CLINTON CITY

PERSONNEL POLICIES

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I. A WORD ABOUT THIS HANDBOOK

Communications is the most important aspect of the employment relationship. This handbook is designed as part of our effort to improve your understanding of what we expect of you as an employee. It also outlines your benefits as a City employee. This personnel policy is not a contract of employment. However, to the extent an employee wishes to remain or be employed by Clinton City, these are the basic policies that must be followed.

Your daily contact with the public has two effects: First, the perception the public gains from your appearance and behavior which reflects on your City as an employer; Second, what you see and hear can be very useful to us in improving the public's perception of the City, and are important in helping us serve the citizens of the City.

Improving the public perception of the services we provide and how well we provide them, in the long term, allows us to better compensate you for the part you play in getting the job done. Serving the public and getting the job done right should be the ultimate goals all of us are striving to achieve.

Please read this handbook with these ideas in mind. It is a synopsis of our mutual expectations. As such, it cannot anticipate every situation that might arise while you work here. However, it does address the most common issues where questions have been raised in the past. Should you not understand a specific portion or reference in this handbook, contact your supervisor.

II. EMPLOYEE ORIENTATION

New employees will be provided with an orientation session during which they will be given a copy of this handbook and the opportunity to ask questions they may have concerning its contents or application. Current employees will also be given an orientation to this handbook, or any subsequent modification to it, required by changes in applicable laws or regulations, or by subsequent action of the City Council.

III. PURPOSE

The purpose of these policies is to provide systematic and equitable procedures and regulations relating to the hiring, compensation, hours of work, leave, safety, training, working conditions, promotions, transfer, discipline, removal and other matters affecting the status of employees of the City. These rules and regulations are provided to maintain and improve the facilities and services which the residents of the City require, to maintain uniformity and equity in personnel matters which will make City service attractive as a career and to encourage each employee to give his/her best service to the City.

IV. APPLICATION OF POLICIES

These personnel rules, policies and procedures apply to all City employees, except in the event of a conflict between these policies and any valid collective bargaining unit contract, City ordinance, state or federal law.

The City specifically reserves the right to modify or amend these policies at any time, with or without notice. In the event of the amendment of any ordinance, rule or law incorporated in this document or upon which these provisions rely, these policies will be deemed amended in conformance with those changes.

V. DEFINITION OF TERMS

As used in these rules, unless the context requires otherwise:

Anniversary Date:
The date marking the end of the probationary period of an employee after being appointed promoted or reclassified to a position of employment as a regular employee.

Appointing Authority:
Any person or group vested with the authority to employ, discipline or terminate an employee in a position in City service. This definition includes all Elected Officials, Appointed Officials and Department Heads given such authority by the City Council or City Manager.

Department Heads:
Supervising managers of a City department. They are employed or terminated through the City Manager with approval of the Mayor and City Council. They are supervised, directed, disciplined (except for termination) and evaluated by the City Manager. Department Heads direct and supervise the employee activity and services provided within their respective departments. They are allowed to employ, discipline or terminate an employee with approval of the City Manager.

Disciplinary Probation:
A period of time defined by the employee's appointing authority, which shall not be less than 30 days nor more than one (1) year for violation of these policies, city ordinances, or state law.

Employee:
A person employed by the City in one of the following categories:

Probationary Employee; Regular Full-time Employee, or Regular Part-time Employee; Probationary Promotion Employee; or Temporary/Seasonal Employee.

All persons employed by the City are "at will" employees.

Fair Labor Standards Act:
Federal law establishing requirements relating to minimum wage, salary classifications, overtime compensation, child labor and equal pay requirements. It also identifies certain employee classifications which may be declared exempt from overtime and minimum wage laws (for Clinton City these are executive, administrative and professional employees who qualify.)

Governing Body:

The Mayor and Clinton City Council or its Designated Representative(s).

Illegal Act:
Acts which violate law, federal, state or local.

Immediate Family:
Shall include the employee's spouse, children (adopted or natural), parents, other/father in law, brothers, sisters, grandparents, or other dependents living in the employee's household.

Lay-off:
Termination due to a shortage of funds, materials, work or for involuntary reasons not reflecting discredit upon the performance of the employee.

Lay-off List:
A list of laid off regular employees in a particular Class of job who are entitled to be reappointed to a position in that Class, setting forth the effective date of lay-off, and establishing an order of re-call for future job openings.

Military Leave:
A leave of temporary absence granted to employee(s) while serving in the US Armed Forces, Reserves, or the National Guard.

Personnel Action:
Any action taken with reference to an employee or position.

Position:
Defines a group of duties within a work classification requiring a full-time or part-time employee to accomplish the specified duties.

Position Vacancy:
A position which becomes vacant when a current employee has been promoted, voluntarily or involuntarily demoted, resigned, terminated, or has retired.

Probation:
Normally a period of time not less than six (6) months and not more than one (1) year, during which new employees are required to demonstrate by actual performance their fitness for the regular full-time position or regular part-time position to which appointed, promoted, or hired.

Probationary Promotion:
Normally a period of not less than six (6) months nor more than one (1) year, during which a promoted employee is required to demonstrate, by actual performance, fitness for the position to which promoted.

Promotion:
Movement of an employee from a position in one classification to a position in a higher classification.

Reclassification:
Change in job status due to certain changed job requirements.

Regular Full-Time Employee:
An employee who has been appointed or hired to a full-time position established in the annual budget, following satisfactory completion of the probationary period, who regularly works forty (40) hour weeks.

Regular Part-time Employee:
Employee who after satisfactory completion of the probationary period, holds a part-time position that is established in the annual budget and these rules, and normally works regular weekly hours of twenty (20) hours or more, but less than forty (40) hours per week.

Supervisor:
Includes any person responsible for assigning tasks to and evaluating the performance of an employee, and who may, with the concurrence of the Appointing Authority, discipline, suspend or terminate an employee.

Suspension (Administrative):
A temporary interruption in work of an employee directed by the Appointing Authority for investigative reasons. During this period the employee will be paid. Administrative suspension periods normally shall not exceed ten (10) days. Employee benefits will not be affected during the suspension period.

Suspension (Disciplinary):
Temporary interruption of work of an employee directed by the Appointing Authority for disciplinary reasons. During this period the employee shall not be paid. The disciplinary suspension period shall not exceed thirty (30) calendar days.

Temporary/Seasonal Employees:
These employees are normally hired for a defined project and/or limited time frame, typically for less than nine (9) consecutive months. These employees are not eligible for benefits unless required by law. They shall be covered by Worker's Compensation and shall be compensated for overtime hours at one and one-half times the normal hourly rate for the position held. Employment of temporary/seasonal employees beyond an initially specified term does not imply or constitute an employment status change. These employees are considered "at will" employees subject to termination without cause.

Transfer:
Movement of an employee from a specifically described position of employment and pay level in one department, to a similar described position and same pay level in another department.

Voluntary Demotion:
A demotion requested by an employee in order to retain employment when a layoff is imminent or for other reasons, when the action is entirely voluntary on the part of the employee.

Volunteer Employee:
An individual who performs a service for the City that is humanitarian or civic in nature, done for the worker's private reasons, and the volunteer does not expect to be paid, nor is the volunteer paid. Employees of the City may not volunteer to do the same work that they normally do in their paid positions.

Work Week:
A basic full-time work week is 40 hours of work on 5 consecutive 8-hour days. The standard work period commencing at 12:01 A.M. Sunday and ending midnight the following Saturday.

With City Manager approval, Departments may establish other work week schedules or work arrangements to meet their requirements.

VI. EMPLOYMENT POLICIES & INFORMATION

A. EQUAL EMPLOYMENT OPPORTUNITY

Equal employment opportunity at the City is defined as a policy of approaching all employment related decisions based on the skills, experience, education, and demonstrable ability to perform the essential tasks of the position being offered, without reference to age, sex, race, color, religion, national origin, or disability.

Employment applications, job descriptions, advertising (internal or external), and interviews for job openings will be confined to whether the applicant can perform particular job functions. Based on the responses received, should it appear that an applicant might have difficulty with an essential function of the job, due to a disability as defined by law; the City will seek to provide reasonable accommodation, in cooperation with the applicant, on a case by case basis. Should a current employee suffer a disability as defined by law, reasonable accommodation, including reassignment to a vacant position for which the employee is fully qualified, will be made.

An offer of employment requires the applicant to first pass a pre-employment drug screen and take an appropriate medical examination, if required. Information obtained as a result of medical examination will be limited to job related inquires, specific physical job requirements, consistent with business necessity and maintained in a confidential file.

It is the intent of the City to apply these policies to all employment practices, including, but not limited to: job applications and testing; hiring; termination; advancement; promotion; tenure; compensation; training; recruitment; advertising of job openings; layoff and recall; leaves of absence; fringe benefits; and all other employment related activities.

Any violation of this policy should immediately be brought to the attention of the City Manager who will institute an appropriate investigation as deemed necessary to substantiate the facts surrounding the alleged violation. Based on this information, disciplinary action to correct the violation will be taken as indicated by the facts of the case, and a written record will be maintained containing the results of the investigation

B. POLICY AGAINST DISCRIMINATION AND HARASSMENT

It is the intent of the City to provide a work environment that is free from unlawful discrimination and harassment. Unlawful harassment includes undesired harassment based on race, gender, religion, national origin, age, disability, marital status, and any other basis prohibited by law. Unlawful harassment in the workplace on the part of

any employee is prohibited and any employee found to have engaged in unlawful harassment will be subject to disciplinary action.

It is the intent of the City to apply these polices to all employment related practices, including, but not limited to: job application procedures and testing; hiring; promotion; demotion; termination; tenure; compensation; training; recruitment; advertising of job openings; lay-off and recall; leaves of absence; fringe benefits; and all other employment related activities.

An employee who believes he/she is the subject of unlawful harassment should report the complaint to his/her department head, who will take it to the City Manager, or if the complaint is against the department head, the employee shall report the complaint to the City Manager, unless the complaint is against the City Manager or Municipal Judge, then the employee should notify the Mayor or a City Council member, who will immediately institute an appropriate investigation as deemed necessary to substantiate the facts surrounding the alleged violation.

Based upon this information, disciplinary action to correct the alleged violation will be taken as indicated by the facts of the case, and a written record will be maintained containing the results of the investigation. Falsification of a complaint shall be grounds for disciplinary action.

Retaliation by an employee's supervisor or another employee for filing a complaint alleging unlawful harassment will not be tolerated and will subject the retaliators to disciplinary action.

C. PERSONNEL RECORDS

Each City employee will have an official personnel file which will be maintained by the City. The file shall contain:

1. Employee's name, title, job description, department assigned, current salary, change in employment status, training received, evaluations, disciplinary actions, and other such information as may be considered pertinent.

2. All employee records shall be considered "CONFIDENTIAL". Employee records will be accessible only to the employee; the Employee's Supervisor, the City Manager or the City Manager’s authorized designee, in performance of their duties with the City.

3. All Medical files created as a result of employment offers will be maintained in a CONFIDENTIAL file, and only be used for purposes of determining physical fitness for the performance of

essential functions of a specific job sought either as initial or promotional employment. (Also see XXI.C.1)

No information from the personnel file shall be released to outside parties except with the prior written authorization of the employee, or by order of appropriate legal authority.

Generally, public records are available for public inspection. The Government Records Access and Management Act, in the Utah Code, outline the specific material that is exempted from public disclosure (see Utah Code Title 63G, Chapter 2). This exemption includes most of the material in an employee's personnel file unless a public need is shown for its disclosure. Personnel records are controlled by the City Manager and requests to review records must be made in writing to him/her.

D. OUTSIDE EMPLOYMENT

No full-time City employee shall accept outside employment, whether part-time, temporary or permanent, without prior written notice of the proposed employment, employer, and hours of employment to, and the approval of, his immediate supervisor and the City Manager. Such approval will be conveyed in writing back to the employee. It is understood that the City may, at any time, revoke permission to hold outside employment.

In order to be approved, the outside employment must:

1. In no way detract from the efficiency of the employee in his/her work for the City;

2. In no way conflict with the interest of the City or be a discredit to the City; and,

3. Not take preference over extra work required by City employment.

Copy of the request, whether approved or not, shall be placed in the employee's personnel file together with the final disposition.

E. POLITICAL ACTIVITY

It is the policy of the City that Employees of the City shall not simultaneously hold an elective municipal office with the City. Any employee running for a Clinton City

elected office, and winning that election, must resign from City employment prior to taking the oath of office.

The restrictions imposed by the law of the State of Utah on political activities are that no city employee shall use such employment to solicit any money, influence, service or other thing of value, or otherwise aid or promote any political committee, or the nomination or election of any person to public office, while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee; outside the hours of employment, to campaign, express his/her personal political views, support candidates/ballot issues, hold a political office in a different jurisdiction or to vote in any election.

F. ATTENDANCE

Employees are expected to work a complete designated work day. If an employee, for some unavoidable reason, cannot report for work, he/she is expected to notify the appropriate supervisor as soon as possible, but no later than ½ hour after the scheduled reporting time. Employees in emergency services must notify their supervisor of an impending absence as far in advance as possible of the beginning of their shift.

An employee who is absent from work for three (3) consecutive working days, without authorization, will be considered to have abandoned his/her job as of the last day of active employment and will be declared to have voluntarily quit, unless the City determines the absence was due to an unavoidable situation and the employee was unable to contact the City due to circumstances beyond the employee's control.

An employee is responsible for correct reporting of hours worked, on bi-weekly time sheets. Supervisors are responsible for verification of employee time worked.

Because of overtime requirements, non-exempt (FLSA) employees should not begin work early or leave late without prior approval of their supervisor.

G. NEPOTISM

The City shall adhere to the provisions of Utah State Code 52-3. Members of the fire department are exempt from these provisions if they are non-full-time or on call employees. The provisions of this section shall apply to promotion, demotion, transfer, reinstatement, and new appointment/hire, but shall not be construed retroactively to affect situations of employment in effect prior to the enactment of this section.

H. CONFIDENTIALITY

All information relating to personal or private matters, gained by employees as a result of the confidence placed in them as City employees by the public, is to be treated as confidential, unless specifically designated otherwise. Discussions involving such matters should always be confined to those who have a "need to know" based on related City services required by the confidential matter.

I. RESIDENCY REQUIREMENTS

Employees are encouraged to live within the City Limits. However, residency will not be a condition of employment or continued employment.

For Public Works employees while on stand-by duty, consumption of alcoholic beverages, illegal drugs or incapacitating prescription drugs is forbidden. The employee shall maintain the capability to respond to an off-hour or holiday emergency within 30 minutes of receiving the call.

VII. ADMINISTRATION AND PERSONNEL PROGRAM

A. ADMINISTRATION

1. Officers of the City shall be the City Manager/Recorder, City Engineer, and City Attorney, all of whom shall be appointed by the Mayor with the ratification of the City Council. Department heads shall be appointed by the City Manager with City Council approval.

Employees are defined as all other persons hired by the City whether on a regular or temporary basis.

As authorized by the City Manager, department heads may have the right to hire and terminate employees within their own departments subject to budgeting limitations placed on said departments by the City Council and subject to such other limitations as are contained in this manual.

The City Manager will serve as the appellate board for all personnel issues, except as stated in the next paragraph and in occasions when he/she is acting in the capacity of the first line supervisor. In such cases the Mayor and City Council will act as the appellate board.

As outlined in Utah Code 10-3-1106, an appeals board will be established as needed to review written appeals of discharged or disciplinary transferred employees. The decision of the appeals board may be appealed to the City Council. (See Appeals Board, XVIII.B)

B. PERSONNEL PROGRAM

The personnel program established by this plan shall be administered by the City Manager. The City Manager shall:

1. Prepare the job classification and pay plan, compensation survey fringe benefits and amendments and revisions to this plan for Council adoption.

2. Administer all provisions of the personnel program.

Advise department heads on interpretations of provisions of the plan and assist in personnel administration in each department.

Advise the City Council on the need for changes or amendments to the plan.

VIII. HIRING PROCEDURES

A. VACANCIES/NEW POSITIONS

Vacant or new City positions may be filled by a transfer or promotion of a current City employee, or by recruitment of a new employee. When it is determined by the City Manager that a position needs to be filled, the department head will be authorized to recruit, test, and select an individual for the position, after coordination and final approval by the City Manager.

The City Manager will decide the mode of filling the vacant position, whether to promote, to recruit first from qualified current employees and/or qualified former employees, or to open the vacant position to the public by posting the announcement in a local city newspaper and by other such methods. Such an announcement shall specify: the title and salary range; the date of closing for the acceptance of applications; the nature of the work to be performed; education and experience required; and any other pertinent information.

B. APPLICATION FOR EMPLOYMENT

Application forms will be furnished by the City Treasurer to all applicants. A signed application form must be on file for each person considered for the position. Resumes may be included with the application form.

C. QUALIFICATION STANDARDS: NEW HIRES/PROMOTIONS

All qualified applications will be reviewed by the hiring department head, keeping in mind the essential functions of the job, the applicant's education, experience and other qualifications.

Qualifications of an applicant for a position in City Service shall be ascertained on the basis of one or more of the following:

1. Information contained on the application form.

2. Written, performance, or physical tests, or any combination thereof.

3. Qualifications required for certification under State Law.

4. Oral interview process.

5. Background checks (includes previous employment, driving,

criminal and personal reference checks).

6. Other requirements as specified by the governing body of the City in the position description.

Any examinations required for various positions will be administered by the department head in consultation with the City Manager.

D. INTERVIEW BOARD

An oral interview board may be appointed by the City Manager for the purpose of interviewing applicants. The interview board may consist of the following:

1. The relevant Department Head;

The City Manager or designee;

Other qualified persons designated by the City Manager.

IX. TERMS AND CONDITIONS OF EMPLOYMENT

A. CLASSIFICATION OF NEW APPOINTMENTS/PROMOTIONS

All Clinton City employees are hired under the Utah "at will" law. All new or promoted employees are subject to a probationary period as outlined in subsection B. Normally new employees are hired at the first step (probationary step) of the pay plan for their classification. However, in instances where a new or promoted employee has experience or skills which are above those required for the position, it is possible to hire in above the minimum salary with City Manager approval.

B. PROBATIONARY PERIOD

The probationary period shall normally be six (6) consecutive full months of employment, but no longer the one (1) year. A shorter probationary period may be established at the time of employment or thereafter with the written approval of the City Manager. Probationary employees are not entitled to use Articles XVII and XVIII of this policy.

The work and conduct of probationary employees shall be subject to close scrutiny and evaluation, and if found to be below standards of acceptability, the department head may remove or demote the probationer at any time during the probationary period. Such removals or demotions shall not be subject to appeal.

A satisfactory rating on a written performance evaluation will be required to establish the end of the probationary period. Upon the successful completion of the probationary period this completion date shall become the anniversary date. Annual merit increases shall be considered thereafter on this anniversary date of each succeeding fiscal year, but may be limited by annual budget constraints.

During the original appointment probationary period, the employee will not be eligible for vacation leave but will earn vacation credit, usable after successful completion of the probationary period. Employees terminated prior to the completion of such probation will not be paid for accrued vacation time. Probationary employees may be allowed to use accumulated sick leave, as may be approved by their department head. Any request for administrative leave needs to be approved by the City Manager.

C. PROMOTIONS

To be eligible for promotion, an employee must meet minimum requirements of the higher level position and must have a current satisfactory performance rating in the present position. Final decisions whether to promote a current employee or hire outside the City services to fill vacant positions, rests with the City Manager.

Promotions may be granted by the City Manager on recommendation of the department head where an employee has demonstrated performance above and beyond requirements of the job and performance of other employees.

A promotion may take place whenever an employee moves from one job classification into another job classification at a higher grade. When an employee is so promoted, he shall be entitled to the step in the higher grade that represents an increase over the salary range previously received in the lower grade. In accordance with the City Manager's decision, an opportunity to apply for any available promotional opportunity may first be offered to qualified regular employees within the City before new applicants will be considered. Promotions to Department Head positions require City Council approval.

D. PROBATIONARY PROMOTIONS

Following a promotion, a full time/regular employee shall be in a probationary period for not less than six (6) months, or more than one (1) year, at the discretion of the City Manager. During that period such employee's vacation and sick leave, and all other benefits will accrue the same as prior to the promotion. The employee will be evaluated on his/her performance in the promoted position, the same as a new appointment/hire. In the event probation is not satisfactorily completed in the opinion of the Appointing Authority, and upon notice of termination being given, the employee in a promoted position will have the right to appeal.

E. LAYOFF

A department head, with the concurrence of the City Manager, may lay off employees due to organizational changes, lack of funds or curtailment of work. When layoffs are required they shall be based on relative seniority and the ability to perform the work. However, no regular employee in a classification will be laid off while there are temporary, hourly or probationary employees in that department performing similar duties in the same classification. Transfer may be made between classifications in order to retain the best qualified employees for the work available. The City will make every effort to give employees reasonable notice of intent to lay off.

F. RESIGNATION

To resign in good standing, an employee shall give the City Manager not less than ten (10) working days prior notice of such resignation unless the City Manager agrees to permit a shorter period of notice because of extenuating circumstances. The notice of resignation shall be in writing and contain the reasons for leaving City service.

G. RE-EMPLOYMENT

Regular and probationary employees with a satisfactory record of service, who resign their positions in accordance with Section IX (F) above, may be allowed to apply for vacancies under the same conditions as set forth in Section VIII (A through D) above.

H. TRANSFERS

Employees may be transferred from one position to another, with approval of the City Manager provided such transfer is at least the same salary level, and the employee meets at least the minimum qualifications for the new position. The exception would be if the employee requests a transfer to a lower paid position.

1. VOLUNTARY TRANSFER

Transfer, by employee request, can be accomplished at the same salary level, or a lower level, provided minimum qualifications for the new position are met.

2. TEMPORARY ASSIGNMENT

The City has the right to temporarily assign an employee to any position, in any department, when it is deemed to be in the best interest of the City, provided the employee being transferred meets the minimum qualifications for the position.

I. EMPLOYEE EVALUATION

It is the policy of the City to regularly evaluate employees for actions and deeds which will be noted in their personnel file.

Each employee shall receive a performance evaluation by his/her supervisor annually. The evaluation shall objectively assess the employee's performance during the preceding twelve (12) months. Results shall be reviewed by and discussed with the employee prior to review by the City Manager and filing in the employee's personnel record. No step increase or promotion shall be given to any employee except upon satisfactory performance evaluations. Special situations may require additional performance evaluations during the twelve (12) month period. These must be approved and directed by the City Manager.

J. DRUG FREE WORKPLACE

The Drug Free Workplace policy of the City is found in Chapter XX. Employees should familiarize themselves with this policy, and are responsible to abide by and conform to it.

K. WORK SCHEDULE

The regularly scheduled hours and days of work shall be established by the City. On occasion, it may be necessary to alter the regularly scheduled hours and days of work. Regular hours may differ in each city department and will be published by that department head. When the work schedule is altered, employees are required to attend work in accordance to it.

The hours during which city offices and departments shall be open to serve the public will be determined by the City Manager with City Council approval. The hours of work for individual positions shall be determined by the department head, with the approval of the City Manager, to meet the needs of the City.

The schedule for regular full-time employees will normally provide for a work week of forty (40) hours within a specific seven day period. Other work schedules may be established to meet the needs of specific city services.

L. FLEX TIME

With approval of appropriate authority, work schedules may vary with the stipulation that time worked will be compensated on a one hour for one hour basis. Work hours may be staggered on a flex-time arrangement to provide longer hours of service to the public, or for some other approved purpose.

Employees for whom necessity requires a different schedule or a temporary change in a regular schedule than that generally applied will work according to regulations prepared by the respective department head and approved by the City Manager.

M. LUNCH AND REST PERIODS

Employees are provided a one hour lunch period or one-half hour lunch period. Lunch schedules may vary according to department need. A department head may require an employee to perform tasks during the meal period. Any employee who, for emergency or other reasons, works during a lunch period must report such time as time worked.

Employees are entitled to a fifteen (15) minute paid rest period for each four (4) hours of working time. Breaks shall be arranged so as not to interfere with city business.

N. SAFETY RULES AND ACCIDENT REPORTS

1. SAFETY POLICY STATEMENT

The City's first priority is to maintain a safe working environment for its employees

and the public. For the employee's protection, job-related injuries, accidents or illnesses must be reported immediately in accordance with this City safety and accident policy.

2. MANAGEMENT RESPONSIBILITY

Each department will consider the need for adopting safety practices, policy, or procedures warranted by the hazards department employees encounter. Department heads are encouraged to involve employees in this process.

A copy of such practices, policies, or procedures will be delivered and explained in detail. All department employees shall then sign a receipt, which will be placed in the individual employee's personnel file, stating that they have read and understood these rules. Department heads shall also explain to their employees that a violation of these safety rules could lead to disciplinary action up to and including termination of employment.

3. EMPLOYEE RESPONSIBILITY

Every employee must be safety conscious and responsible for helping the City achieve the goal of providing a safe work place.

Employees shall report any unsafe or hazardous condition to their supervisor immediately.

4. SAFE WORK PRACTICES

Employees are expected to use common sense and good judgment in their work habits and to follow safe work practices. Department Heads and Supervisors shall ensure that safe work practices are utilized. Examples of safe work practices are as follows:

a) Using the proper safety equipment when performing a work assignment.

b) Not operating equipment or machinery while using prescribed medication without a doctor's written approval.

c) Under no circumstances should an employee operate any type of machinery or equipment while under the influence of drugs or alcohol.

d) Operating only equipment or machinery for which training or orientation has been received.

e) Warning co-workers of unsafe conditions or practices.

f) Following all safety and operating rules posted on equipment and machinery.

g) Refraining from horseplay at all times.

h) Wearing safety belts when operating City-owned vehicles or private vehicles when on City business.

i) Following OSHA rules, including but not limited to confined space access and chlorine handling guidelines. Employees are responsible for maintaining current knowledge of periodic rule/regulation changes made by the issuing State and Federal safety agencies.

5. SAFETY TRAINING

Periodic training will be arranged when appropriate in the judgment of the department head. Employees will participate in all required safety training programs offered by the City.

6. REPORTING ACCIDENTS

The City Manager shall be notified of all accidents involving City employees and/or City equipment as soon as possible but in no event later than the next work day. Accidents involving City owned vehicles or personal vehicles being operated on City business shall be reported to the Police Department for investigation. For accidents involving CDL drivers, see XXI.A.1.e &B.1.d.

O. PURCHASING POLICY AND PROCEDURES

Pursuant to Title 2 of the Clinton City Code of Revised Ordinances; it is the policy of the City to require accountability for the requisition of all goods and services purchased by the City. Authority to make purchases on the City's financial accounts is approved through the City Manager. Departmental purchases must be cleared through Department Heads. Accountability for purchasing actions is controlled by the Accounting Office. Specific purchasing guidelines can be found in the official City Purchasing Policy.

X. COMPENSATION

A. PAY PLAN

The City shall adopt a pay plan for all positions in the City. The pay plan shall include each classification, a minimum and maximum rate of pay, and such intermediate rates as are considered necessary, and equitable. Flat and hourly rates may be used in place of salary ranges where appropriate.

Cost of living adjustments reflected in a percentage increase to the pay plan base will be considered annually in conjunction with the annual budget process. The percent of increase, if any, will be decided by the City Council.

The pay plan shall consist of salary ranges each having a probationary and nineteen (19) grade or incremental steps with a 2% differential between each step. Each classification shall have a minimum and maximum salary range.

When an employee has reached the top step of his/her pay plan (Step 19) he/she will be eligible on each anniversary for a 1% per year longevity pay increase, as determined by the annual evaluation and funding availability.

Any employee, at any time of the year, may be eligible for an exemplary service bonus. This bonus may be up to 2% of the employee's annual salary. It may be for any of the following reasons, though not exclusively:

1. Money savings
2. Life saving action.
3. Educational and training accomplishment.
4. Completion of an extra strenuous operation requiring a lot of employees own time.

All exemplary service bonuses must be recommended by the department head (and/or the City Manager), and approved by the City Manager. These are one time events and do not impact the employee's normal salary.

The salary range assigned to each classification shall be such as to equitably reflect the differences in the responsibilities and duties between it and other classifications, taking into account salary rates, benefits paid, and other relevant factors.

The City Manager is responsible for maintaining and administrating the pay plan. It is the policy of the City that every department use the pay plan in the same manner. A copy of the pay plan will be maintained in the City Hall as a matter of public record. The rate of pay for temporary employees shall be at least federal minimum wage, and

will be set by the department head, and approved by the City Manager, to attract qualified personnel. Employee's classified temporary shall not be eligible for City sponsored medical, retirement, vacation and sick leave benefits.

Regular employees are hired on an hourly wage rate and receive all applicable benefits. Appointments of regular employees are made, pursuant to the hiring procedures established in Section VII and VIII of these rules, by the department head with the advice and consent of the City Manager. Termination is subject to all terms and conditions of these personnel rules and regulations.

B. CHANGE OF CLASSIFICATION

Positions may be changed from one class to another, provided the minimum requirements of the job are met. The City may reclassify positions within the financial limitations of the current City budget using the following criteria:

1. Positions are classified in a range and vacancies are filled at the established range. Most vacancies start at the probationary step, but may be started at a higher step in the range when unusual difficulty in filling the position is experienced or the person hired is exceptionally qualified. City Manager approval is required.

2. Merit increases within classification ranges will be granted in STEP INCREMENTS ONLY. Requests for increases must include a satisfactory performance rating for the employee and approval of the City Manager.

Department heads are responsible for notifying the City Manager of any unusual changes in positions. An employee may also request of the department head that his/her position be reviewed to determine whether it is properly classified. The City Manager will make the necessary investigation of any such request and any changes in job classification approved by him/her will be documented in written form.

C. SALARY INCREASES

As needed, the City shall analyze compensation policies, cost of living, fluctuations in the personnel requirements of the City, and salary range for each class of position, to determine whether adjustments should be made in compensation, either generally or in specific positions.

Increases **will not** be automatic, but are based on consideration of individual employee performance, job related educational achievement, disciplinary actions required, and annual evaluations which are reviewed and discussed with each employee, and maintained in the employee's permanent file. Funding capability of the City to budget salary increases will be the overriding factor.

D. MERIT SALARY RANGE STEP INCREASES

Merit increases will be considered annually in conjunction with the annual evaluations. Merit increases are designed to reward levels of improved and increased job performance by individual employees. As is appropriate, employees may progress through their 19-step salary range. After reaching their top salary range, only the 1% longevity merit increase will be available annually.

Subsequent to each annual evaluation, department heads shall identify to the City Manager whether or not an employee is recommended for a merit salary step increase. Such merit salary step increase may be restricted due to budget constraints.

Regular employees not recommended for merit salary step increases may appeal such action through the procedure provided in Section XVIII (grievance).

E. SERVICE AWARDS

A regular employee (full or part time) will be eligible for a service award after continuous city employment of 5, 10, 15, 20, 25 and 30 year time periods. The dollar award or other benefit provided for these service awards will be set from time to time by the City Council.

F. NON-DISCIPLINARY DEMOTION

Except for a request initiated by the employee, an employee who is demoted for other than disciplinary reasons to a lower salary range than that to which he was previously assigned, shall have his/her salary reduced to the highest step in the new range, which is less than, but closest to, the salary of the previous salary range step.

G. RECLASSIFICATION

An employee, whose position is reclassified from one salary range to another, shall be paid at the same rate for which he/she was paid in the previous salary range or the lowest step in the new salary range, if such step in the new grade is higher.

H. PAY PERIODS AND DAYS

The minimum pay period will consist of 80 hours, usually consisting of two weeks, Sunday through Saturday. City pay periods are bi-weekly with checks issued five (5) days after the close of the pay period.

XI. OVERTIME

A. POLICY

Overtime shall be paid for each hour worked in excess of 40 hours per week for hourly wage employees. Overtime shall require prior approval by the supervisor and be kept to a minimum.

B. COMPENSATION

Overtime will be paid at the rate of one and one-half (1½) the regular hourly rate, or employees who work overtime will be given the equivalent (1½ hours for each hour worked) in compensatory time off, at a mutually acceptable time.

Part-time employees will receive overtime pay as scheduled above, when total hours of work exceed 40 hours per week.

Employees working on a flex-time schedule will not normally be authorized overtime because of the flex hour schedule, but will be given time off on other scheduled work days.

Overtime will not be paid for hours beyond the regular scheduled work hours during employee association meetings, for employee negotiations, or any employee appeal process, or transportation time to and from any employee training or conferences.

For the purpose of computing overtime, any holiday, sick, vacation or other paid leave time will not be counted in reaching the 40 hour weekly regular work limit. On-call duty hours will not be used in computing overtime, unless the employee is actually called to duty.

Employees who, at their own option, but with the approval of the department head, substitute during scheduled hours for another employee employed in the same capacity may not use those hours worked towards their own overtime calculation. All such "substitution" hours will be credited to the scheduled employee. The department head need not keep a record that the substitution has taken place.

C. COMPENSATORY TIME OFF

Maximum accrual of compensatory time off shall not exceed 48 hours. Any accumulation exceeding this limit must first be approved by the City Manager.

D. FAIR LABOR STANDARDS ACT

Pursuant to the ***Fair Labor Standards Act***, the above overtime regulations shall not apply to executive, supervisory, administrative, professional, elected or contractual employees of the City who meet those criteria.

E. PUBLIC WORKS EMPLOYEES

1. Employees are assigned stand-by duty on a weekly basis. For that stand-by service the employee shall receive compensation the equivalent of four (4) hours of regular pay. These stand-by hours do not apply towards the calculation of overtime hours.

2. When a storm is imminent, employees may be required to be on storm alert status. For this storm alert service, employees shall receive compensation the equivalent of one (1) hour of regular pay per day on alert. Any paid storm alert hours do not apply towards the calculation of overtime hours.

3. In addition to this stand-by or storm alert pay, if during the stand-by or storm alert duty an employee is called back to work to perform services for the City, the employee shall be compensated for the services at the rate of one and one-half (1½) times his/her hourly rate of pay except on City holidays, during which time the employee shall be compensated with regular holiday pay plus 1½ times his/her hourly rate of pay for each hour worked, or regular holiday pay plus compensatory time off at 1½ hours for each hour worked.

4. Employees shall not consume alcoholic beverages when on stand-by or storm alert status, and shall remain within 30 minutes response time.

F. POLICE COURT DUTY

Any court time that places the employee's total hours worked over 40 will be compensated at the rate of 1½ times their regular rate of pay. All court time must be approved in the same manner as regular overtime.

XII. HOLIDAYS

A. All regular full-time and part-time employees shall be entitled to the following holidays with pay: (holiday pay is the regular straight time rate of up to 8 hours for regular full-time employees)

NEW YEAR'S DAY - First day of January
MARTIN LUTHER KING - Third Monday of January
PRESIDENTS DAY - Third Monday in February
MEMORIAL DAY - Last Monday in May
INDEPENDENCE DAY - July 4
PIONEER DAY - July 24
LABOR DAY - First Monday in September
COLUMBUS DAY - Second Monday in October
VETERANS DAY - November 11
THANKSGIVING DAY - Fourth Thursday in November
DAY AFTER THANKSGIVING - Friday following Thanksgiving Day
CHRISTMAS DAY - December 25

Additional holidays may be declared from time to time by the City Council.

B. Employees whose duties are necessary to maintain essential City Services may be required to work on holidays. Employees who are scheduled and work on a holiday are paid up to the regular 8 or 10 hours of holiday pay as is applicable to their current schedule, in addition to either their regular straight time rate for the first eight (8) or ten (10) hours, or hour for hour compensatory time off, unless they have already worked a full 40 hour week. All hours in excess of 40 for the week shall be compensated at 1½ times the normal hourly rate whether calculated for pay or compensatory time off.

C. During a holiday week, all hours in excess of 40 in one week shall be compensated as identified in XI.B. For an employee normally off on holidays, but called back to work on a holiday, he/she shall be compensated at regular holiday pay plus 1½ times the hourly rate of pay for each excess hour worked, or at regular holiday pay plus compensatory time off at 1½ hours for each excess hour worked.

D. Whenever a holiday falls on Sunday, the following Monday shall be observed as the holiday. Whenever a holiday falls on Saturday, the previous Friday shall be observed as a holiday.

E. On duty full-time firemen shall receive the equivalent of 96 hours of alternate time off to compensate for the holidays. This may be utilized in four 24 hour shifts off annually.

F. When an authorized holiday falls on an employee's day off, the holiday Sunday or Saturday rule applies.

G. Holidays which occur during vacation or sick leave shall not be charged against such leave.

XIII. VACATIONS

The employee's date of hire will be used in calculating vacation credit. Regular full and part-time employees shall accrue and use vacation leave according to this article as follows:

YEARS OF EMPLOYMENT	FTE's	PTE's	EXEMPT
1 - 5 years	12 days	Pro-rated	18 days
6 - 10 years	15days	Pro-rated	21 days
11 - 15 years	18 days	Pro-rated	24 days
16 - 21 years	21 days	Pro-rated	27 days
Over 21 years	24 days	Pro-rated	30 days

Paid vacation is accrued and shall be used as follows:

A. The approval and timing of all annual leave shall be at the discretion of the employee's department head with due regard to the wishes of the employee as well as the needs and demands of City service. All such leave should normally be taken within one (1) calendar year from the day earned.

B. Maximum vacation time that can be carried from year to year will be 240 hours (30 days) for non-management employees and 288 hours (36 days) for exempt employees, unless approved by the City Manager.

C. Any vacation time accrued above hours identified in the above paragraph must be used by December 31st of each year, unless carryover is approved by the City Manager.

D. Upon termination/resignation/retirement, an employee shall be paid for all accrued vacation time. However, no payment for accrued vacation will be made for terminations during an employee's probationary period, except following a promotion when all benefits are retained.

E. Vacation time is pro-rated for regular part-time employees based on the number of hours worked in a month as a ratio of the equivalent full-time employee's accrual benefit.

F. In special cases, determined by the City Manager, an employee may be allowed to: 1) donate limited accrued vacation leave to another employee, or, 2) sell back to the City a limited amount of accrued vacation leave which exceeds the maximum accumulation.

XIV. LEAVES OF ABSENCE

A. SICK LEAVE WITH PAY

All regular employees will be entitled to sick leave with pay after the first month of employment. Sick leave shall accrue at the rate of eight (8) hours for each full month of service, with the exception of regular part-time employees who shall accrue sick leave based on the ratio of hours worked in comparison to the full-time equivalent.

As an incentive to minimize the use of sick leave, employees who have accumulated over 480 hours of sick leave and used less than 64 hours of sick leave during the previous 12 months, may convert up to 32 hours of sick leave to vacation annual leave or pay. Employees, who have accumulated less than 480 hours of sick leave and used 32 hours or less of sick leave during the previous 12 months, may convert up to 8 hours of sick leave to vacation annual leave or pay. Such conversion shall be on a 1 hour sick leave to a 1 hour vacation or pay basis. Use of this conversion incentive shall be accomplished by the second week of December of each year. The availability of this incentive depends on budgetary funding on a fiscal year basis. The City Manager shall notify employees if this conversion incentive is not funded for any given fiscal year.

There shall be no limit of the number of hours (days) of sick leave that can be accrued. Employees who are granted a leave of absence with pay shall continue to accrue sick leave.

Sick leave will be used in amounts of not less than one-half (½) hour increments. An employee may use accrued sick leave when unable to perform his work by reason of:

1. Personal illness or injury.

2. Necessity for medical or dental care.

3. Exposure to contagious disease under circumstances by which the health of the public or fellow employees would be endangered.

4. Caring for an injury or illness of immediate family members, for up to one day per injury or illness, unless approval for extended leave is granted by the employee's department head.

5. At the time of the birth or adoption of a child, the employee may be granted a sick leave of absence with pay for up to three days.

6. In the event of a death in the employee's immediate family, an employee

may be granted a leave of absence with pay, not to exceed three (3) calendar days. In addition, the employee may use up to five (5) additional days of sick leave, per occurrence, to enable the employee to attend and/or make arrangements for the funeral of a family member.

B. EXCEPTIONS TO SICK LEAVE WITH PAY

Compensation for accrued sick leave is not authorized when an employee leaves City Service.

After 3 days of sick leave usage, and from time to time on a longer term of authorized sick leave usage, the City may require the employee to submit a disability certificate from the attending physician. In addition, the City may require this same certification on even a 1 day use of sick leave if the pattern of sick leave usage indicates abuse of sick leave. Department Heads need to receive authorization from the City Manager for this requirement. Failure or refusal to supply such certificate, or if the certificate does not clearly show sufficient disability to preclude the employee from the performance of duties, will result in the sick leave being canceled. Refusal to return to work will be grounds for the employee's termination.

Unauthorized use or abuse of sick leave shall also be grounds for disciplinary action, as identified in Section XVI.5.

C. SICK LEAVE WITHOUT PAY

Upon application of any regular employee, sick leave without pay may be granted for the remaining period of disability, once accrued sick leave with pay and all other paid leave (i.e. vacation, comp time) have been depleted. In the event that such additional requested sick leave exceeds 30 days, an extension must be requested and approved by the City Council.

D. FAMILY AND MEDICAL LEAVE

Some absences due to illness, accident or personal reasons may qualify under the Family and Medical Leave Act (FMLA). This is a federal law for eligible regular employees who need to be off work for certain allowed “family and medical” reasons. FMLA provides up to 12 weeks of unpaid leave each year, during which health care benefits are continued and jobs are protected upon return to work, within certain guidelines.

1. Qualifying events for use of the FMLA are:

   - the birth of a child and to care for that child;

- the placement of a child with an employee for adoption or foster care (paperwork verifying this event may be required);
- to care for the employee's spouse, children or parent who has a serious health condition (serious health conditions may require a doctor's certification of illness);
- for a serious health condition that makes the employee unable to perform his/her job (serious health conditions may require a doctor's certification of illness).

2. To be eligible for FMLA, a regular full-time or regular part-time employee must have been employed by the City for the previous twelve months, and worked for the City at least 1,250 hours during that time. A qualified employee is then eligible for up to twelve weeks of unpaid leave during the ensuing twelve month period. However, an employee taking FMLA will be required to expend accrued paid leave to its exhaustion as is applicable for the various qualifying events.

   a. For an employee giving birth, childbirth or related circumstances, is considered a "temporary disability" and accrued sick leave, vacation or comp time shall be used during the period of time the employee's doctor certifies the employee's "temporary disability".

   b. For an employee's serious health condition, accrued sick leave, vacation or comp time shall be used.

   c. For care taking of a newborn (excluding the childbirth "temporary disability" time period), adoption or foster child care, and caring for spouse, children or parent who has a serious health condition, accrued vacation and compensatory time shall be used. No accrued sick leave shall be eligible for these activities.

   d. After the eligible accrued paid leave is exhausted, the employee will continue with unpaid leave.

3. Employees desiring to use FMLA leave are required to give the City a written notice at least 30 days prior to the commencement of the leave for any anticipated treatment or activity. For emergency/unplanned leave needs, the employee must give the City notice as soon as reasonably possible. All the proper notification, leave request and informational forms need to be filled out and filed with the City. Justification of the conditions and events requiring the employee to take FMLA leave may also be required.

4. During FMLA leave, the City shall maintain the employer paid health insurance benefits. Any employee paid portion of health insurance benefits must be paid on time as usual, or face the consequence of losing the coverage pertaining to the employee portion payment. No other City benefits shall be accrued during any unpaid time periods of the FLMA leave. If an employee decides not to return to work at the end of the FLMA leave period for reasons other than a serious health condition or circumstances beyond his/her control, the City can require reimbursement of medical premiums paid while the employee was in an unpaid leave status.

5. If a husband and wife both work for the City and are both eligible for FMLA leave, they are limited to a combined total of twelve weeks leave during any twelve month period

6. In the case of employee illness, the City may require a medical certification a fitness for duty report from the employee's doctor prior to the employee returning to work.

7. With prior approval by the supervising Department Head, FMLA leave may be taken intermittently or on a reduced leave schedule.

8. During the FMLA leave, the employee may be required to periodically notify their City supervisor of the event condition and their intent to return to work at the conclusion of the leave.

9. Upon return to work, the employee will either be returned to their previous job or another equivalent job with the same pay and benefits (if the original job is not available), if the employee is able to perform the essential functions of the job, with or without accommodation.

10. There may be other details of the FMLA that apply to your specific circumstances. Contact the City Manager or City Treasurer to get more information and answers to your questions on FMLA.

E. MATERNITY LEAVE

Pregnant employees anticipating time off for childbirth should consider the FMLA option in subsection "D.".

Disability caused by childbirth or related circumstances shall be considered a temporary disability and will be covered by accrued sick leave during the period that the employee's doctor certifies the employee's "disability".

When to commence or terminate leave, whether paid or unpaid, both prior to and after delivery, is a decision to be made by the employee, and the treating physician.

Time taken before or after a certified period of disability, must be taken in the following order: sick leave, compensatory time, vacation time, and lastly, leave without pay. If the period of disability, as certified by the treating physician, exceeds accrued paid leave, the employee may be allowed to take a leave of absence without pay or fringe benefits as described in subsection H of this chapter.

To be eligible for sick leave benefits due to childbirth or related circumstances, the employee must notify the City in writing of the anticipated date of departure and date of return, at least thirty (30) working days prior to the beginning of the leave, if possible. In the event of emergency, such as premature delivery, telephone notice shall suffice, provided written notice is given within three (3) working days following the emergency.

F. MILITARY LEAVE

A regular full or part-time post-probationary employee who is a member of the National Guard, a Reserve component of the Armed Forces of the United States, or of the United States Public Health Services, is entitled to a leave of absence for a period not to exceed 15 calendar days in any calendar year.

Such leave shall be granted without loss of pay or other leave and without impairment of other rights or benefits to which he/she is entitled, providing the employee receives bona fide orders to active or training duty for a temporary period, and providing he/she returns to his/her position immediately upon expiration of the period for which he/she was ordered to duty. Without loss of pay means the City will pay the employee the difference between the “military on duty pay” and their normal City payroll.

Leave without pay will be allowed pursuant to Utah Law for employees entering military service for extended or indefinite periods of active duty.

G. MISCELLANEOUS LEAVE WITH PAY

A regular employee, with approval, is entitled to leave his/her duties without loss of time, pay, or other leave benefits for absence caused by:

1. Time necessary for voting, when the employee is unable to vote before or after working hours, due to an emergency work schedule.

2. City employees called for jury duty, or subpoenaed as a witness for the City, shall not suffer any loss of regular City compensation during such

absence; however, they shall be required to transfer any compensation received for the performance of such in excess of any paid traveling expenses, to the City. Time not worked because of such duty shall not affect vacation or sick leave accrued. No private civil or criminal case of the employee shall be covered by this court leave provision.

3. Employees who are requested by an appropriate agency to participate in a search and rescue operation are eligible for leave with pay for a period approved by the City Manager.

4. Bereavement leave with pay for up to three (3) days is authorized in case of a death in the immediate family, as outlined in A.6 of this Chapter.

H. LEAVE WITHOUT PAY

Normally a regular employee may be granted leave without pay for a period not exceeding 90 days. Requests for such leave must be in writing, and must establish reasonable justification for approval by the City Manager. No vacation, sick leave, retirement, medical or other benefits will be continued or accrued during extended periods of leave without pay. Information concerning extended benefits is available from the City Manager.

A leave of absence without pay as granted herein may be terminated prior to the expiration date thereof with the consent of the City Manager. If this action is instigated by the City, for whatever reason or purpose, proper notification will be given to the employee of their leave termination, with a return to duty of no sooner than 48 hours (unless mutually agreed upon).

Failure of an employee to report for duty promptly at the expiration of his/her leave, or a violation of any agreement or understanding entered into by the same, relative thereto, shall be just cause for his/her discharge.

XV. BENEFITS

A. HEALTH & DENTAL INSURANCE

The City participates with employees and their dependents to provide health and dental insurance to cover non-occupation injuries and illnesses. All regular full-time employees are eligible for coverage on the first day of new employment. Information and health care booklets are available from the City Treasurer. The City may pay the entire premium cost for the employee and dependents. If an employee elects not to participate, no replacement benefit is offered.

In compliance with COBRA (Consolidated Omnibus Budget Reconciliation Act), the City will offer continuing health care coverage on a self-pay basis to employees and/or their dependents following termination, retirement, death, divorce, separation or when a dependent child ceases to be a dependent child under the provisions of the health plan.

This continued COBRA health care coverage will be the same as the current level provided to the employee and/or other employees purchasing that level of coverage. In all matters concerning eligibility for and/or duration of continued health care coverage, the City will comply with the requirements of COBRA.

B. LIFE INSURANCE

The City provides a group life, accidental death, and dismemberment insurance for all regular employees. The basic insured amount reduces at certain age periods, as provided in the current policy.

C. RETIREMENT

The City provides retirement benefits for its qualified employees through the Public Employees and Public Safety Retirement Systems of the State of Utah and F.I.C.A. (Social Security). The City pays the required contribution for the employee as is outlined in the Public Employees Retirement System (PERS). The contribution to F.I.C.A. is shared between the City and the employee as per federal law.

The City also participates in a 401(K) deferred compensation program through the State of Utah. All regular employees are permitted to participate in this program. Consult the City Treasurer for details.

There is no mandatory retirement age for City Employees. However, employees should consult PERS' Summary of Member Benefits for further information.

D. UTAH OCCUPATIONAL SAFETY AND HEALTH

It is the intent and purpose of the City to comply with all applicable rules and regulations pertaining to the Utah Occupational Safety and Health Act as established under section 18 of the William-Steiger Occupational Safety and Health Act of 1970.

The City shall furnish each of its employees employment, free from recognized hazards that are causing or are likely to cause death or physical harm to such employee and does hereby require that each employee comply with the occupational safety and health standards, orders, rules, and regulations set forth by the above Act.

The City provides Workman's Compensation Insurance coverage for all employees covering job related injuries and illnesses occurring during employment with the City. The injured employee is responsible for immediately notifying his/her supervisor, completing an accident report and submitting it to the supervisor no later than the working day following the accident following the injury, unless the seriousness of the accident makes it impossible for him or her to do so. Failure to complete the required accident report may jeopardize the employee's right to worker's compensation benefits.

A report on any on-the-job injury resulting in disability or compensable lost time shall be submitted by the City Manager or other designated official to the Industrial Commission and to the affected employee within seven (7) calendar days of a "First Report of Injury" form.

Should any sudden or unusual occurrence or change of conditions occur (such as the appearance of toxic or unusual fumes or gases, explosions, fires, etc...), whether due to any accident or other instance, that might affect the health or safety of City employees or tend to increase the hazards thereof, the Industrial Commission of Utah shall be notified at once by the Dept Head or designated official. Such notification must be made whether or not any actual injuries result from the above occurrences or changes of conditions.

When an employee must take time off from work as a result of such injury or illness, he/she shall receive compensation as scheduled by the Utah State Industrial Commission, and the City will supplement it to equal regular take home pay.

No employee of the City shall be entitled to draw financial compensation and/or benefits from the City during such time as the employee is drawing workmen’s compensation or any other similar benefits or payments either from the City or from any other source, which accumulated results in a higher net salary than the employee would normally earn.

In accordance with state law, management shall inspect or designate a competent

person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found, take appropriate action to correct such conditions immediately. Supervisory personnel shall enforce safety regulations and issue such rules as may be necessary to safeguard the health and lives of employees. They shall warn all employees of any dangerous conditions and permit no one to work in an unsafe place, except for the purpose of making it safe.

E. CONFERENCES & CONVENTIONS

Decisions concerning employee attendance at conferences, conventions, or other meetings, at City expense, shall be made by the City Manager. Members of professional societies may be granted permission to attend meetings of their society, when such attendance is considered to be in the best interest of the City and funds are available for the expenditure.

F. TRAVEL EXPENSE

When employees are required to travel outside the City on City business, employees shall comply with the following guidelines:

1. Prior to traveling outside the City, the employee will obtain approval for the trip, and the mode of travel from his/her Department Head, Supervisor, or the City Manager.

2. If the employee is authorized to use a private vehicle, mileage will be paid as determined from time to time by the City Council, provided the private vehicle use is advantageous to the City. This rate includes all travel, insurance, maintenance and storage expense of the vehicle.

3. Employees receiving a monthly vehicle allowance, in lieu of use of a City vehicle, will be responsible for all vehicle costs and maintenance. They will also be responsible for all fuel costs within a 30 mile radius of City Hall. Mileage outside that radius will be reimbursed by the City at the going rate.

4. Employees using personal vehicles for City business shall furnish to the City proof of personal insurance coverage. The City Council may set the levels of such required coverage from time to time, provided it shall not create an excessive burden on the employee.

5. A per diem allowance for food and lodging will be allowed per traveling employee. These amounts will be set by the City Council, from time to time. For high cost areas in-state and for out-of-state travel, the allowance will be determined on an individual basis by the City Manager. In special

circumstances, the City Manager may adjust the allowances.

6. Drivers of city-owned vehicles shall obey all traffic and speed laws. No alcoholic beverages shall be carried in a city-owned vehicle except as required for evidence by law enforcement officials.

7. Employees authorized to utilize city-owned vehicles with which to travel to conferences or such meetings, may also receive authorization from the City Manager to transport non-city personnel (family members) in the vehicle. However, non-city passengers in these vehicles shall not participate in driving, unless there is an emergency and the city employee is unable to drive.

8. All drivers and passengers in a City vehicle shall wear their seatbelt or safety harness at all times while traveling on public roadways. Exceptions shall be for vehicles not equipped with seatbelts and for employees whose work specifically requires unencumbrance while in a vehicle. City drivers shall adhere to all safe driving and rules of the road procedures at all times.

G. EDUCATIONAL AND TRAINING AID

The City shall encourage training opportunities for employees in order that services rendered to the City will be more effective. At the discretion of the City, training sessions may be conducted during regular working hours. Overtime will not be paid for hours beyond the employee's regular scheduled work hours during training.

The City may pay an employee's tuition cost upon successful completion of a job related course. Pre-approval by the City Manager and available funds are required.

When attendance is required and paid by the City, all educational materials provided to the employee shall become the property of the City.

H. PROFESSIONAL AFFILIATIONS

Employees are encouraged to join and participate in job-related professional associations and groups. With prior approval from the City Manager, employees may attend conferences, seminars, or short training courses that are job-related. Preference will be given to courses sponsored by associations that lead to certificates of advanced standing such as EMT, police, fire fighter, accredited sewer and water systems operations, building inspection, or accredited public works operators.

XVI. STANDARDS OF CONDUCT

A. Citizens of the City are always to be treated with respect. Conduct of city employees is always on public display. Many times public opinion is based on what the citizens see and hear from the city employees. Therefore, all city employees are expected to dress appropriately for the work they are doing, and always act in a professional manner. All employees are responsible to and will be held accountable for establishing and maintaining working relationships with fellow employees, supervisors, elected officials, other agency representatives, and citizens of the community with whom they must interact. Employees shall fully utilize their skills and abilities to effectively and efficiently fulfill their job responsibilities and duties.

B. The principal objective in normal disciplinary actions is to improve the performance, efficiency and morale of the city employees. The policy of the City is that employee discipline in normal circumstances be corrective, progressive and lawful.

1. Corrective in that the supervisor reaches an understanding about the causes and/or reasons for an employee's deficiencies, correcting those deficiencies and attempting to restore the employee to a productive and positive employment status.

2. Progressive in that discipline will normally begin with an oral reprimand or warning and when circumstances of each separate incident or a combination of incidents warrant, proceed to written reprimand, suspension from work without pay or demotion in status, and finally to discharge from employment with the city.

   A major incident of misconduct may require severe disciplinary measures such as suspension or discharge and in that instance may not be preceded by lesser forms of disciplinary action. This is also the case with CDL driver alcohol and/or controlled substance related disciplinary actions.

3. Lawful in that discipline and the procedures by which it is administered is not to violate the City's Personnel Policies, the employee's civil rights or federal or state law.

C. By way of illustration and not limitation, the following list provides examples of just cause for disciplinary actions:

1. The use of any city owned material or furnishings for private use is prohibited. Specific examples may include but are not limited to:

    a. The use of city owned vehicles for personal use, (unless part of an employment benefit package or approved by the City Manager);

    b. The use of city owned supplies for personal projects; and,

    c. The use of city owned equipment for work on privately owned property.

2. All city officers and employees should avoid any suggestion of the use of their official position to obtain special advantage in the purchase of any merchandise or other property.

3. City officers and employees shall not accept gifts and favors from vendors and merchants for personal use beyond that allowed by state law.

4. The use of the name of the City or any of its departments, except for official city business, is prohibited without prior approval of the City Council. This includes sponsorship by members of any city department of any fund raising activity in the name of that department.

5. Any action or inaction which is a hindrance to the effective performance of city functions or reflects discredit upon the City will be considered just cause for disciplinary action. The following are examples for illustrative purposes and does not contain all possible examples of disciplinal offenses:

    a. Drinking intoxicating beverages or use of and/or possession of controlled substances on the job or arriving on the job under the influence of intoxicating beverages or controlled substances; (discipline as described in Chapters XX & XXI of this Policy).

    b. Violation of lawful duty;

    c. Violation of the provisions of city ordinances, these rules or any written rules, regulations and policies prescribed by the City, a department head, or the City Manager.

d. Being absent from work without permission (three [3] unexcused absences equals a resignation);

e. Being habitually absent or tardy;

f. Abuse of sick leave (use of sick leave for any other purpose than for which is allowable under Section XIV.A.);

g. Failure to perform assigned work in an efficient manner; incompetence; or, non-performance to the best of ability;

h. Abusive language or conduct toward the public or fellow employees, or other conduct unbecoming a city employee;

i. Being wasteful of material, property or working time;

j. Failure to get along with fellow employees to the extent that work being performed is below required standards;

k. Conviction of a felony or a misdemeanor;

l. Prosecution of a felony or misdemeanor where the employee is unable to report for duty or perform the essential work functions of the job;

m. Use of religious, political or fraternal influence;

n. Theft or intentional destruction of City property;

o. Personal acceptance of a fee, gift or other valuable item in the course of the employee's work for the City in excess of what is allowed by state law;

p. Unauthorized release of confidential information regarding the City or city business (includes employee lists and personal information);

q. Falsification of forms, records or reports including time cards or application materials;

r. Sexual harassment or other unlawful harassment of

s. Insubordination, which is defined as the refusal of an employee to follow lawful directives of a properly authorized supervisor; and,

t. Loss or inability to renew a license, certificate or other special requirement which is mandatory for the employee's specific job requirements.

XVII. DISCIPLINARY PROCEDURES

Except as outlined in Chapters XX and XXI of this Policy, it is the general policy of the City that disciplinary actions should be corrective and progressive whenever possible. Employees are required to acknowledge by signature all pre-disciplinary and disciplinary documents to be placed in their personnel files. Therefore, the following disciplinary actions may be considered, the actions do not have to be followed in any particular order; some may even be skipped, depending on the circumstances:

A. "Oral Warning":

An "Oral Warning" may be used to correct minor conduct or job performance violations. The supervisor shall discuss the violation privately with the employee and shall explain to the employee what actions will be required to prevent the violation from recurring.

The Supervisor shall file a personnel action form with the City Manager, documenting the oral warning, a copy of which shall be maintained in the employee's personnel file and a copy given to the employee.

B. "Written Warning":

A "Written Warning" may be used to correct first time major, or repeated minor conduct and job performance violations. Supervisors shall discuss the contents of the written warning privately with the employee and shall explain in the written warning what actions will be required to prevent the violation from recurring.

The supervisor shall file a personnel action form with the City Manager documenting the written warning, a copy of which shall be maintained in the employee's personnel file and a copy given to the employee.

C. "Suspension":

"Suspension" shall be imposed when it is determined that it is in the best interest of the City to temporarily remove an employee from his official duties. There are two types of suspensions:

1) Administrative Suspension

Employees may be placed on administrative suspension by the City Manager or his authorized designee, when formal written charges have been filed against the employee for alleged illegal acts, major conduct violations or when it is apparent that it is in the best interest of the City to temporarily remove the employee from

official duties. Employees shall receive full pay and benefits while on administrative suspension.

Whenever an employee is placed on administrative suspension a complete investigation of the incident shall be conducted by the City Manager or his authorized designee. The results of the investigation and the action to be taken shall be prepared in writing and provided to the employee.

Whenever possible, investigations related to administrative suspension shall be completed within five (5) working days. Should unusual circumstances cause an investigation to take longer than five (5) days, the employee shall be informed in writing.

In the event that the investigation clears the employee of the charges, the employee will be reinstated. Results of the investigation shall be kept in the employee's permanent file for seven (7) years or less (may vary with the statute of limitations for that issue) after the reinstatement in order to protect the employee from further accusations pertaining to that issue. Subsequently, the investigation information may be placed in a confidential historical file for cleared investigations.

2) Disciplinary Suspensions

Employees may be suspended for an illegal act, a single major conduct violation or a series of continuing minor violations. Disciplinary suspensions should be for not less than three (3), nor more than 30 calendar days. Employees suspended for disciplinary reasons shall not be paid during the period of suspension. Health benefits shall be continued during the suspension period. Paid leave time credit shall not accrue.

Final decisions regarding disciplinary suspensions and reinstatements shall be reviewed and approved by the City Manager

D. "Salary Reduction":

A salary reduction is the reduction of the employee's salary to a lower step on the salary range and may be set for any length of time. This form of discipline is used when it is advantageous to have the employee remain on the job.

E. "Demotion"

"Demotion" may be used as a disciplinary action for:

1) A single major conduct violation; or,
2) When it has been documented that an employee's job performance falls

below the minimum acceptable standards for his position; or,

3) When an employee fails to meet the overall objectives of his position as described in his job description.

Demotion shall include being reduced to a position of less responsibility at a lower salary. At the end of the first three (3) month period, the demoted employee's Supervisor and/or Department Head shall file a written report to the City Manager containing one of the following suggested actions be taken:

1) That the employee be retained as a regular employee in the assigned lower job classification. This recommendation should be made when the employee has been satisfactorily performing the duties and responsibilities of a lower job classification; or,

2) That the employee be dismissed from City employment. This recommendation should be made when a demoted employee has failed to meet acceptable performance standards during the demotion period.

F. "Dismissal":

An employee may be dismissed from employment with the City for a single major conduct violation, a continuing history of minor conduct violations or because work performance falls below acceptable standards for the employee's position.

It is city policy that no regular employee who has successfully completed the entry or promotional probationary period be discharged without being given an opportunity to be heard on the charges brought against him or her. The employee is to be suspended with pay pending the opportunity to be heard in a Due Process Interview.

Dismissals shall be in writing, clearly stating the reason(s) for the action. Final decisions regarding dismissals shall be approved by the City Manager.

G. “Due Process Interview”:

This meeting, conducted by the City Manager or his designee, is to acquire the final and complete information upon which the disciplinary decision will be based. The employee may have a representative present if he/she requests. If this occurs, a second management representative will be present during the meeting. This meeting should occur before the demotion or dismissal is rendered to the employee.

The employee's representative is free to consult with the employee, however, the employee, not the representative, will be required to respond to the charges and answer the questions.

XVIII. GRIEVANCE PROCEDURE

The City shall promptly consider and if appropriate, adjust employee grievances relating to employment conditions and relationships. Furthermore, the City desires to adjust the causes of grievances informally. If possible, both supervisors and employees are expected to resolve problems as they arise.

A. APPEALS

In the event that the informal grievance procedure fails to resolve the issue in contention to the satisfaction of the employee, the City, in order to preserve the rights of all parties, thereby establishes the following steps which shall be followed in submitting and processing a grievance: (If the aggrieved employee works directly for a department head, begin with Step Two)

1. Step One

The aggrieved employee or group of employees shall present in writing the grievance to the immediate Supervisor within five (5) working days of its occurrence, not including the day of occurrence.

The Supervisor shall provide a written reply within five (5) working days of the date of presentation of the grievance, not including the date of presentation.

2. Step Two

If the grievance is not settled in Step 1, the written grievance shall be presented to the Department Head by the aggrieved employee(s), together with all pertinent correspondence records and information accumulated to date, within five (5) working days after the response is provided. Department Head shall consult with the Supervisor, then meet with the aggrieved employee(s) and render a decision in writing.

3. Step Three

If the grievance is not settled in Step 2 it shall be presented to the City Manager by the aggrieved employee(s) within five (5) working days after the written response is provided to the employee by the Department Head.

The City Manager shall meet with the Department Head and the aggrieved employee(s) within five (5) working days after the

presentation of the written grievance, not including the date of presentation. The City Manager will review the written responses, listen to oral testimony and decide to uphold or modify the Department Head's decision.

If the City Manager is out of town or on leave during this five (5) day period, the period shall commence upon the first working day following the City Manager's return to work.

The written decision of the City Manager shall be final and binding on the employee, or group of employees, and shall be binding upon supervisory personnel as well.

Aggrieving Department Heads and/or other employees working under the direct supervision of the City Manager shall have the right to appeal the City Manager's decision or action to the Mayor and City Council; the City Council's written decision shall be final and binding.

B. APPEAL BOARD

In all cases where an employee is discharged or demoted, he/she shall have the right to appeal such discharge or demotion in accordance to Utah Code 10-3-1105 & 1106, as outlined hereafter.

1. The Appeal Board shall consist of five (5) members, i.e. two (2) Clinton City Council members and three (3) Clinton City employees (three [3] additional employees shall be selected as alternates).

    a. City Council members shall be appointed by the Mayor at the first City Council meeting in January, and serve for the calendar year. If needed, replacements during the year shall be appointed in the same manner.

    b. Employee Appeal Board members shall be elected by the City employees through a secret ballot. Interested parties must submit their names to the City Manager/Recorder at least 10 days prior to the election, to be held on the first Tuesday of the year (or next available day if the first Tuesday is a holiday).'

    Employees may vote for six (6) persons. The individuals chosen shall be placed upon an eligibility list to serve on this Appeal Board. This list shall be in rank order, the top

three (3) to serve as regular Board members and the others, in numerical ranking, to serve as alternates.

c. Four (4) or more Appeal Board members shall constitute a quorum and shall be present to hear appeals.

d. No member of the Appeal Board shall be employed by or administer the department for which the aggrieved employee works nor shall be related to the appealing employee through blood or marriage.

2. The appealing employee shall file a written appeal to the City Manager within 10 days of the discharge or demotion. He/she shall be entitled to appear in person and to be represented by counsel, to have a public hearing, to confront the witness whose testimony is to be considered, and to examine the evidence to be considered by the Appeal Board.

3. If the Appeal Board upholds the discharge or demotion, the appealing employee may appeal that decision to the City Council within 14 days of the decision. The City Council's decision shall be final.

4. If the Appeal Board does not uphold the discharge or demotion, the City Manager shall certify the decision to the affected employee and the appropriate department head and supervisor. The affected employee shall report for duty the next working day. If the appeal involves violation of Chapters XX or XXI of these policies, the affected employee shall follow the required processes before returning to work.

5. The general procedure delineated in Utah Code10-3-1106(2-6) will be followed. The Appeal Board shall have access to all confidential records pertaining to a specific case which is before them.

C. TIMELINESS DEFENSES

Grievance procedures not initiated, and carried forward, within the time limits established in this section, shall render the grievance null and void; that is the grievance is to be considered not to have existed.

Any grievance not taken to the next step of the grievance procedure shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.

The time limits prescribed in this section for the initiation and completion of the steps of the grievance procedure may be extended by mutual consent of the parties involved.

Finally, the grievance procedure is designed to assure the aggrieved employee(s) of protection from any form of reprisal by supervisors, or any other City official, following proper determination and decision on the grievance.

XIX. MISCELLANEOUS POLICIES

A. DEATH PAYMENT

Salary and accrued annual leave shall, upon an employee's death, be issued in his/her name but be delivered to such beneficiary as is designated by the employee, or if none is designated, then to his/her estate.

B. USE OF CITY VEHICLES/EQUIPMENT

1. Only authorized employees with the appropriate valid driver's license and in-house training for that particular type vehicle or piece of equipment may drive the city vehicle or use the equipment.

2. No city employee will knowingly allow the illegal or unauthorized use of any city vehicle or equipment.

3. Smoking is prohibited within any enclosed vehicle or equipment cab.

4. Employees assigned a vehicle will keep it cleaned up.

5. Employees shall obey all traffic laws.

6. Seatbelts must be worn in all moving vehicles thus equipped.

XX. SUBSTANCE ABUSE AND DRUG FREE WORKPLACE

The City has the responsibility and a commitment to all its employees to provide a healthy and safe work place and environment.

Employees of the City have the responsibility to arrive at work free from the effects of controlled substances, alcohol and other job-impairing substances. These joint responsibilities result in the objective of establishing a work environment where all employees are free from the effects of controlled substances, alcohol and other job-impairing substances.

The City recognizes that chemical dependency and/or alcohol related problems are treatable conditions and offers referral to "The Medical Benefits Program" for employees seeking counseling and treatment. The existence of controlled substance dependency or alcohol related problems does not waive the employee's responsibility to comply with City employment policies. The City adopts a “zero tolerance” policy of an employee “being under the influence” upon arriving at work, or at any other time during the work schedule. Violation of this policy may result in termination of employment, as outlined in this policy.

A. PURPOSE

Controlled substance and/or alcohol use lead to more accidents on the job, lower job performance, lost productivity, increased absenteeism, higher medical costs, and rising thefts. Impaired employees on the job are potentially dangerous to themselves and could jeopardize the health, life or safety of fellow employees and the public. While the City has no intention of intruding into the private lives of its employees, it does require them to report for work in fit condition to perform their duties in a safe manner and while at work to remain in that fit condition.

B. PROGRAM

The City prohibits the use, possession and/or distribution on its premises, facilities and/or work places of any of the following: alcoholic beverages, intoxicants and narcotics, illegal or unauthorized controlled substances (including marijuana), and related drug paraphernalia. In addition, a City employee will not be allowed to report for work under the influence of any controlled substance, alcoholic beverage, intoxicant or narcotic or other substance, including legally prescribed drugs and medicines which will in any way adversely affect his or her working ability, alertness, coordination, response, or adversely affect the safety of others on the job.

Such use, possession, distribution, or impairment during working hours (breaks and

lunches included) and/or on City premises will be grounds for termination. All drug testing and results obtained under the requirements of this policy will be coordinated with and authorized by the City Manager or his/her designee. All such activities will be kept confidential.

Any arrests and/or convictions occurring to an employee while employed by the City, pertaining to a criminal alcohol or drug statute, must be reported to the Department Head and City Manager.

C. TRAINING OF EMPLOYEES

Prior to implementation of this substance abuse and drug free workplace program, the City shall conduct substance abuse training for all employees. All training shall take place during normal work hours, or immediately before or after scheduled shifts, on City paid time.

D. VOLUNTARY CONTROLLED SUBSTANCE AND/OR ALCOHOL REHABILITATION

Employees who have a controlled substance or alcohol use problem, or questions/concerns on the subject, are encouraged to discuss these matters with their Dept Head or the City Manager. If appropriate, employees may be referred to a counseling and/or rehabilitation service.

Effective treatment requires that the employee acknowledge the seriousness of the problem and make a commitment to a plan for rehabilitation. Such an employee will be allowed a leave of absence of reasonable length, for professional rehabilitation. During this leave of absence, the employee may use a one time only use of up to 30 days of accrued sick leave (not applicable if voluntary rehabilitation reoccurs). Accrued comp time or vacation leave may also be used for any additional leave of absence. If the rehabilitation period extends past these paid leave benefit periods, only leave without pay (with medical benefits continuing) shall be available. Such admission will not be used as a basis for disciplinary action and will not be used against the employee in any disciplinary proceeding unless the employee has been found to be “under the influence” on the job. Such admission shall not be a defense, to the imposition of disciplinary action based on breaches of the City's personnel policies not related to controlled substances or alcohol.

Prior to returning to duty after a voluntary rehabilitation program, the employee shall submit to an drug/alcohol test. Failure to pass the test shall result in termination of employment.

E. MEDICALLY AUTHORIZED DRUGS

Each employee must report the use of medically authorized drugs or other substances which might impair job performance to the City Manager and provide proper written medical authorization from a physician/dentist to work while using prescription drugs. It is the employee's responsibility to determine whether or not the prescribed drug would impair his or her job performance. The City Manager shall decide if and under what conditions such an employee may remain at their work station. Any failure to report the use of such drugs or other substances, or failure to provide proper evidence of medical authorization, may result in disciplinary action.

Prior to returning to duty after a voluntary rehabilitation program, the employee shall submit to an drug/alcohol test. Failure to pass the test shall result in termination of employment.

F. DRUG AND ALCOHOL TESTING

Clinton City employees shall participate in the following types of drug and alcohol testing programs as directed:

1. Pre-employment Drug/Alcohol Test

Clinton City requires that as part of a conditional offer of employment, a prospective employee for any regular full-time or regular part-time position and temporary “safety sensitive” employee, must undergo an alcohol and drug screen test to detect the presence of alcohol and/or controlled substances in the body (excluding legally obtained and used substances pursuant to a physicians prescription). Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for controlled substances or whose test detects a BAC of 0.02 or higher shall be denied employment with the City.

2. Post Accident Drug Testing

Employees involved in accidents as defined in “I” below, whether injured or not, shall be tested for substance abuse and alcohol. Substance abuse tests must be performed within 8 hours after the accident. Alcohol tests must be performed within 3 hours after the accident. Any employee required to be drug tested under this policy shall submit immediately to such test when directed to do so by their supervisor, Department Head or City Manager (or designee). If the employee refuses to submit to such

testing or conducts him/herself, during the testing, in such a way as to induce a false, incorrect or invalid result, he/she shall be subject to disciplinary action up to and including termination.

3. **Pre-promotion or Transfer**

Prior to promotion or transfer, employees must pass an alcohol and drug test.

4. **Reasonable Suspicion**

The City reserves the right to require any employee to submit to a "fitness for duty" drug and/or alcohol examination with a city-referred physician or substance abuse professional when there is reasonable suspicion that the employee is working under the influence of alcohol and/or drugs. Such examinations shall be conducted on City time and at City expense.

Factors which may constitute reasonable suspicion include, but are not limited to: slurred speech; red eyes; dilated pupils; incoherence, unsteadiness of feet; smell of alcohol, marijuana or other controlled substance emanating from the employee's person; inability to carry on a rational conversation; erratic behavior; and other unexplained behavioral changes. When practical, a supervisor should seek confirmation of his observations by another employee or supervisor. Findings shall be immediately passed on to the appropriate administrator for approval of drug testing. All findings shall be documented.

5. **Random Testing**

Commercial Drivers License (CDL) holders and employees in "safety sensitive" positions shall be obligated to participate in random drug and/or alcohol testing. CDL holders shall follow the procedures outlined in Chapter XXI. All other non-CDL safety sensitive positions shall be pooled separately for random testing selection with a testing frequency of 15% to 20% drug/alcohol testing per year.

G. DEFINITIONS

Accident (Non-Vehicular)

Where an employee sustains an on-the-job injury that results in professional medical care, testing is mandatory; or, in the opinion of the Department Head with the concurrence of the City Manager or his designee, there is reasonable suspicion

that it could be related to drug or alcohol use.

Accident (Vehicular)
An occurrence associated with the operation of a motor vehicle or other motorized equipment, if, as a result:

1. A death occurs; or,

2. An individual suffers bodily injury that requires medical treatment away from the scene of the accident; or,

3. One or more of the vehicles involved incurs disabling damage as a result of the occurrence and is transported away from the scene by a tow truck or another vehicle; or,

4. The employee receives a citation under state or local law for a moving traffic violation; or,

5. In the opinion of the Department Head, with the concurrence of the City Manager or his designee, the employee driver contributed to the accident and there is reasonable suspicion that it could be related to drug or alcohol use.

Alcohol
Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

Controlled Substances
Controlled substances are defined by state statue (Utah Code 58-37-4).

Controlled Substance/Alcohol Testing
The scientific analysis for the presence of drugs or their metabolites in the human body. Normally this analysis is performed from a urine, blood, saliva, hair or breath specimen provided by the employee**.**

Positive Test
Any test result showing a blood alcohol content of 0.02 or greater, or the presence of any controlled substance in the test subject.

Pre-Employment Testing
All prospective regular employees and temporary “safety sensitive” employees are to be tested as a condition of employment. Prospective employees who refuse or whose test is positive will be **denied employment.**

Random Testing
This is a method of selecting employees for drug and/or alcohol testing that results in an equal probability that any employee in that testing pool will be selected each time a random test is conducted. Random tests shall be unannounced throughout the year.

Reasonable Suspicion
This is defined as specific observations made by a trained supervisor or police officer of behaviors, appearances and actions that are characteristic of the use or abuse of alcohol and/or controlled substances.

In cases involving an accident that results in physical injury or property damage, which occurs during the employee's scheduled work shift, or while engaged in City business, and when such accident cannot otherwise be reasonably explained, reasonable suspicion is deemed to exist.

Safety Sensitive Positions
Positions occupying a high level of public trust as classified by job description, duties or the possession of equipment or property capable of endangering other employees or the public. These employee positions include: police officers; firefighters; public works workers; building inspectors; any other City equipment and vehicle operators; and, any other City workers so designated by the City Manager.

Under the Influence
When an employee tests positive for any of the abovementioned controlled substances, or whose test detects a Blood Alcohol Content (BAC) of 0.02 or greater, he/she shall be deemed *under the influence*.

XXI. CDL'S - MANDATED DRUG TESTING

The Omnibus Transportation Employees Testing Act of 1991 (the ACT) requires mandatory drug and alcohol testing to prevent accidents and injuries resulting from the use of alcohol or use of controlled substances by employees working in safety sensitive positions. On February 15, 1994 the Federal Department of Transportation issued updated rules that applied the ACT to every person who is subject to commercial drivers license requirements, including local government employees. For small employers like Clinton City, the testing program must begin by January 1, 1996.

A. PROHIBITIONS

1. Alcohol

No Clinton City employee shall knowingly be allowed to drive a City vehicle while under the influence of alcohol. (See definitions on previous pages.) CDL drivers shall not:

a. report for or remain on duty while having a blood alcohol content of 0.02 or greater;
b. operate a commercial motor vehicle while in possession of alcohol;
c. use alcohol while performing safety sensitive functions;
d. perform safety sensitive functions within four (4) hours after consuming alcohol;
e. consume alcohol for eight (8) hours following an accident requiring a post accident test, or until the employee undergoes a post accident test, whichever comes first; or,
f. refuse to submit to a test required under the act.

2. Controlled Substances

The City shall not allow a CDL driver, nor shall a CDL driver:

a. report for duty or remain on duty when the driver uses controlled substance(s), except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle, and has informed his/her supervisor of such and been cleared for duty as outlined in Chapter XX section F of this policy.

b. report for duty, remain on duty or perform safety sensitive functions if the driver tests positive for controlled substances.

3. Employees using, possessing or being at the workplace with a BAC content of 0.02 or greater or under the influence of illegal or illegally obtained substances shall be subject to testing, questioning and disciplinary action. Any employee found to have violated this policy shall be processed in accordance to Section B.2 of this Chapter, as is outlined, for the amount of BAC and/or the controlled substance.

B. TESTING

1. General ----Under rules established under the ACT, the City is required to conduct the following alcohol/drug testing for CDL drivers:

a. pre-employment;
b. reasonable suspicion;
c. random;
d. post accident;
e. return-to-duty and follow-up.

Clinton City maintains the right to designate the type of sample to be used in the testing program, including blood, urine, or other tests, and the use of electronic detection equipment. Trained animals may be used for locating controlled substances. The City will bear the costs of all collection, transportation and analysis. All drug screen collections, medical review officer reviews and laboratory testing of urine drug specimens shall be in compliance with the Federal Register, 49 CFR part 40-procedures for transportation workplace drug and alcohol testing programs, subpart B-Drug Testing.

Collection of the test sample will be done by trained employees of a substance abuse consulting agency during or immediately after regular work hours.

Failure of affected employees to cooperate with these sample collection and detection methods or inspections, is grounds for disciplinary action, up to and including termination of employment.

Designated supervisors have received special training and classes to help them recognize employees who may be under the influence. It is their responsibilities to daily visually check their employees. When a designated supervisor makes a determination that there is reasonable suspicion that an employee performing or about to perform a safety sensitive function is under the influence, using, or in possession of alcohol or controlled substances, the employee shall be subject to alcohol/drug testing.

All city employees also have the responsibility to bring to a designated supervisor’s

attention all suspicions of any impairment due to drugs or alcohol in other city employees.
The City may join a consortium in order to broaden the employee testing pool, provide the required random testing (25% of drivers for alcohol and 50% of drivers for drug testing annually), and other testing.

1. Test Results ---- Blood Alcohol Content Testing

    a. If an employee's test result shows a BAC content of 0.04 or greater, the employee shall be removed from work with pay, be given a “due process interview” and disciplined pursuant to this policy.

    b. If an employee's test result shows an alcohol concentration of greater than 0.02 but less than 0.04, the employee shall not be permitted to perform any safety sensitive functions for at least twenty-four (24) hours. The employee shall be dismissed from work for the day, without pay, and re-tested upon return to work the following day. If the re-test results again show an alcohol concentration of greater than 0.02 but less than 0.04, the employee shall be suspended without pay for three (3) working days, and re-tested again upon return to work. If the second re-test produces the same result of an alcohol concentration of greater than 0.02 and less than 0.04, the employee shall be sent home from work with pay, provided a “due process interview” and terminated.

    c. If an employee's test results show that the employee has used a controlled substance, the employee must be sent home from work with pay, provided a “due process interview” and disciplined pursuant to this policy.

C. EMPLOYEE RIGHTS

1. All test results will be kept confidential and will be available only to the employee, the City Manager, the City Finance Specialist or Manager, the Mayor and City Council, the City Attorney and the Appeals Board, if convened. The employee may authorize his/her representative to have copies of the test

results, provided the employee waives in writing all claims against the City for disclosing such information to the employee's representative.

2. Any employee who tests positive and is terminated by the City based upon test results can request and will receive from the City all written documentation available from the testing laboratory which verifies the accuracy of the equipment, the qualifications of lab personnel, the chain of custody of the specimen, and the accuracy rate of the laboratory.

XXII. SAVING CLAUSE

Should any portion of this Policy Manual be rendered ineffective by a Court of Competent Jurisdiction, the remaining parts shall remain in full force and effect. The City Council may alter these policies at any time, following proper notice and public hearing thereon, including rectifying any portion as necessary to accommodate changes in applicable statute and regulation.

XXIII. ADOPTION OF POLICIES

The policies and rules contained herein were originally adopted by the City Council of Clinton, on February 25, 1997 and later modified by the Clinton City Council on August 8, 2000 and September 28, 2004. The latest modifications were adopted by the City Council on November 10, 2009. All prior policies, rules and practices, previously adopted by the City Council are hereby simultaneously superseded.