



North Sioux City, South Dakota  
**Regular Meeting of the City Council**  
July 5, 2016 – 7:00 p.m.  
City Hall

**PROPOSED AGENDA**

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of Agenda
- E. Approval of Minutes: June 20, 2016, Regular Meeting
- F. Agenda Items
  - 1. Senior Center Director – Probationary Period
  - 2. Miller Lift Station Generator Discussion
  - 3. Employee Handbook
  - 4. Ordinance 2016-06 – Open Burning Second Reading
- G. Department Updates
  - 1. Finance
  - 2. Streets
  - 3. Police
- H. Community and Council Input
- I. Executive Session\*
  - 1. Personnel
- J. Approval of Bills
- K. Adjournment

\*SDCL 1-25-2 (sections 1-5) allows a majority of the body present to vote to close a meeting when discussion revolves around personnel, legal matters or contract negotiations. Meetings may also be closed for certain economic development matters (SDCL 9-34-19).

**UNAPPROVED**  
**North Sioux City, South Dakota**  
**City Council Regular Meeting Minutes**  
June 20, 2016

Meeting called to order at 7:00 p.m. by Mayor Fredericksen. Beavers, Berg, Christiansen, Cropley, Parks, Slater, Reiff and Verdoorn were present. Also in attendance were City Administrator Ted Cherry and Finance Officer Susan Kloostra.

Mayor Fredericksen led the Pledge of Allegiance.

Motion by Reiff second by Cropley to approve the agenda as presented. Unanimous.

Motion by Beavers second by Verdoorn to approve the June 6, 2016 Regular Council Meeting Minutes. Unanimous.

Representatives from SD Game, Fish, and Parks addressed the Council regarding Zebra Mussels. Members of the McCook Lake Association were in attendance. GFP representatives provided an overview and samples and answered questions.

Cherry presented to Council the Siouxland Initiative's request for financial support of the Workforce Solution Initiative position. Christiansen made the motion to donate \$1,350 in 2016 and \$1,350 in 2017 to TSI. Parks asked if it was needed and if it was a duplication of existing programs. Christiansen commented about bringing training into the schools. Berg seconded the motion. Unanimous.

The Gunderson's presented a request to the City to hold a concert on July 4 from 7:30-11 pm, across the street from 41 Northshore. Neighbors were contacted and have given their approval. Chief Headid has approved. Motion by Beavers, second by Verdoorn to approve the concert request and noise relief. Unanimous.

Royal Canin has requested street closure on June 27, for an employee event. Chief Headid has been in contact with them regarding traffic flow and has no concerns. Motion by Cropley to approve the street closure on Freedom Drive on June 27, from 9am - 2p. Reiff seconded the motion. Unanimous.

Street Closure requests for Fourth of July celebrations were submitted to Council. Chief Headid has reviewed and approved. Discussion was held on time limitations for multiple day requests as well as clean-up requirements. Council stipulated all streets be opened up by 1 am following the event along with being cleaned up. Motion by Cropley second by Berg to approve the following closures. Unanimous.

- 206 Lloyd Avenue
- 205 Lloyd Avenue
- 19 Union Court
- 216 Wallace Avenue
- 123 Melrose Avenue

Motion by Parks second by Cropley to open the hearing for application of a new Alcohol License at 8:01 pm. Unanimous. There was no discussion regarding this request. Parks made a motion to close the hearing at 8:02 pm. Cropley seconded the motion. Unanimous. Motion by Parks second by Beavers to approve the alcohol license request of Queenland II, Inc. d/b/a Sioux City North KOA. Unanimous.

Sealed bids were received and opened on June 20 for the Public Works equipment. The following are the bids:

BIDDER	Chevy S10 Pickup BID	John Deere 445 Mower BID	John Deere X485 Mower BID
Fredericksen, Allen	\$ 108.00	\$ 154.00	\$ 168.00
Headid, Rich	\$ 105.00	\$ -	\$ 350.00
Richter, Joe	\$ -	\$ 319.00	\$ 323.00
Sharkey, Dustin	\$ -	\$ 225.00	\$ -
Watterson, Kim	\$ 117.00	\$ -	\$ -
Wolverton, Larry	\$ -	\$ 203.00	\$ 203.00

Motion by Reiff to accept the \$117.00 bid from Kim Watterson for the S10Chevy Pickup, the \$319.00 bid from Joe Richter for the John Deere 445 mower, and the \$350.00 bid from Rich Headid for the John Deere X485 mower. Beavers seconded the motion. Unanimous.

Westshore Reconstruction Project, tabled at the June 6 meeting, regarding moving the sidewalk on Isaac Walton Drive was presented to Council. Administration recommendations leaving the sidewalk as drawn. Christiansen tried to talk with one the residents but they did not call her back. Slater was able speak to a couple of the residents. Those he spoke to do have a few objections but were appreciative of the new road. Slater supports as planned which benefits the whole community as well as keeping a consistent policy. Slater also commented about the volume of traffic on the road and safety concerns, supporting leaving the sidewalk as planned.

Kloostra reported to Council regarding the failed audio visual equipment in the council chambers. Equipment starting failing in 2013, and a few replacements were made. At this time the system is unusable due to a failed analog switch which cannot communicate with the system computer/monitor. It is the recommendation of Administration to upgrade all equipment. Discussion was held. Slater spoke and wants to wait until the 2017 budget. Christiansen and Cropley shared the benefit of using the system during Planning Commission meetings. Berg asked about purchasing incrementally; Cherry responded regarding the drawbacks. Reiff spoke in support as it was a back to the budget process last year when Kloostra was able to pull information moving city forward and an investment. Christiansen made a motion to accept the low bid, then rescinded her motion. Motion by Christiansen to advertise for bids for Council Chambers Audio Visual Equipment replacement. Reiff seconded the motion. Aye: Berg, Christiansen, Cropley, Parks, Reiff. Nay: Beavers, Slater, Verdoorn. Motion carried 5-3.

Motion by Cropley second by Parks to approve the second reading of Ordinance 2016-04 which amends the Fireworks Ordinance 5-16. Unanimous.

#### PROPOSED ORDINANCE 2016-04

#### AN ORDINANCE AMENDING TITLE 5 BUSINESS LICENSES AND REGULATIONS CHAPTER 5.16 FIREWORK SALES AND USE.

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 5, Chapter 5.16, Sections 5.16.020, 5.16.030, 5.16.050, 5.16.090, 5.16.100, 5.16.105, 5.16.110 and 5.16.160 be amended as set forth below.

#### Chapter 5.16

#### FIREWORKS SALES AND USE

#### Sections:

- 5.16.020 License required for retail sale fireworks.
- 5.16.030 License required for wholesale sale of fireworks.
- 5.16.050 Safety requirements.

- 5.16.090 State licenses.
- 5.16.100 Public displays.
- 5.16.105 Professional public displays.
- 5.16.110 Discharge of fireworks.
- 5.16.160 Discharge limitations.

5.16.020 License required for retail sale fireworks.

It is unlawful for any person to sell, hold for sale or offer for sale as a retailer within the city limits any permissible fireworks unless such person has first obtained a retail fireworks license from the city. Application forms for such license shall be obtained from the city finance officer and shall be presented when completed to the city finance officer. Applications must be received before the first day of April of the calendar year for which the license is in effect, or within thirty (30) days prior to the sales period commencing. Upon the filing of any application, the applicant shall pay to the city a fee in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) for each retail fireworks license. (Ord. 364 § 2, 2002)

5.16.030 License required for wholesale sale of fireworks.

It is unlawful for any person to sell, hold for sale or offer for sale as a wholesaler within the city limits any permissible fireworks unless such person has first obtained a wholesale fireworks license from the city. Applications must be received before the first day of April of the calendar year for which the license is in effect, or within thirty (30) days prior to the sales period commencing. Upon the filing of any application, the applicant shall pay to the city a fee in the amount of one thousand two hundred fifty dollars (\$1,250.00) for each wholesale fireworks license. (Ord. 364 § 3, 2002)

5.16.050 Safety requirements.

C. Each licensee shall keep and maintain upon his or her premises one (1) fire extinguisher for every 1,000 sq ft or no more than fifty (50) feet apart, in accordance with NFPA10 (National Fire Protection Association).

5.16.090 State licenses.

All holders of retail or wholesale licenses as set out above must also obtain a license as a retailer or as a wholesaler from the state of South Dakota prior to applying for a license from the City. (Ord. 364 § 8, 2002)

5.16.100 Public displays.

Nothing in this chapter shall prohibit the use or public display of fireworks of any description provided that any individual or group of individuals, associations or organization making such public display of fireworks shall first secure a written permit so to do from the common council of the city and shall have purchased fireworks for such display from a licensed wholesaler or licensed retailer licensed under the laws of the state of South Dakota. (Ord. 364 § 9, 2002)

5.16.105 Professional public displays.

Professional or commercial special fireworks display shall first secure a permit to do so from the Fire Chief of the North Sioux City Fire Department (Dakota Valley Fire District). Application forms shall be obtained from the North Sioux City Fire Department. Purchased fireworks for such display must be from a licensed wholesaler or licensed retailer licensed under the laws of the state of South Dakota and shall comply with all applicable laws and regulations as stated in SDCL 34-36 and SDCL 34-37. (Ord. 364 § 9, 2002)

5.16.160 Discharge limitations.

At every purchase point of any retail establishment covered under this chapter, shall prominently display signs informing the purchaser of the discharge limitations as set forth in Sections 5.16.080 through 5.16.120 and the penalties for violation thereof. (Ord. 364 § 15, 2002)

Dated at North Sioux City, South Dakota this 20 day of June, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Kloostra, Finance Officer

First Reading: May 16, 2016  
Second Reading: June 20, 2016  
Publish: June 30, 2016  
Effective Date: July 20, 2016

Ordinance No. 2016-06, an amendment to Chapter 8-28 Open Burning. Cherry presented an amendment to the regulations for open burning. Motion by Parks second by Beavers to waive the first reading. Discussion was held. Clarification was requested to make the language clear for residents who want to burn in a fire pit or fire ring. Motion by Cropley second by Christiansen to approve e the first reading of the proposed ordinance 2016-06 with the changes to unstrike the last line in 8.28.010 and add the word "permit" to title. Unanimous.

Kloostra presented a pay request to the SD Department of Transportation's Statewide Transportation Improvement Program (STIP) for the balance of the Highway 105 resurfacing project. Project was originally bid at \$695,571.26 and the City's portion was \$144,508.59. Motion by Christiansen to transfer monies from unassigned cash into Fund 101 and to authorize the payment of \$22,453.82. Second by Beavers. Unanimous.

Community/council input:

- 1) Christiansen addressed the speed limit on Highway 105.
- 2) Christiansen spoke about storm clean up. There was concern regarding the inconsistency of previous storm clean up. She would like to see a set policy in place and be consistent.
- 3) Cropley reminded Council that budget was around the corner.
- 4) Mayor reported Terry Boe no longer works with Big Sioux township. The cemetery road, which Boe used to maintain, needs work. Hogan to contact a contractor.
- 5) Beavers brought up weed notices. Chief Headid related to the Council the Police Department is addressing code enforcement issues throughout the City.
- 6) Kloostra thanked the Council for the opportunity to attend the HR/Finance Officer School in Spearfish.

Motion by Christiansen second by Parks to approve the bills as presented. Unanimous.

B & S SURGICAL COMPANY	\$68.94	GLOVES (6 BX)
BIERSCHBACH EQUIPMENT & SUPPLY	\$918.00	RENTAL - FORKLIFT RENTAL W/ CAB, DELY
C. W. SUTER SERVICES INC	\$798.56	5/19/16-5/18/17 ANNUAL MAINT P
CALHOUN COMMUNICATIONS INC.	\$452.02	WATER TOWER - REPLACED PHOTOCE
CED, INC.	\$205.00	IDEAL STEP BIT KIT
CENTER POINT LGE PRINT	\$134.22	BOOKS (6)
CERTIFIED TESTING SERVICES,INC	\$629.00	WESTSHORE RECONSTRUCTION PROJE
CHERRY, TED	\$60.90	MILEAGE-SXLD CHMBR, SISTER CIT
CITY OF SIOUX CITY	\$34,220.94	MAY 2016 SEWER CHARGES USAGE 1
CLAIMS ASSOCIATES, INC.	\$750.00	DEDUCTIBLE CLAIM - ROBERTS
CONCRETE PRODUCTS CO	\$264.70	VETERAN MEMORIAL - KURE-N-SEAL
ELECTRIC INNOVATIONS	\$66.00	1QTR2016 ALARM-LIBRARY
ED M. FELD EQUIPMENT CO, INC.	\$105.00	BOTTLE HYDROTEST
FRAVEL, COREY	\$100.00	SENIORS ON THE MOVE - PERFORMA

GATEWAY ENGINEERING INC	\$898.00	3" X 10' SS PIPE (2)
GENERAL TRAFFIC CONTROLS, INC.	\$201.96	TRAFFIC SIGNAL EQUIPMENT - VIS
GILL HAULING INC	\$8,445.40	MAY 2016 – RESIDENTIAL WASTE
H2O 4 U	\$34.00	PD - BOTTLED WATER, COOLER REN
HAWKINS, INC	\$1,420.90	CHLORINE (6)
HYDRAULIC SALES & SERVICE CO.	\$243.89	1" X 165" TWO WIRE HOSE
INGRAM LIBRARY SERVICES	\$762.52	BOOKS (3)
JACK'S UNIFORMS & EQUIPMENT	\$97.85	CLOTHING ALLOWANCE
JAN'S PRINTING	\$58.04	BUSINESS CARDS - MERSCH
JANITOR DEPOT, INC.	\$161.90	TOWEL (1 CS)
KEVIN O'DELL ELECTRIC, INC.	\$2,754.04	MCCOOK LAKE WATER PLANT - INST
SUSAN KLOOSTRA	\$210.38	MILEAGE REIMBURSEMENT - HR & F
KMEG-TV	\$800.00	ADVERTISING 05/08-05/31
KPTH	\$810.00	ADVERTISING 05/09-05/31
TEAMSTERS LOCAL NO. 120	\$246.00	JUL 2016
MCCOOK LAKE ASSOCIATION	\$250.00	2016 FIREWORKS DONATION
MERCY BUSINESS HEALTH SVCS	\$53.33	MAY 2016 EAP
PATRICIA MERSCH	\$71.18	REIMBURSEMENT - SENIORS ON THE MOVE
MIDAMERICAN ENERGY	\$12,116.72	MAY 2016 UTILITY CHARGES
MR MAGIC PRODUCTIONS	\$240.00	BALANCE FOR JUN 22 LIBRARY EVENT
IOWA OFFICE SUPPLY, INC	\$13.66	GLUE STICKS (3), POST IT FLAGS,
ONE OFFICE SOLUTION	\$305.28	LABELS (5 PK), TONER, FLDRS
PER MAR SECURITY SVCS	\$165.96	3Q2016 SECURITY MONITORING
JAMES POTRATZ	\$2,200.00	DIKE MOWING
QUALIFIED PRESORT SVC, LLC	\$712.77	MAY 2016 PRT/POSTAGE UTILITY BILLS
GARY ROAN	\$830.00	MAY-JUN 2016 P&Z MTGS
ROBERTSON IMPLEMENT CO	\$2,666.33	BAGGER FOR GRAVELY MOWER
RUDOLPH'S SHOE MART	\$276.23	CLOTHING ALLOWANCE
SCHIMBERG COMPANY	\$321.65	PARTS (9)
SD DEPT OF TRANSPORTATION	\$22,453.82	FINAL-HWY 105 RESURFACING
SD ONE CALL	\$73.92	MAY 2016 LOCATE FEES (66)
SIOUX CITY JOURNAL	\$350.99	2016 PD-52 WEEK SUBSCRIPTION
SIOUX SALES CO.	\$149.95	CLOTHING ALLOWANCE
SIOUXLAND HUMANE SOCIETY	\$185.00	MAY 2016 SERVICES
STOUT, MICHELLE	\$553.47	REIMBURSEMENT-SUMMER REC CRAFTS
THE BOULDER COMPANY	\$16.45	CAPS, NUTS (200)
US POSTAL SERVICE	\$112.00	BOX #650 ANNUAL MAIL BOX RENEWAL
VAST BROADBAND	\$846.11	JUNE 2016 PHONE & INTERNET
VERIZON WIRELESS	\$83.19	JUN 2016 - CHERRY
WRIGHT EXPRESS FLEET SVCS	\$2,137.34	JUN 2016 FUEL CHGS
WIGMAN COMPANY	\$544.42	WATER VALVES FOR LAKE PLANT (2)
WOODHOUSE AUTO FAMILY OF SC	\$276.86	FRONT/REAR DISC PAD KIT

Motion by Beavers second by Cropley to adjourn at 9:40 p.m. Unanimous.

**Approved**

**Randy Fredericksen, Mayor**

**Attested**

**Susan Kloostra, Finance Officer**



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: Mayor Fredericksen  
Council Members  
From: Susan Kloostra  
Date: 7/1/2016  
Re: Probation to Regular Employee

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**Background:** Pat Mersch has completed her probationary period, as of June 4, 2016.

**Financial Consideration:** None.

**Recommendation:** Upgrade Pat's employment status from probationary to regular.

/srk



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City City Council  
From: Ted Cherry – City Administrator  
Date: 7/5/2016  
Re: Miller Lift Station Generator

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**Background:** The City Council approved in the FY2016 budget a generator for the Miller Lift Station. The budgeted amount is for \$104,118.

Council would need to approve moving forward with the design of the Miller Lift Station generator.

**Financial Consideration:** None at this time

**Recommendation:** Administration would recommend approval from the council to begin the design work for the Miller Lift Station generator. This will allow for the design and approval from the state.



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City City Council  
From: Ted Cherry – City Administrator  
Date: 7/5/2016  
Re: Personnel Manual

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**Background:** The previous Employee Personnel Manual was dated June 2014. The version of the document was extremely outdated, and did not fit the organizational makeup of the City of North Sioux. There were also a number of state and federal statutes which were not made known to employees. An effort was undertaken to work on the issues with the handbook. An employee group worked with myself to iron out the details of the handbook. After that group completed their work the handbook was given to the supervisors and mayor to discuss and make any further changes too.

The handbook in question would clarify a number of issues we have seen within the City departments, but most importantly put in place rules and regulations for the employees to follow. The handbook will also be useful for the Finance Officer in dealing with questions regarding pay, vacation, and other leave available to employees. Further, the handbook spells out administrative process of multiple items which may affect employees.

Significant changes would be as follows

- Sick leave at retirement after 10 years
- Job Creation
- Work week
- Vacation time
- Sick Leave Bank

It is the understanding of the staff this is a living document that can, and should, be changed if the need arises.

**Financial Consideration:** Cost of printing for employees

**Recommendation:** The administration would welcome any suggestions on changes the Council would like to see. If none, the administration would recommend adoption of this manual as the official Employee Personnel Manual for the City of North Sioux City.

***PERSONNEL POLICY MANUAL***

***CITY OF NORTH SIOUX CITY  
SOUTH DAKOTA***

***Revised 2016***

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## **POLICY 1: PURPOSE AND USE**

### **1.1 Purpose of Policies and Procedures:**

The policies and procedures for personnel administration are enacted by the City of North Sioux City (hereinafter “City”) in order to further the following goals:

1. To provide a uniform and sound personnel administrative system throughout the City;
2. To inform employees of the general policies and procedures of the City and the benefits and obligations of employment with the City;
3. To ensure that all personnel actions are based upon employee qualifications (knowledge, skills and abilities) and job performance and are in compliance with federal and state law;
4. To serve as written documentation of the City’s commitment to fair employment practices and equal employment opportunity;
5. To assist managers in carrying out sound, equitable and consistent personnel administration and in making effective use of their human resources;
6. To promote and encourage communication between the employer or supervisor and the employee;
7. To protect the rights of the employee and employer throughout the employment relationship and to ensure that the responsibilities of both parties are carried out.

### **1.2 Applications:**

The personnel policies and procedures shall apply to all City employees unless specified in Policy 12 of this manual, elected officials, independent contractors and excluded classes as specified in the policy itself. Appointive officers, as defined in SDCL 9-14-1, are addressed in policy 12 of this manual. In the event of a conflict between these policies and any collective bargaining agreement or state and federal law, the terms and conditions of that agreement or law shall prevail.

### **1.3 Revision:**

The City specifically reserves the right to repeal, modify or amend any of these policies at an aforementioned time with or without notice. Employees must acknowledge the receipt of each revision or inclusion of new pages of the employee handbook.

### **1.4 At-Will Employment:**

The City recognizes that South Dakota is an employment at-will state and the intent of this City is to maintain that employment at-will status of all employees. **This manual does not confer a contract of employment. These policies are provided as a reference of present policies and not a guarantee of employment or specific employment benefits.** The City recognizes there may be other agreements in place with individual

employees or unions and that those agreements may impact certain sections of this manual.

## **POLICY 2: GENERAL POLICIES**

### **2.1 Equal Employment Opportunity:**

All employment opportunities will be advertised in the local newspaper, listed with the South Dakota Department of Labor and Regulation, posted in a visible location, and/or posted in relevant professional trade publications.

Application for any position with the municipality shall be made on forms provided by the municipality. These forms are available at City Hall and shall be maintained by the City Administrator or Human Resources Director.

- 1) It is the policy of the City to recruit, hire, train, promote, discipline, and discharge all applicants and employees equally and without regard to race, religion, creed, color, national origin, sex, sexual orientation, age, disability, political affiliation, marital, or any other basis prohibited by state or federal law. Violations of this policy by any City employee may be cause for immediate disciplinary action. Any employee who feels they have been discriminated against according to this policy should bring this concern to his/her supervisor or higher authority according to the procedure specified herein.
- 2) Employees hired after November 6, 1986 must attest to their legal status by presenting the municipality with documents establishing their identity and eligibility for employment. Employee identity can be established with a driver's license with picture or other documentation approved by the U.S. Attorney General. Employment eligibility can be established with a Social Security card, U.S. birth certificate, or other evidence approved by the U.S. Attorney General. Both identity and eligibility can be established with a U.S. passport certificate of U.S. citizenship, or naturalization, foreign passport stating authority to be employed, or alien card with picture and employment authorization.
- 3) In some cases, applicants may be required to submit to a comprehensive physical examination which include testing to determine substance use and/or abuse conducted by a licensed physician, and psychological evaluation conducted by a certified mental health professional. All costs related to the physical and psychological examination shall be borne by the City. The applicant shall furnish to the City a signed report of such examination which shall be filed and maintained by the City Administrator or Human Resources Director.
- 4) The City may require examination to determine the qualifications of applicants for employment or promotion in the municipal service. The nature of examinations used will differ with the position to be filled. Each applicant for the particular position will be given an identical examination including

job-related interview questions administered by an appropriate city official or department head.

Consideration will be given to any or all of the following factors: education, experience, physical illness, knowledge, skills, personality, character or other qualifications deemed necessary for the satisfactory performance of the duties of the position.

- 1) Appointed officials shall be appointed by the Mayor with the approval of the council on the first regular council meeting in May. At the time of making such appointments, the Mayor shall designate the length or term of the appointment which in no case shall exceed one year or the remaining length of the mayor's term, whichever is shorter. The mayor may make a probationary appointment for a period not to exceed six (6) months with the approval of the council. Any subsequent appointment for a longer period must again be approved by the council.
- 2) All new employees shall be hired as probationary employees for a period up to six (6) months during which they must exhibit their ability to learn and perform the job for which they were hired. At the discretion of the City Council, the probationary period may be extended for one additional period of up to six (6) months. At the end of the probationary period, the employee's employment must be terminated or the employee will be designated as a regular employee. All persons commencing a new job with the City shall serve the same probationary period in their new position as if they are new employees.
- 3) In order to avoid favoritism, or its appearance, the City restricts the circumstances under which immediate family members may be employed by the City. For purposes of this policy, immediate family shall include parents, spouse, children, siblings, grandparents, grandchildren, aunts, uncles, cousins, and their step- or in-law equivalent, as well as anyone residing the same household as the employee shall not be employed in the same department, if such employment would result in a department head supervising a member of their immediate family. If two employees in the same department get married, or otherwise become members of the same immediate family, the City may require one of the employees to transfer to a position in a different department, provided there is a vacancy and they are qualified for the same. This transfer may result in a decrease in pay.

## **2.2 Sexual Harassment/Discrimination:**

The City is committed to providing a work environment that is free from discrimination and harassment. Harassment or discrimination on the basis of race, religion, color, national origin, sex, sexual orientation, gender identity, age, disability or any other basis prohibited by state or federal law will not be tolerated. Harassment and offensive behavior may take different forms and may be verbal, non-verbal or physical in nature.

Under this policy, sexual harassment is defined as behavior of a sexual nature which is unwelcome and personally offensive to its recipient. It is a form of employee misconduct which is demeaning to another person and undermines the integrity of the employment relationship. This sexual harassment policy also applies to same-sex harassment.

Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- 1) By threat or insinuation, either explicitly or implicitly, an employee's refusal to submit to sexual advances or refusal to tolerate or participate in unwanted conduct or communication of a sexual nature will adversely affect the employee's terms and conditions of employment, including but not limited to wages, advancement, evaluation, assigned duties, shift assignment, career development, etc.
- 2) Any conduct or communication of a sexual nature has the purpose or effect of substantially interfering with work performance or of creating a hostile, intimidating, or offensive employment environment that may be considered offensive to another employee, including but not limited to:
  - repeated sexual flirtations, advances, or propositions;
  - continual or repeated verbal abuse of a sexual nature;
  - foul language;
  - unwanted physical contact;
  - graphic verbal commentaries about an individual's body or manner;
  - sexually degrading words used to describe the individual;
  - the display of sexually explicit pictures, cartoons, or other materials.

Any employee who feels he/she has been harassed or discriminated against or that his/her personal rights have been violated should immediately report the matter to the immediate supervisor unless the supervisor is the offending party. If the supervisor is unavailable, or the employee believes that it would be inappropriate to contact his/her supervisor, the employee should immediately contact the City Administrator, the department head, mayor, Council president or city attorney.

A supervisor or manager who becomes aware of any possible harassment should advise the City Administrator, human resources, the department head, the mayor, or Council president. The City will make a thorough, confidential, and impartial investigation of the complaint. All employees must cooperate with any such investigation. The City will take prompt remedial measures to immediately end the offending action.

Discrimination and harassment in the work place is prohibited by Federal and State law, whether committed by elected officials or supervisory or non-supervisory employees, and will not be tolerated. Retaliation or intimidation directed toward a complaining party is also prohibited by law and will not be tolerated by the City. A legitimate complaint of sexual harassment or discrimination will not have any bearing on the terms and conditions of employment of the complaining party, including but not limited to wages, advancement, evaluations, assigned duties, shift assignments, career development, etc.

A formal complaint of harassment or discrimination may be initiated in lieu of, during, or following this informal process as provided by State or Federal law.

Violations of the above stated policy by any employee may be cause for immediate disciplinary action.

## **2.3 Americans with Disabilities Act:**

### 2.3.1 General

The Americans with Disabilities Act (ADA) and Amendments provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and programs, and telecommunications. Title II of the ADA states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination” in programs or activities sponsored by a public entity.

### 2.3.2 Complaint Procedure

The City has adopted this procedure to provide prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the ADA or its Amendments.

Any individual who believes that (s)he or a specific class of individuals with disabilities has been subjected to unlawful discrimination on the basis of that disability by the City may, by himself or herself or by any authorized representative, file a complaint. Complaints should be addressed to the City Administrator who has been designated to coordinate ADA compliance efforts. The complaint process is as follows:

1. A complaint must be filed in writing and contain: the name and address of the individual or representative filing the complaint, a description of the alleged discriminatory action in sufficient detail to inform the entity of the nature and date of the alleged violation, and be signed by the complainant or authorized representative. Complaints filed on behalf of third parties must describe or identify the alleged victims of the discrimination.
2. The complaint must be filed within 180 days after the alleged violation occurs. This time may be extended for good cause shown.
3. The City Administrator shall promptly conduct an informal, but thorough, investigation of the complaint. All interested parties shall be afforded an opportunity to submit evidence relevant to the complaint.
4. A written determination of the validity of the complaint and a description of the resolution shall be issued and a copy forwarded to the complainant after completion of this investigation. The finding shall include: findings of fact and conclusions of law, a description of a remedy for any violation found, and

a notice of the rights available to both the entity and the complainant, including the complainant's right to file a private suit.

5. The complainant may request a reconsideration of the complaint in cases where (s)he is dissatisfied with the resolution. The request for reconsideration must be made to The City Council within 5 working days of the original finding.
6. Nothing in this procedure shall be construed as preventing an individual from pursuit of other remedies including filing the complaint with any federal agency (s)he believes is appropriate or with the U.S. Department of Justice. This procedure also does not preclude the individual's right to file a lawsuit in federal district court.

### 2.3.3 Disability Accommodation

The City is committed to the fair and equal employment of individuals with disabilities under the Americans with Disabilities Act (ADA) and all amendments thereto including, but not limited to, the Americans with Disabilities Act Amendments Act (ADAAA). It is the City's policy to provide reasonable accommodation to qualified individuals with disabilities unless the accommodation would impose an undue hardship on the organization. The employee or employment applicant shall inform the City Administrator or the department of the need for an accommodation, and the City shall engage in an interactive process regarding the request. The City may request documentation of the functional limitations to support the request. Such documentation shall be treated as a confidential record and not kept in the personnel file. The City prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

## **2.4 General Safety and Vehicle Safety:**

- 1) The City is committed to preventing injury to employees, preventing damage to property and to protecting the employees and the public from the results of accidents. The City realizes that safety belts are an important and efficient means to accomplish this goal. Thus, it is the policy that all City employees and their passengers shall be required to use seat belts when driving any city owned or leased vehicle (if equipped with seat belts) or while driving their personal vehicle on official City business. Failure to comply with this policy may result in disciplinary action.
- 2) While driving in any city vehicles all speed limits and traffic laws must be followed. This may be overlooked in the case of an emergency acting on official City business such as an emergency law enforcement call or utilities emergency.
- 3) All proper clothing and eyewear must be worn at all times in the course of performing duties for the City.
- 4) All City employees are responsible for following proper safety standards of their department and should defer to their immediate supervisor regarding safety questions.

- 5) In the event of an emergency situation employees should contact the North Sioux City Police Department at 605-232-4301 or dial 911.

## **2.5 Tobacco Products:**

It is the policy of the City that smoking or the use of other tobacco products shall not be permitted in city buildings, facilities, vehicles or enclosed equipment, except in designated areas. Employees are not allowed to tobacco products while using any city owned equipment.

## **2.6 Outside Employment:**

Employees shall not accept additional outside employment except with the prior written approval of their immediate supervisor. Such approval will not be granted when additional employment will interfere, conflict with or adversely affect the employee's City duties and responsibilities. The supervisor may rescind prior approval if the additional outside employment begins to interfere with the employee's City duties. The supervisor shall provide the employee with notification if the approval is to be rescinded. This policy section shall not apply to part-time, seasonal, or temporary employees.

## **2.7 Performance Evaluations:**

Performance evaluations are designed to provide the employee with a record of his/her performance, to encourage professional growth and to promote communication between the supervisor and employee. When conducted, the performance appraisal will be conducted by the employee's immediate supervisor. The immediate supervisor of the employee shall conduct the performance evaluation. Further, the City Administrator will be given the opportunity to comment on the evaluation. The purpose of the evaluation is to commend strengths, address weaknesses, suggest ways to improve, and discuss employee goals and objectives. If requested, employees are required to sign their evaluations and may obtain a copy upon request. Signing does not imply agreement with the evaluation, but simply agreement that the contents have been made known or discussed with the employee.

Performance Evaluations shall be conducted on a yearly basis before the time yearly incentive packages are discussed and approved by the City Council.

## **2.8 Personnel Records:**

### 2.8.1 Personnel File

It is the policy of the City to maintain accurate and updated information on City employees in its personnel files. The personnel file may include the following documents, but will not include any information contained in the confidential file listing (see policy 2.9):

- personal data sheet
- letters of commendation
- payroll deduction authorizations
- W-4 form
- I-9 form
- leave and absence slips
- disciplinary actions
- termination or discharge record
- previous positions held with City and rate of pay
- performance appraisals

The City Administrator shall be responsible for maintaining personnel records. In the absence of the City Administrator, his/her designee shall assume responsibilities for such personnel records. The City Administrator may also delegate the maintenance and control of personnel records to the Finance Officer or Human Resources Officer. Employee records are confidential. Such records shall be accessible only to the individual employee, the decision-making authority affecting the individual employee's employment status, and any others with a demonstrated need to know. The employee or his/her representative shall have reasonable access to his/her personnel records upon request to the City Administrator. The file will be made available to the employee's representative only upon express written authorization by the employee and copying costs paid by the employee.

As to written disciplinary actions in the personnel file, the employee may submit a letter of rebuttal to his/her file regarding any information contained in his/her file that is in dispute.

#### 2.8.2 Changes of Name, Address, Telephone and Withholding Status

It is the employee's responsibility to inform the City Administrator and Finance Officer of any changes in name, address, telephone number or withholding status. An employee must immediately report any of the above or other pertinent changes. Intentional failure to report such information is grounds for disciplinary action. The employee making changes may be required to complete and sign paperwork requesting any changes.

#### 2.8.3 Personnel Record Retention

Personnel records are maintained in accordance with the records retention and destruction manual for cities published by the State Bureau of Administration.

### **2.9 Benefits, Medical and Confidential File:**

The City maintains confidential file(s) on employees. The file may include:

- benefit forms (retirement, health and life insurance, etc.)
- injury reports and workers' compensation information

- necessary medical examinations and records
- harassment/discrimination investigatory documents.

Access to this file is limited to the City Administrator and on an absolute need to know basis only as deemed appropriate by the City Administrator. Employees may designate someone to have access to this file in the case of a life ending event.

## **2.10 Employment References:**

Absent a written authorization from the employee, it is the City's policy to provide only the following information on both present and past employees:

- if an employee has been employed with the City in City government service;
- dates of employment;
- current position or position at the date of separation from employment and other positions held; and
- verification of salary information.

Any written information disclosed about the job performance of an employee or former employee to a prospective employer of that person at the written request of the employee or former employee is presumed to be done in good faith and, unless lack of good faith is shown by clear and convincing evidence, and the disclosing party and City may not be held liable for the disclosure or its consequences. Any written response to the written request shall be made available to the employee or the former employee upon written request.

Providing employment references, including off-the-record remarks, without authorization in violation of the above stated policy may result in disciplinary action.

## **2.11 Executive Session - Personnel Discussion:**

It is the policy of the governing board to recess into executive session to discuss contractual or personnel issues such as employee qualifications, competence, performance, and character or fitness. However, in accordance with South Dakota's open meeting law, no official action will be taken except in an open official meeting.

## **2.12 Political Activity:**

Employees are encouraged to exercise their right to vote in City elections. Employees are allowed to involved themselves in political campaigns during personal time. During working hours' employees shall not engage in or participate in any other way in said elections.

Any employee who intends to give testimony in a legislative process involving issues relevant to the City or the employee's position with the City, must get permission from their supervisor prior to providing the testimony. This does not prohibit the employee

from taking leave and testifying for themselves or exercising their rights as citizens.

Employees should not have direct or indirect conversation with state or federal legislators or their staff involving policies relating to the City without knowledge of the appropriate supervisor.

### **2.13 Public Relations:**

All employees are responsible for providing their particular City services to the public in a courteous, polite manner. Employees are expected to maintain high standards of conduct and cooperation in their duties for the City.

Employees shall refer all requests for public interviews or quote requests to the City Administrator. If appropriate, employees may respond to these requests, but only after the request is made aware to the City Administrator. If the City Administrator is unavailable employees shall work with the Mayor or their immediate supervisor to provide comment.

### **2.14 City Property:**

Property owned by the City shall only be used for city business. Any use of city property for personal use may result in disciplinary action, including termination, except those uses of City vehicles inherent with an approved travel request. Any items received as a result of doing business as the City is the property of the City. All mail or packages received at City offices may be opened by a supervisor or other appropriate person and there shall be no expectation of privacy in such matters. Employees who separate from employment shall return all City property. Where any outstanding debts for equipment loss or unauthorized charges exist, the City may consider the employee to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss. The City reserves the right to garnish the final paycheck of any employee who separates from the City for any City property or outstanding debt not returned to the City upon separation from City employment.

#### 2.14.1 Telephone Policy

While personal phone calls and text messages are not prohibited, their frequency, duration, and volume should not interfere with on-going work nor distract fellow employees. Excessive personal calls and text messages during the work day, regardless of the phone used, can interfere with employee productivity and be distracting to others. Employees are therefore asked to make personal calls and text messages on non-work time where possible and to ensure that friends and family members are aware of the City's policy. Flexibility will be provided in circumstances demanding immediate attention. Employees are not permitted to make personal long-distance telephone calls using the city's telephones or telephone credit card, except in emergencies. Employees may place personal long-distance calls if they use their personal calling card or call collect.

1. Personal Cellular Phones

While at work employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of City phones. The City will not be liable for the loss of personal cellular phones brought into the workplace.

2. Personal Use of City-Provided Cellular Phones

In its discretion, the City may issue a business cell phone to an employee for work-related communications. Employees' phones are expected to protect such cell phone from loss, damage or theft. Upon resignation or termination of employment, or at any time upon request, the employee may be asked to produce the phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested may be expected to bear the cost of a replacement.

3. Safety Issues for Cellular Phone Use

The city understands that the use of cellular devices is an essential function of some employees. Employees are expected to use their best discretion when using their phones while driving. Safety must come before all other concerns. Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

**2.15 Recordings:**

Employees shall not record employment-related conversations without prior approval of a supervisor. All picture taking and video taping is prohibited unless approved by management.

**2.16 Safety Rules:**

The City desires to conduct all of its operations in the safest manner possible. Compliance with the General Safety Rules listed below will assist us in achieving this objective. These rules are minimum and your continued awareness and cooperation in providing a safe place to work is a vital part of your job.

1. Whenever you are involved in any accident that results in personal injury or damage to property, no matter how small, the accident must be reported. Get first aid promptly.
2. Report immediately any condition or practice you think might cause injury or damage to equipment.
3. Do not operate any equipment which, in your opinion, is not in a safe condition, and report the condition of the equipment to your supervisor.
4. All prescribed safety and personal protective equipment should be used as required and maintained in working condition.
5. When lifting, use the approved lifting technique, i.e. bend your knees, grasp the load firmly, and then raise the load keeping your back as straight as possible. Get help for heavy loads.
6. Do not horseplay; avoid distracting others; be courteous.

7. Use the right tools and equipment for the job. Use them safely and when authorized.
8. Good housekeeping should always be practiced. Return all tools, equipment, and material to their proper places.
9. The use of illegal drugs and/or intoxicating beverages during employment and/or at the workplace is prohibited.

#### 2.16.1 Violence, Harassment and Bullying in the Workplace Prohibited

The City condemns harassing, intimidating, threatening, bullying or assaulting behavior, speech or actions by any elected official or City employee against any employee or the public at and away from the workplace. In addition, the City will not tolerate intentional damage to City property by City employees or elected officials. Any employee who violates this policy will be subject to discipline up to, and including, discharge. Employees having knowledge of violation of this policy shall report such violation to their supervisors, or through the City's procedure(s).

#### 2.16.2 Weapons Prohibited

For the safety of City employees and the public, no person will be permitted to possess firearms, explosives, or other weapons on City property, except those individuals authorized to do so in the course of their duties with the City. Employees are allowed to keep firearms and other weapons safely in their personal vehicles ensuring they are locked in a place where others are not able to access them. Examples of prohibited weapons include, but may not be limited to:

1. All types of firearms, including rifles, shotguns, pistols.
2. Archery equipment, including arrows, hunting bows, crossbows.
3. Large hunting or weapons-style knives, including "bowie" knives, machetes, stilettos, or switchblades, etc. (This does not prohibit possession of personal, folding pocket or penknives or other bladed tools used in the course of work activities.)
4. All explosive devices or explosive materials used in such devices.
5. Other objects clearly designed or intended to be used as weapons, such as nunchucks, clubs, and brass knuckles.

Duly authorized educational programs, demonstrations, displays, dramatizations, competitions, or other similar public events as approved by the respective department may be exempted.

### **2.17 Accident Reporting and Investigation:**

All work-related accidents and injuries, no matter how minor, should be reported to your supervisor or the City Administrator immediately. This is for your protection in case medical attention is necessary or in the event of some future complication caused by the accident.

The city provides workers' compensation insurance for every employee. It protects you

for loss of pay and time and for the cost of medical care for injuries sustained while working. For details, see the Workers' Compensation Policy in this handbook.

If you are involved in an automobile accident while working or while driving a city-owned or rented vehicle, you should:

- Obtain all information relating to the accident in a professional manner, including the names and addresses of any witnesses.
- Contact the North Sioux City Police Department, or local police, while still at the accident scene and direct them to come and take any appropriate statements and collect evidence.
- Do not negotiate the settlement of any claim, promise payment for any injury or damage, or admit liability.

You should complete a written report for all accidents and injuries as soon as possible. Completed accident reports provide necessary information to allow the processing of claims with the City's or the other motorists' insurance companies. Any damage to the vehicle, no matter how slight, must be noted on the accident report.

Upon notice of an accident, an investigation may be conducted by a supervisor and if done, shall be documented. An employee involved in a motor vehicle accident in a City vehicle shall also report the accident to the Police Department.

## **2.18 Personal Appearance:**

Employees are expected to exercise discretion and good taste in the matter of dress. Cleanliness and good grooming are expected.

Departments may require City issued uniform be worn as their standard to ensure consistency and public identification. Shirts shall be short-sleeved at a minimum. Clothing items purchased with city funds shall be worn or used during work hours, and generally worn by the employee while working. Employees will be required to replace missing work clothing at their own expense if the work clothing is lost, stolen or damaged due to the employee's own negligence. Employees are expected to report to work each day in a clean shirt. When a shirt is considered unwearable, the shirt will be returned to the appropriate supervisor, who will dispose of it first removing any logos.

The wearing of suggestive attire, soiled clothing or radical departures from conventional dress is not permitted. Tank tops with large baggy, gaping armholes are not permitted.

Supervisors are authorized to develop and implement additional policies and practices which relate to the provisions of this subject which are not inconsistent with the guidelines set forth herein. Employees wearing inappropriate attire will be instructed not to wear the attire again and may be asked to return home and change. If an employee is asked to return home and change their attire that time shall be unpaid. Any subsequent offences of inappropriate attire may result in further disciplinary action.

## 2.19 Computer and Internet Policy:

The City may provide employees access to computers, networks, Internet and electronic mail (e-mail). Every employee has a responsibility to maintain and enhance the city's public image and to use the above listed tools in a productive, professional, and business-like manner. To ensure this, the City has established the following policy for using computer/electronic equipment. This policy does not supersede any local, state or federal laws, or any other city policy regarding confidential information dissemination or standards of conduct. The electronic equipment listed above is city owned property, thus its access and use, except in the limited circumstances listed below, is for **OFFICIAL USE ONLY**. Employees shall have **NO EXPECTATION OF PRIVACY**, regarding their use of e-mail or the Internet. All records created by Internet use or e-mail are subject to inspection and audit by management or its representatives at any time, without notice. When using city e-mail or Internet services, which include messages sent by home using the city's server, employees agree to allow the employer to review and monitor all messages they send, store or receive on the system or any searches they make on web sites they visit using the City's Internet Server. By use of this equipment/systems, the **employee** understands and consents to the **City's right to inspect, audit, and/or monitor**.

### 2.19.1 General Terms

City electronic equipment is to be used only for official City business; however, brief and occasional e-mail, browsing the Internet and use for non-business and/or personal matters within the confines of good judgment and within the guidelines herein described will not be deemed a violation of city policy. Usage for personal and/or non-business reasons must not impede the conduct of the City business and must not cause the City to incur any direct cost. An employee assumes full risk and responsibility for the exercise and application of good judgment; and all personal usage of the City electronic equipment is subject to later review and determination by the City, on a basis which may arguably be subjective, as to whether or not the personal usage was within the confines of good judgment and not an abusive misuse of public property.

### 2.19.2 Discrimination/Harassment

Employees are prohibited from using electronic equipment to violate City Policy 2.2, titled SEXUAL HARASSMENT/DISCRIMINATION relating to all forms of harassment and/or discrimination.

### 2.19.3 Specific Rules and Prohibition

- Unless authorized, employees may not use another employee's personally assigned account, password, login, logout, user name, etc., or lend use of any of these to another person.
- Employees must be aware of and comply with licensing and copyright restrictions applicable to software and data files they may access.
- Employee users must respect the privacy of others; employee users may not access private files or communications of others, even if unprotected, except by management as stipulated within this policy.

- The creation, dissemination, download, upload, installation or copying of illegal or pornographic documents or images is strictly forbidden. Certain work related situations will exclude the Police Department from this rule.
- Employees shall not use the electronic equipment in a manner which results in damage to any City property (hardware or software); employees shall use all City provided computer equipment in a manner which shall not knowingly result in the introduction of a computer virus or other destructive program or file to any City computer system.
- Accessing, posting, or sharing any racist, sexist, threatening, offensive, obscene or otherwise objectionable material (whether visual, textual, or auditory) via the Internet or e-mail is strictly prohibited.
- Electronic mail shall not be used to receive any type of regular personal communication such as direct mailings from commercial retail sites.
- Electronic equipment will not be used for personal commercial purposes, political purposes, illegal or unauthorized purposes.
- Employees with access to any northsiouxcity-sd.gov email address must constantly remain aware of the emails they are opening and should not open any email or any attachment which they do not believe is from a reliable source.

#### 2.19.4 Monitoring, Violations, Penalties

- Violations of this policy shall be reported to the employee's supervisor.
- Monitoring individual usage of the electronic equipment by authorized individuals may occur.
- Violation of these policies may result in disciplinary action up to and including termination.

## **2.20 Blogging and Social Networking:**

The City recognizes that Social Networking (such as personal web sites, blogs, Facebook, MySpace, Twitter, online group discussions, text messaging, message boards, chat rooms, etc.) can be used by employees for personal reasons as well as business purposes. The City also understands how the use of internet social network sites and blogs can shape the way the public views our products or services, employees, vendors, partners and clients. The City respects the right of any employee to maintain a blog or post a comment on social networking sites. However, the City is also committed to ensuring that the use of such communications serves the needs of our business by maintaining the City's identity, integrity, and reputation in a manner consistent with our values and policies. Therefore, the City has established the following rules and guidelines for communicating City-related information via Social Networking forums whether used in or outside the workplace:

### 2.20.1 Personal Blogging or Social Networking on City Time

Employees may not post on a personal blog or web page or participate in a personal social networking site during working time or at any time with City equipment or property. Working time is your scheduled time of work not including lunch time, breaks or time prior to or after your shift.

#### 2.20.2 Disclaimer

If from your post in a blog or elsewhere in social media it is clear you are a City employee, or if you mention the City, or it is reasonably clear you are referring to the City or a position taken by the City, and also express a political opinion or an opinion regarding the City's positions or actions, the post must specifically note that the opinion expressed is your personal opinion and not the City's position. This is necessary to preserve the City's good will in the marketplace.

#### 2.20.3 Right to Monitor

The City reserves the right to monitor all public blogs and social networking forums for the purpose of protecting its interests and monitoring compliance with City policies. The City reserves the right to access any City computers and electronic communication devices to monitor blogs and on-line websites. Employees should not maintain any expectation of privacy with respect to information transmitted over, received by, or posted on such sites.

#### 2.20.4 Reporting

If an employee believes that a blog or other online communication violates any City policy, the employee should immediately report the blog or online communication to his or her supervisor. The City will investigate the matter, determine whether such blog, posting, website, or communication violates City policies, and take appropriate action.

#### 2.20.5 Employee Rights

This policy is not intended to restrict an employee's rights to discuss wages and working conditions with co-workers or in any way limit employees' rights under the National Labor Relations Act.

### **2.21 Non-solicitation:**

Solicitation on city property is not allowed.

## **POLICY 3: EMPLOYEE CLASSIFICATIONS**

### **3.1 Definitions:**

Appointive Official: An individual who holds a position in the City as specified by S.D.C.L. 9-14-3 (see policy 12).

City Employee: Anyone employed by the City who is not an appointive official.

Regular Full-Time Employee: (FTE = Full Time Employee) An employee who is employed by the City to work a predetermined schedule of at least 40 hours per week and has completed their employee-in-training period. Benefits for FTE are as follows:

Vacation Leave:	Full benefit
Sick Leave:	Full benefit
Holiday Pay:	Full benefit
Health (Dental) Insurance:	Full benefit
Life Insurance:	Full benefit
Personal Emergency Leave:	Full benefit
S.D. Retirement System:	Participating

Regular Part-time Employee: An employee who is employed by the City to work at least 20 hours but less than the full time hours per week as defined above on a regular basis [and has completed his/her employee-in-training period]. Benefits for these employees are as follows:

S.D. Retirement System:	Per SD State Retirement Rules and Regulations
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Temporary or Seasonal Employee: An employee who is employed by the City to work for less than 29 hours per week (part time) or less than 6 months. No benefits are provided.

Probationary Period: An employee who is newly hired by the City in a regular full or part time position who is completing his/her 6-month probationary period (see policy 4.14). Benefits for these employees are as follows:

Vacation Leave: Accrue full benefits but may not use leave until completion of probationary period.  
All other benefits are the same as their respective classification above.

## **POLICY 4: RECRUITMENT, SELECTION AND PROMOTION**

### **4.1 Recruitment and Hiring Policy:**

It is the policy of the City to recruit and fill job vacancies with the most qualified individual for the position. The City has three methods of recruiting qualified applicants to fill job vacancies in City employment. These are: 1) promotion from within; 2) transfer from within; and/or 3) open announcement and advertisement. All selections shall be based on merit and fitness to fill the job vacancy. All recruitment efforts are based upon equal employment opportunity and conducted without regards to race, religion, creed, color, national origin, sex, sexual orientation, sexual identity, age, disability, political affiliation, and marital or veteran status.

City positions which are previously created can be advertised for without the approval of the City Council. The City Council shall approve the creation of all new positions within the city. The City Council may allow the department head, City Administrator, or a combination of both to approve hiring decisions. The City Council shall approve the hiring of all department heads and the City Administrator.

## **4.2 Job Announcement and Promotion**

Announcements for regular full-time and part-time job vacancies shall be made according to the position. The City reserves the right to promote employees from within the current organizational structure. There is no official consideration given for seniority, and selection shall be made on a merit basis only. Public announcements for city employment should include the job title, a brief job summary, deadline for filing, and where applicants can obtain a full job description and employment details. Accouchements shall also state the City is an “Equal Opportunity Employer.”

## **4.3 Applications for Employment:**

Individuals interested in applying for a specific position with the City must complete and submit a City application form. In addition to the completed application form, a resume may be strongly encouraged.

## **4.4 Eligibility:**

To be eligible for employment with the City the applicant must:

- 1) be legally eligible to be employed in the United States as proven on the required I-9 form. (Required by federal law)
- 2) if born after December 31, 1959 and male, be registered for the selective service. (Required by federal law and SDCL 3-1-1.1)
- 3) a valid driver’s license
- 4) other requirements made known to the applicant on the position announcement.
- 5) Employees may be required to submit to a background check, fingerprinting, and/or a driver’s license verification, drug screening, and a physical.

## **4.5 Veterans Preference:**

Where all other qualifications are equal, preference in employment will be given to veterans who have served on active duty and been honorably discharged from the armed forces of the United States using the definition of veteran listed in SDCL 33-17-1 and the periods specified in 33-17-2.

## **4.6 Disqualification:**

An applicant is disqualified from employment by the City if he/she 1) does not meet the minimum qualifications for appointment; 2) knowingly has made a false statement on the application form or resume; 3) has committed fraud during the selection process; or 4) has failed to register for the selective service where so required to do.

## **4.7 Selection:**

Selection to fill a job vacancy is made on the basis of knowledge, skills, education, experience, and ability to perform the duties of the specific position. All selections are to be made without regard to race, religion, creed, color, national origin, sex, sexual orientation, sexual identity, age, disability, political affiliation, and marital or veteran status.

**4.8 Appointment of City Employees:**

Appointment of City employees is by the appointing authority with the approval of the City Council.

**4.9 Employment Offers:**

After the proper authorities have selected an individual to fill a job vacancy, the individual will be notified of their selection by the City Administrator or Direct Supervisor. An offer of employment shall be extended and a starting date established at this time. Employment offers are for at-will employment, under which the employment relationship may be terminated with or without cause, with or without prior notice, by either the City or the employee.

**4.10 Acceptance of Employment:**

After an individual has accepted employment with the City, the Finance Officer shall ensure that the necessary and proper paperwork is filed within the employee's personnel file.

**4.11 Residency Requirement:**

Public Works Employees	Within North Sioux City City Limits
Police Officers	Within 7 miles and in the State of SD
All Other Employees	Within 15 Miles of North Sioux City

An employee must obtain this residency within 6 months of the start of their employment. The City Council may grant an extension of this requirement in the case of the employee not being able to obtain housing.

**4.12 Employment of Relatives (Nepotism):**

The City's policy in employment is to hire and promote on the basis of an individual's merit, knowledge, skills, and abilities and avoid circumstances of favoritism. Thus, the employment of immediate family members where one member would hire, supervise, discipline or otherwise judge the performance of the above is prohibited. Immediate family is defined as: parents, step-parents, spouse, children, stepchildren, brothers, sisters, step-brothers, step-sisters, grandparents, grandchildren or an individual who has acquired any of the above status through marriage.

This shall not apply to elected officials, but elected officials should be aware of abstaining from decisions which would affect the direct well-being of immediate family members.

#### **4.13 Probation Period:**

Every employee hired by the City must complete a 6-month training period for the purpose of assessing the individual's ability to perform their assigned duties. Such employment may be terminated if either the City or the employee feels this is the appropriate action. There is no notice required of either party for such termination and no due process procedures will be held by the City for any disciplinary action during this time period. During this training period an employee shall accrue both sick and vacation leave at the regularly scheduled rate. Sick leave may be used as necessary at this time, however, the employee is not entitled to use their accrued vacation leave until completion of their training period. An employee-in-training is entitled to paid holidays as observed by the City. At the discretion of the employer, the training period may be extended by an additional 3 months.

### **POLICY 5: HOURS OF WORK**

#### **5.1 General Policy:**

It is the City's intent to create a standard work week within which an employee is expected to perform City services. The City also realizes that emergency and extenuating circumstances may arise in which an employee is required to work variable hours. Nothing within this policy is meant as a guarantee to the number of hours, either daily or weekly, that an employee may be required to work. However, it is the City's policy that every employee be treated equally and fairly when expected to work odd or extended hours.

#### **5.2 Standard Work Week:**

The standard 40-hour work week, unless otherwise stated, for the purpose of calculating pay and overtime shall begin at 12:01 a.m. Sunday and end on 12:00 p.m. Saturday.  
optional

#### **5.3 Standard Work Day:**

The standard eight-hour work day for City employees will begin as set by the employing department, including a 60-minute break for lunch and a 15-minute break period in both the morning and afternoon. Certain departments may choose to use a 30-minute lunch break period. Break periods may not be accumulated for time off. Emergencies may require that employees work more than eight hours in a day but shall be compensated with equal time off within the same work week (flex time) or through the accumulation of overtime if over 40 hours are worked in the week. The Police Union contract shall supersede this section, 5.3, for work hours/periods.

### 5.3.1 Time Worked

If less than a full hour is worked, the amount of time recorded on the timesheet should be rounded to the nearest quarter-hour.

### 5.3.2 Daylight Savings Time

The hour an employee loses each spring (by working seven of a scheduled eight-hour shift) must be charged to vacation or, with supervisory approval, be made up within the same work week. The extra hour an employee works each fall (by working nine hours rather than the scheduled eight) must be paid to the employee within the guidelines for overtime provisions under the Fair Labor Standards Act.

## **5.4 Call Back Pay:**

Any employee who is called in to work outside of his/her regular shift or schedule shall receive pay at their regular rate of pay. Any time over 40 hours within one pay week will constitute as overtime. It is the responsibility of each department supervisor to maintain and control the amount of overtime being approved.

## **5.5 On-Call Time:**

A Department may make stand-by arrangements which will be rotated among qualified employees. The employees on stand-by shall keep themselves available for immediate service that may arise and shall furnish the supervisor with a telephone number where the employee can be reached or the employee may be required to carry a radio or cell phone.

A streets department employee On-Call shall receive 3 hours overtime pay for each weekend day On-Call, overtime pay for each call out, and \$2 per hour for every hour on call in which the employee is not receiving overtime pay. An On-Call week shall run from Sunday to Saturday to coincide with the standard working week. If On-Call responsibilities is divided between two employees it shall be done for 24-hour day long periods and shall be approved by the supervisor.

## **5.6 Overtime:**

Employees may be required to work overtime when determined necessary by their supervisor or the City. Overtime is defined as time that is worked in excess of the first 40 hours within the standard work week and does not include hours paid but not worked such as holidays, vacation days or sick days. Except in emergency situations and for on call employees, all overtime must be authorized by the employee's department head prior to the working of such hours. Overtime is to be authorized only if the work cannot be otherwise done during normal work hours. Insofar as possible, the opportunity to work overtime shall be distributed as equally as practicable by the City among the employees in each department.

Overtime compensation for all overtime eligible employees shall be at the rate of one and one-half (150%) of the employee's regular hourly rate. As stated above, time paid for but not worked (holidays etc.) does not count toward hours worked for the purpose of calculating overtime hours. However, if an employee is required to work on a holiday the City will follow the holiday policy as found in 7.11.

Accrual of overtime without prior authorization may result in disciplinary procedures.

The police union contract shall state its own working week hours and overtime schedule.

### **5.7 Exemptions to Overtime:**

The following employees are exempt from the overtime standards:

- 1) Appointive officers (if determined to be FLSA exempt)
- 4) Executive, Administrative, and Professional employees.

### **5.8 Attendance:**

All City employees are expected to be at work on time and during their regularly scheduled hours. Employees who are unable to report for work on time are required to notify their immediate supervisor or the City Administrator prior to their being absent, unless an emergency exists. If an emergency situation exists, the employee is expected to notify the proper authority as soon as reasonably possible. Except in cases of an emergency, if an employee is absent more than 3 consecutive days without proper notification, the employee will be considered to have voluntarily resigned their position and/or may be discharged from City service.

### **5.9 Time Sheets/Cards:**

For the purpose of calculating and issuing pay checks, each employee's time sheet is a record of their regular hours worked, overtime worked, and vacation or sick leave used. Timesheets are the responsibility of each individual employee to calculate their time correctly. Every employee and their supervisor must sign their time sheet to verify that all entries are accurate. Intentional falsification of time sheets may result in disciplinary action.

### **5.10 Time Clocks:**

Time clocks may be used by the City for recording work time of all employees specified by the governing board. If used, each employee required to use a time clock must punch in and out promptly and have their supervisor or the City Administrator initial changes necessary to correct time records. Employees shall not punch another employee's time card. Such action may result in disciplinary action.

## **POLICY 6: COMPENSATION**

### **6.1 Pay Period and Pay Day:**

City employees are paid on a bi-weekly schedule. Paychecks are issued on the first Friday following the end of the bi-weekly pay period.

### **6.2 Early Pay Checks:**

The City does not grant early paychecks to employees. If an employee is to be absent on payday, it is his/her responsibility to ensure that his/her paycheck is properly handled. If no arrangements are made prior to the employee leaving, the pay check shall be given to the employee at the earliest possible time upon his/her return.

### **6.3 Time Sheets:**

Each employee is responsible to ensure that his/her time sheets are correct and submitted on time. Signed vacation and sick leave slips shall be turned into the appropriate personnel. Any misrepresentation of time worked or falsification of any time sheet may result in disciplinary action.

### **6.4 Payroll Deductions:**

The City is required to withhold Federal Income Tax and Social Security (FICA) from each employee pay check, unless employee designates as exempt on W-4.

Other deductions include:

- 1) Employee contributions to the South Dakota Retirement System.
- 2) Employee contributions to Health Insurance
- 3) Any deduction an employee elects to make such as, but not limited to, union dues, gym memberships, supplemental insurance, or additional HSA contributions.
- 4) Those deductions brought to the city through some type of court order.

### **6.5 Benefits:**

Benefits that follow are those offered by the City to employees. These benefits are afforded according to individual employee classifications (see policy 3). Applicable information will be provided separately to you by the City.

### **6.6 Workers' Compensation:**

Workers' compensation is a "no fault" system that provides compensation for medical expenses and wage losses to employees who are injured or who become ill due to their employment. Some exceptions are injuries caused by willful and serious misconduct or

by a worker's intoxication or by an employee's voluntary participation in recreational social activities. Employees may be required to fill out a full accident report detailing the situation in which the accident during working hours occurred.

The City pays the entire cost of workers' compensation insurance. The insurance will cover all related medical and rehabilitation expenses and a portion of lost wages. The insurance company will also authorize the length of stay, if any, away from work.

If an employee is injured on the job, work related medical costs are paid as well as the compensation rate for salary loss as set by the State of South Dakota. Injury on the job must be reported immediately to the employee's direct supervisor or the City Administrator. The injured employee must then complete the appropriate worker's compensation forms. State law requires any injury to be reported no later than three (3) business days after it occurred. If it is not reported within three days and the employee doesn't have a good reason, worker's compensation benefits could be denied.

In cases where worker's compensation wage reimbursement is paid to an employee, the employee may use sick leave to make up the difference between worker's compensation pay and their regular pay. When the sick leave is exhausted, annual paid leave may be used for this purpose. When all leave becomes exhausted, worker's compensation pay will be continued but participation by the City through wage supplementation will be discontinued and leave benefits will not accrue. Benefits of health, dental, and life insurance will be continued for the employee for a period of six months for City participation. The employee will have the option of two plans as to when the six months of participation by the City will begin:

- 1) If the employee chooses to use accumulated sick and annual leave to supplement worker's compensation pay, the six months of City participation will begin at the time all accumulated leave is used.
- 2) If the employee does not choose to use accumulated sick and annual leave, the six months begins at the time of the injury.

In either case, City participation of health, dental, and life insurance will not exceed one year from the date of injury. Retirement contributions shall be discontinued during the period of time the City is not participating in conjunction with worker's compensation. All benefits will continue upon return to work.

## **6.7 Travel and Reimbursement of Expenses:**

### 6.7.1 General Policy

It is the policy of the City that employees be fully reimbursed for necessary and reasonable job related travel expenses.

### 6.7.2 Travel Approval Required

All travel must be approved by the City Administrator or designated authority prior to the date of travel except in emergency instances.

#### 6.7.3 In-State Travel Expenses

Per diem rates for approved in-state travel shall be paid at the current state rate.

#### 6.7.4 Out-of-State Travel Expenses

Per diem rates for approved travel outside the state of South Dakota shall be paid at the current state rate.

#### 6.7.5 Meal Allowance - Schedule for Computation

The City will use the State of South Dakota per diem for meal allowances. The City may reimburse fully for meals where a full receipt is provided. Any tipping on meals shall not be over 18%. There shall be no reimbursement for a meal that is provided for the employee through the course of travel including, but not limited to, hotel provided breakfasts, conference provided meals, or meals paid for by a third party.

#### 6.7.6 Receipts Required for Lodging

Receipts are required for all lodging expenses for reimbursement.

#### 6.7.7 Mileage Rate

When employees may use their private vehicles for approved travel, mileage shall be paid at the current state rate.

### **POLICY 7: LEAVES OF ABSENCE**

#### **7.1 General Policy:**

Leaves of absence for vacation and sick leave are considered a benefit and privilege offered by the City. Leaves are not granted automatically, but are to be requested by the employee. Reasonable effort will be made to ensure that all employees are treated equally and fairly. In some instances, it may not be possible to grant all leaves requested during busy times or emergency situations, however reasonable effort will be made to grant requests. Employees anticipating a leave of absence are encouraged to apply for such leave as soon as possible.

#### **7.2 Vacation Leave:**

Paid vacation leave will be granted to all qualified employees (see policy 3).  
Vacation leave will accrue at a rate according to the following schedule:

- 0 – 3 years 3.08 hours/pay period (2 weeks per year)
- 3 – 10 years 4.62 hours/pay period (3 weeks per year)
- > 10 years 6.15 hours/pay period (4 weeks per year)

Employees on leaves of absence without pay or suspensions without pay do not accrue vacation leave benefits. Employees-in-training (probationary employees) accrue vacation leave but may not take such leave until they have successfully completed such training period. Vacation hours not used during the calendar year in which they are earned may be carried over into successive years. Eligible employees may accrue a maximum of 200 hours or 5 working weeks of vacation leave. Upon accrual above the maximum vacation leave hours, hours accrued will automatically be subtracted down to the maximum allowable hours without time being granted for leave. It is the employee's responsibility to ensure that hours are used on a timely basis according to this policy.

When an employee's vacation time falls on a holiday, such time is not to be subtracted from an employee's vacation leave balance. Vacation leave must be scheduled with the employee's immediate supervisor at the earliest possible time prior to the use of such leave. The City reserves the right, within reason, to disapprove requested time for vacation leave for the purposes of maintaining the work force during heavy scheduled work periods. However, the City will make reasonable effort to accommodate employee requests for time off. Vacation leave will be granted on a first come first serve basis, based on operational needs. The minimum amount that may be charged to an employee's vacation leave is one hour per leave period.

Upon separation from employment, an employee will be paid for any accumulated vacation time. Reimbursement for vacation leave will be at the employee's salary rate per their last day of employment.

Approved requests for leave should be given to the Finance Officer for proper documentation and to be figured in to the proper payroll period.

### **7.3 Sick Leave:**

Employees who are eligible for full benefits (see policy 3) shall accrue sick leave at a rate of 1 day of sick leave per month.

Employees on leaves of absence without pay or suspensions without pay who are absent for a full pay period do not accrue sick leave benefits. Sick leave benefits not used during the calendar year in which they are earned may be carried over and used during the succeeding calendar years to a maximum accumulation of 60 days. Sick leave benefits shall be paid at the employee's regular rate of pay at the time the leave is taken. The minimum charge to sick leave is one hour per leave period.

An employee absent from work due to illness or disability shall notify his/her immediate supervisor before scheduled to work, or as soon as possible if an emergency situation exists, and indicate the nature of the illness or disability and the expected length of

absence. Failure to report an illness in a timely manner may be cause to consider the absence as unauthorized and without pay.

After 3 days of continuous sick leave, medical doctor approval may be necessary to prove that a legitimate illness exists. However, the immediate supervisor may request a physician's statement concerning such absence at any time.

Any employee found to have abused their sick leave privileges may be subject to disciplinary action.

City employees are eligible to use sick leave time when needed for immediate family members. Please see section 7.9 for the definition of Immediate Family.

City employees are eligible to be paid for 50% of any unused sick leave after 10 years of continuous work for the City if they leave the employment of the City in good standing (non-termination).

#### **7.4 Extended Leave for Illness or Temporary Disability:**

Employees may request approval to use accumulated sick leave and vacation leave for the purpose of paid release time to recover from an extended illness or temporary disability. For extended periods of illness or temporary disability, a medical doctor's certification of illness may be required.

#### **7.5 Maternity/Paternity/Adoption Leave:**

The city is committed to assisting employees with welcoming new children into their family. An employee who is pregnant, adopting, or those whose spouse will be having a child is entitled to take up to 12 weeks of maternity/paternity/adoption leave if they choose to, irrespective of your length of service or earnings with the City. An employee who decides to take maternity/paternity/adoption leave can either take the leave as unpaid leave, sick leave, vacation leave, or a combination of the three types. An employee is allowed to take their 12 weeks of maternity/paternity/adoption leave within one year of the birth/adoption of their child. It is important for the employee to inform their immediate supervisor of maternity/paternity/adoption leave to allow the City to plan accordingly.

Upon return to their work with the City after maternity/paternity/adoption leave the employee will be reinstated to their position of employment. If the employee is not able to be reinstated in the exact previous position the employee will be placed in a position comparable in nature with the same wages and benefits.

#### **7.6 Jury Duty/Litigation:**

City employees will be granted leave with pay for jury duty or if they are subpoenaed to testify in court for city business. During such periods of absence, regular full-time or

part-time employees will receive their regular rate of pay minus the jury duty pay or the employee may endorse the court payment, less documented mileage/expenses, to the City. Employees who are absent from work due to jury duty will not be dismissed or suspended from employment; and shall retain and be entitled to the same job status and pay as he/she had prior to performing jury duty. Persons who are to be absent due to jury duty must notify his/her immediate supervisor in advance. If no prior notification is given the employee may be subject to disciplinary procedures. Vacation and sick leave benefits shall accrue at the normal rate for eligible employees during jury duty.

City employees involved in their own litigation are required to use vacation leave or leave without pay.

## **7.7 Voting Leave:**

City employees whose work schedule does not enable them time to vote during which time the polls are open shall be allowed up to one hour to vote. Such time shall be treated as regular work time for the purpose of pay and accrual of leaves.

## **7.8 Military Leave:**

### 7.8.1 Request for Military Leave of Absence

An employee who wishes to be granted military leave of absence must submit the request and a copy of his/her official orders or other records from the military service to his/her immediate supervisor prior to the dates of attendance. If the reservist or National Guard member submits a copy of his/her official annual training schedule prior to beginning of the year's military activities, the employee need only submit separate requests and orders for those training duties not included on the annual schedule, or when the annual schedule is modified.

### 7.8.2 Active Duty

An employee who enlists or is called into Active Duty for the military service of the United States or who, in time of national emergency, voluntarily enlists for active duty, shall be granted military leave for the time necessary to permit completion of the military service. In order to have re-employment rights, a person leaving active duty in the military service of the United States must apply to the City for reemployment within 90 days after his/her separation from active duty, or within 90 days after his/her release from hospitalization continuing after such separation for not more than one year. This applies to inductees and enlistees, as well as to reservists and National Guard members performing full active duty, as opposed to initial duty for training, or active or inactive duty training, or other active duty where different re-employment rights are defined by Federal Statute.

### 7.8.3 Reserve or National Guard Training Leave

An employee who enlists as a Reservist or a member of the National Guard shall be granted time off with vacation pay or sick time for initial active duty for training, annual training encampment, weekend training drills, and other active and inactive training duty. The reservist or National Guard member must report back to his civilian job at the beginning of his first regularly scheduled shift on the first day after the completion of initial active duty for training or other training duty plus the necessary travel time to return from the training site to the place of employment. He/She is also entitled to a reasonable rest time, and a reasonable time thereafter if return is delayed by factors beyond his/her control. If an employee fails to report to his/her job within this specified time period, he/she may be subject to the penalties which would be imposed on any employee who is tardy or absent without permission. If an employee separates his/her employment with the City in order to enlist in the Reserves or National Guard, he/she must reapply to the City within 31 days after his/her separation from initial active duty for training in the Reserves or National Guard in order to retain re-employment rights.

#### 7.8.4 Federal Statute

An employee who participates in any branch of the Military Service of the United States is covered by and subject to Federal Statute, US Code Title 38, Chapter 43, and all other applicable statutes.

### **7.9 Personal Emergency Leave:**

If necessary, qualified City employees may use accrued sick leave for personal emergency leave. This leave may be used for the following:

- 1) Death in the immediate family. (Immediate family is defined as an employee's spouse, parents, step-parents, children, step-children, brothers, sisters, step-brothers, step-sisters, aunt, uncle, step-aunt, step-uncle, grandparents, grandchildren, great grandchildren, step-grandparents, step-grandchildren, and step-great grandchildren. The term also includes a spouse's equivalent of the above).
- 2) Emergency illness or scheduled surgery in the immediate family.

The amount of sick leave to be used for personal emergency leave is to be limited to 40 hours per year if previously accrued. This leave does not accumulate from year to year.

Employees may use vacation time for Personal Emergency

### **7.10 FMLA Leave:**

The City complies with the Family Medical Leave Act ("FMLA"), which is unpaid leave. Any FMLA leave shall, however, run concurrent with any paid or other unpaid leave time, meaning you must use any available paid leave for any FMLA leave. The City applies the following 12-month leave cycle: January – December. FMLA leave forms are available from the City Administrator and FMLA must be authorized by City

Administrator. If you are requesting leave for a serious health condition, whenever possible the medical certification from your healthcare provider should be supplied before leave begins.

Further, the City, at no expense to you, may require an examination by a second health care provider designated by the City except in the case of military leave. If the second health care provider's opinion conflicts with the original medical certification, the City, at no expense to you, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. The City may require a subsequent medical recertification. Failure to provide requested certification within 15 days, if such is practicable, may result in delay of further leave until it is provided, and/or may subject you to discipline up to and including termination for taking unauthorized leave or excessive absenteeism. We can also contact this health care provider to clarify information on the medical certification, but you must sign the appropriate authorization form for such contact.

#### 7.10.1 While on Leave

If you take leave because of your own serious health condition or to care for a covered relation, you should contact City Administrator on the "first and third Monday" of each month regarding the status of the condition and your intention to return to work to see how you are progressing and so that we are up-to-date on any new developments. In addition, you must give notice to City Administrator as soon as practicable (within two business days, if feasible) if the dates of leave change, are extended or initially were unknown.

#### 7.10.2 Intermittent and Reduced Scheduled Leave

Leave because of a serious health condition or military leave may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced leave schedule (reducing the usual number of hours you work each workday) if medically necessary. You will receive your current rate of pay for hours worked and time spent working will not count against your available FMLA leave. In addition, while you are on an intermittent or reduced schedule leave, the City may temporarily transfer you to an available alternative position which better accommodates your recurring leave and which has equivalent pay and benefits.

#### 7.10.3 Medical and Other Benefits

During an approved FMLA leave, the City will maintain your health and other benefits as if you continued to be actively employed. However, you must continue to pay your portion, if any, of the group health plan premiums or your benefits may be cancelled. In order to accrue benefits such as Vacation or Sick Bank, an employee must be working, using Vacation, Sick Bank, or holiday hours to equal at least fifty percent (50%) of their regularly scheduled time for the pay period. If you return to work owing any employer-made contributions to your insurance premiums to maintain coverage during your leave,

you will be required to reimburse the City through payroll deduction immediately upon return. If you elect not to return to work at the end of the leave period, you will be required to reimburse the City for contributions to the health insurance premiums made to maintain coverage during your leave, unless you cannot return to work because of a serious health condition or because of other circumstances beyond your control.

#### 7.10.4 Returning from Leave

When you are able to return to work following a leave because of your own serious health condition, you should attempt to give the City at least one week's notice by mailing, hand delivering, or faxing to the City Administrator a medical certification stating that you are able to resume work. However, you should make sure that the City receives this notice no later than two business days before your return to work at the conclusion of your leave. If your FMLA leave resulted from a workers' compensation injury, your health care provider may send an updated medical work status form to the City Administrator as soon as your return to work date is known, even if less than two business days before your return to work.

### **7.11 Holidays:**

The City recognizes and observes the following as paid holiday for eligible employees:

- New Year's Day, January 1
- Martin Luther King Jr. Day, 3rd Monday in January
- Presidents' Day, 3rd Monday in February
- Memorial Day, Last Monday in May
- Independence Day, July 4
- Labor Day, 1st Monday in September
- Native Americans' Day, 2nd Monday in October
- Veterans' Day, November 11
- Thanksgiving Day, 4th Thursday in November
- Christmas Day, December 25

When a holiday falls on a Saturday, the preceding Friday is observed as the paid holiday for eligible City employees. If a holiday falls on a Sunday, it is observed on the following Monday.

On occasion the President of the United States or the Governor of the State of South Dakota designates holidays. In the event that this occurs the City of North Sioux City shall also recognize these dates on the same date as recognized by the State of South Dakota.

Employees ineligible for paid holiday leave will be granted a day off without pay in observance of a holiday.

An employee required to work on a paid holiday observed by the City will receive an extra 8 hours of regular pay.

### **7.12 Leave Slips:**

The City requires that each leave of absence must be accompanied by a leave slip. Such leave slips must indicate the dates of the leave, type of leave to be taken or reason leave is taken and number of hours of leave to be taken. Each leave slip must be signed by the employee's immediate supervisor prior to the leave being taken. In circumstances such as an emergency or unexpected illness, the leave slip is to be submitted as soon as possible when the employee returns.

Leave slips shall be given from the immediate supervisor to the finance officer for processing.

### **7.13 Sick Leave Bank**

The City allows employees to share Sick Leave time between employees in situations of unexpected life events. The employee receiving any Sick Leave shall first use all of their personal sick leave and vacation time before any transfer can be made. The employee receiving any Sick Leave must be away from work for longer than 1 week. The maximum allowable amount of time any individual can receive from the Sick Leave Bank is 45 days.

Employees are allowed to donate two days per year to the sick leave bank. The bank shall be administered by the City Administrator, City Finance Officer, and the Mayor. The administrators may ask for official medical records stating when the employees are expected to return to work.

Donated sick time shall be converted to a monetary value and shall be given to the employee receiving on a monetary basis. Sick Leave Bank hours shall only be used for unexpected life events and shall only be used for the individual employee not immediate family members.

Only employees participating in donating time to the Sick Leave Bank may make a request to use days from the Sick Leave Bank.

## **POLICY 8: SEPARATION FROM CITY SERVICE**

### **8.1 General Policies:**

#### 8.1.1 Definitions

*Voluntary Separation:* Resignation, extended absence without proper notification, or retirement. Voluntary separation is initiated by the employee.

*Involuntary Separation:* Layoff or discharge. Involuntary separation is not initiated by the employee.

#### 8.1.2 Return of City Property

City employees are expected to return all City property at the time of their departure from City service. The City reserves the right to withhold from the employee's final paycheck the amount for any property that is not returned or for which there is no explanation for the absence of the property. The City may take further action if necessary to recover City property.

For items issued through a clothing allowance the supervisor may allow the employee to keep items if the department does not desire to retain those items.

### **8.2 Voluntary Separation:**

#### 8.2.1 Resignation

A City employee may resign from City service by giving his/her direct supervisor, the appointing authority, or the City Administrator written notice of his/her resignation. Said resignation is requested at least two weeks in advance of their leaving City service. The direct supervisor, the appointing authority, or the City Administrator may accept the employee's resignation as taking effect immediately.

#### 8.2.2 Un-notified Absence

If an employee is absent for more than 3 consecutive days without proper notification in accordance with the attendance policy, they shall be considered to have voluntarily resigned their position in City service. Re-instatement upon presentation of extenuating circumstances or reason for such absence shall be at the discretion of the appointing authority or the City Administrator. Any un-notified absence of less than 3 days may result in disciplinary action.

#### 8.2.3 Retirement Age

There is no mandatory retirement age for City employees.

### **8.3 Unemployment Compensation:**

The City follows the state of South Dakota Unemployment laws as found in SDCL Title 61.

### **8.4 Exit Interviews:**

Upon notice of voluntary termination of employment, the City may, in its discretion, conduct an exit interview prior to an employee's separation from City employment. The exit interview is conducted for several purposes, including:

- 1) to resolve all outstanding matters between the City and the employee;
- 2) to advise the employee of the affect their separation will have upon all benefits and what benefits they have coming upon separation;
- 3) to aid the City in gathering information to help improve the City working environment and other employment relationships.

## **POLICY 9: DISCIPLINARY ACTION**

Disciplinary actions shall be applied when the proper authority determines such actions are necessary. A disciplinary action may be in the form of oral reprimand, written reprimand, suspension, demotion or reassignment, or dismissal as defined below. The City may, but is not required to, apply these actions progressively, and for example, suspension or termination of employment may be applied as a first step of discipline. Employment is at-will and this disciplinary policy does not otherwise create any other employment relationship. The City reserves the right to suspend an employee with pay, however, such action is not deemed to be a disciplinary action. An employee's immediate supervisor or the City Administrator shall determine the disciplinary actions for each employee. If the immediate supervisor disciplines any employee the supervisor shall notify the City Administrator of the actions taken for purposes of documentation. The City Administrator shall be made aware of any action 9.2 through 9.6 of this policy before the action is taken.

### **9.1 Oral Reprimand:**

An oral reprimand is a verbal statement, which may or may not be documented.

### **9.2 Written Reprimand:**

A written reprimand is a written statement.

### **9.3 Suspension without Pay:**

Removal from duties from City for specified period of time, without pay, for up to 10 working days.

### **9.4 Demotion or Reassignment:**

Demotion or reassignment includes reduction in pay (possibly including benefits), job duties, placement or into a lower position; change of employee's duties within his/her current position; or use any combination.

### **9.5 Dismissal:**

Dismissal is termination of employment.

### **9.6 Disciplinary Interview:**

As to any employee who is not under an at-will employment relationship, before any disciplinary action of suspension without pay, demotion, or dismissal, the City Administrator shall:

1. Notify the employee of the proposed disciplinary action, providing the reason(s) for the action and the proposed discipline, and the employee shall be permitted a reasonable opportunity to respond to the allegations and proposed discipline; and
2. The City shall then after provide written notice to the employee of the discipline. An employee may appeal the discipline through the grievance procedure where the policy is applicable.

## **POLICY 10: GRIEVANCE PROCEDURE**

The following is the City's grievance policy. Employment with the City is at-will and adoption of this grievance policy does not otherwise create any other employment relationship. The following procedure is not available to an elected or appointed employee.

### **10.1 Grievance Claims:**

An employee who is not in the employee-in-training period may file a written grievance with the immediate supervisor regarding a term or condition of employment. Such grievance must be filed within 5 working days (working days does not mean calendar days) from the date on which the employee became aware of the action or should have reasonably been aware of the action.

### **10.2 Appeal:**

If not satisfied with the immediate supervisor's response, the employee may appeal the decision to the City Administrator. If the City Administrator is the supervisor the employee may appeal the decision to the Governing Body. The appeal must be filed with the next level within 5 working days of notice of the decision upon which the appeal is based. If not satisfied with the Governing Board's decision, then the requirements of SDCL 3-18-15.2 shall be followed.

### **10.3 Voluntary separations and grievances:**

Except where protected activity is involved, employees who voluntarily terminate their employment will have any outstanding or unresolved grievances immediately dismissed.

## **POLICY 11: DRUG AND ALCOHOL ABUSE POLICY**

### **11.1 City's Commitment to Drug and Alcohol Free Workplace:**

The City has a strong commitment to its employees to provide a safe, healthful, and productive work environment and to promote high standards of employee health.

Consistent with the spirit and intent of this objective the City will act to eliminate any substance abuse which could impair an employee's ability to safely and effectively perform a particular job and which increases the potential for accidents, absenteeism, substandard performance, and tends to undermine public confidence in the City's work force. The City's goals are to establish and maintain a work environment that is free from the effects of alcohol and drug abuse and to maintain the reputation and integrity of the City by preventing unacceptable behavior by its employees that discredits the City and its employees.

While the City has no intention of unreasonably intruding into the private lives of its employees, the City does expect employees to report for work in a condition to perform their duties, make the work environment safe for other employees, and represent a proper image to the citizens. It is clear that employee off-the-job, as well as on-the-job, involvement with drugs and alcohol can have an impact on the City's goals.

The City complies with the Drug-Free Workplace Act of 1988. The unlawful possession, use, distribution, dispensation, sale or manufacture of controlled substances including alcohol is prohibited while employees are on the City's property and while conducting business-related activities off the City's premises. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace. Any employee found to be in violation of this policy or any of the provisions set forth in the plan below will be subject to discipline up to and including termination of employment.

## **11.2 General Policies:**

The following are the policies of the City regarding drug and alcohol abuse:

- 1) The unlawful manufacture, distribution, dispensing, possession or use of controlled drugs or substances, or the use of alcohol while on duty, on or off business property owned or leased by the City is proper cause for disciplinary action.
- 2) Any illegal controlled drug or substance possessed while on duty by employees will be turned over to the appropriate criminal justice agencies and may result in criminal prosecution. This does not apply to public safety officers who are in possession of an illegal controlled drug or substance while acting in the line of duty.
- 3) It is not permitted for an employee to be under the influence of controlled drugs or substances or alcohol on the job, except as provided for in item four (4).
- 4) The legal use of controlled drugs or substances prescribed by a licensed physician is not prohibited, but employees in positions where side effects of the prescribed medication could affect performance and safety on the job are required to make such use known to their supervisor.

- 5) The illegal use, sale, and possession of controlled drugs or substances while off duty and off City premises which results in a criminal conviction is unacceptable. Off-duty, alcohol-related, criminal convictions are also unacceptable. They may affect the job performance and the confidence of the public in the City's ability to meet its responsibilities. Such off-the-job conduct may be proper cause for disciplinary action.

### **11.3 Employee Responsibilities:**

- 1) An employee must not report to work while his/her ability to perform his/her job duties is impaired due to on or off duty alcohol or drug use. Employees called in for emergency duty to work outside their regular work schedule must not report to work impaired by off-duty alcohol or drug use.
- 2) An employee must not possess or use alcohol or illegal drugs or prescription drugs without a prescription during working hours or while subject to duty, on breaks, or during meal periods.
- 3) An employee must notify his/her supervisor, before beginning work, when taking any medication or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of City equipment.
- 4) An employee must notify his/her immediate supervisor of any drug or alcohol related criminal statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) An employee must notify his/her immediate supervisor of any suspension of their driver's license before they use a city vehicle.

Any violations of the above stated may result in immediate disciplinary action.

### **11.4 Management Responsibilities and Guidelines:**

- 1) Supervisors and department heads shall not physically search the persons of employees nor shall they search the personal possessions of employees without the freely given consent of, and in the presence of, the employee.
- 2) Supervisors and department heads shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area jointly or fully controlled by the City.
- 3) Any supervisor or department head encountering an employee who refuses to consent to a drug and/or alcohol analysis when "reasonable suspicion" has been identified, shall remind the employee of the requirements of the policy and that he or she may be subject to disciplinary action. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action. Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should direct the employee to remain at work for a reasonable time until the employee can be safely transported home.

- 4) Whenever disciplinary action is used in this policy, it shall include but not be limited to: oral reprimand, written reprimand, suspension, demotion or discharge.

## **11.5 Testing for Drugs or Alcohol:**

### 11.5.1 Post Offer/Pre-Employment

The City may require an individual post offer but pre-employment undergo controlled substance testing and if so, work shall not be permitted until testing is completed and results are given to the City Administrator.

### 11.5.2 Reasonable Suspicion

The City may request that the employee undergo drug and alcohol testing if there is a “reasonable suspicion” that the employee is under the influence of drugs or alcohol during work hours. Reasonable suspicion tests should be administered as soon as practical following the determination of reasonable suspicion. If the alcohol test is not administered within 2 hours of the determination of reasonable suspicion, the attending supervisor will document the reason for the delay. If the alcohol test is not administered within 8 hours of the determination of reasonable suspicion all attempts to conduct the alcohol test will cease and the attending supervisor will document the reasons for the failure to test. If the controlled substances test is not administered within 8 hours of the determination of reasonable suspicion, the test should still proceed. The attending supervisor must document the reasons for the delay. If the controlled substances test has not been administered within 32 hours of the determination of reasonable suspicion, all attempts to conduct the controlled substances test will cease and the reasons will be documented by the attending supervisor.

“Reasonable suspicion” means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- 1) A pattern of abnormal or erratic behavior that is so unusual that it warrants summoning a supervisor, department head or other individual for assistance.
- 2) Information provided by a reliable and credible source with personal knowledge.
- 3) Direct observation of drug or alcohol use.
- 4) Presence of the physical symptoms of drug or alcohol use; (i.e. glossy or blood-shot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).
- 5) Possession of substances in violation of the City’s drug and alcohol policy.

The employee, where “reasonable suspicion” exists, may be asked to submit to blood and/or urine testing by a qualified medical physician or hospital at the City’s expense. Prior to testing, the proper authority shall secure a signed release statement from the

employee to have the hospital/physician release medical information to the City. An employee who refuses to consent to a drug and alcohol test when reasonable suspicion exists may be subject to disciplinary action. A positive result from the drug and/or alcohol test confirming the reasonable suspicion may result in disciplinary action. The proper authority is required to detail in writing the specific facts, symptoms, or observations that led to the reasonable suspicion. This documentation, which includes the results of the drug or alcohol test as confirmation of the use of drugs or alcohol on the job, shall be given to the City Administrator and placed in the employee's file only if confirmed by the drug and/or alcohol test.

### 11.5.3 Post-Accident

Any City employee involved in a work-related vehicular accident may be subject to post-accident testing. Nothing in this section, however, will be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

### 11.5.4 Follow-Up Testing

If a medical provider determines that an employee is in need of assistance in solving problems with alcohol use and/or controlled substances use, an employee may be subject to unannounced follow-up alcohol and/or controlled substances testing if they are allowed to continue their employment with the City. Follow-up testing will not exceed 60 months from the date of the employee's return to duty, so long as the employee remains drug and alcohol free. It is preferred that the employee will have no less than 6 unannounced follow-up alcohol and controlled substances tests within the first 12 months following the employee's return to work, provided the employee remains employed and drug- and alcohol-free for that period.

## **11.6 Drugs to be Tested For:**

The following drug groups were selected based on the ability of each drug to adversely affect physical/mental performance. All are controlled substances under state and federal law.

1. Alcohol, ethyl
2. Amphetamines/Methamphetamines; i.e., speed
3. Barbiturates; i.e., to include but not limited to amobarbital, butabarbital, phenobarbital, cecobarbital
4. Cocaine, Cocaine Metabolites
5. Benzodiazepines
6. Opiates; i.e., to include but not limited to codeine, heroin, morphine, hydromorphone, hydrocodone
7. Phencyclidine (PCP)
8. THC (Marijuana) Metabolite

### **11.7 Testing Procedure:**

Whenever an applicant or employee is required or requested to submit to any controlled substances testing, the applicant or employee may, upon request, be permitted to have a representative present during collection or testing when reasonably possible without disrupting the timeliness or effectiveness of the testing process.

Testing for employees is conducted by analyzing an employee's specimen according to the protocol of the testing facility. If testing involves urine collection and the employee attempts and fails to provide an adequate amount of urine, the City Administrator/Human Resources will refer the employee for a medical evaluation, at the employee's expense, to determine if the employee's inability to provide an adequate volume of urine is medically genuine or constitutes a refusal to test.

### **11.8 Consequences to Employee Engaging in Prohibited Conduct:**

1. Positive Results
  - a. If the results of a confirmatory pre-employment alcohol or controlled substances test are positive, the applicant will be disqualified for employment.
  - b. An employee who tests positive for alcohol with a concentration level above 0.02 grams' alcohol/210 L breath or who tests positive for the presence of an illegal controlled substance will be subject to disciplinary action up to and including termination.
2. Refusal to Submit to Required Testing
  - a. An applicant who refuses to take a drug and alcohol test or does not report to the testing facility at the scheduled date/time shall be disqualified from further consideration for the conditionally offered position with the City.
  - b. A refusal by an employee to submit to alcohol and/or controlled substance testing required under this policy will be treated as a positive test result. The employee will not be permitted to work. The refusal may be considered sufficient cause for disciplinary action up to and including discharge.
3. Return to Work Following Positive Results
  - a. If an employee has been found to have violated the requirements of this policy, such as testing positive for the presence of alcohol and/or controlled substances while on duty, the employee may in certain circumstances be permitted to return to his or her position. This decision is entirely in the discretion of the City.
  - b. If an employee is permitted to return to work following a positive drug or alcohol test, his or her continued employment may be conditional upon very specific requirements including but not limited to certain testing and treatment requirements.

### **11.9 Confidentiality:**

Information from an employee's drug and/or alcohol test is confidential, and only those with a need to know are to be informed of the results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee. However, disclosure without employee's consent may occur in the following circumstances:

1. The information is compelled by law or by judicial or administrative process;
2. The information has been placed at issue in a formal dispute between the City and the employee; or
3. The information must be disclosed pursuant to a genuine emergency wherein the information must be disclosed to protect the safety or welfare of any person. Even in such situations, however, if time permits, the City shall attempt to obtain a judicial order to disclose this information.

## **POLICY 12: APPOINTED AND ELECTED OFFICIALS**

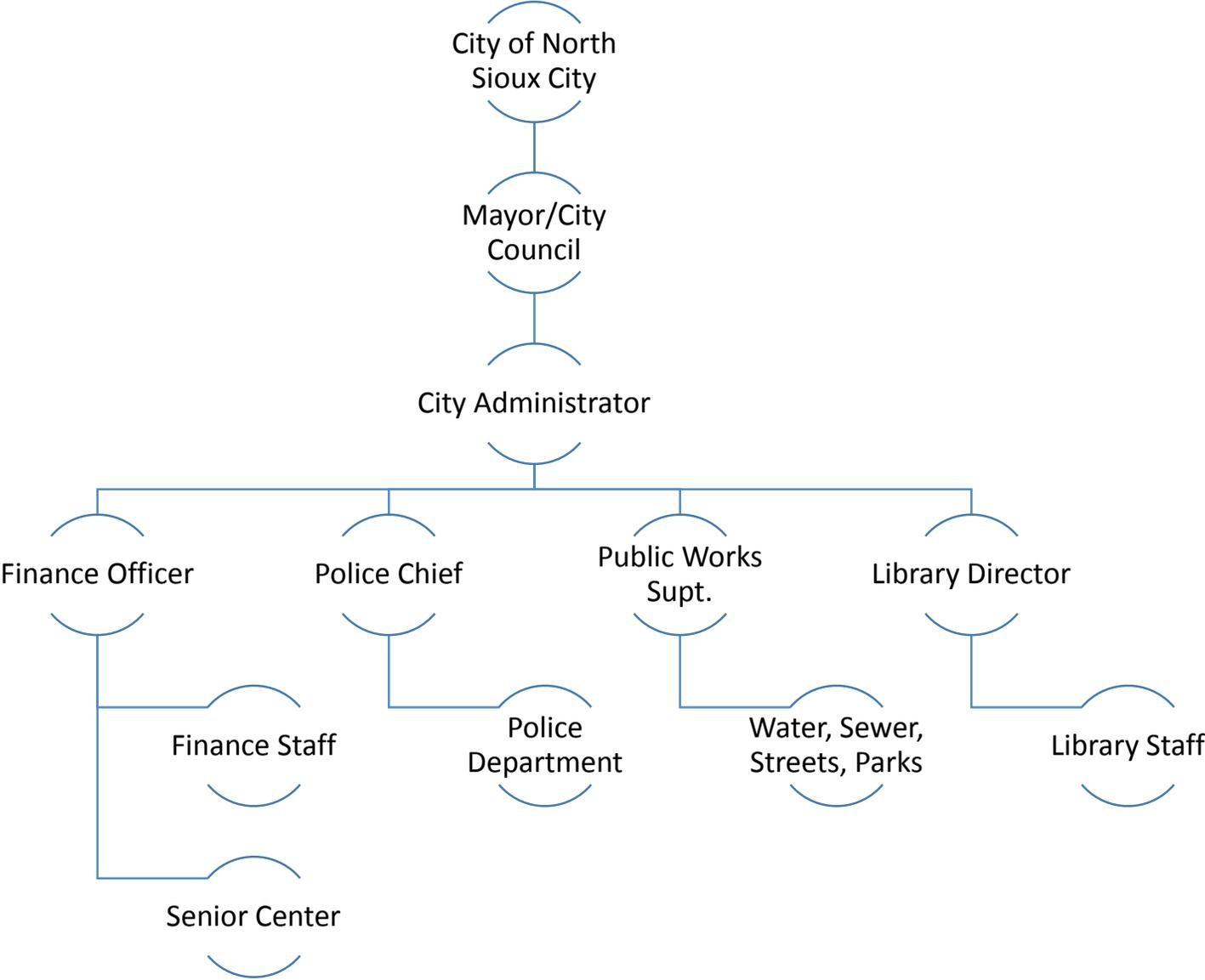
### **12.1 Definition:**

An Appointed Official is an individual who holds a position in a City due to an appointment by a Mayor, Council Member or City Administrator. Elected Officials are those Officials who hold office through election.

### **12.2 General:**

All appointed and elected officials shall comply with all laws, including but not limited to, discrimination, harassment, and non-retaliation. Such officials shall have no rights to any grievance procedure.

# North Sioux City Organizational Chart



## Receipt For Personnel Manual

I hereby acknowledge the receipt of the City of North Sioux City Personnel Policy Manual dated April 2016. I have read and understand the guidelines, policies, and procedures presented herein including but not limited to the City of North Sioux City’s guidelines, policies, and procedures. I understand that this manual is not intended to create any contractual rights in favor of the City of North Sioux City or me. I also understand that it is not to be construed as a guarantee of employment for any specific period of time, for any specific type of work, or for any specific term. I agree that my employment is “at will” and may be terminated at any time by either the City of North Sioux City or me.

I acknowledge my responsibility to become familiar with the terms of this manual and further acknowledge that the City of North Sioux City may change the terms of this manual without notice, and at any time, and from time to time thereafter, and that any written notices of changes furnished to me should be kept with this manual as a record of current guidelines, policies, and procedures until a revised manual is issued.

I have reviewed and read the Personnel Policy Manual of the City of North Sioux City. I acknowledge that I understand its contents and agree to abide by the present and future policies and rules stated and described in it.

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Name	Signature	Date
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# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City City Council  
From: Ted Cherry – City Administrator  
Date: 7/5/2016  
Re: Ordinance 2016-06 – Open Burning

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**Background:** Due to recent events affecting the North Sioux City Fire Department it became aware the City needed to look at the current ordinance regarding Open Burning. Currently the only regulations on open burning were restricting the types of materials you could not burn and that you could not burn with a certain wind speed.

After working with Chief Bill Pappas and Chief Headid the attached ordinance was created. It puts in place some additional restrictions on when, where, and what a citizen can burn in the open.

Revisions from the previous meeting have been made.

**Financial Consideration:** Publication in the North Sioux Times

**Recommendation:** Administration recommends the passage of the first reading of Ordinance 2016-06

PROPOSED ORDINANCE 2016-06

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES  
TITLE 8 HEALTH AND SAFETY, CHAPTER 8.28 OPEN BURNING, TO REQUIRE PERMITS,  
CHANGE SECTION NUMBERS, AND ADD RESTRICTIONS

BE IT ORDAINED, by the Governing Body of the City of North Sioux City, South Dakota and it is hereby ordained by authority of the same that Title 8, Chapter 8.28 be amended to read as set forth below.

**OPEN BURNING**

**Sections;**

**8.28.010 Prohibiting burning ~~in certain places~~ of certain items**

**8.28.020 Permit Required**

**8.28.030 Restrictions to Open Burning**

**8.28.~~100020~~ Penalties – Violations**

**8.28.010 Prohibiting burning ~~in certain places~~ of certain items**

It is unlawful for any person to engage in any of the following open burning practices within the city:

- A. Waste oils, rubber, waste tires, tarpaper, asphalt shingles, or any other petroleum-based waste materials;
- B. Household refuse, garbage, or solid waste. The term "garbage" or "refuse" means every accumulation of animal, vegetable or other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruits or vegetables including the cans, containers or wrappers wasted along with such materials. The term "garbage" or "refuse" also means any waste product composed wholly or partly of such materials as garbage, trash, rubbish, litter, accumulated waste materials, cans, containers, tires, junk, or other substances which may become a nuisance. The term "garbage" or "refuse" shall not be construed so as to forbid the burning of wood, leaves, shrub trimmings, dead limbs, or paper;
- C. Industrial waste, including any containers, boxes or materials used to store or transport commercial products of any type or manner unless burned in a fire containment device authorized by the Ccity.

~~It is unlawful to burn any materials in the city when the wind speed exceeds ten (10) m.p.h.~~

**08.28.020 Permit Required**

It is unlawful for any person to engage in any open burning practices without having first obtained the proper Burn Permit from the Dakota Valley Fire District. Persons shall not be required to obtain an open burn permit for in-ground fire pits, fire rings, patio burners, chimney pots, or any other type of smaller outdoor fire places.

**08.28.030 Regulations to Open Burning**

- A. An open burn must be attended by the permit holder until the fire is completely extinguished.
- B. The permit holder must have fire control equipment, such as a fire extinguisher or water hose, available close to the burn at all times, and the ability to contact 911.
- C. The permit holder must follow all federal, state, and local regulations.
- D. It is unlawful to burn any materials in the city when the wind speed exceeds ten (10) m.p.h. or wind gusts over fifteen (15) m.p.h.
- E. It is unlawful to burn any materials between one hour after sundown and before sunup.
- F. It is unlawful to bring any materials from outside of the permitted property address to burn on the permitted property address.
- G. It is unlawful to burn any materials less than fifteen (15) feet from any structure.
- H. It is unlawful to burn any materials on the ground in any space greater than ten (10) feet by ten (10) feet in area.
- I. It is unlawful to burn any materials that will allow for flames higher than twenty (20) feet.

**8.28.020-100 Penalties - Violations**

Any person convicted of violating this chapter shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00). (Prior code § 5.0806) (Amended 2007)

Dated at North Sioux City, South Dakota this 5th day of July, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST:

By: \_\_\_\_\_  
Susan Kloostra, Finance Officer

First Reading: June 20, 2016

Second Reading: \_\_\_\_\_

Publish: \_\_\_\_\_

Effective Date: \_\_\_\_\_

PROPOSED ORDINANCE 2016-06

AN ORDINANCE AMENDING THE CITY OF NORTH SIOUX CITY CODE OF ORDINANCES TITLE 8 HEALTH AND SAFETY, CHAPTER 8.28 OPEN BURNING, TO REQUIRE PERMITS, CHANGE SECTION NUMBERS, AND ADD RESTRICTIONS

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**OPEN BURNING**

**Sections;**

**8.28.010 Prohibiting burning of certain items**

**8.28.020 Permit Required**

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**8.28.100 Penalties – Violations**

**8.28.010 Prohibiting burning of certain items**

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Dated at North Sioux City, South Dakota this 5th day of July, 2016

THE GOVERNING BODY OF THE CITY  
OF NORTH SIOUX CITY, SOUTH DAKOTA

By: \_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST;

By: \_\_\_\_\_  
Susan Kloostra, Finance Officer

First Reading: June 20, 2016  
Second Reading:  
Publish:  
Effective Date: