the criteria as determined by the Wellness Committee. Points may be earned from any combination of healthy behaviors, participation in the City's wellness program, or other wellness related activity as determined exclusively by the Wellness Committee.
3. If at the end of the Wellness Day Off promotion, there is a tie in points, the winner will be determined by a random drawing from those who tied for the most points.
4. Each employee will be responsible for reporting their points using the method(s) set by the Wellness Committee. If an employee does not report their points using the method and within the timeline established for that event, activity or time period, they will not be credited with points for that event, activity or time period.
5. The Chairperson of the Wellness Committee will have the sole discretion in resolving any questions or disputes that may arise out of the Wellness Day Off promotion(s).
6. The City reserves the right to cancel the wellness day off incentive, with or without notice.

### **13.90 Unrequested Medical Records**

#### **A. Purpose.**

The purpose of this policy is to provide patient privacy protections for unrequested health care information provided to the departments of the City of Aberdeen ("the City") which do not qualify as a "health care provider" and are not covered by the requirements of the Health Insurance Portability and Accountability Act (HIPAA) and the specific application of RCW 70.02 "Uniform Health Care Information Act" (UHCIA). All departments of the City not considered health care facilities or providers are subject to the requirements of this policy.

## **13.90 Unrequested Medical Records** (Continued)

### **B. Definitions.**

The following terms shall have the meaning assigned to them below for the purposes of this operating policy:

**“Disclosure”** means any release, transfer, provision of access to, or divulging in any other manner of individually identifiable health information.

**“Health care information”** as defined in RCW 70.02, means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of a patient and directly relates to the patient’s health care, including a patient’s deoxyribonucleic acid (DNA) and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

**“Health care provider”** means the City’s emergency medical services providing health care to patients and health care operations incident to the provisions of health care as defined by RCW 70.02.010.

**“Unrequested health care information”** means health care information received by the City which was not requested by the City unless authorized by the patient pursuant to RCW 70.02.030 or otherwise exempted under Chapter 70.02 RCW.

### **C. Policy on Acquisition**

In the event of receipt of unrequested health care information, the information should be immediately identified and date stamped upon its receipt. The recipient of the information is responsible for the security and retention or destruction of the information.

In the event the unrequested health care information was received from a health care facility or provider and subject to Chapter 70.02 RCW, the facility or provider shall be contacted. If the facility or provider agrees, the information can be destroyed by shredding. If the facility or provider does not agree to destruction or cannot be contacted, the information shall promptly be returned to the facility or provider with a letter identifying the information, its receipt by the City and disclosure that the health care information has not been used or disclosed to any third-parties. The address located on the information shall be used for the return mail, if ascertainable, otherwise to the address requested to be used by the facility or provider or the facility or provider’s commonly known address. The words “Confidential patient information subject to RWC 70.02” should be conspicuously posted on the envelope to be mailed.

## **13.90 Unrequested Medical Records** (Continued)

### **D. Policy on Security**

Unrequested health care information shall be secured until its return or destruction so as to ensure the information is not used nor disclosed by:

1. Storing the information in a secure location and file designated as “confidential.”
2. Never leaving the information in an open file on an unattended desk or area.
3. Never keep an open file containing patient information on top of a desk or accessible at the end of the work day or shift.

### **E. Policy on Retention and Destruction**

In the event the unrequested health care information is received from a person or entity that is not a health care facility or provider, the information shall be promptly destroyed by shredding and notice of shredding shall be provided to the sender by telephone or by mail at the address included on the information, if ascertainable.

### **F. Notification to Individual**

1. If unrequested health care information is inadvertently disclosed, the City will inform the person(s) who is the subject of the health care information that their health care information was disclosed within fifteen (15) calendar days of discovery of such inadvertent release.
2. The notice shall include:
  - a. The name of the person(s) identified in the health care information,
  - b. Proximate date of its receipt by the City,
  - c. The name and address of the facility or provider that provided the unrequested health care information, if available,
  - d. A brief description of the disclosure by the third party,
  - e. Whether the information has been destroyed or returned, and
  - f. A contact at the City for questions.

### **G. Posting**

This policy will be posted on the City’s website pursuant to RCW 70.02.290.