

City of Moab

Personnel Policies and Procedures Manual

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INTRODUCTION

i Mission Statement for the City of Moab

It is the mission of the City of Moab to provide quality, efficient services to Moab citizens and business owners. It is our mission to be accessible, accountable, and responsive to the public in all our dealings. It is our mission to promote the best interests of the citizenry at large, and to deal with individuals fairly, professionally and compassionately.

ii Purpose of Personnel Policies and Procedures

The City of Moab Personnel Policies and Procedures are meant to further the mission of the City. These policies are rules of general application concerning hiring, promotion, pay and benefits, and employee discipline. These policies shall not be regarded as a contract, whether express or implied, between the City of Moab and each employee. The City reserves the right to rescind, modify, or amend these policies and procedures from time to time, and all such changes shall be binding upon employees. Employees are advised that these rules cannot anticipate each and every employment situation, and that special cases may warrant departures or modifications of policy by the supervisor or appointing authority.

Employees are further advised that policies which create financial obligations on the part of the City are subject to modification depending upon budgetary constraints imposed by state law.

All employees, other those appointed by written contract, are advised that they are appointed for an indefinite term of employment. Termination from employment shall be governed by state law, and this manual is specifically intended to implement statutory provisions. However, with respect to discharge, this manual shall not be construed to confer upon employees procedural or substantive rights in excess of those already provided by state statute.

ARTICLE I - EQUAL EMPLOYMENT OPPORTUNITY POLICY

1.1 General Statement

It shall be the policy of the City of Moab to comply with the spirit of Equal Employment Opportunity with regard to personnel actions in classification, development, training, upward mobility, job specification, recruitment, promotion, demotion, discipline, layoff, or termination for all employees and applicants. There shall be no unlawful discrimination in any personnel action on the basis of a person's race, religion, sex, color, creed, national origin, sexual orientation, ancestry, age, marital or veteran status, or non-job related physical or mental disability. The term "sex" as provided herein includes unlawful discrimination in the form of sexual harassment, as further defined in this policy.

1.2 Introduction

- (A) In accordance with the requirements and objectives set forth in state and federal law, the City does hereby actively promote equal opportunity of employment in the areas mentioned above.
- (B) Responsibility for insuring compliance and continued implementation of the City's policy of Equal Employment Opportunity shall be assigned to the City Manager. Such compliance will be checked on an annual basis.

1.3 Dissemination of City Policy

The City's policy on non-discrimination will be brought to the attention of all employees by the department head at the time of hiring. Regular meetings with all elected officials, department heads, supervisors, and related personnel of the City will be conducted. The primary purpose of such meetings will be to familiarize employees with the contents of this plan and to further inform them of their specific and individual responsibilities with regard to Equal Employment Opportunity.

1.4 Program Application and Responsibility

All levels of management within the City organization are responsible for the proper implementation of the Equal Employment Opportunity Policy as outlined herein.

1.5 Recruitment and Selection

- (A) Recruitment - The City's policy is to give equitable consideration to all qualified applicants for employment vacancies on the basis of individual qualifications, potential, and job performance. Statutory appointees are excluded from the provisions of this section. The City abides by the Utah Veteran's Preference Act and will offer preference to qualified veterans as defined in Utah State Code Annotated Chapter 10.
- (B) Placement - All position descriptions and corresponding statements of minimum qualifications shall be related directly to job duties and responsibilities. Such qualifications will be reviewed periodically to insure their accuracy.
- (C) Tests - Any tests that are utilized by the City for placement or job qualification shall be reasonably related to necessary job functions and skills.

1.6 Training and Personnel Status Changes

- (A) All training and education programs will be reviewed periodically to be certain that all personnel are given Equal Employment Opportunity to participate in these programs.

- (B) All eligible and qualified City employees shall receive consideration for job vacancies and job training in all departments in accordance with this Equal Employment Opportunity Policy.
- (C) All transfers, terminations, demotions, disciplinary actions, and reductions of force shall be made in accordance with this Equal Employment Opportunity Policy.

1.7 Complaints

Employees who believe they have been subjected to unlawful discrimination should file a grievance with their department head, or, if the department head is the source of the discrimination or refuses to resolve the problem, with the City Manager. Grievance procedures shall be in accordance with Section 9.3 of this manual.

1.8 Sexual Harassment Policy

- (A) It is the City's policy that the management and employees of the City shall not tolerate sexual harassment.
- (B) Sexual Harassment occurs when an employee is subjected to unwelcome conduct, based on sex, which is severe or pervasive and occurs in one or more of the following circumstances:
 - (1) The conduct is either an explicit or implicit condition of an individual's employment;
 - (2) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the individual, such as salary or advancement; or
 - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Conduct which can be considered sexual harassment includes, but is not limited to, unwelcome sexual advances, jokes of a sexual nature, unwelcome comments about a person's clothing or appearance, stories or comments about a person's sexual behavior, sexually explicit photographs or pictures, or unwelcome touching of a sexual nature. Sexual harassment is a violation of these policies and specifically the Equal Employment Opportunity Policy.

- (C) Employees who are subject to sexual harassment or who personally observe such conduct should report the conduct to their department head. The department head shall convey all reports of sexual harassment to the Personnel Officer. If the department head is the source of the conduct or refuses to resolve the problem, the employee shall file a written grievance, as provided in Section 9.8, Equal Employment Opportunity Grievances.

1.9 Disciplinary Policy

Employees who engage in unlawful discrimination, including sexual harassment, or who fail to take action to stop such conduct are subject to discipline, which may include suspension, demotion, termination, or other disciplinary action.

ARTICLE II - GENERAL RULES AND REGULATIONS

2.1 Purpose

The City establishes the following personnel rules to obtain the orderly, uniform, and fair interpretation of City personnel policies.

2.2 Construction and Application of these Policies - Classes of Employees

- (A) In these rules, the phrase “all employees” or “any employee” means that a provision applies to classified employees, statutory appointees, probationary employees, temporary employees, and seasonal employees.
- (B) These rules do not apply to the employment, benefits, and salaries of the City Manager, elected officials, contractors, and members of policy, advisory, review, and appeal boards, or similar bodies, except to the extent these rules are incorporated into individual employment contracts.
- (C) Where a provision of these rules is silent as to classes of employees to which it applies, it shall be construed to apply to classified employees and statutory appointees only.

ARTICLE III - SALARIES AND COMPENSATION

3.1 Pay Period

All employees are paid bi-weekly. The calendar year is divided into 26 pay periods. Pay days are the Friday following the close of a pay period unless that day is a holiday, in which case Thursday preceding shall be the pay day. A pay period consists of a total of fourteen (14) calendar days and shall start on a Monday a.m.

3.2 Work Week

The established work week – for pay period purposes – for all employees is from Monday at 12:00 a.m. to Sunday at 11:59 p.m. The number of days and number of hours per week to be worked will be as assigned by the department. Salaries for all departments shall be based on a forty (40) hour work week.

3.3 Salary Policy

The City Manager and department heads shall be responsible for the development of a uniform and equitable pay plan that consists of a minimum and maximum rate of pay for each class of positions. The salary ranges are linked to the classes of position in the classification plan. In arriving at salary ranges, consideration should be given to:

- (A) Maintenance of correct relationships between the salary grades of various positions in the City service.
- (B) The duties and responsibilities of the position.
- (C) The comparable wage rates for similar work in other municipalities within the State of Utah.
- (D) The financial position of the City.

3.4 Pay Plan

A pay plan for all compensated positions with Moab City shall be presented to the City Council annually for review and approval with a recommendation from the Personnel Officer.

Positions within Moab City are classified according to pay ranges, each of which includes a minimum, mid point and maximum ,beginning with the minimum, or entry level, salary for the position. Progression of an employee through the pay ranges in the salary range shall be determined via the pay for performance policy. Salary increases may be awarded after the completion of an evaluation of the employee's performance by the employee's superior, and upon approval of the employee's supervisor, the department head, HR Coordinator and the Personnel Officer. Eligibility for salary increases may be limited by budgetary considerations as determined by the Personnel Officer. Evaluations of job performance shall be performed at the end of the employee's introductory period and annually on the employment date of the employee. Other periodic evaluations of employee performance may be performed. Pay ranges may be adjusted periodically on the basis of annual surveys of salaries paid for comparable work in other municipalities within the State of Utah, within the limits of federal wage and price guidelines.

3.5 Cost of Living Adjustments to Pay Rate Schedule

The City Council, upon recommendation from the City Manager, may make periodic adjustments to the Pay Rate Schedule in order to accommodate increases in the cost of living. Standard state and national measures shall be used in determining cost of living adjustments.

3.6 Exceptions to Basic Pay Plan

Part-time and temporary employees may receive merit increases based on performance considerations within the limits of the pay range and within the limits of federal wage and price guidelines. The pay ranges for these positions may also be adjusted periodically on the basis of salary surveys.

3.7 Longevity Pay

Classified employees, statutory appointees, and contractual employees receive longevity pay after completion of five (5) years of employment. Longevity pay, as applicable, will be paid during the pay period in which the employee's anniversary date falls. Longevity pay is not prorated upon separation.

Longevity pay shall be as follows:

- (1) 1% of base annual salary upon completion of five (5) full years of continuous service;
- (2) 2% of base annual salary upon completion of ten (10) full years of continuous service;
- (3) 3% of base annual salary upon completion of fifteen (15) full years of continuous service;
- (4) 5% of base annual salary upon completion of twenty (20) full years of continuous service.

3.8 Overtime and Compensatory Time Off

- (A) Normal work schedule: The normal work schedule for all employees is established by the department head and consists of such hours on such days as may be regularly assigned from time to time.
- (B) Authority for overtime: The department head will determine the need for overtime and when it will be authorized or used. The approval of a supervisor, division head or department head must be obtained before overtime is worked, except in emergency situations in which the approval may be obtained on the next working day.
- (C) Compensatory time: The granting of compensatory time-off in lieu of paying overtime pay for overtime hours worked will be permitted. Non-overtime compensatory time will only be accrued when the hours worked were in excess of the employee's regular shift hours (excluding leave time and holidays) and will be accrued at a straight time rate. All compensatory time not taken in the same work week as overtime hours worked will be accumulated at the rate of one and one-half times the hourly rate of pay. All compensatory time must be approved by the supervisor, division head or department head. The department head may reject requests for compensatory time if workloads preclude availability. When leave is granted, compensatory time must be used prior to using vacation leave until such time as the employee's compensatory time is exhausted. Compensatory time will be accrued to a maximum of 100 hours after which time overtime will be paid and no additional compensatory time will be accrued. Compensatory time can be accumulated for up to one year and will be automatically cashed out at the beginning of each fiscal year (July 1). Compensatory time will be cashed out to the employee at the pay rate at which it was earned. An employee may request to have any compensatory accumulations cashed out at any time. Cashouts will be processed as part of a regular paycheck. Exempt employees are not entitled to

compensatory time or overtime pay. Exceptions to this policy must be approved in advance, in writing by the City Manager.

- (D) **Overtime:** With the exception of exempt employees and non-exempt police officers, all employees who work overtime will be paid at the rate of one and one-half times the hourly rate of pay. Overtime is that time worked in excess of forty (40) hours in a work week and does not include time such as vacation leave, sick leave, holidays, etc. Non-exempt police officers shall receive straight hourly pay for work exceeding eighty (80) hours in a pay period, until they exceed eighty-six (86) hours. When non-exempt police officers exceed 86 hours in a pay period they will receive pay at one and one-half times their hourly rate, for such excess. Pursuant to section 7 (k) of the Fair Labor Standards Act, the City establishes a fourteen (14) day pay period for all employees, including public safety employees. This section allows the City to exempt police officers from overtime pay, at time and one-half, until the employee exceeds 86 hours in a pay period.
- (E) **Time included:** In determining completion of 40 work hours in a work week or 80 work hours in a two-week pay period, holidays and authorized absences shall be excluded.
- (F) **On Call/Minimum hours:** The department head may establish a minimum period of overtime for employees who are "on call" and are required to leave an available phone number for contact. Employees who are routinely issued radios and/or pagers are not deemed to be on call for these purposes. The department head may also establish a minimum period of overtime for calls to work, such as court appearances, where the work is canceled upon or after arrival of the employee.
- (G) **Eligibility:** In general, all non-exempt employees are eligible for overtime. Employees who are identified as exempt status employees are not eligible for overtime or compensatory time. Exempt Employees will be defined annually in accordance with the pay plan.
- (H) **Emergency declaration:** In the event of a disaster or emergency officially declared as such by an appropriate official, any employee may be required to work overtime to preserve the peace or to protect the general health, safety and welfare of the City.

3.9 On-Call Duty (Public Works)

- (A) There is a need within the Public Works Department for a limited number of employees to be accessible 24 hours a day and seven days a week to respond to unsafe, unusual and unforeseen events relating to the city's infrastructure. This function is referred to as On-Call Duty. There will be one employee from the Water Department, Sewer Department and Streets Department assigned to On-Call Duty each week. Each week includes seven days. (B) The On-Call Duty employee will be available and ready to respond for events relating to their division and will be required to carry the On-Call Duty cellular phone provided by the City. The On-Call Duty schedule will be set by the division superintendent and will be set as far in advance as reasonably possible. All trades and exchanges

of On-Call Duty among employees must be approved in advance by the division superintendent.

- (C) The City will compensate the On-Call Duty employee with one additional hour per day and two hours on a paid holiday.
- (D) In the event that an employee is called to respond to an incident while performing On-Call Duty, a minimum of 2 hours will be reported. Each call out will be treated separately for the purposes of compensation, with the exception of multiple calls during an active call out (the employee has not yet returned to their home residence). On-Call hours can be converted to comp time as per Section 3.8 C.

3.10 Separation Pay

All employees who terminate shall be required to return all keys, tools, safety equipment, and other City property and clear all financial obligations related to employment prior to receiving their final paycheck. In the event the employee does not clear the above obligations, the value of the equipment, property, or any remaining financial obligation to the City shall be deducted from their final paycheck. Final paychecks shall be issued through the City Recorder's offices and shall include compensation for all unused annual leave, compensatory time and vacation time.

3.11 Severance Pay

When classified employees are separated from City employment as a result of a reduction in force, or through no fault of the employee, and the circumstances require immediate action by management, thereby not permitting a two (2) week notice, the employee shall be paid two (2) weeks' severance pay in lieu of two (2) weeks' notice. Severance pay for statutory appointees is addressed in Section 7.25 of these rules.

3.12 Pay Advancements

The City will not make pay advances to any employees. A pay advance is any compensation advanced to a non-separated employee prior to the completion of the pay period.

ARTICLE IV - BENEFITS

4.1 Vacation

The City provides Vacation Leave to eligible employees for the purpose of providing employees the opportunity to take paid time off from their job responsibilities in order to maintain a higher standard of mental, emotional and physical conditioning. This policy is intended to provide a benefit to City employees as well as to the City as an employer by fostering a healthy and productive workforce. Vacation is meant to be utilized as time away from work, not for an accumulated cash out program.

Classified employees, statutory appointees, and contractual employees begin to earn vacation upon commencement of employment and employees are strongly encouraged to take vacations in the

year in which it is earned. The following schedules show the number of vacation days that will be accrued upon completion of each full year of employment:

<u>Exempt Employees</u>		
	<u>Vacation hours per pay period</u>	<u>Maximum Vacation hours 1st year</u>
<u>Upon Hire</u>	<u>3.08</u>	<u>80</u>
<u>Completion of Service</u>		
<u>First year</u>	<u>10</u>	<u>80</u>
<u>Second year</u>	<u>13</u>	<u>104</u>
<u>Fifth year</u>	<u>18</u>	<u>144</u>
<u>Seventh year</u>	<u>20</u>	<u>160</u>
<u>Tenth year</u>	<u>22</u>	<u>173</u>
<u>Thirteenth year</u>	<u>24</u>	<u>192</u>
<u>Sixteenth year</u>	<u>26</u>	<u>208</u>
<u>Nineteenth year</u>	<u>29</u>	<u>232</u>

<u>Non-exempt Employees</u>		
	<u>Vacation hours per pay period</u>	<u>Maximum Vacation hours 1st year</u>
<u>Upon Hire</u>	<u>3.08</u>	<u>80</u>
<u>Completion of Service</u>		
<u>Second year</u>	<u>10</u>	<u>80</u>
<u>Fifth year</u>	<u>13</u>	<u>104</u>
<u>Tenth year</u>	<u>16</u>	<u>128</u>
<u>Fifteenth year</u>	<u>19</u>	<u>152</u>
<u>Twentieth year</u>	<u>24</u>	<u>192</u>

- (A) Accumulation: The number of days of vacation accumulated by a classified employee or statutory appointee shall be limited to one year's entitlement. If an employee is unable to take his/her vacation, the employee will be paid for the unused vacation time only if the introductory period has been successfully completed.
- (B) Sick leave substitution: If a documented illness that would justify use of sick leave occurs while an employee is on vacation, that time may be counted against any accumulated sick leave if requested by the employee.
- (C) Payment: Payment for accrued vacation, to the nearest whole hour, shall be made upon retirement, death, or upon termination of employment only if the introductory period has been successfully completed
- (D) Holidays while on vacation: An authorized City holiday shall not constitute a

vacation day, and whenever an authorized holiday falls within an employee's vacation leave, he or she will be entitled to one (1) additional day beyond the specified vacation period.

- (E) Exempt employees' reporting of leave: Exempt employees shall report leave in eight-hour increments when practical; however, Exempt employees are not obligated to report leave time that will exceed 80 hours in a given pay period.
- (F) If an employee transfers from Non-exempt status to Exempt status or from Exempt status to Non-exempt status during the term of employment, the employee will accrue vacation hours according to the schedule that corresponds to the new status, but in no case shall an employee lose vacation due to the change in status.
- (G) Vacation accruals are based on hours worked per pay period. Accruals will cease if an employee is on leave without pay or worker's compensation leave in excess of 12 weeks.

4.2 Vacation Scheduling

The City will specify when vacation shall be taken and shall consider seniority and preferences in such determination, but in any event, scheduling of vacations shall be at the discretion of the department head. Every effort will be made by the City to accommodate the employee's requested dates for vacation.

4.3 Sick Leave

1. Purpose

The objective of this section is to provide methods of furthering the health and general welfare of city employees, as well as ensuring maximum and reasonable job attendance.

Sick leave should not be viewed as a right to be used at the employee's discretion; rather, it is a privilege of paid time away from work duties in the event of one of the following circumstance:

1. Actual illness or injury of the employee that occurred away from the job setting, except where such injury/illness occurred in connection with off-duty (outside) employment;
2. The employee's exposure to a contagious disease;
3. Where the employee's medical attention to an immediate family member, as defined in these personnel rules, is required due to the immediate family member's illness or injury;
4. Medical or dental appointments of the employee, or employee's immediate family members, when such appointments cannot be arranged during off-duty hours, and when the employee's immediate family member is incapable of independently attending such appointments;
5. Emergency leave due to the death or imminent death of family members.

Immediate family includes the employee's parents, step-parents, children, step-children, siblings,

grandparents, and in-laws.

2. Accruals and Balances

No additional hours over the maximum shall be accrued. Sick leave shall accrue at a rate of 4 hours per pay period.

4.4 Administration of Sick Leave

- (A) Report requirement: In order to be paid for sick leave, an employee must notify the department head, or the person designated by the department head to receive such notice, within a reasonable time prior to the start of the work shift. For purposes of sick leave notification requirements and at the supervisor's discretion, cell phone text messages and online instant messaging may not be considered official notifications.
- (B) Illness or accident: When it is established to the City's satisfaction that an employee is incapacitated because of sickness or injury to a degree that he or she would not be able to perform his/her duties safely, sick leave, if accumulated, will be granted, or if the employee does not have any sick leave, the time will be deducted from other leave balances.
- (C) Death in family: When death occurs in the employee's immediate family, sick leave will be granted. Department heads may approve an employees' use of sick leave to attend funerals.
- (D) Medical certification: Medical certification may be required to substantiate sick leave. In the event there is a reason to believe that an employee is abusing sick leave, the employee may be required to furnish medical certificates and a written statement of the reasons for any period of sick leave.
- (E) Return to work: If an employee has been absent from duty because of sickness or injuries for a period of three (3) or more working days, the employee may be required to satisfy the City, with medical certification, that he/she can perform normal job functions prior to being permitted to return to work.
- (F) A job-related injury is entitled to use all available sick leave prior to receiving worker's compensation benefits for any period in which the employee is eligible for such benefits. In no instance shall the employee be entitled to sick leave pay and worker's compensation for the same period of disability or injury. Where applicable, the City may require that the injured employee assign any worker's compensation wage replacement benefits (exclusive of payments for medical expenses and the like) to the City in partial reimbursement for this benefit and to the extent necessary to prevent a double payment.
- (G) A sick leave bank shall be available for classified employees who meet the

requirements for sick leave usage and require leave in excess of their own accruals. Sick leave bank usage and amounts must be approved in advance by the City Manager and shall not exceed 80% of the leave available in the bank. Any classified employee may donate sick leave to the bank. Employees may not donate an amount that would reduce their personal accrual to less than 120 hours.

Approval of sick leave bank usage will not be approved for instances in which:

- (1) The employee has other leave time to use;
- (2) The period of time away from work is less than three consecutive work days;
- (3) The total number of hours reported in the pay period would exceed 80 hours including the requested sick leave bank hours.

4.5 Abuses of Sick Leave

The City shall have the right to investigate, at its own expense, the causes or circumstances of any absence or use of sick leave.

4.6 Compensation for Unused Sick Leave

(A) Employees with more than thirty (30) days accumulated sick leave may be paid for unused sick leave. Paid sick leave will be paid in January for the preceding year, at the current rate of pay.

(B) In no event will an employee be compensated for unused sick leave to an extent which reduces accumulated sick leave below thirty (30) days.

(C) Sick leave that has been paid will be subtracted from the employee's accumulated sick leave.

4.7 Holidays

(A) The City observes the following days as paid holidays:

New Year's Day
Martin Luther King Jr. Day
Presidents' Day
Memorial Day
Independence Day
Pioneer Day
Labor Day
Veterans' Day
Thanksgiving Day
Day after Thanksgiving Day
Christmas Day

(B) When a holiday falls on a Sunday, Monday will normally be the day of observation. A holiday falling on Saturday will normally be observed on the preceding Friday.

The City may observe a holiday on the day normally observed by State and County Agencies

- (C) When a holiday falls within an employee's vacation period, the holiday is not counted as a vacation day.
- (D) Vital services of the City are not interrupted by the observance of holidays, and some employees will be scheduled to work on holidays.
- (E) Classified employees who either work on a scheduled holiday or do not derive the benefit of having the holiday off on a scheduled workday shall receive an additional eight (8) hours of straight (hourly) pay as compensation for the holiday.

4.8 Worker's Compensation

State law provides worker's compensation for all employees and the City is insured for this purpose. The benefits of worker's compensation will be paid to the City pursuant to the Workmen's Compensation Act.

- (A) All employees who are injured on the job must report the injury to a supervisor immediately, and forms prescribed by the State Industrial Commission must be completed and submitted to the City administrative offices within two (2) working days of the injury or report of the injury.
- (B) An employee may use accrued leave benefits to supplement the workers compensation benefit.
- (C) The combination of leave benefit, wages and workers compensation benefit may not exceed the employee's gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.
- (D) The use of accrued leave to supplement the worker compensation benefit shall be terminated if the:
 - (i) employee is declared medically stable by licensed medical authority;
 - (ii) workers compensation carrier terminates the benefit;
 - (iii) employee has been absent from work for six months in a 24 month period;
 - (iv) employee refuses to accept appropriate employment offered by the city; or
 - (v) employee is notified of approval for Long Term Disability or Social Security Disability benefits.
- (E) The employee shall refund to the city any accrued leave paid which exceeds the employee's gross salary for the period for which the benefit was received.
- (F) Workers compensation hours shall be counted for purposes of annual, sick and holiday leave accrual while the employee is receiving a workers compensation time loss benefit for up to twelve weeks from the last day worked in the regular position.

- (G) Health insurance benefits shall continue for an employee on leave without pay while receiving workers compensation benefits not to exceed 12 weeks. The employee is responsible for the payment of the employee share of the premium. Insurance will be terminated after 30 days of non-payment of employee share of premiums.
- (H) If the employee is able to return to work in the employee's regular position and perform essential job duties, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.
- (I) If the employee is unable to return to work in the regular position and perform essential job duties after six months cumulative leave in a 24 month period, or if documentation from one or more qualified health care providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position and perform essential job duties, or if the employee refuses to accept appropriate employment offered by the city, the employee may be separated from city employment unless prohibited by state or federal law.

4.9 Employee Pension Plan

Classified employees and statutory appointees shall participate in the Utah State Retirement System. This retirement system provides a number of benefits to the employee. Due to the complexities of the plan and its impact based on occupation, employees should refer to the State Retirement Information Handbook regarding any questions concerning the plan.

Employees who began employment after July 1, 2011 may be covered under the Utah Retirement Systems Tier 2 plan. Full time employees, statutory appointees and the Elected Office of Mayor are eligible to participate in the Tier 2 plan. Part time employees are not eligible for participation in the Tier 2 plan.

4.10 Social Security, O.A.S.I.

All employees of the City contribute to the O.A.S.I., or Social Security program, as administered by the Federal Government. This is a system of retirement benefits based on equal employer and employee contributions to public insurance reserves.

4.11 Uniforms

The City will provide uniforms and/or a uniform maintenance and cleaning payment to all employees required to wear and maintain uniforms.

4.12 Health Insurance

The City pays a portion of the premium on health insurance for classified employees, statutory appointees, contractual employees and their dependents. Employees may be required to pay a

monthly portion of the cost of their health insurance as approved annually by the City Council. Health Insurance will be effective as of the date specified in our current health insurance policy eligibility parameters and will terminate on the last day of the month following the employee's separation from employment. The plan includes major medical provisions.

City contributions toward health insurance premiums are based on hours worked. Employer premium contributions will be prorated and reduced accordingly to accommodate leave without pay or worker's compensation leave in excess of 12 weeks.

4.13 Dental Insurance

The City pays a portion of the premium on dental insurance for classified employees, statutory appointees, contractual employees, and their dependents. Employees may be required to pay a monthly portion of the cost of their dental insurance as approved annually by the City Council. Dental Insurance will be effective as of the date specified in our current dental insurance policy eligibility parameters and will terminate on the last day of the month following the employee's separation from employment.

City contributions toward dental insurance premiums are based on hours worked. Employer premium contributions will be prorated and reduced accordingly to accommodate leave without pay or worker's compensation leave in excess of 12 weeks.

4.14 Life Insurance

The City offers a voluntary life insurance protection plan for employees. Employees should check with the City Recorder's office for a full description of the benefit.

4.15 Training Programs

Training programs are those designed to improve the employee's on-the-job performance. When any employee is sent to a training program, the City will pay associated expenses and registration fees.

4.16 Education Programs and Assistance

In the interest of enhancing the abilities of the work force, the City may, subject to the procedures provided in this section, reimburse, when funds are available, classified employees, statutory appointees, and contractual employees for classes taken at an accredited college, university, or other educational institution. In addition to benefiting the individual, the intent of the tuition aid reimbursement program is to benefit the City through the utilization of an employee's newly acquired skills. The program is not intended to train employees for opportunities with other employers.

After a department has determined that funds are available for tuition aid reimbursement, the following conditions must be met:

(A) Criteria for Eligibility.

- (1) Employee must be a regular classified employee working at least thirty (30) hours per week, and not a probationary employee.
- (2) Employee has not yet reached the annual limit of \$2,000 as described in Paragraph B-2, below, in tuition aid reimbursement paid during a calendar year.
- (3) Classes must be taken for credit and completed. Audits, incompletes, and withdrawals are not eligible for reimbursement.

(B) Criteria for Approval.

- (1) Approval is contingent upon sufficient funds in the departmental budget.
- (2) Employees are limited to a maximum of \$2,000 for tuition aid reimbursement in a calendar year.
- (3) The employee's supervisor and department head must approve the request.
- (4) The course work is offered at an institution accredited by the State of Utah or other institution approved by the City of Moab.
- (5) Course work is taken on the employee's own (unpaid) time.
- (6) Employee's job performance is satisfactory.

(C) Program Requirements.

- (1) Class or degree must be job-related, based on the knowledge, skills and abilities required by the employee's current job description.
- (2) Satisfactory completion of the class(es) as substantiated through a certificate or a grade of C or higher, or "Pass" if the class is offered only Pass/Fail, will be reimbursed for 70% of the total out-of-pocket cost of the course (after grants or scholarships have been deducted), up to the calendar year maximum of \$2,000.

(D) Application Procedure.

The employee should take the following steps when applying for tuition aid reimbursement:

- (1) Discuss with department head his/her intent to attend classes 30 days prior to start of classes, to verify if funds will be available.
- (2) Obtain Purchase Requisition Form from department head.

- (3) Complete and submit the form to department head, with proof of paid tuition.

Application for educational assistance shall not normally be approved for reimbursement of course(s) taken in excess of nine (9) hours per semester or quarter. If the employee is entitled to Veteran's educational benefits, he/she must use such benefits in lieu of City reimbursement. The City reimbursement will be reduced by the amount of reimbursement the employee is eligible for from the Veteran's Administration.

- (E) Repayment of Tuition Benefits.

Approved educational program assistance shall be regarded as a forgivable advance against future wages. If an employee quits or is terminated from employment within one year of completion of a program paid for with educational assistance funds, the costs advanced by the City shall be deducted from the employee's final wages. If the final wages are insufficient to completely reimburse the City, the balance shall be paid by the employee within 30 days of separation. Upon completion of one year of service following completion of the educational program the costs advanced by the City shall be forgiven. Nothing in this section shall be construed to create any express or implied term of employment for any covered employee.

4.18 Insurance Protection

The City carries liability insurance covering the operation of City vehicles and covering various other activities of the City. All employees operating City vehicles must report accidents immediately to a supervisor and complete such reports as may be required.

4.19 Fitness Benefit

Classified employees, statutory appointees, and contractual employees will be granted once a year a Moab Recreation and Aquatic Center Family Aquatic pass free of charge. The pass is restricted to the uses stated on such pass and will have an annual term that does not exceed the term of their employment. Additionally, the City shall annually provide a discounted Moab Recreation and Aquatic Center Fitness Pass to classified employees, statutory appointees and contractual employees. Employees may elect an alternate annual benefit of a \$100 reimbursement to another locally located fitness center provider.

Moab Recreation and Aquatic Center employees will receive a Single Aquatic and Fitness Facility pass - free of charge – for the employee's use, with an annual term that does not exceed the employment term.

4.20 Cell Phone Reimbursement

The City may reimburse business use of personal cell phones as approved by a supervisor. Rates of reimbursement are between \$30 and \$50 per month as determined by the City Manager.

Reimbursed personal cell phone numbers will be released to other city employees as well as members of the public for City use.

If employees discontinue use of the personal cell phone, change the number or cancel the phone, they must notify the City within five business days of said changes.

ARTICLE V - LEAVES AND ABSENCES

5.1 Leave in General

Leave, in the context of these rules, means authorized absence. Leave may be paid, as in the case of vacation or sick leave, or unpaid, as in the case of a leave of absence. Arrangements for leave are made through the supervisor, subject to department requirements and department head approval.

5.2 Vacation and Sick Leave

Vacation, sick leave, and paid holidays are discussed in Article IV.

5.3 Military Leave

Leave may be granted for a period of duty in the Uniformed Service. Extended Military Leave is defined as any leave of eleven (11) days or more, and Short Term Military Leave is any leave of less than eleven (11) days in duration.

- (A) Short Term Military Leave in the Uniformed Service is authorized for classified employees, statutory appointees, and contractual employees pursuant to the following conditions:
 - (1) Employees are entitled to eleven (11) working days' military leave per year without the loss of compensation or other fringe benefits, subject to subsection 2 next.
 - (2) Employees requesting such leave must provide the City with a copy of the military orders placing him/her on active duty status.
 - (3) Employees who are members of reserve units of the military shall notify their immediate supervisor either verbal or written as soon as they have knowledge of upcoming military service. Such written notification shall be made a part of the employee's personnel file.
- (B) Extended Military Leave in the Uniformed Service Without Pay may be granted to classified employees and statutory appointees who enlist are recalled or are drafted to active service in the Uniformed Service of the United States in accordance with

the provisions of **Uniformed Services Employment and Reemployment Rights Act (USERRA)**. Former employees shall be permitted to return to City employment pursuant to the following conditions:

- (1) The leave of absence may not exceed five (5) years from the date of entry into the military service (unless the employee is involuntarily retained longer).
- (2) The employee must have satisfactorily completed the period of active duty and must furnish military discharge documentation (DD214) that establishes the length and character of the employee's military service.
- (3) Employees subject to this policy and leaving active military duty are authorized to request reinstatement according to the following schedule:
 - (a) If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service) – the employee must report for reinstatement at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours rest and after a time for safe transportation back to the employee's residence.
 - (b) If service is for 31 days or more but less than 180 days – the employee must submit an application for reinstatement with Human Resources no later than 14 days following the completion of service.
 - (c) If service is 181 days or over – the employee must submit an application for reinstatement with Human Resources no later than 90 days following the completion of service.
 - (d) If the employee is hospitalized or convalescing from a service-connected injury – the employee must submit an application for reinstatement with Human Resources no later than two years following completion of service.
- (4) If service is for a period of 1 to 90 days the employee will be reinstated in the position which the employee would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform.

If service is for a period of 91 or more days the employee will be reinstated in the position in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform.

Employees with a service-connected disability – if after reasonable accommodation efforts by the employer, and employee with a service-connected disability is not qualified for employment in the position he or she would have attained or in the position that he or she left, the employee will be employed in any other position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the employer; or if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

- (4) If the employee declines two (2) consecutive offers for position vacancies, reinstatement rights shall terminate.
- (5) Employees reinstated following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. In addition, an employee's time spent on active military duty will be counted toward their eligibility for FMLA leave once they return to their job.
- (6) If, due to a service-connected disability or for some other reason, an employee is not qualified to perform all the duties of his/her former position, he/she will be placed in the closest comparable position for which he or she is qualified.
- (7) Such leave of absence will be considered leave without pay. Benefits shall not accrue for the duration of the leave, although the employee shall be entitled to any accrued benefits.

5.4 Jury Leave

In the event that any employee is summoned for jury duty or is subpoenaed as a witness, a paid leave of absence shall be granted for that purpose, provided the employee shows to his superior the court order, subpoena or summons. The employee shall be expected to be at work during the regular working hours when not required to be absent and the employee shall provide proof of actual jury service. If the employee remains on the payroll during such jury duty, he/she shall assign all jury or witness fees to the City for jury/witness duties served. Employees taking jury leave shall attach a copy of the jury summons to the time sheet for the pay period in which jury leave is taken.

- (A) Time absent by reason of subpoena in private litigation or by some party other than the Federal Government, State Government or a political subdivision thereof, to testify in other than an official capacity, shall be taken as vacation leave or leave without pay.

5.5 School Assistance Leave

Employees may, upon written approval of the supervisor, take up to one hour per week paid School Assistance Leave to assist children in the Grand County School System. Request for said leave shall be in writing and shall be available to full-time non-introductory employees in good standing. Employee performance and productivity, as well as scheduling and workload issues, may be considered in granting or denying the request.

5.6 Leave for Voting

An employee who has less than three hours between the time the polls open and close during which the employee is not employed on the job shall be given reasonable time off to vote in all local, county, state and federal elections. Such time off shall be arranged with the employee's supervisor.

5.7 Medical or Dental Leave

When any employee, for his/her own personal use, requests time off to obtain personal medical or dental care, he or she shall not be charged for sick leave if the time off the job is less than one quarter of his/her work shift. If the employee must be away from the job for more than one quarter of the work shift, he/she shall be charged sick leave in one-hour increments. Employees must schedule such medical and dental leaves with their supervisor. Except in cases approved by the department head, such leave will not be granted more than four (4) times per year.

5.8 Maternity Leave

- (A) Any employee who becomes pregnant may continue working until such time as she can no longer satisfactorily perform her duties, or her physical condition is such that her continued employment may be injurious to her health. An employee shall, upon request, be required to present medical certification from her doctor, at her expense, verifying fitness to continue or resume work.
- (B) Unpaid maternity leave shall be granted in accordance with the Family and Medical Leave Act provisions in Section 5.9, below. An employee may elect to have such time absent from work accredited to sick leave and vacation leave (including accrual) prior to being carried on leave-without-pay status.

5.9 Administrative Leave

A classified employee or statutory appointee may, upon the approval of the City Manager or designated representative, be granted leave with pay to perform legitimate duties in connection with City business, to attend trade or professional meetings which relate to official duties, to participate in recognized and authorized training programs, or for other purposes directly related to the conduct of official City business.

5.10 Family Medical Leave Act

- (A) Up to 12 weeks of unpaid leave will be granted to any employee that has been employed by the City for at least 12 months and has worked at least 1,250 hours during the previous 12-month period for the following reasons:
 - (1) To care for the employee's child after birth, or placement for adoption or foster care;
 - (2) To care for the employee's spouse, son, daughter, or parent who has a serious health condition;
 - (3) For a serious health condition, including pregnancy or related complications, that makes the employee unable to perform the employee's job; or
 - (4) Because of a qualifying exigency arising as a result of a spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces.

- (B) An employee is allowed up to 26 work weeks of family and medical leave during a 12 month period to care for a spouse, son, daughter, parent or next of kin who is a recovering service member as defined by the National Defense Authorization Act.

- (C) To request FMLA leave, the employee or an appropriate spokesperson, shall apply in writing for the initial leave and when the reason for requesting family medical leave changes:
 - (1) thirty days in advance for foreseeable needs; or
 - (2) as soon as practicable in emergencies.

- (D) An employee with a serious health condition may use accrued annual leave, sick leave, converted sick leave, excess hours and compensatory time prior to going into leave without pay status for the family and medical leave period.
 - (1) An employee who chooses to use accrued annual leave, sick leave, converted sick leave, excess hours and compensatory time prior to going into leave without pay status for the family and medical leave period shall notify the agency.
 - (2) If an employee fails to notify the agency under this Subsection, accrued leave will be used to pay the employee's payroll deductions in the following order:
 - Compensatory Time
 - Sick Leave
 - Vacation Leave

- (E) An employee who chooses to use FMLA leave shall use FMLA leave for all absences related to that qualifying event.

- (F) Any period of leave for an employee with a serious health condition who is determined by a health care provider to be incapable of applying for Family and Medical Leave and has no agent or designee shall be designated as FMLA leave.
- (G) The City may require medical certification to support a request for leave pursuant to this section, and may require second or third opinions (at the City's expense) and a medical certification prior to the employee's return to work.
- (H) The City will maintain any group health plan insurance normally provided to an employee taking leave under this section either until such time as the employee should fail to return to work following exhaustion of all available leave, or until the employee notifies the City of his/her intent not to return to work.
- (I) The City will attempt to restore employees taking leave pursuant to this section to their original or equivalent positions with equivalent pay, benefits and other employment terms.
- (J) No employee taking leave pursuant to this chapter shall lose any employment benefit that accrued prior to the start of the employee's leave.
- (K) An employee with a serious health condition covered under workers' compensation may use FMLA leave concurrently with the workers' compensation benefit.

5.11 Leaves of Absence

Leaves of absence without pay may be granted for periods not to exceed one year to non-probationary classified employees and statutory appointees because of illness or infirmity, for educational or religious purposes, or for other similar reasons. Leave is available subject to the discretion of the supervisor and the appointing authority. Leave shall not be granted where it will result in fiscal or operational hardship to the City. Factors which may influence the decision to grant leave include the employee's performance record, length of service, and related factors.

Request for leave shall be made in writing to the appointing authority. Employees on leave status do not accrue additional benefits (including health insurance) and leave time is excluded from the calculation of length of service. The City cannot guarantee that an employee on voluntary leave will be returned to the same position or rate of pay upon return to active duties. Where leave is sought due to illness or medical condition, leave taken under the Family and Medical Leave Act, as described in Section 5.9 shall be counted against the one year limitation of leave under this section. Failure to report for duty upon expiration of leave under this section is grounds for discharge.

5.12 Unauthorized Absences

Any employee absent from the job without approval from a supervisor may be disciplined or

terminated. Unauthorized absence for two (2) consecutive days or more may be interpreted as resignation without due notice. Employees will not be paid for any period of unauthorized absence.

5.13 Failure to Return from Leave

Any employee who fails to return from leave may be terminated. Any employee who is unable to return from leave at the time scheduled should make arrangements with the supervisor or department head to extend the scheduled date of return, and reasonable request for such extension may be accommodated.

ARTICLE VI - OCCUPATIONAL SAFETY AND HEALTH

6.1 Intent and Purpose

It is the intent and purpose of the City to comply with all applicable rules and regulations pertaining to the Occupational Safety and Health Act as established under Federal Law or Utah State Law.

6.2 Responsibility for Workplace Safety

The City shall furnish each of its employees a work environment free from recognized hazards. The City requires that employees comply with the occupational safety and health standards, orders, rules, and regulations promulgated under the Occupational Safety and Health Act. Compliance with this Act shall be accomplished through the establishment of an occupational safety and health program as outlined herein.

6.3 Inspection and Enforcement

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

6.4 Records

An accurate record shall be kept of all accidents involving injuries to employees while on duty, whether or not time is lost. These records shall at all reasonable times be available to the Industrial Commission or its representatives upon request. Other records shall be kept as requested by the Industrial Commission.

6.5 Posting Emergency Aid

Each department head or supervisor shall post in a conspicuous place a copy of state worker's compensation regulations and policies together with a list of telephone numbers and/or addresses as may be applicable, so that necessary help can be obtained in case of an emergency.

- (A) Such list shall include:
- (1) Responsible Person (supervisor)
 - (2) Doctor
 - (3) Hospital
 - (4) Ambulance
 - (5) Fire Department
 - (6) Law Enforcement Agency

6.6 Working Conditions

An excessively littered or dirty work area constitutes an unsafe, hazardous condition of employment and should be remedied within a reasonable amount of time. When no other method or combination of remedies exist to minimize hazards due to toxic dusts, fumes, gases, flying objects, dangerous rays, or burns from heat, acid, caustics, or any hazard of a similar nature, the City shall provide each worker with the necessary personal protection equipment, such as respirators, goggles, gas masks, certain types of protective clothing, etc. Provisions shall also be made to keep all such equipment in good, sanitary working condition at all times.

6.7 Injury Reporting

A report of any on-the-job injury resulting in disability or compensable lost time shall be submitted by the department head or other designated official and then submitted to the City administrative offices. The administrative offices will then submit the report to the Industrial Commission and to the affected employee within two (2) working days on a "First Report of Injury" form. Should any sudden or unusual occurrence or change of conditions occur (such as the appearance of toxic or unusual fumes or gases, major equipment failure, explosions, fires, etc.) that might affect the safety or health of City employees or tend to increase the hazards thereof, the department head or other designated authority shall notify the Industrial Commission of Utah at once. Such notification must be made whether or not any actual injuries result from the occurrences or change of conditions. All fatal, potentially fatal and serious accidents shall be reported immediately to the Utah State Industrial Commission.

6.8 Rules in General

- (A) No person shall remove, displace, destroy or carry away any safety device or safeguard provided for use in any place of City employment or interfere with the use of any method or process adopted for the protection of employees.
- (B) No employee shall refuse or neglect to follow and obey reasonable orders that are issued for the protection of health, life, safety, or welfare of employees.

- (C) Employees who do not understand or speak the English language shall not be assigned to any duty or place where the lack or partial lack of understanding or speaking of English might adversely affect their safety or that of another employee.
- (D) Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.
- (E) Loose sleeves, tails, ties, lapels, cuffs, or similar garments that can become entangled in moving machinery shall not be worn where an entanglement hazard exists.
- (F) Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.
- (G) No employee shall carry alcoholic beverages and/or controlled substances into a place of employment. This section does not apply to a police officer in the performance of his/her duties.
- (H) No employee shall go into or loiter about places in which alcohol is consumed or sold during hours of employment. This section does not apply to a police officer in the performance of his/her duties.

6.9 Smoke-Free Workplace Policy

It is the policy of the City of Moab that employees shall not smoke or be in possession of any lighted tobacco product, e-cigarette or oral tobacco while in an indoor facility, in a city vehicle, or during the course of normal work duties. This policy shall not be construed to exclude smoking during designated breaks from the work period.

- (A) Lighted Tobacco is defined as: both tobacco that is under self-sustained combustion and tobacco that is heated to a point of smoking or vaporizing.
- (B) E-cigarettes are defined as: any electronic oral device that provides a vapor of nicotine or other substance and which simulates smoking through its use or through inhalation of the vapor through the device; and includes an oral device that is composed of a heating element, battery, or electronic circuit and marketed, manufactured, distributed, or sold as an e-cigarette, e-cigar, e-pipe, or any other product name or descriptor, if the function of the product meets the definition of an electronic oral device.
- (C) Oral Tobacco is defined as: a smokeless tobacco product consumed by placing a portion of the tobacco between the cheek and gum or upper lip teeth and chewing.

6.10 Drug and Alcohol Policy

- (A) Pursuant to the Federal Drug Free Workplace Act, 41 U.S.C. 701 et seq., the Omnibus Transportation Employees Testing Act, and the Utah Local Governmental

Entity Drug-Free Workplace Policies Act, U.C.A. 34-41-101 et seq., it is the policy of the City of Moab that the unlawful manufacture, distribution, possession or use of alcoholic beverages, controlled substances, and other substances which may impair work performance is expressly prohibited. It is the policy of the City that City employees, being servants of the public, and warranting respect from the public, must maintain a high standard of integrity and trustworthiness. It is the policy of the City to have a drug-free workplace. In order to achieve a drug-free workplace, all employees shall be required to participate in alcohol and controlled substances education and testing, as follows:

- (1) An alcohol and drug education program, as provided by the City, shall be completed by all new employees within the first year of employment.
 - (2) An alcohol and drug test shall be performed on all job applicants who have been extended an offer of employment of more than 19 hours per week or 200 hours in a consecutive ten week period. Any offer of employment is expressly conditioned upon the successful completion of a pre-employment drug/alcohol screening.
 - (3) All employees will be subject to alcohol and drug testing upon reasonable suspicion by the employer that the employee is impaired by drugs or alcohol while on duty.
 - (4) All employees will be subject to alcohol and drug testing when the employee has been involved in an on-duty accident involving a motor vehicle or motorized equipment and with regard to police department personnel, when the employee has been involved in any incident in which a firearm is discharged in the line of duty.
- (B) Scope. This policy covers all City employees and new applicants for City employment.
- (C) Definitions
- (1) "Alcohol" is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols in methyl and isopropyl alcohol no matter how packaged or in what form the alcohol is stored, utilized or found.
 - (2) "Controlled Substances" (also referred to as "drugs") shall be defined as any substance controlled or regulated pursuant to the Utah Controlled Substances Act, U.C.A. 58-37-2, as amended, federal law, and including controlled substances or medications which, though legal, have not been prescribed to the employee by a treating physician for a bona fide medical condition or ailment. For purposes of example only, and without limitation, controlled substances or drugs include substances such as cocaine, heroin, marijuana, hashish, amphetamines, opium, LSD, and similar illegal drugs. Controlled substances shall also include legal substances which are used for intoxicating effect, including inhalants such as paints, thinners, solvents, or over-the-counter drugs where used as an intoxicant in doses in excess of recommended levels. Controlled substances shall also mean the metabolite of any of the substances covered by this policy.

- (3) “Impaired work performance” is defined as any performance of normal job duties that could jeopardize the health, safety or welfare of the employee, other employees, or any other individual.
- (4) “Positive Test” is defined as follows:
 - a. For Commercial Driver’s License operators, any test result showing a blood or breath alcohol content of .04 or greater, as defined by law, or the presence of any quantity of a controlled substance in the test subject;
 - b. For non-C.D.L. drivers age 21 and over any test result showing a blood or breath alcohol content of .04 or greater, as defined by law, or the presence of any quantity of a controlled substances in the test subject;
 - c. For all employees under age 21 any test result showing a blood or breath alcohol content of .001 or greater, as defined by law, or the presence of any quantity of a controlled substances in the test subject.
- (5) “Refusal to Submit to Testing” shall be defined as the failure to provide an adequate breath, urine, hair, or blood sample without a valid verified medical explanation, after the employee has received notice of testing, conduct that clearly obstructs the testing process, or failure to make oneself available for testing.
- (6) “Reasonable Suspicion” is knowledge sufficient to induce a person trained in drug and alcohol abuse recognition and the City of Moab Drug and Alcohol Policy and Procedures to believe that a violation of the Drug and Alcohol Policy has occurred.

(D) Pre-Employment Screening

- (1) Upon extension of an offer of employment of more than 19 hours per week or 200 hours in a consecutive ten week period, the applicant shall undergo a drug and alcohol screening at a facility designated by the City. Refusal to complete the pre-employment screening shall result in rescission of the offer of employment. Testing should be completed not later than three calendar days from the extension of an offer of employment. Testing shall be completed at no cost to the applicant.
- (2) A positive test result for either drugs or alcohol shall result in rescission of any offer of employment, except that an applicant who tests positive may request an additional analysis of the second split of any urine sample collected, as provided under Section 5(G), below. The request shall be made not later than 72 hours from the time the applicant is notified of the test result. Any second test shall be undertaken at the facility designated by the City and the costs of the second test shall be split equally between the City and the applicant.

- (3) The City may, but shall not be required to, renew an offer of employment should the second test yield a negative result.
- (4) Temporary or seasonal employees who are hired and rehired within a one-year time period shall be required to undergo a pre-employment screening only once during any one-year period.

(E) Pre-Employment Screening – Recreation Policy

- (1) Employees hired to perform work at the Moab Recreation and Aquatic Center will be subject to pre-employment drug screening regardless of the term of employment and/or the number of hours worked.
- (2) Employees hired to perform work in any Recreation Department whose duties will or may include the care, custody, or control of children, will be subject to pre-employment drug screening regardless of the term of employment and/or the number of hours worked.
- (3) Recreation employees (subject to pre-employment drug screenings) who are hired and rehired within 365 days from the last day worked shall be required to undergo a pre-employment screening only once during any one-year period.

(F) Testing Procedures

- (1) Testing shall be accomplished via urine, breath, oral fluids, blood or hair sampling methods at a location designated by the City. Collection of samples shall be carried out by certified contractors or trained City employees as designated by the City of Moab. Instant or rapid tests may be used for initial testing; However, in all situations yielding a positive test result the confirmation analysis of specimens shall be performed by qualified laboratory or medical personnel trained in the applicable method. Where applicable, tests should be performed using gas chromatography/mass spectroscopy, certified breath-testing equipment, or similarly reliable methods.
- (2) Employees directed to report for testing under this policy shall do so immediately upon request of the supervisor. Failure to timely report for testing shall be regarded as a “refusal”, except where the failure is a result of circumstances beyond the control of the employee. All employees subject to testing may be required to present proof of identity to the testing agent. Employees shall be compensated at their regular wage rate for time spent complying with this policy, and all testing shall be completed during the employee’s regular work shift, if possible.
- (3) Urine sampling shall be conducted in a manner that preserves the privacy

and dignity of the individual. All sampling shall be conducted under sanitary conditions and the City may institute procedures to prevent substitution, adulteration, or tampering with samples.

- (4) Prior to testing an employee or applicant shall disclose in writing to the medical officer performing the test, information concerning any medical condition or medications consumed by the employee or applicant which might affect test results.
- (5) The City shall employ testing procedures that maintain the chain of custody from the collection of any sample through the chemical analysis of the sample and receipt of the test results. Analysis of samples shall be accomplished through laboratories accredited either by the Substance Abuse and Mental Health Services Administration or the College of American Pathology.
- (6) Testing shall be conducted only for the presence of alcohol or controlled substances defined by this policy and state law. In no instance shall samples be tested for the existence of any other medical condition, disease, or defect.
- (7) Following testing the Supervisor shall provide the employee or applicant a copy of the written test results, and shall discuss the results with the employee/applicant. Employees or applicants testing positive may elect, within 72 hours of receipt of notice of a positive result, to have a second analysis of a split urine sample. Regardless of whether the employee requests a second analysis, prior to instituting any disciplinary action based upon test results the City shall confirm the results via a second analysis of the split urine sample. If requested by the employee/applicant, the costs of such second test shall be split equally between the employee/applicant and the City.
- (8) It is against City policy for any employee or prospective employee to tamper with or adulterate a specimen. Any adulterated or tampered specimen will be treated as a positive test.

(G) Random Testing

- (1) All employees holding Commercial Drivers Licenses shall be nominated in a pool testing consortium. Each employee within that pool shall have an equal chance at being tested each time the consortium conducts a random test. At least 50% of the City's safety sensitive position population shall be tested in a given year.
- (2) Random tests shall be announced on the date the test is to be completed. Persons selected from the testing pool will be notified personally by their supervisor.
- (3) The City shall maintain records as to the random pool, pool selections, and how employees are selected for testing.

(H) Testing Upon Suspicion of Impairment.

- (1) Any employee may be subject to testing where his/her supervisor or other superior has a reasonable suspicion that the employee is impaired or under the influence of alcohol or a controlled substance covered by this policy, and where such reasonable suspicion is substantiated by an on-staff expert trained and certified in the recognition of drug and alcohol impairment pursuant to this policy.
- (2) For purposes of illustration only, and without limitation, “reasonable suspicion” of impairment may include the following: direct observation of behavior consistent with impairment such as slurred speech, stumbling, or lack of coordination; the direct observation of the consumption of alcohol or controlled substances; erratic or abnormal behavior; arrest or conviction for a drug or alcohol related offense when coupled with other indicia; identification of an employee as a suspect or focus of a drug related criminal investigation based upon credible and corroborated information; evidence of tampering with samples or adulteration of a previous test. The preceding list is for purposes of example only, and shall not be construed to describe all of the possible grounds which may support a finding of reasonable suspicion.
- (3) An employee directed to perform a suspicion based test shall receive written notice to that effect from his/her supervisor. The notice shall describe the conduct or behavior giving rise to a suspicion of impairment and shall provide documentation from the on-staff expert described in Section 6.10 (G) that the reasonable suspicion is substantiated.

(I) Post Accident Testing

- (1) Employees involved in an on-duty vehicular accident shall be evaluated at the accident site by an on-staff expert trained and certified in the recognition of drug impairment as pursuant to this policy. If said on-staff expert establishes that there is reasonable suspicion that the employee is impaired, the employee may be subject to testing as a result of the on-site evaluation. Additionally, police department personnel shall undergo testing following any incident in which a firearm is discharged in the line of duty, exclusive of firearms training.
- (2) Results of testing conducted by other law enforcement agencies pursuant to independent legal authority may be utilized by the City for purposes of compliance with this policy. All employees consent to the release of such results to the City for the purposes of this policy.
- (3) Alcohol testing shall be completed not later than two hours from the time of any incident covered by this policy, except for good cause shown. Drug testing shall be completed not later than eight hours from the time of any incident covered by policy, except upon good cause shown.

(J) Disciplinary Policy

- (1) Employees shall not test positive for any alcohol, in excess of the limits imposed by this policy, or test positive for any controlled substance when subject to testing pursuant to this policy. Violation of this policy may result in disciplinary action including: mandatory rehabilitation education, treatment, or counseling; suspension without pay for a determinate period; other disciplinary sanction; or termination. In the case of termination, an employee shall be entitled to the applicable termination procedures outlined in the personnel policies and procedures manual and the state code.
- (2) Commercial Driver's License Operators who produce a blood or breath alcohol test result of .02-.039 grams per liter will be removed from service for 24 hours, and will be subject to a follow-up test prior to returning to work.
- (3) It is the policy of the City that drug and alcohol test results shall be used for internal hiring, employee discipline, and personnel decisions, and not for the collection of evidence in any criminal proceeding or investigation. Test results shall not be used by the City for any criminal investigation.
- (4) Drug and alcohol test results, and all accompanying medical information, shall be maintained in the employee or applicant's personnel file. The information is a protected document under the Government Records Access and Management Act, U.C.A. 63-2-101 et seq., and shall not be released by the City, except upon consent by the employee or applicant, upon court order or similar legal process, or as required by federal law.
- (5) Pursuant to the Americans with Disabilities Act and the Utah Anti-discrimination Act employees or applicants testing positive under this policy are not, by virtue of the test result, regarded as disabled.
- (6) Upon confirmation of a violation of the policy, the level of discipline shall be committed to the discretion of the supervisor, acting in consultation with the City Manager. Factors which may apply to discipline decisions include the type of substance involved, the employee's length of service, the employee's overall work history, whether or not an injury or property damage occurred, the risk or potential of an injury, the level of impairment, any history of past violations or previous treatment, and the extent to which the public trust or official duties are compromised by the impairment. Other factors may be considered. **EMPLOYEES ARE NOTIFIED THAT ANY VIOLATION OF THIS POLICY MAY CONSTITUTE GROUNDS FOR TERMINATION.**
- (7) Where an employee is found to have violated this policy he/she will not be permitted to return to work until such time as a re-test reveals the absence of any violation. Where a supervisor suspects that an employee is impaired in violation of this policy the supervisor may suspend the employee, with

pay, pending receipt of the test results.

(K) General Policies with Respect to Alcohol and Controlled Substances and Administrative Matters

- (1) Possession, consumption, distribution, or manufacture of controlled substances by all employees, whether on duty or off, is expressly forbidden. Violation of this policy, which need not include a criminal conviction, is grounds for termination or disciplinary action. This policy excludes the possession of controlled substances collected by law enforcement personnel as evidence pursuant to normal law enforcement activity.
- (2) Possession, consumption, distribution, or manufacture of alcohol by any employees while on duty, or on City property, or in City vehicles is forbidden, except that off-duty employees may consume alcohol on City property as a social guest where permitted by City ordinance, e.g. Moab Arts and Recreation Center events.
- (3) All employees are advised that the City reserves the right to conduct inspections of city owned property, including vehicles, work stations, tool boxes, desks, lockers, cabinets, and the like. Employees shall have no expectation of privacy with regard to personal items stored in such locations. Contraband or other evidence of illegal conduct discovered in such locations will be turned over to appropriate law enforcement agencies for possible criminal investigation or prosecution.
- (4) Evidence of criminal conduct, other than positive test results obtained under this policy, will be turned over to appropriate law enforcement agencies for investigation and prosecution. By way of example only, should a supervisor observe the distribution of a controlled substance by any employee, that evidence shall be turned over to the appropriate police agency.
- (5) All employees and new appointees shall participate in a drug-free workplace training program as soon as practicable following adoption of this policy or upon commencement of employment. This training will address the specifics of this policy as well as drug and alcohol abuse issues in the work place.

6.11 Background Check Policy

- (A) The purpose of this policy is to establish the basis and procedure for the City to request background checks on current employees, employment candidates and volunteers. The City enacts and implements this policy to protect the safety, health, and security of citizens, employees, and City property.
- (B) Successful completion of a background check is a condition of employment for any employee, employment candidate or volunteer whose duties will or may include the care, custody, or control of children.

(C) Results of the Background Investigation –

- (1) If a background check on an employment candidate reveals job related criminal history (as determined by the Personnel Officer), the background check custodian shall notify the employment candidate, the Personnel Officer, the hiring department head and the Human Resource Department. The Personnel Officer, in consultation with the Hiring Department Head and if necessary, legal counsel, shall determine whether to eliminate the employment candidate from consideration for the position.
- (2) If a background check on a current employee reveals relevant, job related criminal history, the background check custodian shall notify the employee, the Personnel Officer, the employee's supervisor and the Human Resource Department. The Personnel Officer, shall then determine whether the criminal conduct violated any state law, County or City ordinance, or City policies and procedures that would affect that person's standing as an employee with the City. The City shall grant the employee sufficient time to challenge the completeness and accuracy of the background check as provided by this policy and as provided by law.
- (3) If the criminal conduct affects a person's status as an employee; the City shall proceed with disciplinary action consistent with City policies and procedures. For volunteers where the criminal conduct could affect the person's assignment, the volunteer will be released from their volunteer position.

(D) Record Keeping – Background Check Custodian

The Background Check Custodian shall be designated by the Personnel Officer and shall submit a monthly log of all background checks conducted to the Human Resources Department. The Human Resources Department shall keep a log of all background checks on behalf of other agencies. The Human Resources Department shall maintain, classify and retain all background check records in a separate file consistent with City wide policies and procedures.

6.12 Policy Regarding Workplace Accommodation of Persons with Disabilities

In conformity with the provisions of the Americans with Disabilities Act Amendments Act of 2008 (42 U.S.C.A. 12101), it is the policy of the City of Moab not to discriminate against any qualified individual with a disability on the basis of that person's disability with regard to job application procedures, hiring, advancement, compensation, training, or discharge.

- (A) To the extent possible, all qualification standards, tests, job descriptions, and selection criteria shall be based upon necessary job functions. The City reserves the right to impose qualification standards based upon reasonable and necessary

requirements for employee and work place safety.

- (B) The City will attempt to make reasonable accommodations to all employees or applicants as necessary to allow that person to perform essential job functions. These accommodations may include, but are not limited to, reasonable alterations in facilities, job restructuring, changes in work schedules, acquisition of adaptive tools or devices, transportation assistance, interpretive assistance, or the like.
- (C) All employees and applicants for employment are advised that the City will hold any person who illegally uses controlled substances and any alcoholic to the same standards of conduct, qualification standards for employment, and job performance standards applicable generally to all other persons who do not illegally use controlled substances or who are not alcoholics, regardless of whether any conduct or performance is related to the drug use or alcoholism of the person.

6.13 Fitness for Duty Evaluations

Fitness for duty medical evaluations may be performed by a City approved, licensed, medical professional, under any of the following circumstances:

- Returning to work from injury or illness except as prohibited by federal law;
- When management determines that there is a threat to the health or safety of self or others;
- In conjunction with corrective action, performance or conduct issues, or discipline; or
- When a fitness for duty evaluation is a bona fide occupational qualification for selection, retention, or promotion.

ARTICLE VII - EMPLOYMENT PRACTICES

7.1 Anti-Nepotism Policy

It is the policy of the City to comply with state law regarding nepotism, U.C.A. 52-3-1 et seq., as follows:

- (A) No public officer may employ, appoint, or vote for or recommend the appointment of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and the appointee will be directly supervised by a relative, except as follows:
 - (1) The appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations or merit system laws or regulations;
 - (2) The appointee will be compensated from funds designated for vocational training;

- (3) The appointee will be employed for a period of 12 weeks or less;
 - (4) The appointee is a volunteer as defined by the employing entity;
 - (5) The appointee is the only person available, qualified, or eligible for the position; or
 - (6) The chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.
- (B) No public officer may directly supervise an appointee who is a relative when the salary, wages, pay, or compensation of the relative will be paid from public funds, except as follows:
- (1) The relative was appointed or employed before the public officer assume his position, if the relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;
 - (2) The appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;
 - (3) The appointee will be compensated from funds designated for vocational training;
 - (4) The appointee will be employed for a period of 12 weeks or less;
 - (5) The appointee is a volunteer as defined by the employing entity; the appointee is the only person available, qualified, or eligible for the position;
 - (6) The chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.
- (C) No appointee may accept or retain employment if he is paid from public funds, and he is under the direct supervision of a relative, except as follows:
- (1) The relative was appointed or employed before the public officer assumed his position, if the relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;
 - (2) The appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;
 - (3) The appointee is the only person available, qualified, or eligible for the

position;

- (4) The appointee is compensated from funds designated for vocational training;
- (5) The appointee is employed for a period of 12 weeks or less;
- (6) The appointee is a volunteer as defined by the employing entity; or
- (7) The chief administrative officer has determined that the appointee's relative is the only person available or qualified to supervise the appointee.

7.2 City Manager

The City Manager shall be responsible for the administration of personnel policies, and the promulgation of additional rules and policies, which may be adopted, amended or rescinded from time to time. He or she shall serve as Personnel Officer and as the Equal Employment Opportunity Officer.

7.3 Personnel Officer

As Personnel Officer, the City Manager shall:

- (A) Recruit candidates for vacancies for City employment.
- (B) Conduct orientation sessions for new employees, at which time they will be briefed on the employment benefits to which they are entitled and given an explanation of the personnel rules and regulations.
- (C) Periodically review and recommend changes in employee benefits.
- (D) Assist supervisors and managers in handling any problems that may arise with respect to employee benefits, including insurance claims and retirement benefits, and provide current information on employee benefits upon request.
- (E) Monitor recruiting and employment practices for compliance with Equal Employment Opportunity policies.
- (F) Monitor the grievance system.
- (G) Collect information for salary surveys.
- (H) Periodically update the classification plan.
- (I) Keep those records that are required by state and federal law and modern personnel practices.

7.4 Department Heads

Department heads are responsible for departmental administration of personnel policies and practices. This may include such rules as drafted by the respective departments for their operations.

7.5 Filling Vacancies in the Classified Service

- (A) The City has a policy called "upward mobility," which means that qualified classified and part-time employees, exclusive of temporary or seasonal employees, in the service of the City may be promoted in preference to the hiring of persons recruited elsewhere. Vacancies in the classified service will be announced to classified and regular part-time employees before outside recruiting is commenced. Employees are advised that regardless of the preference granted under the upward mobility policy, employment offers will be extended to the person who, in the judgment of the appointing authority, is best qualified for the position.
- (B) If a classified position is not filled by internal recruiting, it will be advertised through the newspapers and media, employee bulletin boards, professional and trade journals, State Department of Workforce Services Office, and others as applicable.
- (C) Qualified applicants for positions may be placed on an eligibility list for a period of not more than six (6) months, and such list may be used in conjunction with other recruiting procedures at the discretion of the Personnel Officer. Placement on the eligibility list shall in no way entitle an applicant to automatic appointment to any position.
- (D) Former employees who left in good standing and with a good service record, and who apply for positions, may be given preference over other applicants not employed by the City, if the requirements for the position are met.

7.6 Procedures for Filling Vacancies

- (A) The basis for selecting candidates for appointment and promotion in the classified service will be in accordance with the Equal Employment Opportunity Policy.
- (B) When a position opens in a department or a need arises to create a temporary position, the department head shall submit a request to the HR Coordinator and the Personnel Officer. Minimum qualifications of education and experience shall be outlined for temporary positions.
- (C) The Personnel Officer shall direct the HR Coordinator to post the opening where all City employees will be made aware of the opportunity for promotion. A reasonable time after the completion of the internal posting, and providing that the position is not filled by promotion, the HR Coordinator shall comply with recruiting per section 7.5(B) of these rules.
- (D) Application: Applicants are required to complete an application and/or submit a resume

- when applying for appointment. The application form shall be used for the purpose of utilizing only that information which is related to the applicant's suitability for employment.
- (E) Tests: Performance tests, medical certification for employment, school transcripts, drug tests, and other job-related criteria may be requested from applicants in order to improve the selection of employees. Physical, psychological evaluation, oral interviews, etc., may also be used. These criteria will be administered equally to all applicants.
 - (F) Screening: The HR Coordinator will screen applications to create a list of qualified applicants to be interviewed. The application screening will take into consideration job-related criteria. All new applicants may be merged with any existing eligibility list for the screening process.
 - (G) Rating: A selection committee chosen by the department and approved by the HR Coordinator will interview the applicants placed on the interview list. The selection committee will use a consistent method of rating the applicants in the interview process. After rating all the applicants, the selection committee will submit a list of the top three (3) applicants to the department head.
 - (H) Selection: The department head will make a recommendation to the Personnel Officer and HR Coordinator from among the top three (3) applicants submitted by the selection committee. The Personnel Officer will confer with the HR Coordinator on the final hiring approval. If the Personnel Officer and HR Coordinator rejects all three candidates on the list, then the position may be re-opened and new applications may be accepted.
 - (I) Appointment: The HR Coordinator will notify, in writing, the Personnel Officer of the recommendation for hire. The HR Coordinator will extend a conditional offer of employment (as approved by the Personnel Officer in writing) pending the pre-employment screenings. The applicant and department head will mutually agree upon an employment starting date.
 - (J) Eligibility List: Nothing in these rules shall prohibit the City from using a State of Utah eligibility list applicable for the position that the vacancy is in. The City may, as it deems necessary, conduct any selection procedures for the purpose of establishing or updating an eligibility list.

7.7 Appointment of Classified Employees

- (A) An appointment to the classified service of the City is an appointment to a full-time position for an indefinite term unless otherwise specified in the appointing action.
- (B) Introduction Period: All appointees to the classified service must serve a introduction period, which is for the purpose of observing the employee's ability, work habits and fitness for employment in the position. During the introduction period the employee is entitled to no expectation of continued employment. The normal period of introduction is six (6) months for regular employees and one (1) year for commissioned police officers. A introductory employee may be terminated at any time during the period of introduction,

with or without cause. The introductory period may be implemented or extended as approved by the Personnel Officer.

- (C) All classified employees transferred, promoted or demoted (except job track promotions) shall be subject to the introductory period in the new position unless the Personnel Officer has waived the introduction period. An employee whose service in a particular class is terminated during the promotional introduction period following a promotional appointment, or whose appointment at the conclusion thereof is not made regular, may be reinstated to his/her previous position or a similar classification and pay range for which the employee is qualified, provided a position vacancy exists.
- (D) Employee benefits: Classified full-time and $\frac{3}{4}$ time employees shall be entitled to employee benefits provided by the City. Vacation, sick leave and eligibility for retirement benefits begin accruing at the date of employment.
- (E) Non-exempt employees appointed to exempt positions shall accrue benefits based on the years of service as an exempt employee with the exception that benefits shall not be reduced as a result of the appointment.

7.8 Temporary Appointment

- (A) Temporary appointments may be made when it is in the City's best interest.
- (B) Duration: Temporary appointments will be for a limited period of time, which will be specified at the time the position is filled. No appointment will be for longer than the balance of the fiscal year, except for seasonal appointments. No temporary or seasonal employee may exceed 1508 hours per calendar year.
- (C) Benefits: Temporary appointees will not receive employee benefits except those required by law or otherwise specified in these rules.
- (D) Temporary appointees are entitled to no expectation of employment for any fixed duration, regardless of the length of time specified at the time of appointment, and may be terminated at any time, with or without cause.
- (E) Regular Full-time employees who take temporary positions are entitled to receive benefits accruable under their full-time status and will be permitted to return to their previous position at the end of the temporary appointment.

7.9 Emergency Appointment

Emergency appointments may be made by the appropriate appointing authority without regard to the rules governing other appointments, in the event of an emergency which may result in the loss of public property or danger or serious inconvenience to the public, or any circumstance which may be contrary to the interest of the general public health, safety, or welfare.

7.10 Part-time Employees

A part-time employee is any employee filling a position budgeted for less than thirty (30) per week, but not to exceed 1,508 hours total in a payroll year. This includes employees who work on-call or in reserve programs maintained by certain departments. Such employees are compensated only for actual hours worked and are not eligible for any benefits of employment except those required by law or otherwise provided in these rules.

- (A) Use: Part-time appointments on a continuing, seasonal, or temporary basis shall be made when it is in the City's best interest to employ persons less than the regularly scheduled number of hours per day, days per week, weeks per month, or months per year.
- (B) Pay: All part-time employees hired to work on a regular basis by the City shall be paid on an hourly basis. Starting salary and pay advancement within the respective category shall be recommended by the department head and approved by the City Manager.
- (C) Part-time employees shall be recruited and hired through the same practices and procedures used in recruitment and hiring of classified employees to the extent practical.

7.11 Classification

All City positions are evaluated on a set of factors (e.g., job knowledge, responsibility, difficulty and work environment) from which each is assigned a relative relationship to all other City positions. The position is then assigned a specific salary range and indicated on a salary plan. All regular employees receive compensation according to the classification of the position for which they are hired.

Most employees will be hired at the minimum point of the salary range for their position and they may progress through the salary range as performance warrants such advancement.

7.12 Reclassification

Should the duties and responsibilities of a classified position change significantly, the department head shall submit a request for re-classification. The HR Coordinator shall then perform an analysis of the position and make a recommendation to the Personnel Officer.

If a circumstance should arise requiring the abolition of a certain position or positions the City cannot guarantee job security to employees affected by the action. Where practical, based upon fiscal considerations, employee length of service, and employee performance, the City may:

- (A) Transfer the employee to a suitable open position for which he/she is qualified;
- (B) Promote the employee in accordance with these policies; or
- (C) Terminate the employee.

7.13 Grievance of Temporary and Part-time Employees

Temporary, seasonal, and part-time employees may submit grievances to the proper authority pursuant to these rules and regulations. (See Article IX – Grievances.) In no case shall the grievance procedure be available to a temporary, seasonal, or part-time employee for the purpose of contesting a termination of employment.

7.14 Garnishments

It is the policy of the City not to become entangled in the personal financial affairs of employees. As provided under U.C.A. 70C-7-104 the City will not terminate an employee as a result of the issuance of a garnishment for any single judgment. The City does reserve the right to institute disciplinary action against an employee where the City is subject to multiple garnishments derived from separate judgments against the employee.

7.15 Outside Employment

No classified employee, statutory appointee, or contractual employee shall engage in any outside employment that will impair the performance of his/her duties or be detrimental to the City service. It is absolutely necessary that an employee give priority to his/her job with the City, and if outside work is accepted, it shall not be undertaken without the knowledge and consent of the department head, the employee's supervisor, the HR Coordinator, and the Personnel Officer. Any failure to report for duty because of outside work may result in dismissal. No employee shall accept employment with any person, firm, or corporation which contracts with the City to supply labor, materials, commodities or services. No employee shall accept or solicit offers of employment, offers for independent contractor services, or requests to act as a consultant by or from persons or entities seeking licensure, regulatory approval, development authority, or similar City permits, contracts, or concessions services without prior, written consent from the City Manager.

7.16 Prohibition Against Political Activity

- (A) No employee shall be an officer of a political party or hold political office within the City government while employed with the City, provided that this section shall not apply to voting district officers and delegates. No employee or official shall solicit verbally or by letter, or be in any manner concerned in obtaining any assessments, contributions, or services for any political party from an employee in the classified service.
- (B) Nothing herein contained shall be construed to restrict the right of the employee to hold membership in, and support a political party and candidates, to maintain political neutrality, or to attend political meetings while off-duty.
- (C) Resignation shall not be necessary of a classified service employee who wishes to seek election to a political office. However, should a classified employee be elected to a position in City government, that employee shall resign from employment prior to taking office.

7.17 Reduction-in-Force

At such time when circumstances (such as lack of funds or lack of work) dictate that there needs to be a reduction-in-force, the Personnel Officer shall lay off the necessary number of classified or other employees according to the affected class(es) while considering length of service and employee performance, and in concurrence with the department head(s). Employees on layoff will be considered for recall before positions are open for recruiting. Unless otherwise specified, an employee who is to be laid off will be given at least fourteen (14) days' notice prior to the effective date of layoff, and an employee receiving such notice will be excused from the notice requirements applicable to resignation in good standing. Employees recalled to service will be given fourteen (14) days in which to report back to work. If a recalled employee can not report back to work within that time period, the position may be opened to outside recruitment.

7.18 Transfer

A transfer is defined as a move from one department to another, and should not be confused with the managerial function of moving personnel from one division or office to another within the same department by promotion, demotion, or reassignment. Transfers must be cleared with the department heads and the personnel officer. A transferring employee must qualify for the job to which he/she is transferring. A transferred employee shall retain all accumulated sick and annual leave. Employees objecting to transfer are entitled to appeal rights pursuant to the procedures defined in Section 7.22, below and Article IX of these policies.

7.19 Reassignment

Employees who are reassigned shall be paid at the same salary that they received prior to reassignment if such salary coincides with the range of the class to which they are assigned. If such salary exceeds the maximum of the range for the class to which they are reassigned, they shall receive the maximum for the class.

7.20 Promotion

Any classified employee receiving a promotion shall start on the introductory or minimum step of the salary range of the class to which he/she is promoted, unless that salary is equal to or lower than his/her present salary level. If the salary level of the position promoted to is equal to or lower than his/her present salary level, he/she shall receive the next higher step in the grade to which he/she was promoted. Employees shall be eligible for merit increases as elsewhere provided.

7.21 Promotion - Job Track

To encourage the enhancement of job skills and upward mobility within a given job type, the City has established several job tracks wherein employees are expected and encouraged to progress through levels of the job track. Job tracks currently include Parks Service Worker I-II-III, Streets Service Worker I-II-III, Water Service Worker I-II-III, Sewer Service Worker I-II-III (excluding Waste Water Treatment Plant), Mechanic I-II-III, and Police Officer I-II-III. Other job tracks may be created upon approval of the City Council. Progression along the levels of a

job track is not automatic and is subject to a posting of a promotional opportunity in the job track, as determined by the department head, the HR Coordinator and the Personnel Officer, the submittal of letters of interest by interested persons who are in the job track, interview and review of qualifications by the department head and HR Coordinator, and approval of a promotion of an individual to the higher level by the Department Head, the HR Coordinator and the Personnel Officer. Persons approved for promotion to a higher level in a job track shall not have to satisfy a introductory period.

7.22 Separation

No classified employee shall be discharged or transferred to a position of less remuneration because of a person's race, religion, sex, color, creed, national origin, sexual orientation, ancestry, age, marital or veteran status, or non-job related physical or mental disability , or as a result of changes in City elected officers, the governing body, or heads of departments. Classified employees serve for an indefinite duration, and may be discharged at any time for causes which include, but are not limited to, curtailment or lack of funds, lack of work, violations of state law, violations of City ordinances, violations of these personnel policies, insubordination, or the like. Every classified employee that is discharged may seek an administrative appeal of that action, as provided under Article IX of these policies.

7.23 Resignation

To resign in good standing, every employee must give the department head at least fourteen (14) calendar days' prior notice, unless the department head, because of extenuating circumstances, agrees to permit a shorter notice period. A written resignation shall be submitted to the department head, giving the reasons for leaving. Failure to give the required notice may be entered in the employee's service record and may be cause for denial of future employment with the City. When no notice is given, the employee will be paid through the last day worked.

7.24 Retirement

Employees may retire from service by complying with the conditions of the retirement system. For exempt status post-retirement employees who retired prior to August 15, 2005, the City shall make a payment to a defined contribution plan in the same manner as provided for by Utah Retirement System guidelines for non-exempt status post-retirement employees.

7.25 Statutory Appointees.

Statutory Appointees are City employees appointed by the Mayor and confirmed by action of the Governing Body, including the Recorder, Treasurer, Public Works Director, and Police Chief. Statutory appointees are entitled to all benefits accorded classified service employees generally with regard to pay, benefits, leave, equal employment opportunity, and the like, except that statutory appointees are not entitled to the grievance and discharge procedures defined in Articles VII, VIII, and IX, herein. Statutory appointees are also not entitled to the appeal procedures described in U.C.A. 10-3-1105 et seq.

- (A) Statutory appointees serve at the pleasure of the Mayor and the City Council and may be removed from office at any time, with or without cause, upon a majority vote of the City Council. All statutory appointees are subject to removal following any mayoral election, should the newly elected Mayor, with the advice and consent of the City Council, elect to appoint a different person to that position. Appointees may continue to serve in their position until such time as a successor is appointed and qualified.
- (B) The work performance of statutory appointees shall be reviewed periodically by the City Manager, who shall confer with each such appointee with regard to City policies, procedures, and management objectives. The City Manager may institute merit pay increases from time to time where warranted by the appointee's work performance, and budgetary considerations. The City Manager shall also report to the Mayor and the Governing Body and make recommendations concerning any disciplinary or personnel actions applicable to statutory appointees.
- (C) Disciplinary authority over statutory appointees is vested solely in the action of the Mayor and the City Council, which may take any disciplinary action deemed appropriate, including a written or oral reprimand, suspension, demotion, or termination.

7.26 Severance Policy - Statutory Appointees.

- (A) Statutory appointees who lose re-appointment or are otherwise terminated without cause shall be entitled to severance pay pursuant to the following schedule:

<u>Years of Service</u>	<u>Benefit</u>
less than one year	no benefit;
one to four years	two weeks;
four to six years	four weeks;
more than six years	six weeks.

- (B) Benefits accrue as of the anniversary of the employee's appointment and in no instance shall there be any pro-ration of benefits to include any length of service during any year or fraction of a year, other than as expressly set forth above.
- (C) Appointees who resign their employment or are terminated for cause shall not be eligible for severance pursuant to this resolution.
- (D) Benefits shall be calculated based upon the appointee's gross rate of pay as of the date of termination.
- (E) Appointees subject to this section shall additionally be entitled to receive employee health insurance benefits, to the extent paid by the City during the appointee's employment, for a period of time calculated by the same formula established in this Section, for a period not to exceed six weeks.
- (F) Nothing in this Section shall be construed to alter or repeal the "at-will" status of all statutory appointees, who shall continue to serve at the pleasure of the Mayor and the

Governing Body.

ARTICLE VIII - DISCIPLINARY PROCEDURES

8.1 Causes for Disciplinary Action

It is the responsibility of all employees to observe regulations necessary for the proper operation of City government functions. Regardless of the particular class of employee, or the disciplinary procedures applicable to that employee, causes for disciplinary action shall include, but are not limited to those listed below:

- (A) Insubordination or refusal to comply with a lawful instruction.
- (B) Conviction of a misdemeanor or felony while an employee of the City.
- (C) Indulging in offensive, inappropriate, or demeaning conduct or using offensive language towards the public, in public, or towards City officers or employees.
- (D) Deliberate or careless conduct endangering the safety of the employee, other employees, or the public.
- (E) Inducing or attempting to induce any employee in the service of the City to commit an unlawful act in violation of state or federal law, City regulations, official policy, or departmental orders.
- (F) Using, threatening, or attempting to use personal or political influence in an effort to secure special consideration as a City employee or for the benefit of the employee's immediate family or friends.
- (G) Incompetency and inefficiency in the performance of job duties.
- (H) Carelessness or negligence with City funds or property.
- (I) Theft, intentional destruction of, or negligent damage to City property.
- (J) Intentional falsification of personnel records, time reports, or other City records.
- (K) Being under the influence of alcohol, controlled substances, or other intoxicants while on duty.
- (L) Sleeping on duty except as provided for in official City regulations.
- (M) Dishonesty or deceit in the performance of job duties or while on duty.
- (N) Harassment, intimidation, threats, or discrimination against other employees or members of the public on the basis of that person's age, sex, race, religion, color, national origin,

sexual orientation, gender identity, or disability.

- (O) Serious or repeated violation of the other policies contained in this manual.
- (P) Absence without leave, abusing leave, or failing to appear for regular work shifts.
- (Q) Excessive absenteeism and/or tardiness.
- (R) Horseplay and related activity creating a safety hazard.
- (S) Violating a safety rule or regulation.
- (T) Failure to report for work without proper notification to the supervisor.
- (U) Inattentiveness to work, shoddy work, failing to start work at the designated time, quitting work early without authorization, or leaving work premises without authorization from the supervisor.
- (V) Vending, soliciting, or collecting contributions during work hours without authorization, or engaging in outside work during work hours.

NOTE: For violation of any of the preceding, the employee will be subject to immediate discharge or other disciplinary action.

8.2 Verbal Warning

Whenever grounds for disciplinary action exist, and the supervisor determines that more severe action is not immediately necessary, the supervisor should verbally communicate to the employee the supervisor's observation of the deficiency demonstrated at the time of the action, subsequently document the reprimand, and place the documentation in employee's personnel file. Whenever possible, sufficient time for improvement should precede formal disciplinary action.

8.3 Written Reprimand

A department head and/or approved supervisor may reprimand an employee for cause. Such reprimand shall be in writing and be addressed to the employee. A signed copy shall be delivered to the recorder for inclusion in the employee's personnel file.

8.4 Written Reprimands - Within One Year

If an employee receives three (3) written reprimands (for the same or different offenses) within a period of twelve (12) consecutive months, the employee may, at the time of issuance of the third such notice, be discharged.

8.5 Suspension

A department head, with the concurrence of the City Manager, may suspend without pay an employee for up to, but not exceeding, fifteen (15) calendar days, as discipline for cause, per offense. On or before the effective date of the suspension, the City Manager and the employee

shall be furnished with a written copy of the statement, setting forth reasons for the suspension. Nothing in this section shall prevent a department head from immediately suspending an employee with pay, pending completion of an investigation of employee's conduct, subject to the approval of the City Manager.

8.6 Demotions

A department head may, with the approval of the City Manager, demote or reduce in salary any classified employee in the department for either the good of the service or for a disciplinary measure for cause. A classified employee, with the exception of an employee on probationary status, shall have the right to appeal such action.

8.7 Discharge

A department head may, with the approval of the City Manager, discharge any employee in the department by delivering a written notice of the reasons for discharge to the employee concerned. Before any employee, exclusive of temporary employees, probationary employees, and emergency employees, is discharged, the employee shall be given an opportunity to respond to the charges or other reasons for discharge. Any such pre-termination meeting shall be conducted informally with the supervisor, the employee, and the City Manager in attendance.

8.8 Grievance - Right to Appeal

Unless otherwise stated in these rules, classified employees subject to disciplinary action under the provisions of these rules and regulations shall have the right to appeal and may file a grievance under the procedures of Article IX - Grievances. Employees must exhaust any grievance procedures established within their department prior to filing a grievance under Article IX.

ARTICLE IX - GRIEVANCES

9.1 Policy

The most effective accomplishment of City business requires prompt consideration and equitable adjustment of employee grievances. It is the desire of the City to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be grievances that will be resolved only after a formal appeal and review. Accordingly, the following procedures are established.

9.2 Jurisdiction

The City may hear grievances on working conditions, pay, City and departmental rules and regulations, terms and conditions of employment, issues of alleged discrimination, disciplinary actions and such other issues as they deem appropriate. Grievance procedures shall not in any case be available for review of the termination of an employee.

9.3 Grievance Procedure

Grievances shall be processed in the following manner:

- (A) The aggrieved classified employee, temporary employees, or part time employee should present the grievance to his/her immediate supervisor and attempt to seek resolution of the problem on an informal basis. If the employee is unable to derive satisfaction from conversations with the supervisor, or if the supervisor is the source of the grievance, the employee shall file the grievance in writing with the next highest supervisor in charge, or with the City Manager, who shall attempt an informal resolution. The written grievance shall be filed within five (5) working days of either the event giving rise to the grievance, or the date of unsuccessful resolution with the supervisor. Failure to file a grievance within the time provided shall result in the grievance being barred, unless the filing deadline is extended by agreement per Section 9.4.
- (B) The supervisor receiving a written grievance will document the action he or she has taken and attempt to resolve the issue to the extent he or she deems advisable and to the limit that he or she possesses the authority. The supervisor should notify the employee of the decision within five (5) working days of receipt of the grievance.
- (C) If the grievance is not resolved at the previous level, the written grievance will be referred up the chain of command to the next higher supervisor and/or department head. Any and all supervisors and/or department heads will attempt to resolve the problem and are obligated to lend their assistance in an attempt to bring about prompt and satisfactory settlement of the grievance. All supervisors and/or department heads should address the grievance within five (5) working days of receipt.
- (D) If all attempts have failed to settle the grievance, it shall be submitted to the City Manager for consideration. The City Manager shall render a written decision to the employee, affected supervisors and department heads, within five (5) days of receipt of the grievance.
- (E) If the City Manager fails to settle the grievance, the aggrieved employee shall have the right to present his/her grievance to the Employee Appeal Board. The appeal shall be taken by filing written notice of the appeal within five (5) days after the decision of the City Manager. Failure to timely request an appeal shall result in the waiver of all further appeal rights.
- (F) The Employee Appeal Board shall schedule a hearing with the party(ies) within fifteen (15) days after the receipt of the grievance. The Board shall render a written decision to the employee, affected supervisors and department heads, and the City Manager as soon as possible following the hearing.
- (G) The employee may appeal the decision of the Employee Appeal Board to the City Council. Request for such appeal must be submitted to the Recorder within five (5) days after receipt of the written decision of the Employee Appeal Board. Failure to timely request an appeal shall result in the waiver of all further appeal rights. Such appeal shall be heard within fifteen (15) days after receipt of the written appeal request. The City Council shall render a decision to the employee, affected supervisors, department heads, personnel officer and the City Manager within five (5) days after the conclusion of the hearing. The decision of the City Council will be final.

9.4 Extension of Time

Mandatory time limits at any step of the grievance procedure may be extended only by mutual agreement between the City Manager and the employee.

9.5 Settlement

Any grievance not initiated or taken to the next step within the time limit set out in this article shall be considered settled on the basis of the last answer by the supervisor, department head or personnel officer. Any decision rendered by City Council shall be final and binding.

9.6 Appeal Procedure for Discharge or Transfer

- (A) In all cases where any classified employee is discharged or transferred from one position to another for any reason, and the employee believes the discharge or transfer was done in violation of applicable law, he or she shall have the right to appeal the discharge or transfer to a board to be known as the Employee Appeal Board which shall consist of five members, three of whom shall be chosen by and from the appointive officers and employees, and two of whom shall be members of the governing body.
- (B) The appeal shall be taken by filing written notice of the appeal with the Recorder within ten (10) days after the discharge or transfer. Upon the filing of the appeal, the Recorder shall forthwith refer a copy of the same to the Employee Appeal Board. Upon receipt of the referral from the Recorder, the Employee Appeal Board shall forthwith commence its investigation, take and receive evidence and fully hear and determine the matter that relates to the cause for the discharge or transfer.
- (C) The employee shall be entitled to appear in person and to be represented by counsel, to have a public hearing, to confront the witnesses whose testimony is to be considered, and to examine the evidence to be considered by the Employee Appeal Board. At the option of the parties, the hearing may be conducted formally on the record. The rules of evidence shall not apply to the admission of evidence heard by the Board.
- (D) Employees and Board members shall preserve the integrity of the proceedings and shall not collect evidence, confer with witnesses or parties, or otherwise attempt to gather evidence outside of the official hearing process.
- (E) At the appeal hearing, the sole issues for consideration by the Board are the following:
 - (1) Whether the act, omission, or reason given for termination or transfer occurred;
 - (2) Whether the act, omission, or reason for termination or transfer is specified by state law, City ordinance, these policies and procedures, or official City policy; and
 - (3) Whether the discharge or transfer was due to the employee's politics, religious belief, or incident to or through changes in the elective officers, composition of the governing body, or heads of departments.

- (F) In the event the Board upholds the discharge or transfer, the officer or employee may have fourteen (14) days thereafter to appeal to the governing body, whose decision shall be final. Upon a majority vote of the governing body the discharge or transfer may be sustained or reversed. In the event the Employee Appeal Board does not uphold the discharge or transfer, the case shall be closed and no further proceedings shall be had.
- (G) The decision of the Employee Appeal Board shall be by secret ballot, and shall be certified to the Recorder within fifteen (15) days from the date the matter is referred to it. In the event the Board overturns the discharge it may, in its decision, provide that an employee shall receive his salary for the period of time during which he is discharged, or any deficiency in salary for the period he was transferred to a position of less remuneration but not to exceed a fifteen (15) day period. In no case shall the appointive officer or employee be discharged or transferred, where an appeal is taken, except upon a concurrence of at least a majority of the membership of the governing body of the municipality.
- (H) In the event that the Employee Appeal Board does not uphold the discharge or transfer, the Recorder shall certify the decision to the employee affected, and also to the head of the department from whose order the appeal was taken. The employee shall be paid his salary, commencing with the next working day following the certification by the Recorder of the Employee Appeal Board's decision, provided that the employee or officer concerned reports for his assigned duties during that next working day.
- (I) The method and manner of choosing the members of the Employee Appeal Board, and the designation of their terms of office shall be prescribed by the governing body by ordinance, but the provisions for choosing the three members from the appointed offices and employees shall in no way restrict a free selection of members by the appointive officers and employees of the municipality.

ARTICLE X - MISCELLANEOUS PROVISIONS

10.1 Driver's License

All personnel who drive City equipment shall hold a valid State of Utah driver's license, of the appropriate classification, and have the same in their possession while operating such equipment.

10.2 Use of City Vehicles

City vehicles are for official use only and are never to be used for personal reasons. City vehicles may be driven home at night only upon approval of the department head or City Manager, except that police officers who have permission to take their vehicle home may transport their children to school on their way to the worksite. No City employee is immune to the City's traffic ordinances, unless operating under emergency exemptions allowed by such ordinances. Employees who are on an on-call status and are assigned take-home vehicles may use that vehicle for transportation purposes, within the City, while actually engaged in on-call status. No City vehicle is to be used for out-of-state travel without advance approval of the department head and/or City Manager. All

City vehicles, except authorized unmarked police vehicles, shall bear the approved decal(s) identifying them as City of Moab vehicles.

10.3 Accidents Involving City Vehicles

In cases of accident involving City-owned vehicles, the employee shall notify the appropriate law enforcement agency and his/her supervisor as soon as possible. Employees involved in an accident with City-owned vehicles should not leave the scene of the accident until released by the investigating officer/agency, nor should they move the vehicle until authorized. They should obtain the name and address of the involved parties and all witnesses, and should not discuss the circumstances of the accident with anyone except the investigating officer/agency and authorized City personnel.

10.4 Reimbursement for Travel Expenses

- (A) It is the Policy of the City to pay travel-related expenses incurred for the purpose of conducting City business for travelers within the scope of this policy. Travel must be pre-authorized by a supervisor and must have a clear City government purpose. Any travel outside the state of Utah must be approved, in advance, by the City Manager. For the purposes of this policy, travel to Grand Junction, Colorado will be considered in-state travel and will not require pre-authorization of the City Manager.

This policy applies to all city employees, elected and appointed officials as well as city-appointed board members.

- (B) Travel expenses must be included in the annual budget for each department anticipating travel, as part of the budget process. Trips that would cause the budgeted amount to be exceeded must have the approval of the City Manager and/or City Council.
- (C) Meal Allowance: The City will compensate employees for meals while traveling through a per diem meal allowance. The rates and policy for meal allowances shall be in accordance with the Utah Administrative Code Reimbursement for Meals (R25-7-6) with the exception that meals for travel to Grand Junction, Colorado will be compensated at the in-state rate.
- (D) Approval process: All travel must be approved by the employee's supervisor in advance through a travel request. Travel requests must include: 1) The purpose of the trip; 2) an estimate of all costs associated with the trip; and 3) a draft agenda or registration form (if applicable).

The per diem allowance may be paid (in advance of travel) to the employee within two days of receipt of an approved travel request by the Recorder's Office. Expense statements must be approved by the employee's supervisor within five days of the completion of travel and then submitted for approval to the City Manager. Reports combining expenses for multiple individuals must include the names and titles of those individuals. Receipts or affidavits for expenditures shall be required for:

- (1) All commercial air, railway, bus or boat transportation.
- (2) All lodging.

- (3) Repairs or fuel for City vehicles.
 - (4) All extraordinary expenses, such as purchase of incidental supplies or publications and registration fees
- (D) Transportation costs: If a commercial airline is used, tourist or economy fare must be requested and used if available. First class fare will be allowed only on the basis that tourist or economy space was not available between specified points. If railway or bus is used, first class fare, plus necessary lower berth or roomette is allowable. However, coach facilities, when considered reasonable and satisfactory accommodations, should be used. Personal vehicles may be used if adjudged economical or advantageous to the City. When a personal vehicle is used for long trips, reimbursement for the vehicles used, meals and lodging required en route shall not exceed the cost of tourist or economy airfare. Reimbursement for the use of a personal vehicle shall be at the rate adopted annually by the state of Utah.

City employees who must use a vehicle to travel shall use a city vehicle whenever practicable. Use of private vehicles for city travel purposes shall be permitted when it is advantageous to the City, and upon approval by the department head and City Manager. Employees who chose to take a personal vehicle for city travel without appropriate approval shall be reimbursed at the rate adopted annually by the state of Utah.

Motorcycles are not approved modes of transportation for City business and travel. Employees will not be compensated for hours or mileage for motorcycle travel.

- (E) Other costs: Toll road charges, storage charges, rental fees, taxi charges and other charges deemed appropriate may be reimbursed when incurred while on authorized City business.

10.5 Public Relations

The measure of city government is, to some extent, based on the effect and personal contact of its employees. It is expected that all employees will avoid conduct at work or elsewhere that might cause embarrassment to, or criticism of the City. Sometimes the city employee is the only contact the private citizen has with municipal government. Although the citizen may not always be right, he or she does have a vested interest in the City and its government. Therefore, it is essential that the attitudes and actions of the employees, both on and off the job, bring credit to the City.

10.6 Attire and Appearance

All employees should dress appropriately for the workplace. It is expected that employees give attention to safety, modesty, cleanliness and professional appearance. Individual city departments may set standards for employees' attire and appearance.

10.7 Management-Employee Cooperation

Management and employees work towards the same goal. That goal is to bring effective and economical municipal services to the citizens. This can only be achieved by management-employee cooperation. Management shall give due consideration to employee suggestions

concerning methods of which the effectiveness and economy of municipal services can be improved.

10.8 Rest Periods

Two (2) paid rest periods shall be authorized for each non-exempt employee during the regular workday. The rest periods shall be taken at a time or times specified by either the supervisor or department head, and shall not exceed a period of fifteen (15) minutes per rest period.

10.9 Misrepresentation of Information

When information is received, after an employee has been appointed, that such employee misrepresented information on an application, resume, transcript, letter of reference, or related documents, or that the employee orally misrepresented material facts concerning his/her training, education, work history, or the like, the employee may be separated from employment, regardless of the time at which the false or inaccurate information is discovered.

10.10 Maintenance of Rules Manual

Classified employees will be issued copies of the City of Moab Personnel Policies and Procedures Manual. It is the employee's responsibility to read and know the contents of the manual, and to see that all changes and additions received are added to his/her copy.

10.11 Periodic Review of Rules

At least every three (3) years, these rules should be reviewed in total for overall application, reasonableness and general suitability for the purpose for which they are intended. The responsibility for the review is at the direction of City Council.

10.12 Conflict with Ordinances and Laws

Nothing in these rules shall be construed to require or permit any violation of the ordinances of the City. In the event of any conflict between any one or more of the provisions of these rules and a City ordinance, the ordinance shall govern.

10.13 Other Prohibited Activities

Employees of the City of Moab shall not:

- (A) Request or aid any person to violate any ordinance or any provision of law, or to engage in conduct or activity in violation of any ordinance or law.
- (B) Have an interest in any contract with the City for the furnishing of supplies, materials, labor or services, except employee services, unless such interest is fully disclosed to the City Administration and City Council prior to award or negotiation of such contract.

- (C) Receive any compensation or gratuity from another person for services rendered as a City employee.
- (D) Pay any compensation to another person for services rendered by such person to the City.
- (E) Accept, solicit, or attempt to obtain any gift or property of a value of more than twenty (20) dollars from any person doing City business with a municipal office or from any person contracting with or furnishing supplies to the City. Honorary certificates, plaques, printed publications, educational materials, tuition and conference registration fees are exempted from this rule.
- (F) Disclose to any bidder on a municipal contract, prior to the official opening of bids, information concerning the bid of another person, save and except the identity of bidders.
- (G) Penalize or discriminate against another employee for initiating, pursuing or assisting the resolution of a valid grievance; or intentionally thwart, defeat or avoid the procedure established by these rules for the resolution of grievances; or coerce, by intimidation or otherwise, another person to file or withdraw any grievance.
- (H) Engage in any act, conduct or activity which discriminates, directly or indirectly, against any person or class of persons on the basis or race, color, religion, sex, sexual orientation, national origin, age, marital or veteran status, or the presence of a medical condition or disability.

10.14 Employee Civil Action Legal Defense, Indemnity

- (A) Civil Actions: Pursuant to U.C.A. 63-30-36 et seq. all employees that are named as a defendant in a civil law suit arising out of an act or omission occurring during the performance of employee duties; within the scope of employment; or under color of authority are entitled to legal defense by the City at no cost to the employee, provided the employee complies with the provisions of the law.
- (B) A request for indemnity shall be made by the employee in writing within ten days of the service of the summons, complaint, or other process on the employee, or such longer period of time as will not prejudice the ability of the City or its insurance carrier to defend the law suit.
- (C) Should an employee fail to timely request defense, or fail to cooperate in the defense of the law suit the City may elect to withdraw from defense of the suit. In that event the employee will be solely responsible for the defense of the lawsuit, any costs of defense, and any judgment or settlement that may result against the employee.
- (D) The City may decline to defend should it appear that the suit does not allege conduct falling within the course and scope of employment. Alternately, the City may defend subject to a reservation of its rights, which means that it may defend pending a determination of whether the act or omission subject to the suit occurred during the course and scope of the

employee's duties. If it is later determined that the act or omission did not occur as part of the employee's official duties the City will not be obligated to pay any judgment or settlement that results from the lawsuit. In that case the employee will be responsible for payment.

- (E) Employees are advised that under state law, suits derived from an employee driving under the influence of alcohol or drugs, or suits in which the employee engages in intentional misconduct, fraud, or malicious acts are not subject to defense or indemnity by the City.
- (F) The City shall pay any judgment or settlement against an employee where it undertakes defense and that defense is not subject to a reservation of rights.

10.15 Employee Criminal Action Legal Defense Costs

- (A) Criminal Actions: Pursuant to U.C.A. 63-30a-2, as amended, all employees that are named a defendant in a criminal action are not entitled to legal defense by the City, even if the act or omission occurred during the performance of the employee's duties, within the scope of employment, or under color of authority. Employees that are prosecuted for these acts must retain and pay for their own legal counsel. If the charge is based upon acts or omissions occurring during the performance of official duties, within the scope of employment, or under color of authority, and the prosecution is dismissed on motion of the defense, results in a judgment of acquittal, or if an information is quashed, the employee may recover from the City reasonable attorney fees and court costs necessarily incurred in the matter. However, the employee is not entitled to reimbursement of any attorney fees and costs where the case is dismissed by motion of the prosecuting attorney.
- (B) If an employee is acquitted of some of the charges but convicted on others, the employee shall be entitled to reimbursement for that portion of his/her reasonable defense costs necessarily incurred which are attributed to the defense of the counts that were dismissed or for which the employee was acquitted, except that if the underlying conduct is substantially the same for both the counts resulting in conviction and the counts that are dismissed there is no right of reimbursement at all.
- (C) It is the policy of the City to reimburse employees for defense costs only to the extent required by law. Employees are advised that unreasonable, unnecessary, or excessive legal expenses will not be reimbursed. In evaluating a claim for reimbursement the City will carefully scrutinize legal bills based upon the seriousness of the charge, the time necessary to prepare for trial, whether or not the case went to trial, the extent of pre-trial motions and hearings, the reasonableness of the attorney's hourly rate, and related factors. In no instance will the City reimburse for attorney fees in excess of \$150.00 per hour, unless the rate is approved by action of the City Council in advance. If the City declines to reimburse, or should it reimburse only in part, the employee will be solely responsible for payment of any remainder. The City will not reimburse for interest on unpaid attorney fee accounts.

10.17 Acceptable Use of Information Technology Resources

Information technology resources are provided to a City employee to assist in the performance of assigned tasks and in the efficient day to day operations of city government.

- (A) Providing IT resources to an employee does not imply an expectation of privacy. City management may:
1. View, authorize access to, and disclose the contents of electronic files or communications, as required for legal, audit, or legitimate city operational or management purposes;
 2. Monitor the network or email system including the content of electronic messages, including stored files, documents, or communications as are displayed in real-time by employees, when required for city business and within the officially authorized scope of the person's employment.
- (B) An employee may engage in incidental and occasional personal use of IT resources provided that such use does not:
1. Disrupt or distract the conduct of city business due to volume, timing, or frequency as determined by the employee's supervisor or the City Manager;
 2. Involve solicitation;
 3. Involve for-profit personal business activity;
 4. Involve actions, which are intended to harm or otherwise disadvantage the city; or
 5. Involve illegal and/or activities prohibited by this rule.
 6. Personal use of cell phones during work hours is at the discretion of the employee's supervisor.
- (C) An employee shall:
1. Comply with the Government Records Access and Management Act, as found in Section 63G-2-101 et seq., Utah Code, when transmitting information with City provided IT resources.
 2. Report to the City Manager any computer security breaches, or the receipt of unauthorized or unintended information.
- (D) While using city provided IT resources, an employee may not:
1. Access private, protected or controlled records regardless of the electronic form without management authorization;
 2. Divulge or make known his/her own password(s) to another person;
 3. Distribute offensive, disparaging or harassing statements including those that might incite violence or that are based on race, national origin, sex, sexual orientation, age, disability or political or religious beliefs;
 4. Distribute information that describes or promotes the illegal use of weapons or devices including those associated with terrorist activities;
 5. View, transmit, retrieve, save, print or solicit sexually-oriented messages or images;
 6. Use City-provided IT resources to violate any local, state, or federal law;
 7. Use City-provided IT resources for commercial purposes, product advertisements or "for-profit" personal activity;

8. Use City-provided IT resources for religious or political functions, including lobbying as defined according to Section 36-11-102, Utah Code, and rule R623-1;
9. Represent oneself as someone else including either a fictional or real person;
10. Knowingly or recklessly spread computer viruses, including acting in a way that effectively opens file types known to spread computer viruses particularly from unknown sources or from sources from which the file would not be reasonably expected to be connected with;
11. Create and distribute or redistribute "junk" electronic communications, such as chain letters, advertisements, or unauthorized solicitations.

10.18 Personal Blogs and Social Media Sites

- (A) An employee who participates in blogs and social networking sites for personal purposes may not:
1. Claim to represent the position of the City of Moab or a department;
 2. Post the seal of the City of Moab, or trademark or logo of a department;
 3. Post protected or confidential information, including copyrighted information, confidential information received from City customers, or City issued documents without permission from the City Manager; or
 4. Unlawfully discriminate against, harass or otherwise threaten a City employee or a person doing business with the City of Moab.

ARTICLE XI – DEFINITIONS

11.1 In General

Terms in common usage and words defined in ordinances, rules and regulations shall have the meaning thereby defined.

11.2 Appointing Authority

The City Manager or his designated representative.

11.3 City Manager

The chief administrative officer, or a person designated or appointed by the City Council and/or City Manager to act as City Manager in the City Manager's absence.

11.4 Classification

The assignment of an individual position to an appropriate class on the basis of the kind, difficulty

and responsibility of the work being performed in that position.

11.5 Class of Positions

A group of positions sufficiently alike in duties, authority and responsibility that the same may be designated by a common title and equitably compensated from the same range of pay under substantially the same employment conditions.

11.6 Class Specifications

The written description of a class of positions, including the title, a statement of the nature of the work, examples of duties and responsibilities, and the requirements necessary or desirable for satisfactory performance of the duties of positions in the class.

11.7 Classified Employee

A full time, non-introductory, employee holding a classified service position who is entitled to benefits and the limitations on discharge described in state law. Classified employees shall be regarded as “appointive officers and employees of a municipality” for purposes of state law.

11.8 Classified Service

The classified service consists of the regular full-time employees, regular $\frac{3}{4}$ full time employees, regular part-time employees, and seasonal employees of the City, except the City Manager, statutory appointees, elected officials, contractors, statutory employees, and members of policy, advisory, review and appeal boards, or similar bodies.

11.9 Classification Title

The title assigned to any particular class, used for reference thereto.

11.10 Classification Plan

A plan used by the City for the orderly arrangement of positions in the City service.

11.11 Contractor

A person not employed by the City who contracts to perform or furnish services, materials or anything of value.

11.12 Day

For the purpose of computing time, a period of less than seven days refers to working days, and a

period of seven days or more refers to calendar days.

11.13 Demotion

A change in appointment status to a position of less responsibility, lower classification or lower salary. Demotion shall not be inferred from reclassification, reassignment, transfer, or as the incident of any personnel action taken for another purpose.

11.14 Department Head

The director of a department, or, in the case of an office, agency or activity not within an established department, the person authorized by the City to administer such office, agency or activity. The term also includes any person authorized by a department head or City to act as such director in the absence of the department head.

11.15 Department Rules

The rules established by the department head for the orderly and efficient operation of the department or for the accomplishment of any operation, task or responsibility assigned to the department. Department rules shall be published and distributed to the persons affected thereby, and are effective unless expressly disapproved by the City Council.

11.16 Dependents

The employee's lawful spouse (or domestic partner) and children, whether natural or adoptive, who have not yet attained the age of 18 years and who live primarily with the employee.

11.17 Eligibility List

A list of employees or persons who have been determined to have met the qualifications for appointment to a position or class of positions.

11.18 Employee

A person performing labor or providing services to the city in exchange for pay and whose work is subject to the direction, supervision, and control by other supervising employees or the Governing Body of the City of Moab. Employees do not include independent contractors performing services or labor pursuant to a written contract.

11.19 Employee, Contractual

Contractual employees are persons who hold employment with the City under a written contract of not less than one year.

11.20 Employee, Exempt

An employee who is exempt from the collection of overtime pay or compensatory time-off for time worked in excess of his/her normally scheduled work time. Positions covered by this designation include the City Manager, City Recorder, Treasurer, Public Works Director, and Chief

of Police.

11.21 Employee, Full Time

An employee who may or may not be in the classified service and who works at least 40 hours per week and who accrues benefits under these rules in accordance with that number of hours of weekly employment. Full time employees work at least 40 hours per week unless reporting authorized leave.

11.22 Employee, $\frac{3}{4}$ Full Time

An employee who works at least 30 hours per week and who accrues benefits under these rules in accordance with that number of hours of weekly employment. Regular $\frac{3}{4}$ full time employees are entitled to benefits equal to full time employees with the exception of leave time accruals, which will be extrapolated based on the percentage of hours worked compared to 40 hours per week.

11.23 Employee, Part-time

An employee who who works less than 29 hours per week and who is not entitled to employment benefits except as otherwise provided in these rules.

11.24 Employee, Seasonal

A temporary employee, not in the classified service, who works during a defined period of a calendar year, not to exceed six months.

11.25 Employee, Temporary

A person appointed to a position of limited duration, not in the classified service, and not entitled to employee benefits except as provided in these rules.

11.26 Examination

A test or tests--verbal, written or physical designed to assist in determining the qualifications of applicants for a particular position.

11.27 Gender

Use of the masculine term shall be deemed to include the feminine.

11.28 Grade

The identifying title or number of a range of pay for a classified position.

11.29 Grievance

A circumstance or condition thought to be unjust and grounds for complaint, concerning working conditions, pay, City or departmental rules and regulations, or the terms and conditions of employment.

11.30 Immediately Family

Immediate family includes the employee's parents, step-parents, children, step-children, siblings, grandparents, and in-laws.

11.31 Personnel Officer

The title Personnel Officer shall be interchangeable with the title City Manager wherever it appears in these policies.

11.32 Probation

A period of time during which an employee's performance is continually reviewed and the employee is expected to prove fitness for continued employment.

11.33 Promotion

A change in the classification of an employee to a position of more responsibility and higher salary.

11.34 Promotion – Job Track

A promotion within a City established Job Track

11.35 Promotional Examination

An examination for positions in a particular class where admission is limited to employees who meet the qualifications set forth in the announcement for the examination.

11.36 Range, Salary

The minimum and maximum rates of pay for a position.

11.37 Resignation

Voluntary separation from municipal service.

11.38 Shall and Will, May, Should, and Can

The terms "shall" and "will" are terms requiring mandatory action; "may" and "can" and "should" are terms meaning that action is permissive and subject to the judgment of the applicable official.

11.39 Statutory Appointee

An employee, not in the classified service, appointed by the Mayor with the consent of the City Council. Statutory appointees include the City Recorder, Public Works Director, Treasurer, and Chief of Police.

11.40 Supervisor

A person who exercises independent judgment and delegates administrative authority in supervising, directing and evaluating the work of employees and who may be responsible for the

discipline of employees and the maintenance and certification of employee records.

11.41 Suspension

Temporary separation of an employee from duty, either with or without pay.

11.42 These Rules

A reference to all provisions of the City of Moab Personnel Rules and Regulations.

11.43 Uniformed Services

The performance of duty on a voluntary or involuntary basis in a uniformed service, including: Active duty, Active duty for training, Initial active duty for training, Inactive duty training, Full-time National Guard duty, Absence from work for an examination to determine a person's fitness for any of the above types of duty, Funeral honors duty performed by National Guard or reserve members and Duty performed by intermittent employees of the National Disaster Medical System (NDMS), which is part of the Department of Homeland Security – Emergency Preparedness and Response Directorate (FEMA), when activated for a public health emergency, and approved training to prepare for such service. The "uniformed services" consist of the following: Army, Navy, Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve, Army National Guard or Air National Guard, Commissioned Corps of the Public Health Service, Any other category of persons designated by the President in time of war or emergency.

11.44 Vacancy, or Vacant Position

A position in the classified service that is not filled.

11.45 Work Day

The period between the beginning and end of the time scheduled for the work of an employee within a period of 24 hours.

11.46 Working Day

A calendar day on which City offices are open for business, which is not a Saturday, Sunday or a legal holiday. In computing any period of working days, the first day shall be excluded and the last day included.

11.47 Work Week

The work week begins Monday 12:00 a.m., and ends on Sunday, 11:59 p.m.