



EMPLOYEE PERSONNEL POLICY MANUAL

Revised: 09.18.23

Welcome employee!

On behalf of your colleagues, we welcome you to the City of Devils Lake (hereinafter referred to as the City) and wish you every success here.

We believe that each employee contributes directly to the City's growth and success, and we hope you take pride in being a member of our team.

This handbook was developed to describe some of the expectations of our employees and to outline the policies, programs, and benefits available to eligible employees. Employees should familiarize themselves with the contents of the employee handbook as soon as possible, for it will answer many questions about employment with the City.

We hope that your experience here will be challenging, enjoyable, and rewarding. Again, welcome!

Sincerely,

President of the
Board of City Commissioners

EMPLOYEE ACKNOWLEDGMENT FORM

I understand that this employee handbook describes important information about the City of Devils Lake and that I should consult my supervisor regarding any questions not answered in the handbook.

Since provisions of the handbook are subject to change, I further understand that revisions to the handbook may supersede or eliminate one or more existing policies.

My employment relationship with the City of Devils Lake is voluntarily entered into and is subject, within provisions of state and federal law, to termination by me or my employer, at will, with or without cause or advance notice, at any time either party believes such action to be appropriate.

I acknowledge that this handbook is not a contract of employment. I have received, read, understood, and will comply with both the policies contained in this handbook and any subsequent revisions.

I acknowledge the receipt of this Employment Manual from the City of Devils Lake.

Employee's Signature

Employee Name (typed or printed)

Date

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INTRODUCTORY STATEMENT

This handbook is designed to acquaint you with the City of Devils Lake (hereinafter referred to as the City) and provide you with information about working conditions, employee benefits, and some of the policies affecting your employment. You should read, understand, and comply with all provisions of the handbook. It describes many of your responsibilities as an employee and outlines the programs developed by the employer to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.

No employee handbook can anticipate every circumstance or question about policy. As the organization continues to grow, the need may arise to change policies described in the handbook. The City therefore reserves the right to revise, supplement, or rescind any policies or portion of the handbook from time to time as it deems appropriate, in its sole and absolute discretion.

*****PLEASE NOTE*****

This Personnel Policy Manual has been drafted as a guideline for City employees. It shall not be construed to form a contract between the City of Devils Lake and its employees; rather, it describes the City's general philosophy concerning policies and procedures.

100 NATURE OF EMPLOYMENT

It shall be the responsibility, within the scope of this policy, of the board of City Commissioners to establish and/or maintain such ordinances and policies as are necessary to clearly define the performance and role expected of all Department Heads.

This handbook is intended to provide employees with a general understanding of our personnel policies. Employees are encouraged to familiarize themselves with the contents of this handbook, for it will answer many common questions concerning employment with the City.

The following positions are classified as department heads: City Administrator, City Auditor, City Assessor, City Engineer, Chief of Police, and Fire Chief. It shall be the responsibility of each department head to comply with the direction supplied by means of all active ordinances and policies established by the Board of City Commissioners. Each department head shall also be responsible for the smooth, complete, and efficient performance of all duties conferred in the manner described above, and for the conduct of all employees in his or her charge.

However, this handbook cannot anticipate every situation or answer every question about employment. It is not an employment contract and is not intended to create

contractual obligations of any kind.

In order to retain necessary flexibility in the administration of policies and procedures, the City reserves the right to change, revise, or eliminate any of the policies and/or benefits described in this handbook.

102 EMPLOYEE RELATIONS

The City believes that the work conditions, wages and benefits it offers to its employees are highly competitive with those offered by other employers in this area and in this industry. Our experience has shown that when employees deal directly with supervisors, the work environment is excellent, communications are clear and attitudes are positive. If employees have any concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their supervisors. Employees are asked to first direct their concerns to their Department Head or immediate supervisor, but if the concern remains all irreconcilable employee complaints, grievances, or requests shall be channeled, through the department head if possible, to the City Administrator thereafter, and then to the Commissioner whose portfolio is involved. More information can be found in section Attachment B -Grievances.

Whenever possible, employees should avail themselves of training and educational programs which would better the performance of their assigned job responsibilities. Participation in such programs will be at the discretion of the employee's Department Head with due regard taken of existing budgetary considerations.

104 EQUAL EMPLOYMENT OPPORTUNITY

The City is an equal opportunity employer. It is the policy of the City to recruit, hire, train and promote employees without discrimination because of race, color, religion, sex, age, creed, status of marriage or public assistance, national origin or physical or mental handicap except where specific age, sex or physical requirements are a bona fide occupational qualification.

106 HIRING OF RELATIVES

It is well accepted that employment of relatives in the same area of an organization can cause serious conflicts and problems with favoritism and employee morale. In these circumstances, all parties, including supervisors, leave themselves open to charges of inequitable consideration in decisions concerning work assignments, transfer opportunities, time off privileges, training and development opportunities, performance evaluations, promotions, demotions, disciplinary actions, and discharge. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day to day working relationships.

It is the City's policy that relatives of persons currently employed by the City may be hired only if they will not be working directly for or supervising a relative, unless approved by the Department Head or City Administrator in collaboration with the Commission Portfolio

Holder if that person's immediate supervisor and relative would be the Department Head.

If already employed, they cannot be transferred into such a reporting relationship. If the relative relationship is established after employment, the individuals concerned may recommend who is to be transferred. If that recommendation is not made within 30 days, the City Commission and/or Department Head in collaboration with the City Administrator will decide.

In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be left unaffected or be separated by reassignment or terminated from employment.

For the purposes of this policy, a relative is defined to include spouses, parents, children, brothers, sisters, brothers and sisters-in-law, fathers and mothers-in-law, stepparents, stepsiblings, and stepchildren. This policy also applies to individuals who are not legally related but who reside with another employee.

108 IMMIGRATION LAW COMPLIANCE

The City is committed to employing only United States citizens and aliens who are authorized to work in the United States and comply with the Immigration Reform and Control Act of 1986, and or the Free Trade Agreement.

As a condition of employment, each new employee must properly complete, sign, and date the first section of the Immigration and Naturalization Service Form I-9. Before commencing work, newly rehired employees must also complete the form if they have not previously filed an I-9 with the City, if their previous I-9 is more than three years old, or if their previous I-9 is no longer valid.

110 OUTSIDE EMPLOYMENT

It is the policy of the City that employees disclose, in advance, circumstances or situations to the Department Head. An employee may hold a position with another non-competing organization as long as he or she satisfactorily performs his or her job responsibilities with the City. Employees should consider the impact that outside employment may have on their health and physical endurance. All employees will be judged by performance standards and will be subject to the City's scheduling demands, regardless of any existing outside work requirements.

If the City determines that an employee's outside work interferes with performance or the ability to meet the requirements of the City as they are modified from time to time, or is a potential liability to the City, the employee may be asked to terminate the outside employment if he/she wishes to remain with the City.

Outside employment will present a conflict of interest if it has an actual or potential adverse impact on the City.

112 NON-DISCLOSURE AND CONFIDENTIALITY

The protection of confidential business information is vital to the interests and the success of the City. Such confidential information includes but is not limited to the following examples:

- Economic Development Plans (as sealed)
- Tax Assessment Records (as deemed appropriate)
- Certain Personnel Record Information

Any employee who discloses any confidential business information will be subject to disciplinary action (including possible discharge), even if he or she does not actually benefit from the disclosed information.

Any record of a City employee's medical treatment or use of an employee assistance program is confidential and may not be released or disclosed without the written consent of the employee. Personal information regarding a City employee contained in an employee's personnel record or given to the City by the employee in the course of employment is confidential and may not be released or disclosed without the written consent of the employee. As used in this policy, "personal information" means a person's home address; home telephone number; photograph; medical information; motor vehicle operator's identification number; social security number; payroll deduction information; the name, address, telephone number, date of birth, and social security number of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution.

All juvenile records in the City or Police Department are confidential and may only be released or disclosed with the written consent of the juvenile's parents or legal guardian.

All security information and access codes, such as lock or safe combinations and computer access codes or passwords, are confidential and must not be released or disclosed. Any written documentation regarding this information or these codes should be safeguarded.

Disclosure of information governed by this policy within the City, its employees, and the Board of Commissioners is limited to a strict "need to know" and in accordance with applicable law. This type of disclosure between employees and/or the Board of Commissioners should be limited to the minimum necessary information needed for the management purpose.

Employees who fail to adhere to this policy will be subject to disciplinary action, up to and including termination of employment and possibly legal action, even if they do not actually benefit from the disclosed information.

114 DISABILITY ACCOMMODATION

The City is committed to complying with the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

Reasonable accommodation is available to all disabled employees, where their disability affects the performance of job functions. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority lists. Leave of all types will be available to all employees on an equal basis.

The City is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability. The City will follow any state or local law that provides individuals with disabilities greater protection than the ADA.

This policy is neither exhaustive nor exclusive. The City is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable Federal, state and local laws.

200 EMPLOYMENT CATEGORIES

It is the intent of the City to clarify the definitions of employment classifications so employees understand their employment status and benefit eligibility.

Each employee is designated as either NONEXEMPT or EXEMPT from the federal and state wage and hour laws.

NONEXEMPT employees are entitled to overtime pay under the specific provisions of federal and state laws. EXEMPT employees are excluded from specific provisions of federal and state wage and hour laws. Please refer to Job Descriptions for exempt and nonexempt designations for all positions.

In addition to the above categories, each employee will belong to one other employment category:

FULL-TIME: Employees who are not in a part-time, temporary or introductory status and who are regularly scheduled to work the organization's full-time schedule. Generally, they are eligible for the employer's full benefit package, subject to the terms, conditions, and limitations of each benefit program.

PART-TIME: Employees who are not in a full-time, temporary or introductory status and who are regularly scheduled to work less than the fulltime work schedule but at least 10 hours per week and a maximum of 30 hours per week. Part-time employees retain that status until notified of a change. (While part-time employees receive all legally mandated benefits such as workers' compensation insurance and Social Security, they are ineligible for any of the employer's other benefit programs.)

INTRODUCTORY: Employees who are being evaluated to determine whether further

employment in a specific full-time position with the organization is appropriate. Employees who satisfactorily complete the introductory period will be notified of their new employment classification.

TEMPORARY: Employees hired as interim replacements, or to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category shall not exceed 10 months in any calendar year. Employment beyond any initially stated period does not in any way imply a change in employment status. "Temporary" employees retain that status until notified of a change. While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for any of the employer's other benefit programs.

202 ACCESS TO PERSONNEL FILES

Personnel files are the property of the City and access to the information they contain is restricted. With reasonable advance notice, an employee may review material in his or her file but only in the City Auditor's office and in the presence of the City Auditor or his or her designee.

204 PERSONNEL DATA CHANGES

It is the responsibility of each employee to promptly notify the City Auditor's Office of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, marital status, individuals to be contacted in the event of emergency, educational accomplishments and other such status reports should be accurate and current at all times. When at all possible, all changes should be made in person with Auditing Department staff to prevent fraud.

206 INTRODUCTORY PERIOD

An employee should use the initial period after being hired or rehired, promoted, demoted or transferred within the City to determine whether the new position meets his or her expectations. The City uses this period to evaluate employee capabilities, attitude, and work habits. Either the employee or the City may end the employment relationship at will at any time during or after the introductory period, with or without cause or advance notice.

Most newly hired employees work on an introductory basis for the first 6 months (average 180 calendar days) after their date of hire, unless otherwise stated by the department head/supervisor. Any significant absence will automatically extend the introductory period by the length of the absence. If the City determines that the designated introductory period does not allow sufficient time too thoroughly evaluate the employee, the City may extend the introductory period for a specified period.

Introductory employees will assume "full-time" status upon satisfactory completion of the introductory period. During the introductory period, new employees are eligible for those

benefits that are required by law, such as workers' compensation insurance and Social Security and for group health insurance, vacation and sick accrual, and other benefits. Please see section 300 for details on benefits.

208 EMPLOYMENT APPLICATIONS

The City relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the City's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

210 PERFORMANCE EVALUATION AND SALARY REVIEW

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Formal performance evaluations are conducted at the end of an employee's introductory period in any new position. This introductory period allows the supervisor and the employee to discuss the job responsibilities, standards, and performance requirements of the new position.

Additional formal performance reviews are conducted annually to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals. You cannot assume that you will necessarily receive a wage or salary increase each time your performance is reviewed. Annual performance evaluations and salary review of each employee will be done in May or June of each year by the Supervisor, and handed in to the City Administrator for review no later than July 1st of each year. The City Administrator will complete evaluations for the Department Heads. These reviews will indicate whether or not the employee is to receive a step increase. It will also contain the signatures of the Supervisor and Employee.

Annual step increases, if approved, will be effective on July 1st. All other pay increases will be effective on the beginning of a regular pay period. There is no provision for any more than one step increase.

Step increases are provided one time per year, whether that be at the conclusion of an employee's introductory period, or after annual performance evaluations should approval be provided from the employee's supervisor.

300 EMPLOYEE BENEFITS

Eligible employees in the City are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation and unemployment insurance) cover all employees in the manner prescribed by law.

Benefits eligibility is dependent upon a variety of factors, including employee

classification. Your supervisor can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in this handbook. Please note that not all of these benefits are employer paid.

The following benefit programs are available to eligible employees

Auto/Vehicle (City Owned	Medical Insurance	Meal Allowance
Auto Mileage	Military Leave	Lodging Allowance
Benefit Conversion @ Termination	Retirement Plan	Maternity Leave
Bereavement Leave	Sick Leave	Witness Duty Leave
Dental Insurance	Uniform Allowance	Cancer Care Insurance
Holidays	Vacation Benefits	Flexible Benefits
Life Insurance	Vision Insurance	Accident Insurance
Retirement Awards	Early Retirement Incentive	EAP Program
Jury Duty Leave	Service Awards	

Some benefit programs require contributions from the employee, but many are fully paid for by the City. There may be additional benefits offered by the City at the employees' cost but they are not listed above. Please contact your supervisor or the City Auditor's office for more details on these benefits.

Employees are responsible for all checks issued for reimbursements of meals, lodging, etc. If checks are lost and/or not cashed within a reasonable amount of time, checks will be re-issued less any bank draft fees for the stop payment of the check.

301 EARLY RETIREMENT INCENTIVE

As an early retirement incentive, the City will follow the Rule of 85 in regard to providing health, vision, and dental insurance. In addition to meeting the general Rule of 85, employees must have worked a minimum of 25 years (full time or the equivalent of 25 complete years of service) for the City of Devils Lake and be less than the required age to receive full retirement benefits as defined by the Social Security Administration. Retirement is fully voluntary, and no employee shall be required or coerced in any manner to retire at any given age. All personnel who desire early retirement and meet the requirements are eligible. To qualify, the employees combined age and years of service, must be equal to or greater than 85 and the employee must be under the required age to receive full retirement benefits as defined by the Social Security Administration. Upon qualifying the City will pay monthly health insurance premiums, up to the established cap set by the City Commission, for a period of one year from the effective date of retirement. This policy will be that of which was in place prior to retirement. Monthly premiums which exceed the established cap will be the responsibility of the retired employee. If a monthly premium is due to the City, it must be paid by the

due date given. Premiums not received by the due date may be cause for discontinuation of benefit. If for any reason the employee wishes to discontinue this benefit, they may do so at any time by written notification. If benefits are discontinued, the employee will not be eligible for reinstatement. All other benefits associated with full-time employment will discontinue effective the date of retirement.

302 POSITIONS

Each department is authorized the number of positions shown in Attachment B. Upon a vacancy occurring, the supervisor and Department Head can rehire within the authorized grade at starting level A and should collaborate with the City Administrator and/or Commission Portfolio Holder as appropriate given the grade and seniority of the position being filled. Anything above Step E requires Commission approval. Authorized positions are contained in Attachment B.

304 NEW POSITION

To create a new position or hire above the E step requires approval of the full Commission.

309 VACANCIES & PROMOTIONS

All recruitment ads must include position title, explicit description of skills/knowledge required (must be descriptive enough to discern qualified vs. non-qualified applicants in the screening process), information directing applicants where to obtain application and where to return the application (and resume if requested), application deadline, and a statement designating City of Devils Lake as an Equal Opportunity Employer. All open positions must be posted on the city website, in the official City Newspaper, and with North Dakota Job Service. Additional agencies/places may be used as well, at supervisor's discretion.

The hiring official must ensure the following:

- All applicants must be requested to complete the Equal Employment Opportunity form that requests disclosure of their ethnic background. This should be given to applicants in a separate envelope if applications are handed out in person; the form is attached to the online application along with instructions for completion. Completing the EEO form is voluntary but if applicants choose to return the form all information on the form is kept confidential. Please give all returned forms to the Title VI Coordinator (City Administrator).
- Upon conclusion of the hiring process please provide a list of all applicants to the Title VI coordinator highlighting the individual chosen for the position.

Employees may be considered for transfer from one position to another or from one department to another as vacancies occur. Present employees who qualify for openings within the City are encouraged to apply; when external and internal applicants are equally qualified internal applicants will be given preference. All accumulated benefits will be transferable; however, no transferring employee shall be considered as having seniority, in any sense, over comparably classified members already employed by the receiving department. Unless otherwise stated by the Supervisor, all transfers of personnel will include a probationary period of six months, and the persons so affected will continue to enjoy all previous benefits and accumulate the same.

Care will be given when hiring new employees at a step higher than an A, to allow for a timely flow into the evaluation and annual step increase system. Consideration must be given at this time that this system will allow personnel to reach the last step, or "top out" at a quicker pace and only cost of living increases will apply thereafter. Therefore, it is recommended to start at lower steps as much as possible to allow for steady career advancement.

Employment should begin at the beginning of a pay period, whenever possible.

Veteran's Preference: North Dakota Century Code provides a preference in public employment for wartime veterans and, in some instances, the spouses of wartime veterans. For purposes of this policy, the following definitions apply:

Veteran: a North Dakota resident who has served in the active military forces during a period of war, or who received the armed forces expeditionary or other campaign service medal during an emergency condition, and must have been released under honorable conditions.

Disabled veteran: a veteran who meets the requirements listed above who has a service-connected disability as determined by the United States Veterans Administration; the disability must exist at the time of application.

Eligible spouse: the unremarried spouse of a deceased veteran (as defined above) who died while in service, or later died from a service-connected cause or causes; or the spouse of a disabled veteran as defined above, who because of his or her disability is unable to exercise his or her right to employment preference.

Minimum Qualifications: the qualifications required for the position for which the veteran has applied, as determined by the hiring authority. Qualifications required may be educational or by way of prior experience; applicant must be physically and mentally able to perform the duties of the position to meet the minimum qualifications.

All veterans and disabled veterans claiming preference must include current proof of their veteran status with a copy of their form DD-214. If claiming disabled veteran's preference, the veteran must include current proof of their disability (must be dated no more than 1 year prior to claiming preference). Additional documentation, such as death certificate or marriage certificate, is required if claiming eligibility as the spouse of a deceased or disabled veteran.

The City of Devils Lake uses a competitive personnel system to fill vacancies, through which veterans are given preference using a prescribed scoring system. Veterans who

are not selected for a position must be notified by certified mail that employment was refused. The certified letter must include the reason(s) for non-selection and provide specific information on how to appeal. A template for this letter can be obtained from the HR Advisor.

311 DEMOTIONS

Employees who are demoted due to job performance, loss of applicable drivers license, or elimination of current position will receive a pay decrease, but will retain all current benefits as long as employment status remains full-time. The employees decrease in wage will vary based on the circumstances surrounding demotion. If a current position is eliminated the grade of the new position will establish the step level, generally the new wage will be the closest wage to the old grade and step.

312 COST OF LIVING

Cost of living adjustments will be made only by the full Commission during budget time each year and adjustments made January 1st, if deemed necessary. This adjustment will be applied to the entire grade and step system as directed by the Commission.

314 STANDBY TIME

If an employee is "engaged to wait," the time must be compensated, but if the employee is merely "waiting to be engaged," payment for such time is not required.

318 COMPENSATORY TIME/FLEX TIME

The general practice of the City of Devils Lake shall be to pay overtime to non-exempt employees who have worked more than the minimum time. Compensatory time shall be accrued only in isolated incidences and requires the approval of the Supervisor. When granted, compensatory time for classified employees shall be granted at one and one-half the regular time for hours worked in excess of 40 hours in a workweek, 160 hours (Police Dept) or 212 (Fire Dept) in a 28-day time sheet and scheduled for use at the mutual convenience of the employee and Supervisor

Employees may accumulate up to 32 hours of compensatory time and any amount over 32 hours must be utilized within the following month, or the employee shall receive pay for the excess time. When this is necessary, compensatory time to be paid shall be certified to the City Auditor as overtime pay.

When possible, it is desirable for supervisors to flex the work schedule in order to avoid working excess hours in the work period. When flex time is used the total hours worked still remain at or below the threshold of 40 hours in a workweek or 160 (police) or 186 (fire) in a 28-day timesheet, therefore reducing/eliminating the accrual of comp time and/or overtime costs. Fire department receives straight-time flex for hours between 187 and 212.

320 COMPENSATION FOR NONSCHEDULED HOURS

When an employee is called to work during nonscheduled hours, compensation shall consist of a minimum of 1 hour for the first call back each day, then actual time worked thereafter.

322 CONVERSION FORMULA

The monthly salary is multiplied by 12, which result is the annual salary and that is divided by 2080, which result is the hourly salary.

324 VACATION BENEFITS

Employee classifications that are eligible for vacation benefits according to the guidelines set forth in this policy include full-time employees and introductory employees.

Vacation begins accruing from the date an employee is hired into an eligible employment category. Leave may be used as soon as it has been earned, at the discretion of the Department Head or supervisor.

Vacation leave will be prorated for new employees if they start after the first of the month, anniversary dates for length of service, any unpaid leave of absence and at the termination of employment. Vacation leave cannot be taken in increments of less than ½ hour.

Vacation pay will be calculated based on the employee's straight-time pay rate (in effect when vacation benefits are used) times the number of hours the employee would otherwise have worked. Vacation pay does not include shift differentials, incentive pay, bonuses, or other special forms of compensation. Vacation benefits for salaried employees will be based on their normal wages.

Employees who have satisfied all eligibility requirements should submit vacation requests to their supervisors, if possible, with more than a minimum of thirty days in advance of the time requested. Requests will be evaluated based upon various factors, including anticipated operating requirements and staffing considerations during the proposed period of absence. Consecutive days of vacation taken in excess of ten days require advance approval by the Department Head or Supervisor.

Employees are strongly encouraged to take earned vacation during the benefit year of its accrual. Beginning July 1st, 2009, all new personnel hired by the City of Devils Lake are allowed to accrue a maximum of 30 days vacation at the end of the calendar year. Any vacation time accrued over 30 days as of December 31st will be forfeited. (This policy does not affect those employees hired before 7-1-09, in which case the former policy of 45 days maximum accrual applies.) Upon termination of employment, employees will be paid for vacation benefits that have accrued through the last day of work. An employee may use, as part of their voluntary termination of employment notice, up to 30 work days of available vacation leave. The Eligibility Table below defines when vacation benefits become available to full-time employees.

VACATION BENEFITS ELIGIBILITY TABLE ACCRUAL RATES:

LENGTH OF SERVICE

1 thru 60 months
61 thru 120 months
121 months and over

HOURS PER MONTH

8 hours
12 hours
16 hours

326 HOLIDAYS

The City will grant holiday time off to most full-time and introductory employees on the holidays listed below. Rotating-shift employees in the Police Department and Fire Department receive 8 hours of straight-time pay in lieu of the holiday whether they work the holiday or not (4 hours for half-holiday).

New Year's Day (January 1)

Martin Luther King Jr. Day (third Monday in January)

President's Day (third Monday in February)

Good Friday (Friday preceding Easter)

Memorial Day (last Monday in May)

Independence Day (July 4)

Labor Day (first Monday in September)

Veteran's Day (November 11)

Thanksgiving (fourth Thursday in November)

1/2 day on Christmas Eve Day (December 24) (must fall Monday thru Thursday)

Christmas (December 25)

Any other day approved by the President of the Board of City Commissioners.

A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday. If a non-exempt, non-rotating-shift employee is called to work (unscheduled) on an actual holiday, he or she will receive time and a half pay for the hours worked. If the employee is scheduled to work straight-time pay applies.

If a recognized holiday falls during an eligible employee's paid absence (e.g. vacation, sick), the employee will not have to use their paid time for that holiday (with the exception of rotating-shift employees in the Police Department and Fire Department since they are paid the holiday regardless of whether it is worked). Paid time off for holidays will not be counted as hours worked for the purposes of determining whether overtime pay is owed.

328 WORKERS' COMPENSATION INSURANCE

The City provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of

employment, as defined by law, that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period or, if the employee is hospitalized, immediately.

Any employee who sustains a work-related injury or illness, as defined by law, must inform his or her supervisor immediately. Workforce Safety and Insurance operates under very strict reporting requirements. To defer costs to the City, any injury that may result in a Worker's Compensation claim must be reported by midnight (Central Time) of the next business day following the injury/incident date. If a supervisor or the City Auditor is unavailable to report the injury immediately (example – during weekend shift work), it is the responsibility of the employee to do so. If a worker has an incident but does not seek immediate medical attention, the employee or supervisor must still file an "Incident Report." Injuries and/or incidents can be reported online at www.WorkforceSafety.com. All reports filed online should be printed and turned into the City Auditor's office immediately. This will enable an eligible employee to qualify for coverage as quickly as possible.

An employee will be allowed full pay during a Workers Compensation disability up to the maximum sick leave, comp time, or vacation the employee has accumulated. After an employee has used all accumulated sick, comp, or vacation leave and is still under Workers Compensation disability, the employee will receive only such compensation as is paid by Workers Compensation. Any money received from Workers Compensation while using sick leave benefits because of that injury must be turned in to the City Auditor's office immediately. The employees' total pay (from Workers Compensation and the City) will not exceed the employee's regular rate of pay; the employee will be credited back sick leave in the amount that was received from Workers Compensation at the employee's current hourly rate of pay.

Injured workers returning to work must provide the City Auditor's office with detailed documentation from a doctor defining any or all medical restrictions.

330 SICK LEAVE BENEFITS

The City provides paid sick leave benefits to all regular full-time and introductory employees for periods of temporary absence due to illnesses or injuries.

Eligible employees will accrue sick leave benefits at the rate of 8 hours per month. Sick leave will be prorated for new employees if they start after the first of the month, anniversary dates for length of service, any unpaid leave of absence, and at the termination of employment. All sick leave accruals will carry over from year to year, with an unlimited amount of carry over. Sick leave cannot be taken in increments of less than ½ hour. Leave may be used as soon as it is accrued.

An eligible employee may use sick leave benefits for an absence due to illness or injury sustained by that employee or an immediate family member. Immediate family includes employee's spouse, parent (natural, adoptive, foster or stepparent), child (natural, adoptive, foster, or stepparent), or any other family member who is financially or legally dependent upon the employee or who resides with the employee for the purpose of the employee providing care to the family member.

Sick leave can also be used concurrently with FMLA usage for the birth of a child.

Employees who are unable to report to work due to an illness or injury should notify their supervisor before the scheduled start of their shift if possible. The supervisor should also be contacted each additional day of absence. If an employee is absent for more than three consecutive days due to illness or injury for themselves or a qualifying family member, a physician's statement may be requested verifying the nature of the disability and it is beginning and expected ending dates. Such verification may be requested for other sick leave absences as well and may be the basis for payment authorization of sick leave benefits. Before returning to work from a sick leave absence of more than three calendar days, an employee may be requested to provide a physician's verification that he or she may safely return to work. For an absence of 1 week or more, the City Auditor must be notified to initiate the completion of Family & Medical Leave paperwork (refer to section 600).

Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence and will not include any special forms of compensation, such as incentives, commissions, bonuses, or shift differentials. As an additional condition of eligibility for sick leave benefits, an employee must apply for any other available compensation and benefits, such as state disability insurance. Sick leave benefits will be used to supplement any state disability insurance or workers' compensation benefits that an employee is eligible to receive. The combination of any such disability payments and sick leave benefits cannot exceed the employee's normal earnings.

It is the employer's intention that regular appointments and office visits to the Doctor, Dentist, Optometrist, etc. be scheduled for non work time, but in the event that employees must be absent for such appointments during normal working hours, sick leave may be taken if approved in advance.

Employees may transfer sick leave hours to another employee who has used all of his/her leave and needs additional time because of a personal serious illness or to care for a family member with a serious illness. The afflicted person must be "suffering from an extraordinary or severe illness, injury, impairment, physical or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment." These terms do not include conditions associated with normal pregnancy. The employee must provide a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition. The donating employee must have a balance of at least 150 hours sick leave and is allowed to donate up to 10% of their sick leave balance. The donation must be authorized by the City Administrator. Employees may not receive more than 12 weeks of donated leave time.

Upon termination of employment, unused sick leave will be paid to the employee at 25% of the employee's current rate of pay.

332 BEREAVEMENT LEAVE

If an employee wishes to take time off due to the death of an immediate family member, the employee should notify his or her supervisor immediately. Paid time off will be granted

to allow the employee to attend the funeral and make any necessary arrangements associated with the death.

Up to three days of paid bereavement leave will be provided to regular full-time and introductory employees. Three days leave will equate a maximum of 24 hours – shift work consisting of hours in excess of 8 hours per day may use their 24 hours in less than three days, depending on the length of their scheduled shifts. Hours in excess of 24 must either be vacation or sick leave, in accordance with relationship to employee. (If the bereaved individual qualifies under the definition of immediate family in the sick leave policy, then sick leave may be used after the 24 hours bereavement leave has been exhausted.) Bereavement pay is calculated based on the base pay that an employee would otherwise have earned had he or she worked on the day of absence.

Approval of bereavement leave will occur in the absence of unusual operating requirements. Any employee may, with the supervisor's approval, use any available annual leave for additional time off as necessary.

For Bereavement Leave, the City defines "immediate family" as the husband, wife, son, daughter, father, mother, stepparents, brother, sister, grandparents, grandchildren, stepchildren, foster parents, foster children, daughter-in-law, and son-in-law of the employee and employee spouse.

334 JURY DUTY

The City encourages employees to fulfill their civic responsibilities by serving jury duty when required. Employees may request up to the duration of the trial of paid jury duty leave over any one-year period. Jury duty pay will be calculated on the employee's base pay rate. Employee classifications that qualify for paid jury duty leave include regular full-time employees and introductory employees.

Employees must turn in the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate the employee's absence. Of course, the employee is expected to report for work whenever the court schedule permits.

Insurance benefits will remain in effect and unchanged for the full term of the jury duty absence. Accrual for benefits calculations, such as vacation, sick leave, or holiday benefits, will not be affected during paid jury duty leave.

336 WITNESS DUTY

The City encourages employees to appear in court for witness duty whenever summoned to do so. Eligible employees will be granted a maximum of sixteen hours per summons of paid time off to appear in court as a witness. Employees will be paid at their base rate. Employee classifications that qualify for paid witness duty leave include regular full-time employees and introductory employees.

The witness summons should be turned in to the employee's supervisor immediately after it is received, so that operating requirements can be adjusted, where necessary, to

accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits. If the employee has been summoned as a witness of the employer as a result of a job related event, he or she will receive paid time off for the entire period of witness duty.

400 TIMEKEEPING

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require the City to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Non-exempt employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Any additional work hours (beyond the normal schedule hours) must always be approved before it is performed.

If corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

Tampering, altering, or falsifying time records or recording time on another employee's time record may result in disciplinary action, including immediate discharge.

402 PAYDAYS

All employees are paid on a bi-weekly basis. Each paycheck will include regular earnings for all work performed from the end of the previous payroll period. Overtime pay and additional straight-time pay will be paid on the pay period following the end of the 28-day time period.

In the event that a regularly scheduled payday falls on a holiday or observed holiday (Thursday or Friday) employees will receive paychecks on the day preceding the holiday or observed holiday.

403 DIRECT DEPOSIT

All payroll earnings will be received in the form of direct deposit. Deposits can be made to either a checking or savings account at the employee's banking institution of choice. Employees must sign a written authorization, along with providing bank routing and account numbers. Any changes to bank account information must be made in person with the Payroll Clerk or Auditor/Deputy Auditor for security and fraud prevention reasons.

404 EMPLOYMENT TERMINATION

Since employment with the City is based on mutual consent, both the employee and the City have the right to terminate employment within provisions of state and federal law.

Terminations are an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Following are examples of some of the most common circumstances under which employment is terminated:

RESIGNATION - employment termination initiated by an employee who chooses to leave the organization voluntarily.

DISCHARGE - employment termination initiated by the City.

LAYOFF - involuntary employment termination initiated by the City for non-disciplinary reasons.

MEDICAL TERMINATION - employment termination initiated by the employee or by the City when an employee is unable, for health reasons, to continue to work.

RETIREMENT - voluntary retirement from active employment status initiated by the employee.

Employees will receive their final pay in accordance with applicable state law.

Employee benefits will be affected by employment termination. All accrued benefits that are due and payable at termination will be paid. Some benefits may be continued at the employee's expense if the employee so chooses.

Suspension, Removal or Demotion: Any employee of the City may be suspended, removed, demoted or discharged by his or her Department Head, or the City Commission. In the event the suspension or demotion is of a Department Head, the two City Commissioners who are members of the Personnel Committee for the City shall determine the suspension or demotion of the Department Head. The City Commission will determine the removal or discharge of any Department Head. Employment with the City is at-will; either the City or the employee may terminate the employment relationship at any time, with or without notice and with or without cause.

Any violation of the general rules and regulations of conduct governing the employees in the respective departments will be considered sufficient cause for disciplinary action but will not be exclusive, and an employee may be suspended, removed, demoted or discharged for any other cause considered sufficient by the Department Head.

406 PAY ADVANCES

Neither pay advances nor extensions of credit on unearned wages will be provided to employees.

408 ADMINISTRATIVE PAY CORRECTIONS

The City takes all reasonable steps to assure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday.

In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of their Department Head and then the City Auditor's office so that corrections can be made as quickly as possible.

Once under-payments are identified, they will be corrected in the next regular paycheck. Overpayments will also be corrected in the next regular paycheck unless this presents a burden to the employee (where there is a substantial amount owed). In that case, the City will attempt to arrange a schedule of repayments with the employee to minimize the inconvenience to all involved.

410 PAY DEDUCTIONS

The law requires that the City make certain deductions from every employee's compensation. Among these are applicable federal and state income taxes. The City also must deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base". The City contributes the amount of taxes as required by law.

The City offers programs and benefits beyond those required by law. Employees who wish to participate in these programs may voluntarily authorize deductions from their checks. If you do not understand why deductions were made or how they were calculated, the Auditor's Office can assist in having your questions answered.

500 SAFETY

Establishment and maintenance of a safe work environment is the shared responsibility of the City and employees from all levels of the organization. The City will attempt to take reasonable steps to assure a safe environment and compliance with federal, state, and local safety regulations. Employees are expected to obey safety rules and to exercise caution in all their work activities. They are asked to immediately report any unsafe conditions to their supervisor. Not only supervisors, but employees at all levels of the City are expected to correct unsafe conditions as promptly as possible.

All accidents must be reported to their supervisor, regardless of how insignificant the injury may appear. Such reports are necessary to comply with laws and initiate insurance and workers' compensation procedures.

When chemicals are involved, please refer to material safety data sheets located in each department. It will be the Department Head's responsibility to, once each year, review with individual employees in the department all copies of material safety data sheets posted on site and master copy given to the Fire Department.

502 WORK SCHEDULES

Work schedules for employees vary throughout the City. Supervisors will advise employees of their individual work schedules. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week. The 7-day work week shall begin on Monday at 12:01 a.m.

The standard work period for non-continuous-shift employees (those in positions which

are not required to be staffed 24/7) shall be a 40 hour workweek. The shift is normally 8 hours; however, work schedules are the sole authority of the Supervisor. Timesheets and overtime are reconciled based on 40-hour work weeks, not 8-hour days.

Continuous-shift employees (those in positions which must be staffed 24/7) shall operate on a work period of 160 hours in a 28-day time period for law enforcement, and 186 hours for the Fire Department. For the Fire Department consecutive shifts for 24 hours shall count eating and sleeping as hours worked; consecutive shifts for more than 24 hours shall generally be avoided.

Nonscheduled hours are the employee's personal time unless called into work.

504 TOBACCO

In keeping with the City's intent to provide a safe and healthful work environment, use of tobacco in the work place is prohibited. Tobacco use will be strictly prohibited within City buildings, leased buildings, grounds, vehicles and equipment. In accordance with NDCC 23-12-10, smoking is prohibited within twenty feet [6.10 meters] of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited. This policy applies to all employees, contractors, and visitors.

TOBACCO DEFINITION

For purposes of this policy, tobacco use is defined as using cigarettes, e-cigarettes, pipes, cigars, chewing or spit tobacco, or any other like product that contains a warning from the surgeon general or that has not been approved by the FDA for smoking cessation.

506 REST AND MEAL PERIODS

Each work day, all employees are provided with two fifteen minute rest periods. Supervisors will advise employees of the regular rest schedule. To the extent possible, rest periods will be provided in the middle of work periods. Since this time is counted and paid as time worked, employees must not be absent from their workstations beyond the allotted rest period time.

All employees are provided with a meal period each workday. Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time.

If rests/breaks are used to conduct non-work related activities away from the City's premises, no workers compensation coverage is available.

508 OVERTIME

When operating requirements or other needs cannot be met during regular working hours, employees may be required to work overtime hours. When possible, advance notification of these mandatory assignments will be provided. All overtime work must receive the supervisor's prior authorization. Overtime assignments will be distributed as

equitably as possible to all employees qualified to perform the required work. The City reserves the right to designate overtime as compensatory time in order to maintain a balanced budget (see section 318).

Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour restrictions. For non-continuous-shift employees overtime pay is provided after 40 hours physically worked in the defined workweek. Overtime for continuous-shift employees is provided after 160 hours (Police) and 212 hours (Fire). (Fire department receives additional straight-time pay for hours worked between 187 and 212). Exempt employees will not receive overtime pay. As required by law, overtime pay is based on actual hours worked. Time off on sick leave, vacation leave, or any leave of absence will not be considered hours worked for purposes of performing overtime calculations.

Failure to work scheduled overtime or overtime worked without prior authorization from the supervisor may result in disciplinary action, up to and including possible discharge.

Overtime pay shall be paid following the submission of the 28-day time sheets.

510 USE OF EQUIPMENT AND VEHICLES

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines.

Please notify the supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, can result in disciplinary action, including discharge. All violations of traffic laws and fines levied as a result are the exclusive responsibility of the employee. Additionally, the driver's license status of all employees may be checked with the North Dakota Motor Vehicle Department annually or when the need arises. If an employee's drivers license is suspended or expired, that employee shall notify their supervisor immediately. Disciplinary action may be taken upon review.

City vehicles shall not be utilized for any personal gain by any person. City vehicle usage shall be as directed by each Department Head within their respective departments.

Seatbelts will be worn by all persons using any City Vehicle at all times. If an employee uses their own vehicle for City Business they must wear their seatbelt at all times.

Accident review: An accident review board consisting of the Department Heads shall review all accidents involving City vehicles where there is any damage.

Department Heads may refer to other situations involving loss to the City, for review by the accident review board at their discretion.

512 USE OF PHONE, FAX, AND MAIL SYSTEMS

Personal use of the fax machine or telephones for long distance and toll calls is not permitted. Employees should practice discretion in using company telephones when making local personal calls and may be required to reimburse the City for any charges resulting from their personal use of the telephone or fax. Charges for cell phone use not work related will be the responsibility of the employee. The taking or sending of cell phone photos in this facility which would pose or potentially pose a liability risk or any unauthorized transmittal of documents which contain restricted information is prohibited, any such action will be subject to disciplinary action, including possible discharge.

Phone calls placed to personal residences while out of town will be at the employee's expense.

To assure effective telephone communications, employees should always use the approved greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so.

The use of City paid postage for personal correspondence is not permitted.

514 USE OF CREDIT CARDS

The City of Devils Lake possesses several credit cards for purchasing gas, and retail charging. Any misuse to any of the City credit cards can result in disciplinary action up to and including possible termination.

516 ACCEPTABLE USE OF COMPUTERS AND TECHNOLOGY

The City provides a variety of electronic communication devices (ECDs) and an IT infrastructure designed to facilitate business communications among state government, educational entities, political subdivisions and their business contacts. These devices may include (but are not limited to) cell phone, telephone, facsimile (fax) machines, all computers and network-related hardware, software, and/or peripheral devices (including email and internet). These devices may be connected to the City's IT infrastructure and as such, public scrutiny and/or disclosure of usage must not damage the reputation of the City of Devils Lake, nor jeopardize the system's integrity.

ECDs, computer files, Internet access, the Email system and software furnished to employees are the City's property and intended for business use only. Employees should not access a file or retrieve any stored communication without authorization. E-mails received which contain important data should be printed to retain a hard copy before deletion.

Unless exempted by law, all electronic communications shall follow North Dakota's Open Records Law. It is the City of Devils Lake's intent to provide access to ECDs for the purpose of conducting official business. However, users may be permitted to utilize ECDs for personal use if reasonable in time, duration, and frequency; personal usage is of nominal cost or value; and usage does not interfere with the performance of the user's public

duties, or the public duties of any other representative of the City of Devils Lake. Use of "streaming" audio and video for non-official business (including Internet radio, stock/news tickers, and software such as Weather Bug, etc.) must be limited.

The City strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Therefore, the City prohibits the use of computers and the E-mail system in ways that are disruptive, offensive to others or harmful to morale. For example, the display or transmission of sexually explicit images, messages and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-colored jokes or anything that may be construed as harassment or showing disrespect for others.

The City purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, the City does not have the right to reproduce such software for use on more than one computer. Employees may only use software on local area networks or on multiple machines according to the software license agreement. The City prohibits the illegal duplication of software and its related documentation.

518 SOCIAL MEDIA

The City of Devils Lake respects the right of employees to use social media tools as a means of personal self-expression and as a means to further the organization's interests. It is important that employees be aware of the implications of engaging in social media and online communications.

When using Social Media:

- Adhere to the Acceptable Use of Computers & Technology Policy.
- Do not post confidential or proprietary information about the organization, our staff members, elected officials, clients or business partners. It is important to protect this information.
- The City logo or other organizational images may not be used on personal social media sites without permission from the City Commission or their designee. The City's name may not be used to promote a personal cause, product, political party or candidate.
- City computers and time on the job are reserved for organizational business as approved by management and in accordance with City policies.
- Be respectful to the organization, other staff members, elected officials, vendors and business partners.
- If you come across positive or negative remarks about the City or City related services that you believe are important, please forward this information to your supervisor or another appropriate official.
- Be conscious of mixing your business and personal lives. The internet is immediate and nothing posted is ever truly private, nor does it expire.

Online, your personal and business personas are likely to intersect. The organization respects the free speech rights of its staff members, but asks you to remember that other organizations, colleagues, and business partners may have access to the online content you post.

Employees are responsible for their own actions. Recognize that you are legally liable for anything you post online. Understand that anything you post that can potentially tarnish the City's image will ultimately be your responsibility. Be aware that your actions captured via posts, images or comments may reflect upon the City. While the organization does not discourage your participation in social media space, we urge you to do so properly, exercising sound judgment, common sense and good taste.

Posting in an Official Capacity:

Social media content provider conduct will be consistent with the City of Devils Lake's values and professional standards. Social media content providers will:

- Use all reasonable efforts to keep social media interactions factual and accurate, providing only verifiable facts;
- Strive for transparency and openness and never seek to use information for personal gain;
- Provide links to credible sources of information when possible to support interactions;
- Wherever possible, links to more information should direct users back to the City of Devils Lake's official website for more information, forms, documents or online services;
- Publicly correct any information communicated that is later found to be in error;
- Be honest about relationships, opinions and identity;
- Protect privacy and not share confidential or non-public information;
- Respect the public's opinion, whether positive or negative, provided it is topical and not offensive, denigrating or completely out of context.

City social media profiles will not contain any political information or used for political activity. Social media content providers are prohibited from exchanging any form of material that is:

- Prohibited by federal, state or local law; or City policies, specifically including this policy;
- Threatening, obscene, vulgar, offensive, abusive, derogatory, discriminatory, disparaging, defamatory, harassing or that constitutes personal attacks of any kind;
- Involves sales or solicitation or facilitates any for-profit non-City business activity, including the sale of personal goods.
- Used for any political advocacy efforts or any non-City activity that would cause the City to incur any liability.

519 VISITORS IN THE WORKPLACE

To provide for the safety and security of employees and the facilities at the City, only authorized visitors are allowed in the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare and avoids potential distractions and disturbances.

All visitors should enter the City's facilities at the main entrances. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors.

If an unauthorized individual is observed on the City's premises, employees should immediately notify their supervisor or, if necessary, direct the individual to the appropriate person or place.

600 MEDICAL/FAMILY LEAVE

It is the intent of the City to comply with the statutory and regulatory requirements of the Family and Medical Leave Act of 1993, revised January of 2009. Under the provisions of that Act the City allows eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. Employees classified as regular full-time (must have completed at least 12 months of service) or regular part-time employees (must have worked at least 1,250 hours in previous 12 months) are eligible to request medical leave as described in this policy.

Eligible employees should make requests for medical leave to their supervisors at least 30 days in advance of foreseeable events or as soon as possible for unforeseeable events.

The City will grant an eligible employee up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- for the birth and care of a newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for a spouse, son, daughter, or parent with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition; or
- for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the Armed Forces in support of a contingency operation.

The City will also grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member. A health care provider's statement must be submitted verifying the need for medical

leave and its beginning and expected ending dates. Any changes in this information should be promptly reported to the City. Employees returning from medical leave may be required to submit a health care provider's verification of their fitness to return to work. Under certain conditions, employees or the City may choose to "substitute" (run concurrently) accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave.

The City is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. When a family/medical leave ends, the employee will be reinstated to the same position, if it is available, or to an equivalent position for which the employee is qualified. For further information on eligibility or definitions please see the City Administrator.

602 PERSONAL LEAVE

In accordance with the guidelines set forth in this policy, the City may provide unpaid personal leave to eligible employees who wish to take time off from work duties to fulfill personal obligations. Those classified as regular full-time employees are eligible for personal leave.

Personal leave may be granted for a period of up to 2 weeks, pending the Department Head's approval. Any other leave of absence in excess of 2 weeks may be granted only by the board of City Commissioners. No sick or vacation time will accrue for any personal leave that extends beyond one week.

Requests for personal leave will be evaluated based on a number of factors, including anticipated operational requirements and staffing considerations during the proposed period of absence.

The City will continue to provide its share of insurance benefits until the end of the month in which the leave begins, at which time the employee will assume full costs.

To the extent possible, employees returning from personal leave will be returned to their former position or will be offered the first available comparable position for which they are qualified. If an employee fails to report to work at the expiration of the approved leave period, the employer will assume that the employee has resigned.

604 MILITARY LEAVE

An employee who is either an enlisted person or an officer in the National Guard or Armed Forces Reserve, subject to call, or volunteer for such service shall be granted military leave annually in accordance with Section 37-01-25 and 37-01-25.1 of the North Dakota Century Code. If such persons have been in continuous employ for a period of ninety (90) calendar days immediately preceding the leave of absence. Please refer to North Dakota Century Code (attached) and/or the Uniformed Services Employment and Reemployment Rights Act (USERRA) for further information.

606 MATERNITY RELATED ABSENCES

The City will not discriminate against any employee who requests an excused absence for medical disabilities associated with a pregnancy. Such leave requests will be made and evaluated in accordance with the medical leave policy provisions outlined in this handbook and in accordance with all applicable federal and state laws.

Requests for time off associated with pregnancy, adoption and/or childbirth (apart from medical disabilities associated with these conditions) will be considered after all other vacation, sick leave and comp time is used up. Employees can also refer to the FMLA section for further guidance and direction.

700 EMPLOYEE CONDUCT AND WORK RULES

Role of Employees: You are expected each day to remember that, as an employee of the City you serve the public and, specifically, the citizens of the City (your real "employers"). Your actions in this capacity reflect favorably or unfavorably upon you, your supervisor(s) and City government as a whole. We expect that you will maintain favorable visibility with the public, that you will act responsibly within the means of your position in meeting the needs of the public and that you will be accountable for your actions in this capacity.

Getting Started: You have been carefully selected to perform an essential service for the City. To help you get started, your supervisor will provide you with a description of your job and will discuss your duties with you. If you have any questions about your job, don't hesitate to ask your supervisor. Your supervisor is just as concerned about your success on the job as you are and will do everything possible to see that you receive the help you need.

Orientation and Introduction: As soon as possible after employment, the employee should go to the Auditor's Office to complete the various fringe benefit program forms, tax table status and any other forms deemed necessary for their employment.

To assure orderly operations and provide the best possible work environment, the City expects employees to follow rules of conduct that will protect the interests and safety of all employees and the employer.

It is not possible to list all the forms of behavior that are considered unacceptable in the work place, but the following are examples of infractions of rules of conduct that may result in disciplinary action, including suspension or termination of employment.

- Theft or inappropriate removal or possession of property
- Falsification of timekeeping records or any other records
- Working under the influence of alcohol or illegal drugs
- Possession, distribution, sale, transfer, or use of alcoholic or illegal drugs in the work place, while on duty, or while operating employer-owned vehicles or equipment
 - Fighting or threatening violence in the work place
- Boisterous or disruptive activity in the work place
- Negligence or improper conduct leading to damage of employer-owned or customer-owned property

- Insubordination or other disrespectful conduct
- Violation of safety or health rules
- Smoking in prohibited areas
- Sexual or other unlawful harassment
- Possession of dangerous or unauthorized materials, such as explosives or firearms, in the work place
- Excessive absenteeism or any absence without notice
- Unauthorized absence from work station during the work day
- Unauthorized use of telephones, mail system, or other employer- owned equipment
- Violation of personnel policies
- Unsatisfactory performance or conduct

Misconduct can occur either on or off the job. Examples of misconduct on the job are cited above. Examples of misconduct off the job include, but are not limited to involvement in criminal activity or activity involving moral turpitude which, in the judgment of the City, reflects adversely on the image or standing of the City. Employees arrested or cited for driving under the influence or reckless driving, on or off the job, are subject to disciplinary action up to and including immediate termination.

Employment with the City is at the mutual consent of the City and the employee, and either party may terminate that relationship at any time, with or without cause and with or without advance notice, within the provision of state and federal law.

Grievance and disciplinary procedures for employees of the City shall be in accordance with the provisions of the North Dakota Century Code.

701 DRESS CODE

Appearance and dress should be in keeping with the job being performed, both for safety reasons and to reflect a positive image for the City. Should an employee arrive for work wearing clothing or accessories which, in the opinion of their supervisor, is inappropriate, they may be required to go home and change prior to commencing work. Some positions are provided with uniforms provided by the City; these are the property of the City and must be returned upon leaving employment.

702 DRUG AND ALCOHOL USE

Drug and alcohol use is highly detrimental to the safety and productivity of employees in the work place. No employee may use or possess any illicit drug or alcohol while in the work place, while on duty, or while operating a vehicle or equipment owned or leased by the City.

The Drug and Alcohol Policy adopted by the City is attached to this policy and is referred to as Attachment A.

703 INCLEMENT WEATHER

A decision to close the City offices due to inclement weather shall be at the discretion of the City Administrator who will make the necessary arrangements to notify employees. Should an employee choose not to attend work due to inclement weather when the City offices are still open, that employee will have that time off charged to either vacation or leave without pay (if no other leave available). Non-exempt employees required to work will receive straight-time compensatory time in the same amount of hours that city offices are closed, up to a maximum of 8 hours.

704 SEXUAL & OTHER FORMS OF IMPERMISSIBLE HARASSMENT

The City is committed to providing a work environment that is free of discrimination. Actions, words, jokes or comments based on an individual's sex, race, ethnic, age, religion or any other legally protected characteristic will not be tolerated.

Sexual harassment is the unwarranted and unwanted action of an individual against another individual involving sexual overtones. The City will not tolerate verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile work environment. The City is opposed to sexual harassment in the work place and such harassment is against the law.

Sexually harassing conduct in the work place or elsewhere, whether committed by supervisory or non-supervisory personnel is prohibited. Such conduct may include, but is not limited to:

- Sexual flirtations, touching, advances, etc.
- Verbal abuse of a sexual nature.
- Graphic or suggestive comments about an individual's dress or body.
- Sexually degrading words to describe an individual.
- The display in the work place of sexually suggestive objects or pictures, including nude photographs.

It is important to note that sexually harassing conduct also includes:

- Explicitly or implicitly making submission to conduct, a term or condition of an individual's employment.
- Using submission or rejection of the conduct as a basis for employment decisions.
- The conduct substantially interferes with the individual's work performance or creates an intimidating, hostile or offensive work environment.

Any employee who believes that the actions or words of any employee or fellow employee constitute unwelcome harassment, has a responsibility to report this behavior, in writing, as soon as possible to their Department Head or City Administrator. All complaints of harassment will be investigated promptly in a confidential manner. In all cases, the employee will be advised of the investigation's conclusions.

Any employee who is found, after appropriate investigation, to have engaged in harassment of another employee, will be subject to appropriate disciplinary action and may be subject to immediate discharge.

705 INVESTIGATION AND ADMINISTRATIVE LEAVE

Administrative Leave is defined as the temporary removal from the work environment of a employee, with or without pay, following an allegation of misconduct, or other similar circumstance, that requires an investigation and review of the related facts. This policy identifies the procedures to be followed when an employee has been placed on Administrative Leave.

An employee may be placed on Administrative Leave with or without pay in circumstances following an allegation of misconduct, which requires an investigation and review of the related facts. Compensation for Administrative Leave with pay will be equal to the employee's base rate of pay. In certain situations where pending litigation is present, an employee may not be allowed to return to their position immediately following the internal investigation. Generally paid Administrative Leave will not continue beyond the length of the internal investigation. However, the city retains the right to determine paid/unpaid status on a case by case basis. Whether paid or unpaid, benefits will continue to be provided throughout the duration of the leave in the same manner as if an employee was not on Administrative Leave.

When an employee is to be placed on Administrative Leave with or without pay, and an investigation is either pending or foreseeable regarding suspected or alleged misconduct involving that employee, the following procedures shall be observed:

- a. Prior to any contact with the employee, the affected individual's immediate supervisor shall meet (face-to-face and/or by telephone) with the City Administrator and the Human Resources designee and, as necessary, legal counsel (these four individuals herein referred to as the representatives) to discuss the appropriate course of action under the circumstances, including termination or Administrative Leave. The City Administrator has the authority to place an employee on Administrative Leave.
- b. The representatives shall address any safety concerns arising out of the alleged or suspected misconduct as well as the scope of any investigation and the need for the preservation of evidence. The representatives shall determine the role of each department, and establish an action plan (i.e. who should attend the meeting with the employee, what property, if any, can be removed, next steps, etc.).
- c. After a review of the facts and circumstances relating to the grounds for the Administrative Leave, the representatives shall determine whether the safety and security of City personnel requires the presence of an officer, or alternatively, an officer to remain in the general vicinity.
- d. In any situation in which an investigation is pending or foreseeable, the employee shall be permitted to leave the City premises with only his or her personal items approved jointly by the direct supervisor and City Administrator. Based on the circumstances, the employee may be escorted by a representative from law enforcement. Prior to leaving all keys, passwords, access codes, etc must be collected and/or changed by the direct supervisor as appropriate.
- e. Pending the completion of the investigation, steps must be taken to secure or

prevent the destruction of documents relevant to the investigation. It is the responsibility of the immediate supervisor or manager, with the assistance of IT and other applicable personnel, to (a) terminate or suspend, as applicable, the employee's access privileges to City information systems; and (b) to inventory and remove (or request removal of) the employee's personal belongings. Pending the outcome of an investigation, the City will use reasonable efforts to keep the employee's personal belongings in a secure manner.

- f. Investigations shall be conducted in an expedited manner as circumstances allow and personal belongings shall be returned to the employee as soon as feasible. If circumstances allow the affected employee may be returned to work in an alternative position until the investigation is complete.
- g. At the conclusion of the investigation, the employee who was on an administrative leave without pay and determined not to be at fault, shall receive any wages owed while on administrative leave without pay.

AT-WILL EMPLOYMENT NOT AFFECTED

Notwithstanding anything to the contrary stated in this policy, nothing herein is intended to alter the at-will status of any City employee. The City of Devils Lake at all times retains the right to terminate any employee at any time, with or without cause.

706 ATTENDANCE AND PUNCTUALITY

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

Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, including termination of employment.

708 RETURN OF PROPERTY

Employees are responsible for all property, materials, or written information issued to them or in their possession or control. Employees must immediately return all property of the City that is in their possession or control in the event of termination of employment, resignation, or layoff. This includes uniforms. In the event, property is not returned, the proper authorities will be notified by the City Administrator and future legal actions may be taken.

710 RESIGNATION

Resignation is a voluntary act initiated by the employee to terminate employment with the City. Although advance notice is not required, the City requests at least two weeks written resignation notice from all employees.

712 SECURITY AND INSPECTIONS

The City wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, weapons (such as knives, clubs, etc.), explosives or other improper materials. The City prohibits the control, possession, transfer, sale, or use of such materials on its premises. The City requires the cooperation of all employees in administering this policy.

Desks, lockers and other storage devices may be provided for the convenience of employees, but remain the sole property of the City. Accordingly, they, as well as any articles found within them, can be inspected by an agent or representative of the City at any time, either with or without prior notice. At no time may an employee install or utilize their own locking mechanism or device to secure the above.

The City likewise wishes to discourage theft or unauthorized possession of the property of employees, the City, visitors or customers. To facilitate enforcement of this policy, the City or its representative may inspect not only desks and lockers, but also packages and persons entering and/or leaving the premises. Additionally, the City reserves the right, at its sole discretion to install and use security/ surveillance cameras or devices on its property. Any employee who wishes to avoid inspection of any articles or materials should not bring them onto the City's premises.

Some areas of the City's premises are designated as "restricted entry", i.e. the vault, parts storage, cash drawer, etc. Unauthorized entry into these restricted areas may result in disciplinary action up to and including termination.

714 SOLICITATION

In an effort to assure a productive and harmonious work environment, persons not employed by the City may not solicit or distribute literature in the work place at any time for any purpose, unless approved in advance by the City Administrator or the Board of City Commissioners.

The City recognizes that employees may have interests in events and organizations outside the work place. However, employees may not solicit or distribute literature concerning these activities during working time. (Working time does not include lunch periods, work breaks, or any other periods in which employees are not on duty.)

Examples of impermissible forms of solicitation include:

- The collection of money, goods, or gifts for community or religious groups

- The collection of money, goods, or gifts for charitable or political groups

- The sale of goods, services, or subscriptions outside the scope of official organization business

The circulation of petitions or distribution of literature not approved by the employer
The solicitation of memberships, fees, or dues

In addition, the posting of written solicitations on City bulletin boards is prohibited. Bulletin boards are reserved for official organization communications.

800 EMPLOYMENT OF INDIVIDUALS WITH LIFE-THREATENING ILLNESSES

The City recognizes that employees with life threatening illnesses, such as cancer, heart disease, and AIDS, may wish to continue their normal pursuits, including work, to the extent that their condition allows. The decision to continue work will be based on the ability to meet normal performance standards and on the receipt of satisfactory medical evidence that the employee does not present an immediate threat to themselves or others. Evaluation of the potential dangers presented by individuals with life threatening diseases will occur on a case by case basis and will consider existing medical and scientific evidence.

802 PERSONNEL ADVISORY COMMITTEE

A committee designated as the Personnel Advisory Committee will be composed of: Two City Commissioners appointed by the Board of City Commissioners from time to time as they see fit; The City Administrator; One full-time classified employee elected by the employees in January of each even numbered year; and the Human Resources Advisor.

This committee will act to assist the City Commission in the periodic review and revision of this policy. This committee will meet to review additions, amendments, revisions, and deletions to this policy and recommend such changes as it deems necessary to the City Commission.

804 COBRA BENEFITS

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

Under COBRA, the employee or beneficiary pays the full cost of coverage at the City's group rates plus an administration fee. The City provides each eligible employee with a written notice describing rights granted under COBRA when the employee becomes eligible for coverage under the City's health insurance plan. The notice contains important information about the employee's rights and obligations.

807 FRAUD PREVENTION AND INVESTIGATION

This City-wide fraud policy is established to facilitate the development of controls which will aid in the detection and prevention of fraud against the City of Devils Lake.

This policy applies to any fraud, or suspected fraud, involving employees, elected and appointed officials, as well as consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the City. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the City.

All employees and elected officials of the City of Devils Lake are responsible for the detection and prevention of fraud, misappropriations, and other inappropriate conduct. Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity. Any fraud that is detected or suspected must be reported immediately to the City Administrator, who coordinates all investigations with the legal counsel and other affected areas, both internal and external. If suspected fraudulent activity involves the City Administrator, the report must be brought to the attention of the chairperson of the City of Devils Lake Commission. The Administrator and/or Chair of the Commission shall lead the Investigation Unit until the matter is resolved.

Actions Constituting Fraud

The terms defalcation, misappropriation, and other fiscal wrongdoings refer to, but are not limited to:

- Any dishonest or fraudulent act
- Forgery or alteration of any document or account belonging to the City
- Forgery or alteration of a check, bank draft, or any other financial document
- Misappropriation of funds, securities, supplies, or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Disclosing confidential and proprietary information to outside parties
- Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials to the City. Exception: gifts less than \$50 in value.
- Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment
- Any similar or related inappropriate conduct

Other Inappropriate Conduct

Any other suspected improprieties concerning an employee's or official's moral, ethical, or behavioral conduct, should be brought to the attention of the City of Devils Lake Administrator. If there is any question as to whether an action constitutes fraud, contact your supervisor or the Administrator for guidance.

Reporting Procedures

Great care must be taken in the investigation of suspected improprieties or wrongdoings so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way. An employee who discovers or suspects fraudulent activity will *contact the City Administrator immediately*. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the City Administrator or the City of Devils Lake Attorney. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: "I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

Confidentiality

The Administrator treats all information received *confidentially* to the extent possible within the constraints of the law. Any employee who suspects dishonest or fraudulent activity will notify the Administrator immediately, and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act (see **Reporting Procedure** section above). Investigation results *will not be disclosed or discussed* with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the City from potential civil liability.

Investigation Responsibilities

The Administrator, with the assistance of the City Attorney as appropriate, has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. If the investigation substantiates that fraudulent activities have occurred, the Administrator will issue reports to appropriate designated personnel and, if appropriate, to the City of Devils Lake Board of Commissioners. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

ATTACHMENT A – DRUG AND ALCOHOL POLICY

On January 1, 1996, The City of Devils Lake was required by Federal law to have in place a program for alcohol and drug testing for pre-employment, post-accident, random, return-to-duty, follow-up, and reasonable suspicion.

Use of alcohol and illegal drugs in the workplace and on the road are a danger to those who use them, to those who work around users, and to the public in general. The City feels alcohol and drug testing will help discourage substance abuse and reduce absenteeism, accidents, health care costs, and other alcohol/drug related problems. In addition, it will protect the health and safety of City employees and the general public.

To comply with Federal regulations for alcohol and drug testing, the City of Devils Lake contracts with a private medical company to conduct alcohol and drug testing for the City.

Policy Statement

Employees are reminded that they represent the City of Devils Lake while working, as well as after working hours. The City takes violation of laws regulating the use and consumption of such drugs and/or alcohol very seriously, both while on and off the clock. Repeat violations of state and federal law related to controlled substances will be taken seriously with circumstances heavily scrutinized by the City. The City and its employees will be held to a high standard. Singular and especially repeat violations of state/federal drug and alcohol laws by City employees reflect poorly upon the organization. The reputation and credibility of the City with the public will be of immediate priority and will be a factor in determining if employees found in violation of drug and alcohol laws are to remain employed by the organization.

It shall be the policy of the City of Devils Lake that all employees are subject to reasonable suspicion testing. Regular full-time and part-time safety-sensitive employees are subject to the random alcohol and drug testing program, as well as post-accident, return-to-duty, and pre-employment testing. Safety-sensitive positions are defined as those whose duties are fraught with "such risks of injury to others that even a momentary lapse of attention can have disastrous consequences". This would include (but may not be limited to) Police Officers, Firefighters, Heavy Equipment Operators, Sanitation Drivers, Waste and Sewage Treatment Plant Operators, and drivers operating with a CDL.

Method of Testing

The contracted private medical company will provide the City with a computer generated random list which will identify the employees requiring random testing. There will be no advance notice to an employee of an alcohol or drug test. Testing will normally take place at the City Recycling Center.

Breath alcohol tests will be communicated to the City (or its designate) as soon as the test is completed. Negative drug tests will be reported within 24 hours if not needing any Medical Review Officer (MRO) handling and positive tests are reported as soon as the MRO process/interview is complete.

All employees subject to random testing will be placed in one of two pools, depending on the nature of their position. Those with a Commercial Driver's License are in one pool; all other safety-sensitive positions are in another pool. Random selections will be drawn quarterly.

Types of Testing

A. Random Testing

1. *Random alcohol testing* shall be conducted in accordance with the following requirements:
 - a. Random alcohol testing shall be administered at a minimum annual rate of 10% of the average number of regular full-time and part-time employees included in the alcohol/drug program.
 - b. The City designate shall ensure that random alcohol tests are unannounced and spread reasonably throughout the calendar year.
 - c. The City designate shall ensure the employees selected for random alcohol tests proceed immediately to the testing site upon notification of being selected.
2. *Random Drug Testing* shall be conducted in accordance with the following requirements:
 - a. Random drug testing shall be administered at a minimum annual rate of 35% of the average number of regular full-time and part-time employees included in the alcohol/drug program.
 - b. The City designate shall ensure that random drug tests are unannounced and spread reasonably throughout the calendar year.
 - c. The City designate shall ensure the employees selected for random drug tests proceed immediately to the testing site upon notification of being selected.

B. Reasonable Suspicion Alcohol and Drug Testing

1. The City must require a driver to submit to an alcohol or drug test when the City has reasonable suspicion to believe the employee has violated the alcohol or drug prohibitions. Reasonable suspicion is the belief that the employee has violated the alcohol or drug prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.
2. Alcohol testing as a result of reasonable suspicion is authorized only if the observations are made during, just before, or just after the period of workday the employee is required to be in compliance. If a reasonable suspicion alcohol test is not administered within two hours following the observations, the City designate shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight hours, the City shall cease attempts to administer the test, and shall

prepare and maintain the record listed above. Observations may include indications of the chronic and withdrawal effects of drugs.

C. Return-To-Duty and Follow-Up Testing

1. The City shall ensure that before an employee returns to duty requiring the performance of a safety sensitive function, and/or after engaging in prohibited conduct regarding alcohol misuse, the employee shall undergo a return-to-duty alcohol test indicating a breath alcohol concentration of less than .02.
2. In the event a return-to-duty test is required, the employee must also be evaluated by a substance abuse professional and participate in any assistance program prescribed.

D. Pre-employment Alcohol and Drug Testing

1. Prior to the first time an employee performs safety-sensitive on duty functions, the employee must submit to testing for drugs. Safety sensitive functions related to "on duty" time include:
 - a. All time waiting to be dispatched, unless relieved from duty
 - b. All time performing inspections of equipment
 - c. All driving time
 - d. All time, other than driving time, in or upon any commercial motor vehicle
 - e. All time loading or unloading a vehicle
 - f. All time spent performing activities related to accidents
 - g. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
2. The employer shall not allow an employee to perform a safety-sensitive function until a drug test result from the MRO indicates a verified negative test.

E. Post Accident and Drug Testing

1. As soon as practicable following an accident involving a commercial motor vehicle, each employer shall test for alcohol and drugs from each surviving driver when either:
 - a. The accident involved a fatality; or
 - b. The employee receives a citation under state or local law for a moving violation arising from the accident.
2. For the purpose of this rule, an accident is defined as an incident involving a commercial motor vehicle requiring to be towed from the scene.

Employee's responsibility:

An employee who is subject to post-accident testing must remain available, or the

employer may consider the employee to have refused to submit to testing. The employee subject to post-accident testing must refrain from consuming alcohol for 8 hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

Employees must not have even one drink fewer than 4 hours before work duties begin. Employees in the random pool must be available to be tested for alcohol and/or drugs while on duty and just prior to, just after, or while performing a safety-sensitive function. Employees who refuse to be tested or to cooperate in testing, or who attempt to alter test results, are subject to termination procedures.

Employees must notify their supervisor if using a prescription containing a controlled substance. The employee must also provide documentation that uses of the drug does not adversely affect the employee's ability to operate a commercial motor vehicle.

Employer's responsibility:

The City shall provide employees with necessary post-accident information, procedures and instructions, prior to the employee operating a commercial motor vehicle, so that employees will be able to comply with the requirement.

All applicants and employees who undergo City-mandated tests must be notified if the test result is positive. The vendor will follow specific procedures if an alcohol test result is positive. The procedures are required by federal guidelines and are intended to make sure that the test result is a true positive. Tests required by the City, except for pre-employment tests and return-to-duty tests, are considered a duty assignment. Time for travel and time spent in providing the specimen at the collection site will be with pay.

Definition of a positive alcohol test:

Alcohol tests will be considered positive if the breath test indicates an alcohol presence of .04 or greater. If the test results are positive, the employee and supervisor will be notified before the employee leaves the test site.

If an alcohol test indicates an alcohol concentration of at least .02, but less than .04, the test is considered negative, but the employee will be taken out of service for 24 hours.

Definition of a positive drug test:

A test will be considered positive if a controlled substance for which no legitimate explanation, determined by the Medical Review Officer (MRO), is found in the urine specimen.

Out-of-Service Request

Many employees are subject to call for emergency duties. However, if the employee has had even one drink in the 4 hours prior to the call or suspects that he/she may have

a breath-alcohol concentration of .02 or above, the employee must take himself/herself out of service. No disciplinary measures will be taken when the employee requests to take himself/herself out of service.

City Requirements of Previous or Prospective Employers

The City may inquire with previous employers before requiring an employee to perform work in a safety-sensitive position. New hires must sign a release of information allowing City officials to inquire with previous employers about the applicant's drug-testing history during the previous two years. Information that may be requested includes:

1. Previous test dates
2. Positive test results
3. Refusals to test
4. Evaluation and rehabilitation results.

If asked, and the proper release of information is provided, the City will disclose the following information to any potential future employers of employees covered under the City's alcohol and drug testing program:

1. Results of any tests which an employee took
2. Any referral for evaluation and rehabilitation
3. The results of any such referral.

New employees will be notified about this policy after they are hired but before they report to work with the City. They must sign off, indicating that they have read and understood the policy, before they begin work duties with the City.

ATTACHMENT B – GRIEVANCE PROCEDURES

GRIEVANCE PROCEDURES

The purpose of this internal grievance policy and procedure is to provide a fair and effective opportunity to resolve work-related problems by using a series of interactive and progressive steps.

Definitions for the purpose of this policy:

- a. **Working Days** – the workdays of Monday through Friday, excluding holidays
- b. **Reduced to writing** -- a concise statement outlining the nature of the grievance and the relief requested.
- c. **Harassment-related** – any grievance related to violation of section 704 of this handbook.

Scope: This policy applies to all departments and employees of the City of Devils Lake. This policy does not usurp any rights or avenues laid out in state or federal labor law. Department Heads are identified in City Code as appointive officers and the authority to remove or suspend such appointments rests with the City Commission as identified in 2.12.040 of City Municipal Code.

All grievances shall be handled in the following manner:

STEP 1.

When an employee has a grievance, he/she shall always attempt first to resolve the matter informally by directly addressing the individual involved. In harassment-related grievances, employees are not required to deal directly with an offending individual(s) in seeking resolution.

STEP 2.

If informal attempts at resolving the matter are not successful, the grievance shall be reduced to writing within 10 working days of the grieved incident and presented to the Department Head. (If the matter directly involves the Department Head move to Step 3.) The employee should expect a response in writing within 10 working days. If the employee feels the concern has not been sufficiently considered or addressed with the Department Head proceed to Step 3.

STEP 3.

Any matter not resolved in a satisfactory manner by the Department Head should be presented in writing to the City Administrator for an appeal. The employee should expect a response in writing within 10 working days. If the employee feels the concern has not been sufficiently considered, the aggrieved employee may proceed to Step 4.

STEP 4. A Grievance Review Board comprised of the Mayor, the portfolio commissioner, (Commission Vice President if Mayor and portfolio commissioner are the same person)

the City Attorney, and the Human Resources Advisor (ex-officio) may elect to hear the grievance or to contract a hearing officer to hear or review the grievance. Once the Board has reviewed the initial grievance, the employee shall be notified in writing of the method, time and place of a hearing. If the Board elects to hear the grievance, they will establish the terms for hearing the grievance, either by requesting all parties submit information in writing, verbally, or combine both options. Once the Board has either heard the grievance or received a recommendation from a contracted source, the Board will then make a final decision with members voting (the Human Resources Consultant will not vote but will be present to advise). The Board's decision will be final and will be provided to the employee in writing within 15 days after making a determination.

At any time through the grievance process, either the employee and/or supervisory level may request alternative dispute resolution or mediation services. All parties involved must agree to the use of mediation prior to using this method.

An employee who is a party to a work-related grievance proceeding may be accompanied, advised, and represented throughout the proceeding by another employee or by a representative chosen by the employee involved in the proceeding according to NDCC 34-11.1-04.2 All representatives must conduct themselves in a respectful and professional manner during the grievance procedure.

Non-grievable items: There are various departments and offices of the City of Devils Lake with a small number of employees. In order to provide needed assistance to another department, an employee may be transferred, permanently or temporarily, to another department so long as it does not decrease the salary and benefits of employees affected. Such action does not constitute a grievance. Additionally, the following items are also non-grievable:

- Issues deemed settled by the Grievance Review Board
- Relocation or transfer of an employee within the department that results in no change of pay, benefits, and/or classification.
- Temporary work assignments.
- Budget and organizational structure, including the number of assigned employees within any department.
- The manner and method of performing work assignments, including performance evaluations, unless in the case of discrimination.
- Benefits.